THE LOGIC OF THE LAWS

To Gretchen

VERHANDELINGEN
VAN HET KONINKLIJK INSTITUUT
VOOR TAAL-, LAND- EN VOLKENKUNDE

75

DAVID S. MOYER

THE LOGIC OF THE LAWS

A STRUCTURAL ANALYSIS OF MALAY LANGUAGE LEGAL CODES FROM BENGKULU



THE HAGUE - MARTINUS NIJHOFF 1975

I.S.B.N. 90.247.1801.5

PREFACE

The research upon which this thesis is based was financially supported by the Dutch and Canadian Governments. I received four consecutive doctoral fellowships from the Canada Council in the academic years from 1971 to 1975. I also received two of the Netherlands Government Scholarships which are awarded to Canadian nationals by the Dutch Ministry of Education and Science. The International Affairs Section of the Ministry has also provided financial assistance to help defray the printing costs of the thesis. Without this support the research, writing, and publication of the following could have been neither undertaken nor completed.

Academic tradition at Leiden University does not allow me to thank the individual members of the teaching staff who have assisted me in the preparation of this thesis. I wish, therefore, to collectively thank the members of the Faculty of Letters and the Faculty of Social Sciences who have directly and indirectly contributed to the preparation of the thesis. The staff of the Koninklijk Instituut voor Taal-, Land- en Volkenkunde have graciously assisted me in the innumerable ways that are only possible in such a research institution. In particular, F. G. P. Jaquet introduced me to and helped me to decipher the often confusing patterns of Dutch archival and manuscript collections. My wife Gretchen, to whom this thesis is dedicated, in addition to typing and retyping drafts of the thesis, carefully edited the entire text. My friend and colleague F. E. Tjon Sie Fat provided much valuable assistance in puzzling through many of the mathematical subtleties of the legal codes of this study. Additionally, our lengthy discussions which encompassed some of the most improbable topics were simultaneously refreshing and enlightening. To all of these individuals, many of whom must remain anonymous, I wish to express my thanks for without them this work would have never come to fruition.

A NOTE ON ORTHOGRAPHY

In an anthropological study such as this where the majority of the material is drawn from sources dating from the nineteenth century, the problem of orthography is particularly acute. Thus I have attempted to adhere to the following rules. When there was confusion as to which rule to apply I must admit that I have tended to follow the procedure advocated by T. E. Lawrence (1940, pp. 18-20) for the transcription of Arabic.

1) When referring to indigenous concepts in a non-specific or general sense, I have used the orthographic convention for Malay and Indonesian that has been in use since August 1972. The basic rules of this system are set forth in a pamphlet published by the Indonesian government and entitled *Pedoman Edjaan Bahasa Indonesia Jang Disempurnakan*. The main conventions that involve changes from previous usage are in the following table.

Malay (previously)	*Indonesian* (previously)	*Combined System*
j	dj	j
y	j	y
ny	nj	ny
sh	sj	sy
ch	tj	c
kh	ch	kh

The approximate English equivalents of the combined system are as follows: *j* as the *j* in jump; *y* as the *y* in yes; *sy* as the *sh* in show; *c* as the *ch* in chop; *kh* as the *ch* in the Scottish pronunciation of loch. Though the *ny* sound does not normally occur in English it can be approximated by the combination of the last phoneme of "green" and the initial phoneme of "yacht" when the words "green yacht" are pronounced rapidly.

2) When transcribing Arabic script into a Romanized form I have also used the 1972 convention. This means that my transcription of the Arabic forms is not a completely accurate philological evaluation of the original. For example, though in Arabic script the "s's" in the words "semendo" and "fasal" are consistently represented by different forms I have only used a single "s". Since this is an anthropological and not a philological study I have taken the view that the exact transcription of the Arabic script into Romanized form either would have been unnecessarily confusing for the anthropologist or would have made this book prohibitively expensive.

3) When directly citing published Dutch and English language sources I have retained the spelling of indigenous terms as in the original. A useful guide for converting these to the modern spelling can be found in paragraph 1. The Malay system roughly corresponds to English practice and the Indonesian system roughly corresponds to Dutch practice.

4) When directly citing manuscripts written in Romanized Malay I have retained the spelling of the original. All of the Romanized Malay manuscripts used in this study were prepared using Dutch orthography as a reference. Thus the consonant values tend to follow the pattern presented in paragraph 1 for the previous Indonesian system. The patterns for vowels and diphthongs is unfortunately perversely inconsistent and especially confusing for the native English speaker. The following observations on Dutch orthographic practice should provide some assistance.

Dutch *oe,* e.g., boek (book) like the vowel in the English word "tool" but shorter (longer before *r*), e.g. loeka = luka (Ind. wound).

Dutch *ij,* e.g. mijn (mine). This diphthong is problematical because there is considerable variation among Dutch speakers. Thus to the English speaker the diphthong may sound like the vowel in "mine" or "main". However, with regard to texts from South Sumatra the form is found in association with the modern Indonesian "ai", which may be approximated by the vowel in the English word "mine", e.g., soengij = sungai (Ind. river) or sampaij = sempai (Ind. reach, extend to).

Dutch *ie,* e.g., ziek (sick) like the vowel in the English word "week" but shorter (longer before *r*), e.g., lakie lakie = laki laki (Ind. man).

Dutch *ou,* e.g., koud (cold), similar to the vowel in the English word "how" and the Indonesian diphthong *au.* However, because this may be represented in a variety of ways in Dutch, e.g., blauw (blue); hout (wood); saus (sauce); and bouw (building, structure) there is

considerable variation in South Sumatran texts, e.g., atouw = atau (Ind. or); karbauw = karbau (Ind. buffalo); and Soengij Lemou = Sungai Lemau (Ind. place name).

5) When referring to a marriage form or legal concept specifically (i.e., with reference to a single law text) I have regarded the reference as a direct citation and thus either the rule in paragraph 2 or 4 applies, depending on the nature of the text.

TABLE OF CONTENTS

	page
Preface	V
A Note on Orthography	VII
Chapter 1: Introduction	1
Chapter 2: The Reference Law	19
Chapter 3: The Sungai Lemau Laws	106
Chapter 4: The Sungai Hitam Laws	159
Chapter 5: The Silebar Laws	192
Chapter 6: Conclusion	258
Appendix I	274
Appendix II	280
Key to Manuscript References	283
Bibliography	287
Maps	296
Indexes	298

CHAPTER 1

INTRODUCTION

In 1888 Prof. G. A. Wilken published an article in the *Bijdragen tot de Taal-, Land- en Volkenkunde van Nederlandsch-Indië* entitled "De Verbreiding van het Matriarchaat op Sumatra" (The Spread of Matriarchy on Sumatra). The Royal Institute, which was responsible for the publication of the article, sent a number of copies of the article to the Minister of Colonies together with a request that they be forwarded to civil servants in Sumatra so that they might conduct research in the field in order to fill any gaps in the data (Wilken, 1912, II, p. 220; 1891, p. 150). As a result the Ministry received a number of memoranda that were forwarded to the Royal Institute and ultimately to Wilken. Nine of these memoranda were from the Residency of Palembang and provided excellent ethnographic data covering most of the region.[1] With these memoranda available, Wilken wrote an article entitled "Over het Huwelijks- en Erfrecht bij de Volken van Zuid-Sumatra" (Concerning the Marriage and Inheritance Law of the Peoples of South Sumatra) which was published in Volume 40 of the *Bijdragen* in 1891.[2] This article was the first major attempt to produce an anthropological synthesis of the apparently widely disparate marriage forms to be found in South Sumatra.

Among the early Dutch ethnological scholars Wilken was exceptional in that he "firmly placed the study of Indonesian societies in the context of the dominant ethnological theory of his time, evolutionism" (De Josselin de Jong, 1968, p. 3). The marriage forms of South Sumatra, or as Wilken points out (Wilken, 1912, II, p. 219; 1891, p. 149), that part of Southern Sumatra formerly encompassed by Palembang, Bengkulu, and the Lampung Districts but excluding Jambi, presented an analytical problem that was bound to fascinate any nineteenth century evolutionist. In Wilken's own words, "Nowhere does one come across so many marriage forms so close together that are in the most divergent stages of development and with so many nuances and transitional forms as in South Sumatra" (Wilken, 1912, II, p. 223; 1891, p. 153).

For any of the evolutionists the most significant marriage forms in South Sumatra would have been *jujur* and *ambil anak*. These two types of marriage, when considered in their most extreme forms, are virtually ideal types for the evolutionists' notion of patriarchy and matriarchy. This is so much the case that it is perhaps useful to use William Marsden's description of these forms because it is rather difficult to argue that Marsden, who was writing in the eighteenth century, was influenced by the dominant theoretical themes of the nineteenth century. "The *jujur* is a certain sum of money, given by one man to another, as consideration for the person of his daughter, whose situation, in this case, differs not much from that of a slave to the man she marries, and to his family" (Marsden's History, 1811, p 257). In direct contrast to this there is *ambil anak*. "In the mode of marriage by *ambel anak,* the father of a virgin makes choice of some young man for her husband, generally from an inferior family, which renounces all further right to, or interest in, him ... He lives in the family, in a state between that of a son and a debtor. He partakes as a son of what the house affords, but has no property in himself ... He is liable to be divorced at their pleasure, and though he has children must leave all, and return naked as he came" (Marsden's History, 1811, p. 262 f.). What made this problem interesting to the evolutionist, and continues to make the problem interesting for the modern anthropologist, is the fact that these forms occurred not only in societies which were in close geographical proximity but also in the same society, simultaneously and in direct contrast to each other.

While the forms of *jujur* and *ambil anak* marriage, both in extreme and attenuated forms, dominate the ethnographic picture of South Sumatra, there is a multiplicity of forms that may be roughly labelled, if not in essence then by implication, as cognatic.[3] Such cognatic forms are usually matrilocal; however, the status of the children may vary substantially. Sometimes only one child must return to the father's family, sometimes the children are divided, and sometimes both parents have equal rights to all of the children. And in some cases, as if the whole system was far too complicated for any definite rules, the decision is left to the child himself. Still further complicating the picture is the fact that in certain divorce situations *jujur* and *ambil anak* forms have acquired cognatic features (c.f. Dulken, 1862, pp. 303-304).

Wilken's solution to this problem, not surprisingly, follows strict evolutionary lines. As a starting point he argues that, "In contrast to the inhabitants of Middle Sumatra, i.e., the various tribes of the Minang-

kebau Malays who practice matriarchy, the people of South Sumatra have patriarchy" (Wilken, 1912, II, p. 223; 1891, p. 153). Thus Wilken believed that the people of South Sumatra had passed through the matriarchal phase and had progressed far enough to be considered in the patriarchal phase. The key transitional step was when matriliny and patriliny existed side by side, i.e., a lineage could be continued by either a man or a woman. However, at least according to Wilken, the system gradually progressed until the rule became that the lineage was continued by sons unless there were no sons, in which case it was continued by a daughter (c.f. Wilken, 1912, II, p. 247; 1891, p. 176 f.). At this point, by implication, the stage of patriarchy had been reached. Wilken's argument is supported by the fact that in many cases it appears that *jujur* marriage was considered to be the norm, while *ambil anak* marriage was an optional rule most frequently applied when a family lacked sons. In this regard Wilken singles out Van der Meulen's memorandum which applied to Ogan Ulu and Kumering Ulu. It is worth quoting from the original document in detail not only because it is relevant to Wilken's argument but also because it helps to answer the still important question of what was the relation between patrilineal and matrilineal forms when they appeared as alternatives in the same society. However, any judgments on this latter point must be tempered by the fact that the memorandum was written in response to a query related to Wilken's original article on "The 'Spread' of Matriarchy in Sumatra".

When the brideprice (djoedjoer) is paid, the woman follows her husband to his family. Completely in agreement with the frequently expressed idea that the man has purchased (beli) his wife, the children stay with the family of the father.

If the father does not have any sons then one of the daughters (if possible the eldest) marries by "terambil anak lepas". In this case the man is obliged to live with his wife [i.e., matrilocally]. The woman is the head of the family (gezin = strictly speaking, nuclear family) "tegah djoerei" because she is completely equated with a son. The children stay with the family of the mother. If there are marriageable daughters and only one young son then one of the daughters marries by terambil or "ka'ambil" anak (without, however, establishing a descent line (?) (stam)) until the son can marry and there is no fear that the descent line will die out in the male line. The woman is then free to follow her husband, who returns to his own family. If the son dies before he has any descendants, then the daughter's marriage is changed to the "ka'ambil anak lepas" form and with a feast it is made known that she has established a "djoerei".

By way of exception, it sometimes happens that an elder daughter establishes a "djoerei" while the father still has a young son, but according to the current superstition this may result in the sickness or death of the son. The reason for this exception is that the father is rich and powerful and fears that his "djoerei" will die out or that because his daughter has followed her husband she may be forced to do heavy work in the fields. (Algemeen Rijksarchief, Ministry of Colonies Archives (non-secret), 27 Sept. 1894, No. 41, Memorandum Van der Meulen, 12 Nov. 1889).

Thus Wilken's argument that the dominant form is patriarchal in nature is based on the fact that at the level of norms the patrilineal form of marriage takes precedence over the matrilineal form. It is interesting to note that most modern social anthropologists, while avoiding the term patriarchy, would interpret this passage from Van der Meulen's memorandum as being primary evidence for the existence of a patrilineal descent system. Wilken's argument is not based solely on the material provided by this memorandum but reflects a general feature associated with South Sumatran marriage systems that is to be perceived in the early literature, i.e., there is a strong general preference for the *jujur* or patrilineal and patrilocal form of marriage. The term preference is used advisedly. Although with regard to important positions and titles, the preference for patrilineal descent seems to acquire the strength of a prescription, even here the exceptions are frequent and important. And further, the status implications of *jujur* marriage derive not only from the positive values surrounding the principle of patrilineal descent, but also from the ability to pay what in many cases was an exorbitant bride price. Indeed, one has the impression that the major obstacle to the extensive use of *jujur* was the financial implications of the marriage payment. Thus, in the Lampung Districts where the size of *jujur* payments reached the most extreme proportions, Forbes (1885, p. 152) suggests that only the eldest son married by *jujur* while all of the others married by one or the other of the matrilocal forms.

In contrast to his view that patriarchy has replaced matriarchy as the dominant form in South Sumatra, Wilken argues that the cognatic system has begun to develop but has not yet replaced the patriarchal system. Wilken uses a very precise definition of cognatic, i.e., a system in which both parents have equal rights to all of the children (Wilken, 1912, II, p. 265; 1891, p. 193). While one might quibble about the precise definition of transition points, Wilken's argument accords well with one aspect of the early literature. Where one finds internal reform pressures there is often evidence that either a marriage form already

cognatic in its implications acquires a new and special emphasis or a cognatic form is introduced, or the *jujur* and *ambil anak* forms are reshaped in such a way that *in certain circumstances* cognatic rules apparently apply. For example, in John Marsden's laws for Lais a *semendo* form cognatic in its implications is presented explicitly as a reform[4] that is to overcome certain harmful effects of both *jujur* and *ambil anak* marriage (Marsden's History, 1811, p. 225). Consistent with his view that the evolutionary sequence is matriarchy, patriarchy and cognatic Wilken mentions this example (Wilken, 1912, II, p. 267; 1891, p. 196) and emphasises the equality aspects of the marriage form by quoting Marsden, i.e., "This marriage is a regular treaty between the parties, on the footing of equality" (Marsden's History, 1811, p. 263).

There are, however, a number of marriage forms in South Sumatra which are neither exclusively matrilineal nor exclusively patrilineal but do not imply legal equality between the marriage partners. The most common of these is a form frequently referred to as *semendo balik jurai.* This is a form of matrilocal marriage according to which one child belongs to the family of his father while the rest belong to the mother's family. Another situation that frequently arises either as a distinct marriage form or as a circumstantial aspect of another form is the division of the children, i.e., the child belongs to his mother's family or to his father's family but not to both. Largely on the grounds that such forms are usually matrilocal and the man has an inferior legal position with respect to his wife, Wilken views forms such as these as being representative of a transition stage between patriarchy and matriarchy.

Contrary to Wilken, largely as the result of the structural analysis of marriage laws, I have grouped together all forms that are neither strictly matrilineal nor strictly patrilineal. However, modern British Social Anthropology, using different criteria, would partition these nonlineal forms into two groups that are virtually identical to Wilken's division. On the one hand, the definition of cognatic as equal rights to all children is still largely accepted. On the other, systems in which some of the children belong exclusively to one group and some of the children belong exclusively to another group, are often described as ambilineal.

Wilken's solution to the problem presented by the multiplicity of South Sumatran marriage forms was consistent with the dominant evolutionary theories of his day. However, to regard this analysis only as an historical curiosity from a bygone anthropological era, is to do

a fundamental injustice to his work. In particular, the manner in which he differentiated between types of forms is in many respects still acceptable. For example, the implicit distinction that he makes between cognatic and ambilineal types of marriage is still valid. And further, his assertion that the marriage system of South Sumatra is essentially patrilineal anticipates a style of argument that is still dominant in British Social Anthropology. However, sophisticated as these arguments are, they are nonetheless dominated by a theoretical bias that is no longer accepted in modern social anthropology. Thus when Wilken attempted his synthesis of the marriage systems of South Sumatra and found the solution in evolutionism, one might say that he was asking the right question but providing the wrong answer.

As Wilken correctly observed, the marriage systems of South Sumatra provide an unusually complex but exceptionally interesting problem for analysis. While modern anthropology rejects Wilken's approach, the problem is to find a useful and hopefully valid alternative to evolutionism. In contemporary anthropology there are two basic trends that may be employed to describe the relationships between the various marriage forms occuring in South Sumatra. One is the British social anthropological approach; the other is the Paris-Leiden structural approach. The social anthropological approach focuses on social interaction, especially with regard to institutionalized forms of behaviour. The structural approach focuses on the conceptual aspects of the social system, especially with regard to formally organized systems of categories.

In social anthropological terms the marriage forms of South Sumatra represent a series of institutionalized alternatives that regulate marriage. Accordingly, the study of the alternatives is primarily concerned with an examination of the factors that influence or govern the choice of marriage type. Thus the passage from Van der Meulen's memorandum quoted above can be interpreted as meaning that *jujur* marriage is used unless: 1) there are no sons to continue the family line, in which case a matrilineal and matrilocal form is used; 2) there is some doubt as to whether a son will survive, in which case a daughter marries by a matrilocal form which can be converted to a strict matrilineal form or to a patrilocal form as circumstances require; or 3) a wealthy man does not wish to marry his daughter out of his family.

Van der Meulen clearly indicates that the lack of sons or the concern for their survival is the dominant factor governing the choice of alternatives. In more general terms, the choice of alternatives is ultimately related to the demographic characteristics of the population.

In particular, how many individuals are there in the sibling group and what is the probability that at least one will be a male who will survive to produce offspring? However, this is not a simple demographic problem but is itself in turn dependent on certain aspects of the marriage system.

The Substance of the Report on the Condition of Society published in *The Proceedings of the Agricultural Society established in Sumatra* presents a detailed discussion of the situation in the early nineteenth century (± 1820). "It appears that on an average of marriageable persons of both sexes, no less than one fourth, and often more, are in a state of celibacy, of which the majority are females. The excesses of unmarried females is chiefly owing to the emigration of young men, who wanting the means of marrying in their own country, pass into the neighbouring ones, where the difficulty of obtaining wives is less (p. 3 f.) ... The late age at which marriages frequently take place may have a further effect in diminishing the number of children (p. 5) ... The proofs of the obstacle which this custom, [jujur marriage payments] combined with poverty, presented to marriage, are obvious in every village throughout the country, where the number of Gadises or virgins, many of whom are bending under the weight of years, is not a little remarkable" (p. 15) (Proceedings II).[5] The essential point made by this material is that the analysis of the factors influencing the choice of alternatives requires the study and evaluation of circumstances and variables external to the marriage forms themselves. In South Sumatra the most significant of the external factors are of a demographic and economic nature.

Another approach within the general realm of social anthropology bases the analysis not so much on the factors governing the selection of alternatives but on the cumulative effects of the making of choices among the forms. Thus Jaspan's (1964) argument that in the twentieth century the Rejang people have passed from a patrilineal system to a matrilineal one is in a large way based on the fact that the pattern of choice has changed from the regular selection of a patrilineal form to a regular selection of a matrilineal one.

Thus the social anthropological approach treats the various marriage forms of South Sumatra as institutionalized alternatives. By viewing these forms as alternatives one is obliged either to analyse the factors governing the choice between alternatives, or to analyse the cumulative effects of making choices, and preferably both. Furthermore, the analysis of these factors must ultimately become involved with circumstances

and conditions existing in the society which are external to the system of formally organized marriage categories. On the other hand, the structural approach treats the marriage forms not as alternatives but as categories. This approach has one important additional aspect and that is the insistence that the relationships between categories be analysed in so far as possible in terms of the system itself and with as little reference as possible to external circumstances.

The structural approach in anthropology can be succinctly summarized by a postulate, a specification, and an application rule. The postulate states that the relations between elements are more important than the elements themselves. The specification is that elements are named categories. And, the application rule states that given a closed system of formally organized categories, the structural approach is especially appropriate to the analysis of that system.

Because there is substantial evidence that the marriage forms of South Sumatra form a closed system of formally organized categories, I have adopted a structural approach in an effort to elucidate the nature of the marriage systems. While the chapters that follow are a demonstration of how structural analysis can be used to describe the relations between the marriage forms of South Sumatra, it is perhaps useful at this point to indicate some of the major contrasts with the social anthropological approach. The example from Van der Meulen's memorandum (and this is not an isolated example) indicates that *ambil anak* marriage is an alternative *only* to be used when *jujur* cannot be used, thus suggesting that *jujur* is the dominant form and *ambil anak* is only a subsidiary alternative. However, at the conceptual level there is abundant evidence indicating that the two forms are of equal value and opposed. Hazairin expresses this eloquently and succinctly. "Oorspronkelijk kende het Redjangsche volk slechts als huwelijksvormen de *semendo-ambil-anak* huwelijken en de *djoedjoer* huwelijken. Beide huwelijksvormen staan in nauw verband met elkaar, de eene is de contravorm van de andere. De eene kan niet zonder den andere bestaan op straffe van vernietiging van het volksideaal" (Originally, the Rejang people only had *semendo ambil anak* marriage and *jujur* marriage as marriage forms. The one is the antithesis of the other. The one cannot exist without the other except at the risk of destroying the ideal order of the people (volksideaal) (Hazairin, 1936, p. 37). This is not an isolated idiosyncratic opinion on the part of the author but, as we shall see in the following analyses, a prevalent idea in South Sumatra.

Another difference between the social anthropological approach and

the structural approach relates to the analytical treatment of the non-unilineal forms of marriage, i.e., those other than *jujur* and *ambil anak*. Among these non-unilineal forms two basic types can be readily distinguished. First, there are those forms in which both parents have equal rights to all children. Secondly, there are those forms in which both parents have rights to the children but each child is assigned to either the group of the mother or the group of the father but not to both. The first is usually labelled cognatic and the second ambilineal. However, as the passage from Hazairin suggests, and detailed analysis confirms, such a partitioning of the non-unilineal marriage forms does a fundamental injustice to the conceptual order. These forms are conceptually defined by their relation to the basic jujur/ambil anak opposition and as such their key feature is their lack of a strict, exclusive unilineal principle. To insist upon a further dichotomy is to impose an unwarranted and external logical notion on the data.

Thus the structural approach is more concerned with how the people of South Sumatra think about their marriage system than with how they use that system. The basic problem, therefore, is to find data that elucidate the conceptual aspects of the marriage system. Prior to the publication of Wilken's synthesis, the majority of the available literature concerning South Sumatra had been written by Dutch civil servants or before 1825 by English officials. From these sources one can construct a reasonably accurate statement as to the nature of the individual marriage forms and how they were used. However, with respect to the conceptual order the only substantive material to emerge relates to the conceptual systems of the Europeans and not the Sumatrans. Indeed, the biases and personal views of the various writers are so pronounced that they can be controlled and the sources used with considerable confidence. Paradoxically, this is in marked contrast to many of the later sources where anthropological thinking had begun to make an impact. Here the theoretical biases of writers (both civil servants and anthropologists) influenced their interpretation of phenomena to such a degree that reinterpretation is usually difficult and hazardous, if not impossible.

In an effort to better understand the ideas implicit in each marriage form, I began by looking for early sources that gave descriptions of each marriage form in an indigenous language (usually Middle Malay). Initially, the goal was an extremely modest one: how are the essential aspects of each marriage form expressed in the local language? In particular, I was interested in the choice of vocabulary and syntactic structures that were employed to differentiate one form from another.

The most important published source that provides such material is L. W. C. van den Berg's *Rechtsbronnen van Zuid Sumatra* (Legal Sources of South Sumatra) (1894). Here Van den Berg published a series of Malay language legal texts in Arabic script together with their translations. Though the quality and usefulness of the texts varies considerably, it is very clear that the Malay texts contain much more anthropologically significant information than do the translations. Additionally, this material indicates that at least some legal codes can be used to provide insights into the nature of the marriage systems of South Sumatra. However, the texts are not uniformly useful. The most serious problem affecting the use of Malay language legal codes for anthropological purposes is the fact that in some cases colonial authorities used legal codes not so much as a means for the documentation of local legal usages but as one way in which to implement certain "reforms".

Among the legal codes published by Van den Berg there are two important examples of the problems created by colonial interference with the content of a law. In the "Oendang Oendang Simboer Tjahaja" for the residency of Palembang one finds the following: "tidak boleh sekali[2] orang tua atau ahli gadis atau rangda minta wang jujur (the parents or family of the maiden or widow can never demand the money of the jujur) (Van den Berg, 1894, p. 13). And similarly, in the "Oendang Oendang Simboer Tjahaja van Benkoelen" one finds the following: "jujur atau hantar tidak lagi dimintaknya perkara jujur atau hantar tidak boleh mendjadi dawa" (jujur and hantar [both are marriage payments] are no longer demanded; matters relating to jujur or hantar cannot become legal suits) (Van den Berg, 1894, p. 263). These legal statements dating from the 1850's and 1860's respectively are contradicted by contemporary and later sources. For example, just preceding the description of marriage forms presented by Van der Meulen in his memorandum, there is the following statement: "The modes of marriage, at present still usual — notwithstanding the fact that article 3 of the "atoeran boedjang gadis" (marriage regulations) and article 20 of the "atoeran marga" (district government regulations) make them punishable — are: " (Algemeen Rijksarchief, Ministry of Colonies Archives (non-secret), 27 Sept. 1894, No. 41, Memorandum Van der Meulen, 12 Nov. 1889). In other areas there appears to have been at least overt acceptance of rules forbidding *jujur* and at the same time a covert continuation of the old practice. For example, Forbes, an Englishman travelling in the Lampung Districts, was able to observe

how the rule abolishing *jujur* was circumvented. Unless the man agreed to surreptitiously pay the full *jujur* payment the father of the girl could "always raise insurmountable difficulties" (Forbes, 1885, p. 151).

Whether such colonial regulations were obeyed or not is largely an irrelevant question when one is examining law texts for possible evidence relating to the conceptual order. The mere fact of their inclusion in a legal code creates such major distortions that the text is usually rendered unusable. The main cause of this is the fact that any government regulation relating directly to a marriage form affects the legal relationships among the various forms. Thus instead of having an indigenous relational statement, one may easily find a European statement which has chosen to emphasise some marriage forms and to de-emphasise others. Furthermore, and this is especially relevant to the above mentioned code from Bengkulu, the prohibition on any further cases relating to an abolished marriage form makes the law set even more artificial. In indigenous reform documents it was often necessary to provide guidelines for the settlement of cases related to previously contracted marriages, even if the marriage form had recently been forbidden.

These two law texts published by Van den Berg are not merely an example of the problems and potential hazards associated with the use of legal texts. These particular texts also represent a major turning point in the philology of the legal manuscripts of South Sumatra. These two, and, as we shall see, related, legal codes came to have a dominant influence in the preparation of administrative legal codes. And because, at least from the viewpoint of structural analysis, this influence has been less than benign, these two legal documents form a barrier beyond which analytical exploration is difficult, hazardous and usually speculative. Therefore, the historical background and relationships between these two legal codes provide essential insight into the philology of South Sumatran legal codes.

In 1852 J. F. R. S. van den Bossche was given the task of assembling and codifying the legal and customary usages in the interior of the Residency of Palembang. He completed the task in 1854 and the results of his work became known as "Oendang Oendang Simboer Tjahaja" (Undang-Undang Simbur Cahaya). He divided the full range of legal phenomena into six topics: 1) "adat boedjang gadis dan kawin" (customs relevant to relations between youths and maidens as well as marriage);[6] 2) "atoeran marga" (regulations for district government); 3) "atoeran doessoen dan bĕrladang" (regulations for village government and agriculture); 4) "atoeran qawm" (regulations governing the

"clergy"); 5) "adat pĕrhoekoeman" (the administration of justice); and 6) "atoeran padjaq" (the regulations concerning land revenues) (Van den Berg, 1894, p. 7).[7] Although these divisions were not all used all of the time they were to become a dominant influence in most of the subsequent legal codes pertaining to Palembang.[8]

One of the individuals who assisted Van den Bossche in his work was J. A. Walland. In 1861 Walland succeeded J. A. W. van Ophuijsen, who had served since 1857 as the Assistent Resident in Bengkulu. In 1862 Walland attempted to prepare a codification of the legal practices of Bengkulu similar to that for Palembang. The result was the "Oendang Oendang Simboer Tjahaya van Benkoelen". Unlike the Palembang version this codification contained only three sections: 1) "Atoeran marga"; 2) "Atoeran doessoen dan berladang"; and 3) "Adat perhoekoeman". Like the Palembang version the Bengkulu code served as a model for other similar codes. In particular, a special version of the code was drawn up for Muko Muko in the extreme North of the Residency.[9] However, the most remarkable feature of the Bengkulu version of the "Oendang Oendang Simboer Tjahaya" is the fact that there is no special section dealing with marriage. Indeed, the prohibition on *jujur* marriage payments is included in the section that can be roughly labelled as "criminal" law.

I have been able, however, to locate a Malay language manuscript which was apparently an attempt to prepare a section on marriage practices for inclusion in the Bengkulu version of the "Oendang Oendang Simboer Tjahaya". The text is at present in the Western Manuscript Collection of the Royal Institute for Linguistics and Anthropology and bears the name: "Adat Boedjang Gadis, Soengei Lemau Oeloe Benkoelen" (TLVK H813d-iii). The text was signed by the Regent for "Soengai Lemau dan Oeloe Benkoelen", Mohammad Sah. As will become apparent in the subsequent chapters, Mohammad Sah was perhaps the most influential of the native authorities in Bengkulu at the time and a considerable scholar in his own right. A careful comparison of this text with the section entitled "Adat boedjang gadis dan kawin" of Walland's personal copy of the "Oendang Oendang Simboer Tjahaja" (TLVK H580) reveals that the Bengkulu text is an attempt to prepare a statement about local usage using the Palembang text as a direct guide. Thus it seems reasonable that the "Adat Boedjang Gadis" was written later than 1854. On the other hand, Wink (1926, p. 68) indicates that in 1861 Mohammad Sah requested to be removed from office. Thus this manuscript must precede the Bengkulu "Oendang

Oendang Simboer Tjahaja", which did not appear until 1862. Though it can be demonstrated that this manuscript in some sense links the two "Oendang Oendang Simboer Tjahaja's" this is not its most remarkable feature. The most striking aspect of this manuscript is the fact that there is no mention of *jujur* marriage. This is all the more remarkable because the same author had written a brilliant legal synthesis of *jujur* and *semendo* marriage forms in the summer of 1855 (this synthesis is analysed in Chapter 3). Thus the manuscript entitled "Adat Boedjang Gadis" provides an excellent example of the kinds of distorting effects that colonial influences had both upon the form and the content of legal codes.

In contrast to the era of direct interference with the writing and composition of legal codes, the beginning of which is marked by the appearance of the "Oendang Oendang Simboer Tjahaja", there is a collection of manuscripts for Bengkulu that reveals another pattern. It is perhaps appropriate that the man J. Walland replaced, J. A. W. van Ophuijsen, was responsible for the assembling and preservation of the majority of the legal codes from South Sumatra that I have found to be suitable for structural analysis. These manuscripts are part of the J. A. W. van Ophuijsen collection which is housed in the Leiden University Library.

Though it may only be the result of an accident of preservation that the anthropologically most useful legal codes came from only one part of South Sumatra (i.e., the Bengkulu Residency), their special value is also undoubtedly related to certain local administrative traditions that developed during the British administration of the region and were continued largely unchanged by the Dutch until the appearance of Walland. In the legal codes in manuscript form for this region one is often struck, on the one hand, by the obvious lack of colonial interference in both the form and content of the legal codes and, on the other hand, by the fact that the documents are, for the most part, comprehensible. Indeed, one has the impression that many of the legal codes were written by the local elite for the Dutch (or English). They are digests of local customs and legal ideas but are explicit enough to be readily understood by the outsider. This is in marked contrast to the truly indigenous legal statements that are often difficult to read and understand. Thus, somewhat aphoristically, one might say there are three types of legal codes in South Sumatra: 1) those written by the local people for themselves; 2) those written by the local people for outsiders; and 3) those written by the colonial authorities for the local people.

Thus, the anthropologically most useful legal codes are those in which the material is presented by local individuals in their own language. Perhaps even more important than the freedom to specify and describe their own customary and legal practices is the fact that in most cases they were allowed to organize and arrange the contents of the laws as they thought appropriate. It is this absence of interference with form and content that gives these legal codes their essential qualities. For it is not only the content of the legal codes but also the arrangement of this content that reveals the conceptual organization of the marriage forms.

In the process of establishing the fact that the contents of certain legal codes and the manner in which this material was arranged is an invaluable aid in understanding the logic of the relations between marriage forms, a new and unexpected dimension emerged. The formal properties of the structures that relate the marriage forms are not confined to the theme of marriage, but are also to be found in the structures that relate other types of social or legal categories. Although the process of discovery involved an extension from the marriage structures to the structures of other legal phenomena, this does not mean that some of the structures of a legal code are extensions of the structural relations found in the marriage section of that code. On the contrary, the essential feature of the logic of the relationships between marriage forms is that they are only a part, though a very important part, of a conceptual system embracing a wide range of social concepts and categories.

Thus while legal codes provided a solution to the problems associated with the description and analysis of the relations between the marriage forms of South Sumatra, they in their turn posed another undoubtedly more complex problem. Can the logic of the relations between marriage forms be described without reference to other systems of formally organized conceptual categories? Anthropology, with its traditional involvement with the full range of human society and behaviour, tells us that this question must be answered in the negative and that one must seek the totality of contexts that are relevant to the understanding of the marriage forms. However, the legal codes seem to play a devious trick on the analyst. He does not have the freedom to explore the totality of possible associations between marriage categories and other conceptual systems because the laws themselves specify which categorical systems are in some way equivalent to the logic of the relations between marriage forms. Some of these other systems can be readily seen as

having conceptual links with marriage. For example, the logic of financial relations has important connections with marriage as a result of the brideprice payments. Similarly, the logic of sexual offences can be seen as being related to the logic of the marriage systems. However, the laws often seem to suggest that the logic of the relationships between the offences of killing, wounding, and theft is similar to that existing between the marriage forms. Thus the laws require that the anthropologist suspend his normal views as to what is relevant and what is irrelevant to the understanding of the marriage forms.

However, while the laws bring apparently unrelated systems and categories into juxtaposition and association, the structure of the legal codes is such that it is possible to isolate the various distinct subsystems within a given legal code. It is possible, therefore, to say that some portions of a legal code deal with marriage, some with economic matters, and others with "criminal" matters. Thus, on the one hand, the laws indicate that there are several distinct systems of legal categories that share certain formal properties. But on the other hand, the structure of the laws is such that it is possible to isolate these subsystems and analyse them independently without doing any fundamental injustices to the data.

The laws, therefore, present an analytical dilemma without providing the solution or an indication of which of two possible solutions is preferable. On the one hand, one could analyse only the marriage structures of a substantial number of laws in order to demonstrate that certain basic structural patterns recur throughout South Sumatra. On the other hand, one could analyse the total structure of a more limited number of laws. Though at a purely theoretical level there is no necessary conflict between these two approaches, the practical problems of exposition require that a choice be made.

By electing to search for recurring structures in a large body of data, one makes an important theoretical decision. The demonstration becomes not of the full range of structural phenomena in a given corpus of data but of those structures that are most widespread and thus by inference the most basic. This is the choice that Lévi-Strauss has made in his *Mythologiques*. In the analysis of his data he seeks to find and identify those structures which have a broad distribution. However, this approach tends to make the most of the similarities that occur while at the same time understating and perhaps even underestimating the range of total diversity.[10]

On the other hand, by attempting to totally analyse the full range

of structural phenomena in a limited corpus of data, one is able to establish the nature and range of diversity displayed in the structures of the data. In comparing the various differing structures one often tries to find the abstract formal properties of the various structural systems in an effort to demonstrate that while the range of structural phenomena is highly diverse, there are nonetheless certain basic principles that are reused in manifestly different structures.

In this study I have chosen the second approach. I have not sought to demonstrate that certain structural principles are used and reused to order the relations between the various marriage forms occurring in South Sumatra. On the other hand, I have sought to demonstrate that the logic of the marriage system as expressed in legal codes is part of a conceptual system embracing the full range of legal thinking.

This choice has been made on the grounds that it is necessary to understand the total structuring of the various legal codes in order to better assess the nature of the domain of discourse in which the diverse marriage forms have been placed. The rules of marriage are discussed as part of the legal system. It is possible, and indeed probable, that there are important differences between the conceptual aspects of the marriage system when presented in a legal domain as opposed to another, for example mythic, domain. Thus I have elected to examine not only the logic of the marriage forms but also the nature of the particular domain of discourse in which they are expressed.

By examining the total structures of the legal codes two important tasks are accomplished. First, in the process of analysis, the structure of relations between marriage forms is presented. And secondly, the full range of the conceptual aspects of the legal system are explored. The second task helps to further clarify the logic of the relations between marriage forms by elucidating the general nature of the system in which this logic is expressed. However, by examining the total structure of the laws one has undertaken the analysis of the legal system itself, as if it were a closed system of formally organized categories. Thus necessarily this study is concerned with the logic of the laws. The view that I have taken of law in this study is entirely consistent with the structural approach in anthropology. However, this view is undoubtedly somewhat unorthodox in the anthropological study of law. As the approach to law that I have adopted here is dependent upon the nature of the legal codes I will postpone the discussion of the relationship between the structural and functional approaches to the study of law until the conclusion. By then I hope that it will be apparent that the functional

approach is not particularly suited for analysing the legal codes of this study and that the analysis of such codes raises some important questions for the anthropological study of law.

CHAPTER 1 — NOTES

1 The following is a list of the dates, the authors, and the regions to which the memoranda applied:

30 January 1889	Schuller tot Peursum	Ranau Districts
9 July 1889	Van Driest	Rawas
17 October 1889	De Heer	Semendo
31 October 1889	Van Driest	Kikim
12 November 1889	Van der Meulen	Ogan Ulu, Komering Ulu
16 December 1889	Raedt van Oldenbernevelt	Lematang Ulu
10 January 1890	Roskott	Rawas
10 January 1890	Vonck	Musi Ilir
23 January 1890	Engelhard	Pasemah Lebar

2 On 27 September 1894 the Ministry of Colonies received the memoranda which had been returned from the Royal Institute. They were the forty first item to be filed on that day and have remained so until the present. At the time of this writing the relevant file can be found in the Hulpdepôt van het Algemeen Rijksarchief te Schaarsbergen.

3 In order to avoid creating a plethora of terms to describe this multiplicity of forms, I have used and will continue to use the term cognatic to describe any marriage form that is not strictly unilineal in its implications.

4 A detailed analysis of the reform logic implicit in this transition is presented on pages 38-40 below.

5 Census material to be found in the *Proceedings of the Agricultural Society established in Sumatra* provides detailed material on the situation in two districts not far from the British headquarters at Fort Marlborough. For example, in the District Lumbah Selapan 38 % of the marriageable males and 40 % of the marriageable females were unmarried and in the District Duabelas 32 % of the marriageable males and 22 % of the marriageable were unmarried (c.f. *Proceedings B,* and *Proceedings C*).

6 The English words after the Malay are not properly translations but indicate what the Dutch Colonial authorities thought was included in the category.

7 This is the published account according to Van den Berg. However, in the Western manuscript collection of the Royal Institute there is a bundle of J. A. Walland's correspondence (TLVK H580) which includes a sizable collection of letters from Van den Bossche. There is also an interesting manuscript version of the "Oendang Oendang Simboer Tjahaya" for Palembang. The manuscript bears the title "Oendang Oendang iang di toeroet di dalam Oeloean negrie Palembang" (the laws which are followed in the interior (uplands) of the Residency Palembang). Of particular significance is the fact that at the top of the first page is the following inscription: "Batoeradja/Ogan Oeloe/October 1852". This seems to suggest that this manuscript may be a very early copy of the "Oendang Oendang Simboer Tjahaja" for Palembang. This law is divided into seven sections, the six given by Van den Berg and one entitled "atoeran membagie oeang denda" (the regulations governing the division of money derived from fines).

8 Among the published versions c.f. [De Sturler] (1876) and Gersen (1873). Van Ronkel has catalogued a number of manuscript versions: Van Ronkel (*BKI* 1908) No.'s XLII, XLIII; Van Ronkel, 1909, No.'s CD, CDI, CDII; and Van Ronkel, 1921, No.'s 725, 725*).

9 A Dutch language version of this Muko Muko text was published in *Koloniaal Verslag* for 1865 and a Malay language version with a Dutch translation is to be found in *Adatrechtbundel* VI, pp. 322-352.

10 This point is explored more completely in Chapter 6.

CHAPTER 2

THE REFERENCE LAW

The Logic of Reference Points

If structural analysis presupposes that the relationships between elements are more important than the elements themselves, then it follows automatically that every problem of comparison involves a comparison of structures. When one is comparing a small number of structures, the analytical problem yields an easy solution. One simply compares each structure with every other structure. However, as the number of structures to be compared increases the complexity of the problem also increases. For two structures one comparison is needed, for three structures, three comparisons, for four structures, six comparisons, for ten structures forty-five comparisons and for the eight hundred thirteen myths of Lévi-Strauss' *Mythologiques* 330,078 comparisons would be required. While not logically necessary it would be useful to reduce the complexity of the analytical problem if only to make the task more manageable.

By the use of a reference point, the problem can be simplified. If every structure is either directly or implicitly compared to a reference structure then the comparison between any two structures can be derived, if necessary, for a particular analytical purpose. However, such a reference structure by virtue of its analytical position acquires an analytical priority. Instead of a comparison based on the assumption of analytical equality, we have introduced an element of hierarchy into the analysis. Other than assigning an *a priori* analytical priority two reactions are possible. The analytical priority can be asserted by appeal to an extra-structural reality. Or the analytical priority can be denied by a totally arbitrary selection of a reference point.

The various aspects of references and standards can be demonstrated most clearly by the natural sciences. The datum of the surveyor is a totally arbitrary reference. A single stake driven into the ground serves as a datum. All subsequent measurements are made in terms of this datum. If necessary the position of the datum can be established in

relation to a broader context. However, the exact position is arbitrary. (For small scale works the datum is often placed where it will not be accidently removed from the ground). This is also the procedure used by archeologists. The exact spatial relationship between two artifacts is based on measurements relative to an arbitrary datum.

The simple comparison of the maximum temperature in two cities on the same day is based on a reference that is less arbitrary and can be said to be extra-structural. The Celsius or Centigrade system is based on two natural phenomena: the boiling point and freezing point of water (icepoint-steampoint). The difference in temperature between these two points is divided into one hundred equal units. Thus, in this case, the reference point has a reality entirely external to the comparison at hand. Further, the choice of water as the reference medium lends the aura of a fundamental reality to the system of measurement.

A third example relates to the metre. Originally the metre was to have been one ten millionth part of the meridional quadrant of the earth. From the assumed measurement of the size of the earth an archival standard was created. Thus, the metre until recently has been defined in terms of a specific metal bar, but with reference to a more fundamental reality. Thus, both the Celsius temperature system and the metric system appeal not only to fundamental realities but to realities based on our western cultural heritage. Water was one of Aristotle's four elements, and the earth has always been a basic constant in the growth of western scientific thinking. (Parenthetically, the metre has been redefined in terms of a multiple of the orange-red spectral line of Krypton-86. While this reference may be more useful from a "scientific" point of view, it still relates to the original definition based on the size of the earth.) Of all the principles of measurement, the oldest and still most generally used is that of the archival standard. While being of fixed external reality to the specific problem of measurement, it was often arbitrary. But it was to be available for comparison. Sometimes, the arbitrary nature of the standard was concealed in an appeal to fundamental realities which nonetheless had a strong cultural bias. However, more modern developments have changed the reference standards in an effort to create standards more useful to the rational needs of the scientific community.

Scientific standards have two main features. First, all references have an absolute reality by definition: the reality of a particular object or a physical phenomenon. Secondly, there is the problem of measurement. While a unit of length may be defined as the distance between two lines

inscribed on an particular metal bar, the problem of devising a means for accurately measuring and replicating the distance remains. To increase accurate repetitions of measurement, the conditions under which the measurement takes place must be specified. In physical standards, in addition to the problem of measurement, is the fact that the constants may not prove to be as constant as originally thought.

The use of scientific standards and references offers several useful lessons for the anthropologist. A totally arbitrary reference point like the surveyor's datum is difficult to achieve. Even if one uses a totally random means of selection, there is always the risk that in the process of analysis we may unwittingly assign an analytical priority to the reference point. If this occurs, one runs the risk of assigning an analytical priority to a structure that is by its nature inappropriate. On the other hand, if one accepts the necessity of assigning an analytical priority to a reference point, then there is the obligation to explain this assignment.

There are two main types of considerations that effect the selection of a reference point: structural considerations and extra-structural considerations. This division parallels the distinction made by De Saussure between *langue* and *parole*. That is, there exists a class of features empirically describable and external to the structural analysis. In linguistics this separation is most carefully applied in the distinction between phonology and phonetics. The stylistic variants of a phoneme can be described empirically but these variants are external to the phonological analysis. However, these extra-structural features cannot always be ignored.

In comparisons based on structural analysis there is a preference for selecting the reference point in terms of the analysis. Thus, the reference structure may be either elegantly simple or deviously complex, depending on the analytical procedures to be used. The analysis can be based on an expansion of the simplest structure or the decomposition of the most complex. Or, the selection can be based on the problems of exposition, i.e., in one example the structure is more easily perceived. Lévi-Strauss' reference myth posed "problems of interpretation that are especially likely to stimulate reflection". (Lévi-Strauss, 1964, p. 10; 1969, p. 2).

However, there may be features present that are not part of the structural analyses of the individual structures but cannot be overlooked. Foremost among these extra-structural considerations are historical, geographical and sometimes philological features. When the data are

based on manuscripts, as is the present case, such features are so prominent in the data that they cannot be ignored. For example, when two structures are derived from two texts which are well dated these dates cannot be ignored. The formal property of a transformation between two structures is that there is no direction implied. Thus, the transformation from A to B is formally equivalent to that from B to A. If we know from the manuscripts that structure A is earlier than structure B then we must consider the transformation as unidirectional from A to B. To argue the equality of direction when accurate historical information is available is to be anti-historical. Philological analysis also has a decisive influence in choosing between alternative reference points. If it can be demonstrated that part of one text was copied from another earlier one, then the analysis must take cognizance of this feature. In both cases, historical and philological, the use of the extra-structural information lends credence to the analysis. Thus a transformation between an earlier and a later structure involving a direct knowledge of the former by the makers of the later structure (as demonstrated by philological analysis) is more than an analytical device. It has a strong empirical reality. Thus a reference point can only be based on structural considerations when there is a demonstrable lack of extra-structural features that could seriously effect the significance of a series of comparisons.

While scientific standards have a distinction between the absolute reality of the standard and the problem of measurement, anthropological reference points have a parallel distinction between empirical reality and analysis. In most anthropological studies based on participant observation this distinction is difficult to discern if it can be made at all. However, in the present analysis based on textual material the distinction can and, indeed, must be made. On the one hand, the reference point is the text itself, i.e., a particular physical entity. On the other hand, there is the structural analysis of the text. Two separate analysts can at different times examine the same text and prepare analyses. In both cases the thing examined is identical, a condition which is impossible when analyses are based on field work. A specific manuscript may be different from another only because of errors made by the scribe while copying the text. A structural analysis based on such scribal errors is worthless. The analogous problem with oral tradition is more problematical. The difference between two versions of the same myth may derive from simple lapses of memory or from bricoleurean embellishment on the part of the narrator. The latter is an appropriate

object for structural analysis; the former is not. Each text to be analysed presents this problem in a greater or lesser degree. Even when only one copy is available scribal errors become apparent by ungrammatical structures or *non sequiturs*. Thus every law that is analysed may have a reference text. When possible this will be the earliest complete edition. Unlike traditional philological analysts I will not try to construct a hypothetical original text.

While every law may have a reference text, the total analysis may have only one reference point: the reference law. The structure based on this reference law is the reference structure. Like every law the reference law also has a reference text. While the question of reference text is important for every law, it is most crucial with respect to the reference law. Thus, a reference text should be selected so as to minimize the problems concerning the origin of the text. Indeed, the quality of the reference text is the final criterion for selecting a reference law. Thus a particular law may be ideal from both structural and extra-structural points of view but the text itself may be of such doubtful provenance that it cannot be used. While the structural and extra-structural features of the reference law will emerge in the course of the subsequent analysis, the nature and origin of its reference text must be examined explicitly.

The Reference Law

The English name of the reference law for this study is "A Code of Laws as established by the Pangerans' Court at Fort Marlborough, collected by Henry Robert Lewis, Esq., of the Bencoolen Civil Service, and late magistrate". The law also has a Malay title "Undang[2] adat lembaga melayu yangdipakai oleh raja dengan penghulu dalam negri bengkehulu kota malbera yang dimuafakatkan oleh Henry Robert Lewis Esquire Magistrate". The text is dated 12 Nobember 1817 and was printed by Cox and Baylis, 75 Gt. Queen St., Lincoln's-Inn-Fields in 1821. These were the same people who printed Marsden's *Dictionary of the Malayan Language* in 1812, and Marsden's *Malayan Grammar,* also in 1812. Thus they were not inexperienced in printing Malay written in Arabic characters. In fact the type faces used for Marsden's dictionary and the *Code of Laws* are remarkably similar. The text was signed by Henry Robert Lewis who apparently arranged for the printing. Thus with only a four year gap between the signing of the original document and the printing of the book we can be reasonably certain that the copy of the original text that was used to prepare the printed edition was

a faithful copy in the possession of one of the signatories to the original document. Further, the fact that it was printed by an experienced firm increases the likelihood of accuracy. Unfortunately, the book is very rare. When L. W. C. van den Berg prepared his translation, which was published in 1894, he was unable to find a copy of the book in Holland. Thus, his translation was based on two manuscripts. It was only after the publication of this translation that the Koninklijk Instituut voor Taal-, Land- en Volkenkunde received an offer of a copy of the book from J. Walland in a letter dated 11 January 1895. Indeed, manuscript copies of the text seem to be more plentiful than the book. For example, Van Ronkel's supplement catalogue of the Malay manuscripts in the Leiden University Library lists three copies (Van Ronkel, 1921, Nos. 128, 129, 725**). However, the most interesting manuscript copy of the text is in the Malay manuscript collection of the Koninklijk Instituut (M-XLV, Cod. 210, Or. 94). The manuscript was sent from Bengkulu on 14 March 1883 and receipt was acknowledged at the 24st board meeting of the Institute on 19 May 1883. However, the manuscript is not a copy of another manuscript but a copy of the printed book. There can be no doubt of this because very assiduously included in cursive writing is the phrase "Printed by Cox and Baylis, 75 Gt. Queen Street, Lincoln's-Inn-Fields". With an amazing attention to detail the pagination of the original is preserved. The text itself is a fine example of caligraphy in a classic style. Unfortunately, this attention to the visible aspects of form do not extend to the content. In short, it is not a very accurate copy of the text itself. This manuscript demonstrates several things about the *Code of Laws* in particular and Malay manuscripts in general. At least one manuscript and possibly others were prepared from the book, thus destroying the normal assumption that manuscripts ante-date the book. This fact, together with the above information on the book itself, underscore the acceptability of using the book as a reference text. Secondly, the manuscript and book provide us with one of the rare occasions of checking on scribal accuracy. From Aeckerlin's letter we know that the manuscript was based on the book itself and not a copy of a copy. Thus we have the original that the scribe used and his copy, and need not be concerned with errors creeping in after successive recopying. That is, all the errors are the errors of a single scribe. Further, because of the existence of so many errors in such an otherwise so carefully copied manuscript we know that the Secretary of the Residency, who might normally be expected to check the copy against the original, did not do so even for a copy he intended to be used for scientific

purposes. We can expect, therefore, that manuscripts almost always contain some errors due to scribal practice. The most common are repetitions and omissions, especially those based on homoeoteleutons.[1] This type of error is almost always present in manuscript material which deals with copies and not originals. The error is analogous to the problem of inaccurate memory of fieldwork informants.

In addition to the original sources there are two Dutch translations of the text. The earlier was published in the first volume of *Het Regt in Nederlandsch-Indië*. The translation itself was prepared by J. P. B. de Perez who had sent it to the government in 1839. The government in turn had forwarded it to a commission in charge of the revision of legal institutions. According to the governmental almanacks for 1835-1838 De Perez served in Bengkulu as Assistent Resident and by virtue of this position was also president of the Pangeran's Council. Thus the translation was prepared in Bengkulu by someone familiar with local legal practices. Since this translation contains material not in the original text it is not suitable for analytical purposes. However, because it is based in part on De Perez' experience in Bengkulu between 1835 and 1839, this translation can more appropriately be used to gain insight into legal interpretation at a period twenty years after the preparation of the original document. This translation received a fairly wide circulation. The journal *Recht en Wet* published Fasals 38, 39, 40, 41, 42 and the concluding paragraph with only very minor changes (1882, Afl. 2, pp. 68-71). The editors admit that it is a secondary source but report that they came across the material in the *Soerabaijasch-Handelsblad* and make no mention of De Perez' name. Further, Van Vollenhoven only cites the De Perez article as a translation of the *Code of Laws,* electing to omit mention of the translation by L. W. C. van den Berg (Van Vollenhoven, 1918, p. 272).

In 1894 Van den Berg published "Rechtsbronnen van Zuid-Sumatra" as Vol. 43 of the *Bijdragen tot de Taal-, Land- en Volkenkunde*. He translated four legal documents from Bengkulu, one from Palembang and one from Jambi. One of those from Bengkulu is *A Code of Laws*. In addition to the translations, the Malay texts, in Arabic script, were also published. Because of the rarity of the book *A Code of Laws* Van den Berg was forced to work from two manuscript copies of the text. One of these manuscripts was that sent to the Koninklijk Instituut by J. A. Aeckerlin. In the process of preparing the texts for publication Van den Berg substantially revised the spelling and made it conform to standard usage. It was through this revision of spelling that he made

his one serious translation error in the second half of Fasal 25. However, the correct form is duly indicated in a footnote (Van den Berg, 1894, p. 215). With this one exception the translation is suitable for most anthropological purposes, insofar as any translation is suitable. Further, his extensive notes provide a most useful guide to reading the original. And, the spelling revisions are likewise useful as a time-saving aid for puzzling through some of the more difficult passages of the original *Code of Laws.* Apparently basing his opinion on C. A. van Ophuijsen's criticism (Van Ophuijsen, C. A., 1896) of the Jambi portion of "Rechtsbronnen van Zuid-Sumatra", Van Vollenhoven's labeling of the translation of all six documents as "unreliable" (min betrouwbaar) (Van Vollenhoven, 1918, p. 106) is perhaps unfair. But when he lists the De Perez translation as the sole translation, an error repeated in the *Adatrechtbundels* (VI, 1913, p. 281), he is dangerously misleading. Further, Van Vollenhoven's preference for the Jambi law, which is substantially different from the others, sheds light on his conception of adat law.

Contemporary Sources as Textual Aids

While translations are always an important aid in understanding texts, contemporary material is often more useful. With sources dating from the same time as a specific text, one need not be concerned about material of more recent origin finding its way into the analysis, as for example, the De Perez translation. This is a frequent problem in anthropological analysis. A statement by an informant about the past is more often a justification of the current state of affairs than an accurate historical statement. The first, and only, volume of the "Proceedings of the Agricultural Society established in Sumatra" was published in 1821 in Bengkulu. While this source contains a wealth of information useful in constructing statistical models, there is much less material that is relevant to a structural analysis of the *Code of Laws.* While there is no substantial discussion of legal material that would be useful in reading and analysing the *Code of Laws* there are some passing references to the *Code* which was probably not yet available locally in published form. For example, in the "Substance of the Report": "it will appear rather singular that the most complicated part of their code should be what relates to marriage-contracts and debts" (Proceedings II, p. 19 f.). It is this "most complicated part" that forms the basis of the structural analysis of the code.

The Proceedings reveal a somewhat ambivalent attitude on the part

of the members of the Society towards the native population. Raffles recommends that the members "abandon all former opinions on the incorrigible laziness of the people" (Proceedings I, p. xi). He may have been commenting on opinions like those of Messrs. Jennings, Lumsdaine, and Presgrave who describe the native populations as "proud, mean, corrupt, treacherous, deceitful and prone to lying, filthy in their persons, devoid of honesty... tenacious of their old institutions, suspicious of strangers... indolent and lazy, greatly adverse to manual labor (sic)... and skilful in the preparation of poisons which give to the victims of their malice a sudden or lingering death" (Proceedings A, p. 17).[2] These weaknesses notwithstanding, a discussion of the state of the population as a demographic entity offers insights into the cummulative effects of the use of their marriage system.

In contrast to the limited usefulness of *The Proceedings* as a textual aid, there is the extremely important manuscript entitled "A Commentative Digest of the Laws Of the Natives of that part of the Coast of Sumatra, immediately dependent on the Settlement of Fort Marlborough and practised in the Court of that Presidency". The manuscript is in the possession of the Adatrecht Stichting and was published in Adatrechtbundel VI, 1913, pp. 281-321.[3] The manuscript is clearly a copy of another document in that it stops suddenly in mid-sentence. The editors of *Het Regt in Nederlandsch-Indië* either had this manuscript or another version in their possession and had decided to publish a translation of it. However, they acquired the De Perez translation of the *Code of Laws* and found the contents so similar that they elected to publish the De Perez material instead (De Perez, 1849, p. 284). The manuscript bears no date. However, the editors of the Adatrechtbundel place the date at about 1807. This dating is based on the phrase "the orders of the Government in 1806", thus confirming that it was not written before 1806. Part of the watermark bears the inscription "J. Whatman 1823" but this only serves to date this particular copy as being prepared later than 1823. On the one hand, the manuscript contains material very similar to the *Code of Laws*. However, it is neither a direct translation nor does the sequence of topics discussed follow that of the *Code of Laws*. Since the text displays such intimacy with legal procedures and legal concepts the author would have most certainly mentioned the *Code of Laws* if it was in existence. Thus, it was most likely written before 1817. The editors of the Adatrechtbundel offer no assistance as to the manuscript's authorship. Bastin (1965, p. 193) assigns it to H. R. Lewis. I am prepared to accept Bastin's

assignment of the authorship. Thus this manuscript was probably written by one of the signatories to the *Code of Laws* and because it antedates the *Code* it is in some sense a rough draft of the later and more important text. Even if the text was not written by Lewis himself, it was most certainly written by someone at least as familiar with native legal thought as he was.

In addition to these sources, William Marsden's work, while not exactly contemporary, provides much useful textual assistance. His classic work *The History of Sumatra* had three editions as well as translations into German and French. The first edition was printed in 1783, the second in 1784, and the revised and enlarged third edition in 1811. Though the first edition contains some information that was removed in the third, the third edition is the most useful. Of patricular importance is the addition of a set of laws for Manna dated July 1807 provided by John Crisp. Further, the excellent reprinting of the third edition (Marsden's History, 1966) makes this the most accessible for scholarly research.

Marsden spent eight years in West Sumatra, departing before his twenty-fifth birthday. Referring to his appointment as Secretary he writes "my official situation, whilst it required a competent knowledge of the general language of communication [Malay], afforded me much practical acquaintance with the criminal law" (Marsden's Memoir, p. 15). Even before he began to seriously collect material for his book he "omitted no opportunities of making remarks on, and enquiries concerning, whatever was striking in the production of the country, or peculiar in the manners of the natives" (Marsden's Memoir, p. 15). These official opportunities, coupled with a natural curiosity and thoroughness, led to a book rich in detail. Moreover, his youthful enthusiasm was balanced by an unwillingness to embroider upon his data with fanciful speculation (cf. Bastin, 1966, p. vii). The most important specific contribution that the book makes for an understanding of the *Code of Laws* is the inclusion of a set of "Rejang Laws" collected by his brother John in April 1779 at Lais. William Marsden not only included the text but wrote a detailed account of the material that not only elaborated on the text but added new material, thus elucidating the already useful text. In addition to his own observations and those of his brother, Marsden was obviously influenced by native informants. Marsden selected the Rejang as his "standard of description" for the entire native population of Sumatra. Among other reasons for the choice he writes "my situation and connexions

in the island, led me to a more intimate and minute acquaintance with their laws and manners, than with those of any other class" (Marsden's History, 1811, p. 43). One source of this familiarity was undoubtedly his brother John's position in Lais from 1775 to 1779 (cf. Wink, 1926, p. 127). He was also most certainly influenced by his personal contact with the Pangeran of Sungai Lemau. In 1833 the Pangeran died when he was one hundred years old (Raffles says he was 78 in 1818) (Bastin, 1965, p. 170) having held this position as Pangeran for seventy to eighty years (Wink, 1924, p. 2). Thus the Pangeran's reign extended through Marsden's stay and well beyond the writing of the *Code of Laws*. The Pangeran's name was Linggang Alam, one of the authors of the *Code*. Of special interest is the fact that though he was a Rejang he spoke both Malay and Rejang "with equal facility" (Marsden's History, 1811, p. 42).

While the enduring value of Marsden's *History of Sumatra* is generally recognized, his *Dictionary of the Malayan Language* is often considered of only historical importance. However, since the material that Marsden did not draw from earlier sources, was for the most part collected in Sumatra (Voorhoeve, 1955, p. 4), it acquires special significance in the present context. First, its publication in 1812 meant that Lewis was undoubtedly familiar with the book, if he did not actually use it in preparing his text for publication. Indeed, it may have been the dictionary that led Lewis to select Cox and Baylis as printers for the *Code of Laws*. Further, since Marsden learned Malay from his brother and improved his own skills in the Bengkulu area (Marsden's Grammar, p. xlix), many entries should reflect this local usage. Indeed, in the course of preparing the manuscripts of this study for analysis, I have often found that I was either referred to Marsden by other dictionaries or I could only find the solution to a particular textual problem in Marsden's work. Thus, in the course of time, I came to regard Marsden's dictionary as a specialist work referring specifically to Sumatra[4] like Helfrich (1904, 1915, 1921, 1927, 1933) or Van den Toorn (1891, 1899) and not a more general work like Klinkert (1947), Wilkinson (1932, 1959) or Von de Wall (1877-84). Thus, it is not inappropriate to consider the dictionary as making an important contribution to our knowledge of Middle Malay, especially in its high style.

This discussion of contemporary works and other material available at the time that the *Code of Laws* was written has ostensibly served as a discussion of textual aids. However, it has also served to focus attention on the high standard of scholarship at the time. As a result, one need

not be confined to an examination of personal memoirs or travellers' shallow accounts but can study Marsden's excellent systematic collection of data. While Marsden's writings provide a valuable source for modern scholars, his influence on his contemporaries must not be overlooked. Due to the sheer bulk of detail his work was bound to be influential. However, because Marsden so carefully refrained from speculation and system building, one does not find subsequent writers using his material in trying to make their data conform to a dated analytical framework. On the contrary, Marsden's influence was a positive one, underscoring the idea that Sumatran customary law was a legitimate object of study. Though Marsden cites the "splendid example" of the Governor-General of Bengal (Mr. Hastings) as the originator of the idea to compile laws for administrative purposes (Marsden's History, 1811, p. 218) it was Marsden himself who focused attention on Sumatran laws not only as an administrative tool but as a scholarly end in their own right. Thus the standard he set undoubtedly influenced local people not only to collect laws for administrative purposes, but to strive for completeness and accuracy and to publish the results. Thus Marsden is not only a directly usable source, but his influence helped to assure the collection and preservation of other contemporary data.[5]

The Signatories to the Reference Text

On the twelfth of November 1817 four individuals signed the *Code of Laws*: Pangeran Linggang Alam, Pangeran Raja Khalipa, Daeng Mabéla and Henry Robert Lewis. While a complete historical account of these personages is not necessary for present purposes, brief character sketches of their personal situations provide an interesting background to the writing of the text. The official order of precedence in the court was Pangeran Linggang Alam, Pangeran Raja Khalipa, and Daeng Mabéla (*Commentative Digest,* p. 286). Lewis as Magistrate officiated as Company Representative when the Resident at Fort Marlborough elected not to be present. However, neither the Resident nor the Magistrate had a "voice in any decision whatever" (*Commentative Digest,* p. 286). This official situation notwithstanding, the real authority was shared by Lewis and Daeng Mabéla. This was so much the case that in 1817 a Pangeran of Krui had the impression that the two were the tuan-tuan at Bengkulu (Kathirithamby-Wells, 1973, p. 252). Lewis was a Eurasian. His father was a Lieutenant of Artillery in the Company's service; his mother an Indonesian. He was the eldest of three sons, William Thomas and Charles Richard being his younger

brothers (Bastin, 1965, p. 177 f. note). In addition to serving as magistrate he apparently indulged in some interesting activities as sub-treasurer. The journal of Thomas Otho Travers provides the details: "July 1818... On the 17th we began to suspect there would be a very considerable deficiency, and on the 22nd of the month, having finished counting, we found that in place of 451,000 there were only 291,000, thereby leaving a minus of 160,000 [dollars] being upwards of £ 40,000 sterling... The general books were looked over carefully but no trace of error could be found, and the suspicion was most natural that Mr. Robert Lewis, the sub-treasurer, was no less than a robber of the Company's treasure" (Travers, p. 98). He had remained in Bengkulu until the 15th of June, when because of sickness he was obliged "to change the air". Other than this Travers is kind in his assessment of Lewis. "Yet to such a man there was difficulty in attaching suspicion. His character for honesty was very high, his carelessness for money proverbial. He had enjoyed some of the best situations under Government... to appearance he was without exception one of the most liberal, generous, open-hearted men I have ever met" (Travers, p. 98). In 1828 the Company sued to recover the money but the "Company was non-suited on a technical point" (Bastin, 1957, p. 98 n).

Daeng Mabéla, like so many of his countrymen abroad, was able to rise to a position of considerable power by skilful manipulation of both the English and indigenous authorities. The following account is based on his own version of his family history written when he was 34 (Winter, 1874). Daeng Marupa, the younger brother of the prince of the village Benteng in the district Tuajo in the Celebes, having had a dispute with his elder brother over the conduct of a local war departed for Java. Once at sea, however, he changed his mind and decided to go to Bengkulu. But arriving in the vicinity of his destination, he met a severe storm and was driven to Indrapura where he settled. There a son was born: Daeng Mabéla. In the meantime, there was great instability at Bengkulu. The Pangerans of Silebar and Balei Buntar (Sungai Lemau), having heard that the English Company had a factory at Bantam, requested that the English settle in Bengkulu. No sooner had the English moved than they ran into many difficulties in controlling the local population. Therefore, the Company sent an invitation to Indrapura requesting that Daeng Mabéla come to Bengkulu and become the Company's ally. The Company then sent him to the "land of the Buginese" to recruit soldiers. When they arrived back in Bengkulu a Bugis Corps was formed with Daeng Mabéla as Captain. A contract

was drawn up containing several interesting provisions. First, he swore never to take up arms against the Company. If an enemy approached from the interior, the Buginese were obliged to attack first while the Company remained behind. If, however, an enemy appeared from the sea, then the Company would attack while the Buginese formed the rearguard.

Daeng Mabéla had a son Daeng Makuleh who succeeded him in office. Daeng Makuleh married the daughter of Pangeran Mangku Raja of the village Balei Buntar (Sungai Lemau). Shortly after the marriage the Pangeran announced to all the village heads and foreigners that Daeng Makuleh was his son-in-law. He also proclaimed that his daughter had the rights of a son and by doing so had recognized Daeng Makuleh as his son (this is obviously a reference to ambil anak marriage, i.e., it is an institutionalized form of marriage and not a "fictive" relationship). Afterwards, the same Pangeran made an agreement with the Pangeran of Jengalu (Andelas Silebar) by which Daeng Makuleh was made Penghulu of all the foreigners and their descendants. Further, he received the authority from the English Company to appoint the four Datos of Bengkulu as well as a salary of five reals per month. Daeng Makuleh had a son by the daughter of Pangeran Mangku Raja: Calo Bangkahulu Daeng Marupa who succeeded his father. Daeng Marupa had a son Daeng Mabéla, the last captain of the Buginese Corps and the signatory of the *Code of Laws*.[6] Though they suffered temporary reverses the power of the Buginese rose steadily until Raffles conceived a system of local government in which their position would correspond to that of the Regents of Java (29 June 1818) (Bastin, 1965, p. 169). This ascendancy is all the more remarkable when one realizes that Daeng Mabéla himself was severely implicated in the murder of the British Resident Thomas Parr on the 27th of December 1807. The matter had not been conveniently forgotten by 1818 for an entry in Travers' Journal for August 1818 reads "it is said... that this man [Daeng Mabéla] who has the most influence in the place, was the chief mover in the plot. Of the fact, I have not the least doubt myself. However, it will not be possible to bring it against him now, and he must, through policy, [be] set the judge to pass sentence over criminals with every chance of never having a culprit before him half so deserving the gallows as himself" (Travers, p. 102). Though he had to be dismissed by Parr, the Acting Resident W. B. Martin took the extraordinary step of recalling Daeng Mabéla (cf. Bastin, 1965, p. 102 f. for a comment on the Bugis by Martin himself). "An order was given to burn and destroy

every village within a certain distance, and the work of devastation was carried on as if it were intended to place the future security of the settlement in surrounding it with a desert" (Lady Raffles, 1830, p. 320 f.). And this was done by the one who was for a long time afterwards considered the "prime mover" in the plot (cf. Kathirithamby-Wells, 1973, p. 257).[7] Thus, although the Buginese were an alien element to South Sumatra, they successfully manipulated their position as middlemen between the English and the indigenous population and managed in the process to accumulate considerable political power. The Dutch commissioners for the taking over of British Possessions (De Commissarissen ter Overname der Britsche Bezittingen) found that the Buginese were as alien to the native population as Europeans and that "these officers, both themselves and their followers, were always difficult and dangerous subjects for the police" (Van der Kemp, 1894, p. 530). Daeng Mabéla died in Bengkulu in August 1832.

We also have a brief account undoubtedly from Pangeran Linggang Alam concerning the origin of his title (Marsden's History, 1811, p. 212). The father of Pangeran Mangku Raja had originally borne the name Baginda Sabayam. Before the arrival of the English the the southern coast of Sumatra had been dependent on the King of Bantam. Yearly the king's lieutenant (jennang) had visited Silebar or Bengkulu to collect pepper and fill vacancies by confirming the proatins in their appointments. "Soon after that time, the English having established a settlement at Bencoolen, the *jennang* informed the chiefs that he should visit them no more, and raising the two head men of *Suñgey-lamo* and *Suñgey-itam* . . . to the dignity of *pañgeran,* gave into their hands the government of the country, and withdrew his master's claim" (Marsden's History, 1811, p. 212).[8] According to J. A. W. van Ophuijsen (1862, p. 195) the line of succession was Tuanku Pangeran Raja Muda (formerly Baginda Sabayan c.f. Wink, 1926, p. 66 n), Pangeran Mangku Raja, Pangeran Mohamad Sah I, Pangeran Linggang Alam and Pangeran Mohamad Sah II. All of the successions were from father to son with the exception of Pangeran Linggang Alam who acquired his title from his mother's brother. This is presumably based on an ambil anak marriage of his father to Mohamad Sah I's sister. This genealogy is especially significant because the Daeng family, among its other political aspirations, claimed this title as their own (*Proceedings,* A, p. 16). The claim is based on the marriage of Daeng Makuleh to the daughter of Mangku Raja. From the information available it is relatively easy to reconstruct the various arguments. Apparently the son

of Mangku Raja had no offspring who could inherit his title. The family history of the Daengs, as told by Daeng Mabéla, says explicitly that the marriage of Daeng Makuleh to the daughter of the Pangeran was an ambil anak marriage which entitled him to have a claim on the title. However, from the Van Ophuijsen genealogy it is equally clear that the mother of Pangeran Linggang Alam married by ambil anak, thus forming the basis of his claim. Both claims are thus founded on a principle of matrilineal succession.

An opposition of claim and counterclaim must have a basis of agreement. In this case both versions agree that at least one daughter of Pangeran Mangku Raja married by ambil anak. From the Pangeran's version it is clear that the Pangeran had a son who inherited his title, i.e., Mohamad Sah I. The genealogy indicates neither marriage nor descendants of Mohamad Sah I. This could be due to a variety of reasons. He either never married or married by jujur but had no children or had children but they were not acceptable titular heirs. Therefore the title passed through one of his sisters to one of his sister's sons. The point of dispute is which sister was entitled to pass the position of Pangeran to one of her sons. There are several means by which Daeng Mabéla's claim could have been presented. He could have asserted that Pangeran Mangku had only one daughter and that this daughter married Daeng Makuleh. This involves the assertion that Pangeran Linggang Alam, the actual holder of the title, had no genealogical basis to his title at all. A more plausible claim would be that Pangeran Linggang Alam's mother had married by jujur and not ambil anak, thereby isolating herself and her descendants from her father and his descendants. This may have happened but if it did the amount of money involved as brideprice would have been considerable and would have almost certainly resulted in a debt, thereby giving the marriage a second institutional basis. A third option would be to admit that the other daughter was married by ambil anak but to dispute the relative age of the two daughters, the eldest being able to transmit the title. Unfortunately, we only possess the positive assertion of Daeng Mabéla that it was the eldest daughter (*Proceedings,* A, p. 16) and that she was married by ambil anak (W(inter), 1874, p. 118). He could either be implicitly denying the ambil anak marriage of Pangeran Linggang Alam's mother or her age relative to her sister. Of special importance is that while there were undoubtedly other marriages between the two families the specific claim to the title attacks the Pangeran's lineage at its weakest point. The weakness is not only the matrilineal link but

also the position of Mohamad Sah I. If Pangeran Mangku Raja only had daughters the lineage would have been stronger. Daeng Mabéla's claim notwithstanding, the Pangeran retained his title until his death in July 1833 with his eldest son "Radja Poetoe Nagara" taking over his duties (Francis, 1842, p. 428). By a governmental decision dated 3 August 1836 "Radja Poetoe Nagara" acquired the title Pangeran Mohamad Syah (Sah?) (Van Ophuijsen, 1862, p. 195).

Pangeran Raja Khalipa is the least well known of the signers of the *Code of Laws*. His title as Pangeran of Sungai Hitam is said to date from the same time as that of the Pangeran of Sungai Lemau (Marsden's History, 1811, p. 212). In 1833, according to Francis (1842, p. 424), Sungai Hitam contained forty-two villages with a population of 4,122 compared to the 143 villages and 12,817 people of Sungai Lemau. Appendix B and Appendix C of *The Proceedings of the Agricultural Society established in Sumatra* present reports on Duabelas and Lumba Selapan, both of which were subservient to the Pangeran of Sungai Hitam. Appendix B gives the population of Duabelas as 2,096 people in twenty-two villages; while Appendix C gives the population of Lumba Selapan as 1,972 people in sixteen villages. The total of 4,068 people in thirty-eight villages when compared to the figures of Francis suggests that there was little more to the territory of the Pangeran of Sungai Hitam than Duabelas and Lumba Selapan, even though Francis lists four districts.[9] Fortunately, the reports in *The Proceedings* give accounts of the nature of the relationship between the Pangeran of Sungai Hitam and the Districts Duabelas and Lumba Selapan.

The people of Duabelas, according to their own account, originally came from "Trawass and Lakitan" in the Musi country which was under the control of the Sultan of Palembang. Fleeing from their own lands they sought the protection of the Pangeran of Silebar who gave them new lands, which they held until the time the report was written. "They continued nominally under the rajah of Sillebar until the chief had no longer the semblance of authority or even respectability. They then voluntarily gave themselves over to the authority of the Pangeran of Soongy Itam" (*Proceedings,* B, p. 10). In addition to this mythical charter accounting for their origin and their political position in the Bengkulu region, the same people also provide an account of the origin of the Pangeran's title. According to local tradition the Pangeran is descended from the adopted son of "Bagindo See Bejam", who controlled the territories bounded by the Bukit Barisan, the Bengkulu River in the South and "Songy Jerangye" in the North. As a reward for good

conduct the king gave his adopted son the title of "Dupaty Khalippa Raja". When the English arrived the Proatins of Duabelas requested that "Dupaty Khalippa Raja" be given the title of Pangeran which he received (Proceedings, B, p. 11 f.). This story contradicts that of the Pangeran of Sungai Lemau who asserted that the titles were given by the Lieutenant of the Sultan of Bantam on his last visit to the region (Marsden's History, 1811, p. 212).

The relationship between the Pangeran and Lumba Selapan is worked into the origin myth of the region. While contributing little to our knowledge of the Pangeran, the account uses a numerical system which occurs very frequently as a logical basis of many structures within the various law sets. The people of Lumba Selapan are the descendants of the followers of "Tuan Shaick Abdool Sookur". They migrated there from the villages of "Tannah Preoh(?)" and "Tabat Pinging" both on the Kalingi River (Palembang). They finally settled in four villages, after which Tuan Shaick died "being worn out with age and fatigue". After this death "his followers divided themselves into eight portions, each headed by a chief and fixed on different spots for erecting villages; [the four original villages, plus four new ones] . . . Sometime after this division of the tribe, the supreme authority was by the Sultan of Palembang vested in the family of the present Pangeran of Soongie Etam" (*Proceedings,* C, p. 4). Unfortunately, the authors of the report were unable to ascertain the reason for this investiture. The four-eight system of the story was apparently of considerable social importance. The "General Census of the Population" accompanying the Report lists sixteen villages, implying another division by two. Especially worthy of note is the fact that the sixteen, while obviously an extension of the four-eight system of the myth, was an empirical reality and not merely a conceptual notion. Thus while both of these stories testify to the Palembang origin of the people of Duabelas and Lumba Selapan, the details of the relationship to the Pangeran of Sungai Hitam are less clear. Further, they contradict the version given by the Pangeran of Sungai Lemau on the origin of this title.

The Pangeran died in September 1829. In 1833 his position was still unfilled. The district was to be ruled by his three sons until they could decide among themselves who was to be their father's successor (Francis, 1842, p. 430). However, the Governmental Almanacks for 1830-1834, with their desire for order, list Pangeran Raja Khalipa as the "Regent van Soengei Itam". The obvious squabble between the brothers even effected our knowledge of the origin of the title. The title was ultimately

acquired by "Bangsa Negara". But *one* of his *older* brothers, Raja Khalipa, appropriated the family papers, claiming that he had more right to the title. And because it was said that the papers were "lost", accurate information is not available (Van Ophuijsen, 1862, p. 196). Despite the lack of the definitive family papers Van Ophuijsen was able to collect a genealogy which asserts that the Pangerans of Sungai Hitam are the descendants of one "Toean Kasoeanda" from Madjapahit. However, a second version current was that the same "Toean Kasoeanda" came from Palembang and established the village of Sungai Hitam (Van Ophuijsen, 1862, p. 196). While one is hampered by the inconsistency of information, the general impression is that the Pangeran of Sungai Hitam was the least important of the four signers of the *Code of Laws*.

This somewhat lengthy discourse on the background of the *Code of Laws* provides much useful information but raises the question as to the appropriate use of such data in the analysis of the text. The background of the individuals involved helps to set the historical scene in which the *Code* was written. It also helps to identify the ethnic origin of the individuals and thereby helps to classify the various ideas presented in the text. However, this type of information is only a supplement to the text and must in no way dominate the analysis. In literary criticism in general such a relationship often exists. What can the knowledge of the personal history of an author contribute to our understanding of the author's work? The risk always implicit in the use of such knowledge is to reduce the work of art to a curiosity. How much can the knowledge of the personal eccentricities of Dean Swift contribute to the appreciation and analysis of *Gulliver's Travels*? A similar problem occurs with the use of contemporary sources. They can be a valuable asset in interpreting incomprehensible passages in a text. When the contemporary sources contradict the text, the contradiction should be noted and the text checked for possible errors. However, these sources must not dominate the interpretation and analysis of the text. Again there is an analogy with literary criticism. While our knowledge of contemporary figures and events may help to identify the figures being satirized in *Gulliver's Travels* and to increase our appreciation of the work, there is a danger of sinking into a morass of trivial detail, thereby losing sight of the structural and artistic features that serve to differentiate the work from a newspaper. Thus the text is the essential and fundamental item of data. By limiting the use of external material to the explanation of particular problems of interpretation, greater

dependency is placed on the text itself. Thus the reliability and accuracy of a text must, in so far as is possible, be established. And further, sufficient caution must be employed to avoid basing an analysis on simple scribal errors. While inaccurate dating, faulty geographical location or incorrect ethnic identification may seriously affect the placing of a text in a comparative framework, these errors need not affect the structural analysis of a particular text. Thus, in conclusion, the data are contained in the text; and other sources, while they may supplement and elucidate this data, can never become a substitute for what is in the text itself.

The Code of Laws

The *Code of Laws* consists of forty-two consecutive numbered paragraphs (fasals), an introduction, and a conclusion. The introduction consists of a brief invocation to Allah and the identification of the laws (undang[2] adat lembago melayu) as those which are used in the district (negri) Bengkulu. The body of the *Code* may be divided into three main sections: Fasals 1-20, dealing with marriage and the regulation of sexual activity; Fasals 21-29, dealing with criminal matters (i.e. murder, theft, etc.); Fasals 30-39, dealing with financial relationships between individuals, including slavery. The last three fasals appear to be a residual category dealing with the suitability of witnesses, guarantors, and the pawning of goods, respectively. The conclusion consists of a short statement that the book was written in order to make the various provisions better known and ends with the date and signatures.[10]

The first structural unit of the *Code* consists of Fasals 1, 2, 3, and 14. Fasal 1 deals with engagement, Fasal 2 with marriage and Fasal 3 with divorce. Though Fasal 1 mentions *semendo* in its title, it is not until Fasal 3 that the full name is revealed as *adat semendo merdahika sama merdahika*. The association of this name with the more frequently occurring *semendo merdika* is suggested by a useful scribal error in the manuscript copy (TLVK, M-XLV Cod. 210, OR 94) of the book. Where the book has *adat semendo merdahika sama merdahika,* the *manuscript* omits the last *sama merdahika*.[11] The conceptual unity of these fasals forces an opposition between this form and the jujur/ambil anak opposition. This opposition to the more basic dichotomy underscores the essential reform quality of this portion of the law. The notion of a reform being opposed to both jujur and ambil anak is most clearly seen in the introduction to the marriage section of the laws collected by John Marsden in 1779 in Lais.

"The modes of marriage prevailing hitherto, have been principally by *jujur,* or by *ambel-anak*; the Malay *semando* being little used. The obvious ill consequences of the two former, from the debt or slavery they entailed upon the man that married, and the endless lawsuits they gave rise to, have at length induced the chiefs to concur in their being, *as far as possible* [my (DSM) emphasis], laid aside; adopting in lieu of them, the *semando malayo,* or *mardīko*; which they now strongly recommend to their dependents, as free from the incumbrances of the other modes, and tending, by facilitating marriage, and the consequent increase of population, to promote the welfare of their country. Unwilling, however, to abolish arbitrarily a favourite custom of their ancestors, marriage by *jujur* is still permitted to take place, but under such restrictions as will, it is hoped, effectively counteract its hitherto pernicious consequences. Marriage by *ambel-anak,* which rendered a man and his descendants the property of the family he married into, is now prohibited, and none permitted for the future, but by *semando* or *jujur,* subject to the following regulations . . ." (Marsden's History, 1811, p. 225).[12]

The initial logic here is that semendo merdika is a substitute for both jujur and ambil anak, replacing the former opposition with a single element. However, the "as far as possible" provision suggests a second parallel logic. While jujur is permitted to exist, ambil anak is abolished. Thus, there is a new opposition in which semendo merdika is opposed to jujur. This remoulding of the opposition is based on the replacement of ambil anak by semendo merdika. In this particular situation the original opposition between jujur and ambil anak involved among other things the simultaneous opposition of patrilineal/matrilineal and patrilocal/matrilocal. However, the form replacing ambil anak and forming a new opposition is matrilocal but not matrilineal. Thus, the new opposition retains at least one feature of the original dichotomy but, at the same time, another feature of the original is lost. This is the logical basis of the reform situation and must not be confused with social reality. That is, the logic of the reform is independent of whether the reform was implemented or not. Indeed, there is evidence suggesting that if the reform, by which ambil anak was abolished, was ever put into effect it was short lived. This evidence is to be found in a manuscript referred to by Van Ronkel as "Oendang-Oendang Lais" (Cod. Or. 12.207) (Van Ronkel, 1921, p. 59). The introduction says that the provisions of the law date "from 1818 up till the present". Some material, which may be additions to the original text, apply

specifically to the Dutch period. Fasal 6 and Fasal 7 of this text are clearly based on Fasal 5 and Fasal 6 of the *Code of Laws.* (The date 1818 establishes the direction of the copying, i.e., Cod. Or. 12.207 is in part a copy of the *Code of Laws* and not vice versa). Fasal 5 of the *Code of Laws* deals with ambil anak marriage. Thus a second code for the Lais region,[13] in use during the Dutch period, and thus at least forty-five years after the Marsden Laws, still refers to ambil anak marriage. While the attempt to abolish ambil anak marriage, and at least partially substitute semendo merdika failed, the logic of the reform is nevertheless valid. Likewise, the opposition of a single form to the earlier opposition is valid. And further, the logic of the laws is independent of the use to which the text was put.

FASAL 1

The title of Fasal 1 is "adat mula[2] mau semendo" (the adat of the first preparations for marrying by semendo). The following is a summary of the main points of this fasal.[14] Prior to a marriage there are two transactions. The first involves the man giving a token (tanda), for example, a bracelet or armband of gold or silver, to the bride or her parents. This occurs after the woman and her parents have accepted the man's offer. A month or so later a second transaction takes place. The man sends a sum of money referred to as the "belanja" or "hantaran", the amount being determined by agreement. In cases of disavowal (mungkir, berubah), the same rule applies in both cases. If the disavowal is from the man his token or money is lost, if from the woman it is returned twofold.

The text itself is not very clear on the meaning and use of "belanja" and "hantaran". The *Commentative Digest,* however, provides the necessary additional information. There are three terms mentioned: "Antar Belanjoe"; "Belanjoe"; and "Antaran", all meaning the same thing: a sum of money.[15] "The object of it being to defray the Lady's Expences" (*Commentative Digest,* p. 290). The difference in usage among the terms is that "Antar Belanjoe" is the most "vulgar" and "Antaran" is the way that the concept is "more politely expressed by the better kind of people" (*Commentative Digest,* p. 290).[16] The text makes no reference to the amount of money involved, however, and the amounts apparently range from one hundred Spanish dollars (reals) to nothing, depending on the rank and personal circumstances of the individuals involved (*Commentative Digest,* p. 291). By the Lais reform dating thirty years earlier the amount was fixed at twenty dollars and

a buffalo, or ten dollars and a goat, depending upon the ability of the person to pay the amount (Marsden's History, 1811, p. 226).

FASAL 2

Fasal 2 is entitled "adat orang nikah hukum dalam kitab Allah" (the adat for persons marrying according to the law in the book of Allah). The person performing the marriage ceremony must be religiously qualified. He may be a prayer-leader (imam), his assistant (khathib),[17] or any religious teacher (malim). He is assisted by two witnesses who must also be malims. The man to be married takes his place before the priest,[18] the woman must not be present. The priest sends the two witnesses to the woman to ask her if she wishes to marry the man. If she replies in the affirmative the witnesses report this to the priest. The man to be married then kneels on his right knee with his left foot forward. The priest then grasps the man's thumb and says "I marry you to so-and-so". The priest shakes the man's thumb, after which the man replies "I marry so-and-so with an *isi kawin* of so much money".

This marriage payment has three names: *isi kawin, emas kawin,* and *caro,* all equally valid. Unless agreed otherwise the *isi kawin* is equal in value to the *antaran.* The money is paid to the woman at the time of the marriage or upon divorce.[19] The fasal concludes with a statement that no matter how large the *pengantaran* is, it cannot be considered a debt because the money is irretrievable (uwang pengantar itu uwang hangsa; the money of the antaran is money burnt).

This fasal contains two main features; a description of the correct marriage ceremony and a discussion of a second marriage payment, the *isi kawin* (literally, the contents of the marriage). While the specific details of the marriage are not very relevant for the structural analysis of this law, the mere presence of so much detailed information is important. While the language of South Sumatran law texts often appears vague, being written in an aide-mémoire style, this passage is unusually precise and contains an inordinate number of relative clauses identifying and re-identifying the various individuals involved.

The exact significance of this second marriage payment is unclear. The *Commentative Digest* offers two different interpretations. "The expences of the Bimbang [feast] on such marriages, are borne jointly by Man and Woman however, and in case of separation by desire of the Man, the Woman's portion of this, called Charroh, must be repaid by him to her. This is in all cases regulated, as equal to the *Antaran*" (*Commentative Digest,* p. 291). But later in the same section: "When the Antaran is paid before or at the time of Neekah, [the marriage] it is called Boontal Kadoot [?], if not paid, it is called Charroh"

(*Commentative Digest,* p. 293). Neither of these explanations can be seen as uniquely Islamic. However, the expression *mas kawin* is often associated with the Islamic *mahr* (c.f. Klinkert, 1947, p. 58; Van den Berg, 1894, p. 278 n; Juynboll, 1930, p. 183). In pre-Islamic times in Arabia the *mahr* was purchase money (c.f. Smith, pp. 96, 106) but in the Koran the conception of purchase is lost and it acquires the meaning of "legitimate compensation which the woman has claim to in all cases . . . the bridal gift is property of the wife; it therefore remains her own if the marriage is dissolved" (Gibb and Kramers, 1965, p. 314). Clearly this association of the *mas kawin* with the *mahr* was the intention of the writers who made specific reference to the Koran in the title.

The logic of the relationship between Fasals 1 and 2 involves the superimposition of two oppositions. First, there is the distinction between the preliminaries leading up to the marriage and the solemnization of the marriage. Given the clear time sequences implied in this ordering, one can generalize the distinction to an opposition between earlier and later. The second opposition between the fasals involves a contrasting of adat and Islam. A superimposition of the two oppositions results in the earlier adat being opposed to the later Islam. Starting with these two basic oppositions a third is developed between the *antaran* and *isi kawin.* The *antaran* is assigned to Fasal 1. This paragraph contains a provision by which the woman must return the *antaran* twofold if she changes her mind. But Fasal 2 says that the money of the *antaran* is irretrievably lost. The implication is that the money may only be returned before the marriage itself. However, external sources and possibly the text itself assert that the payment may be made at the time of marriage. Be this as it may, the *antaran* is completely assigned to Fasal 1, so much so that the word *antaran* occurs only in Fasal 1, while a synonym, *uwang pengantar,* is used in Fasal 2. Further, Fasal 1 mentions *semendo* while this word is totally absent from Fasal 2. The element of Fasal 2 opposed to the *antaran* of Fasal 1 is the *isi kawin.* The association of *isi kawin* with Islam is underscored by the requirement that the payment be made to the woman as the *mahr.* The opposition of *antaran* and *isi kawin* involves placing them in the earlier adat/later Islam opposition. However, the equilibration of the *caro* to *isi kawin* suggests a manipulation. In the *Commentative Digest* the *caro* is related to the expenses of the wedding, and thus belongs to Fasal 2. However, the *caro* does not appear to be uniquely Islamic in any of its implications. Further, the *caro* is not even uniquely

associated with semendo or other matrilocal forms of marriage (c.f. Marsden's History, 1811, p. 228 and Fasal 11 below). In general, where it occurs, the *caro* is the minimum amount that a man must forfeit when he is the cause of a divorce. This either takes the form of an additional payment or a deduction from a refunded brideprice. Indeed in the Oendang-Oendang Tallo (Cod. Or. 12.228) it is equivalent to the difference in brideprice between a widow and a virgin. But Marsden refers to "the *adat charo,* for the damage he has done her" (Marsden's History, 1811, p. 262). The *caro,* thus, in its various meanings usually contains an element of compensation. And further, its frequent association with divorce situations establishes it as occuring after the payment of the *antaran.* While the *caro* involved compensation, the specific implication is not direct compensation to the woman herself as implied by the *isi kawin* or *mahr.* Thus the *antaran* and *caro* were two payments related to marriage with a clear time difference between them that could be manipulated in order to fit the earlier adat/later Islam opposition. In this case there is a strong association of the reform aspects of *semendo* with Islam. However, two distinct notions are present. Semendo forms occur in other texts as mediators between jujur and ambil anak but without any concomitant association with Islam. The identification of the *caro* with the more Islamic *isi kawin* represents a reclassification of older notions to conform with the newer Islamic ones and thus becomes associated with a reform.

Fasal 2 ends with a reference to the *uwang pengantar.* Upon the solemnization of the marriage this money is lost forever. Because this rule of forfeit only applies after marriage it is appropriately included at the end of Fasal 2. On the other hand, the reference back to Fasal 1 where the *antaran* is discussed in detail performs an important structural function. The act of referring back to Fasal 1 breaks the line of continuity established by a description of temporally ordered events and thereby serves to identify Fasals 1 and 2 as constituents of a single structural unit. This feature also indicates that there is some sort of structural discontinuity between Fasals 2 and 3. As we shall see Fasal 3 belongs to two structural entities and the back reference indicates the discontinuity between the two structures. Further, this structural feature divides the structural unit made up of Fasals 1, 2, 3, and 14 into two equal portions. Thus Fasals 1 and 2 form a structural entity based on the unity of their opposition and the structural isolation created by a back reference.

FASAL 3

The title of Fasal 3 is "adat semendo merdahika sama merdahika" (the adat of semendo between two free people). The rules of this fasal apply on the dissolution of the marriage by death or divorce (sarak hidup atau sarak mati). Debts and credits (utang piutang) and jointly acquired property are to be divided equally. Property brought to the marriage (harta pembujangan) and individally acquired wealth returns to the point of origin. Debts that were not acknowledged by both parties remain the responsibility of the individual originally contracting the debt. The woman, however, retains ownership of the house and yard. The children born of this sort of marriage are called *anak semendo* (semendo children). Though the mother's right to a child is considered stronger, the child who has become old enough, may elect to reside with his father. If either of the parents wishes to take the child overseas (menyberang lautan) both sets of in-laws must consent and the rajas and penghulus must also agree. All goods brought to the marriage must be acknowledged by the respective in-laws in the presence of witnesses and the declaration received by a judge. The last phrase of the fasal contains instructions to the reader to consult Fasal 14 (hendaklah lihat dalam fasal 14).

The fasal discusses two matters: the allocation of wealth and the residence of children. The equality of the man and woman is stressed in the allocation of property and wealth relating directly to the marriage. Thus, property, debts and assets acquired jointly are to be divided equally. On the other hand, the individual marriage partners remain separate legal entities. They can own property, acquire new property and contract debts separately. With respect to children, while there is a favouring of the woman, the principle of equal rights also applies. Since the marriage is matrilocal, the child's choice is that of remaining with his mother or going to live with his father. Thus, by maintaining the *status quo* the child remains with the woman. The two notions, the allocation of wealth and the problem of the child's residence are linked by a discussion of the disposition of the house and garden. Since the marriage is matrilocal the house may have been hers or her parent's house. However, even if the house was built by joint effort, the woman retains possession. Thus, the house as the woman's residence may override the rules concerning the house as property.

These rules serve to contrast this form of marriage with both jujur and ambil anak. First, certain categories of goods and wealth may be jointly owned. Second, and more important, is that *both* individuals retain the right to own property separately. This is impossible for the man in ambil anak marriage and the woman in jujur marriage. In

jujur and ambil anak marriage children are assigned exclusively to one family or the other. In this form there is no automatic rule. To the contrary, the final decision is left to the child. And further, even after the child has made his choice, there is a jural restriction placed on the parent with whom he lives (i.e., with respect to travel). Thus the child's choice does not lead to a lineal situation in any way analogous to that of jujur or ambil anak. *Semendo merdahika sama merdahika* is opposed to neither jujur nor ambil anak but is opposed to the opposition between jujur and ambil anak. In this respect the logic of this marriage form is equivalent to the reform logic in John Marsden's Lais laws.

A second logical principle is embedded in this fasal. The marriage is matrilocal; the woman is entitled to keep the house; the woman's rights in the children are seen as stronger. Thus if it were necessary to speak of this form as a special variant of one member of the jujur/ambil anak opposition, it would be a variant of ambil anak. However, when viewed in this manner, it is a greatly attenuated form of ambil anak. The similarity to ambil anak as opposed to jujur is generated by the fact of matrilocal residence. This remoulding of the jujur/ambil anak opposition recalls the second logic of the Lais laws. The clear elemental opposition of semendo merdahika to the jujur/ambil anak opposition is the dominant logic. However, a second structural form is present in which the semendo form is more strongly opposed to jujur and ambil anak. This second logic suggests the direction a developmental trend would be likely to take. The semendo form is more likely to replace ambil anak than jujur if the system were to develop in such a way as to give preference to the stability of a two element system.

FASAL 14

Following the explicit instructions at the end of Fasal 3, the next fasal in this sequence is Fasal 14.

The title of the fasal is "sebab harta pusaka" (concerning inherited property). The fasal describes in detail the disposition of a man's wealth and simply says that the same principle applies to a woman. When a man dies, the costs associated with his death are met out of his property. What remains is divided into two equal portions. One of these is given to his wife. The second portion goes to his children, who share it equally. If there are no children then this share is given to his heirs (waris). The children are obliged to give the "anggun anggun" to the heirs of their father. The amount of this gift is regulated in accordance with the size of the man's estate. If necessary a judge can decide what

is appropriate. It is possible for a testament to be left but to be valid it must be signed by the rajas and penghulus. The fasal concludes with instructions to consult Fasal 3 (hendakla lihat dalam fasal 3 yangketiga).

The *Commentative Digest* describes the "Angoong-Angoong" as follows: "a legacy, generally consisting of a suit or more of complete clothes, proportioned to the substance or Wealth of the deceased" (*Commentative Digest,* p. 293). A note to the De Perez translation offers a slightly different interpretation. The *anggun-anggun* is usually an object from the estate, for example an item of jewelry or a piece of clothing, but may also be a sum of money (De Perez, 1849, p. 267).

Thus in spite of the reference to "sarak hidup atau sarak mati" Fasal 3 is primarily concerned with divorce while Fasal 14 deals with death. The element of equality, as expressed in Fasal 3, is continued and elaborated upon. However, it is significant that the word *semendo* is not used. The links between the two fasals are created by specific references in the text. Furthermore, the direct back reference at the end of Fasal 14 clearly establishes that this fasal is the end of a structural unit.

The four fasals taken together form a logical progression. First, there is the engagement, second the marriage, third the possibility of divorce, and lastly, death. The back reference at the end of Fasal 2 and the cross-referencing of Fasals 3 and 14 divide the sequence into two equal portions. These two blocks are opposed to each other, the opposition being between the formation and dissolution of the marriage bond. At the same time within the blocks each fasal is opposed to its partner. In the first block the fasals are opposed in terms of earlier adat versus later Islam, in the second in terms of earlier versus later and divorce versus death. Thus the structure of these four fasals is based on a hierarchy of oppositions. The abstract structure of this hierarchy can be summarized as follows. A, B, C and D form a structural sequence with a logically determined order. By structural features not directly related to the contents of the four elements (i.e. back and cross-referencing) the sequence can be divided into two blocks of two elements (AB and CD). A and B form one opposition, C and D another. But in addition to being opposed to each other, the elements share a basis of unity that makes the oppositions unique. These bases of unity are in their own turn opposed to each other. Thus A and B is opposed to C and D. Yet this opposition also has a basis of unity which generates the structural unity of the entire sequence.

Having established the structure of these four fasals, there can be no question concerning Fasal 14's place in the sequence. However, Fasal 14 is separated from the others by ten fasals if one uses a normal numerical sequence. While the function of this displacement will be discussed below, an examination of the mechanism of the displacement is appropriate. In Malay, the first ten cardinal numbers are satu(sa-), dua, tiga, empat, lima, enam, tujoh, delapan, sembilan and sapuluh. The numbers between ten and twenty are formed by the addition of the affix "belas", i.e., sabelas, duabelas, tigabelas, empatbelas, etc. Three (tiga) is normally followed by four (empat) but the instructions in the text are to follow tiga not with empat but empatbelas. There is a symmetrical inversion at the end of Fasal 14. Fourteen (empatbelas) is normally preceded by thirteen (tigabelas) but the instructions in the text are to go back not to tigabelas but to tiga. Thus the inclusion of Fasal 14 in the structural sequence is achieved by a manipulation of the number system based on the addition and subtraction of the affix "-belas" in normally inappropriate places.

The reference at the end of Fasal 14 back to Fasal 3 also indicates a return to the normal numerical sequence. Thus in addition to being followed by Fasal 14, Fasal 3 is also followed by Fasal 4.

FASAL 4

The title of Fasal 4 is "Adat semendo bayar utang" (adat of semendo marriage by paying a debt). At the time of the engagement (mau nikah) it is agreed how much of the woman's debt shall be reduced. And then the marriage follows the adat of *semendo merdahika sama merdahika.* However, deviations from the rules of this marriage form may occur if the woman is guilty of severe wrongdoing (amat kesalahan). But if the woman has borne children then she need not pay her debt to her husband.

In this marriage form it is clear that the man marries a woman who is financially indebted to him. The intention is that the man reduce the woman's debt in lieu of a marriage payment. While not explicit the text suggests that the reduction is in the amount of the *antaran.* However, De Perez (1849, p. 260) reports that the reduction is a substitute for the *isi kawin.* The text is sufficiently vague so that it could be a substitute for either or both of the marriage payments.

This fasal, like Fasal 14, contains an explicit back reference to Fasal 3. In this case the reference is not based on a manipulation of the number system but on an explicit reference to *semendo merdahika*

sama merdahika. Thus there is a parallel between the back reference of Fasal 14 to Fasal 3 and the similar reference of Fasal 4 to Fasal 3. The back reference of Fasal 4 to 3 also isolates Fasal 4 from Fasal 5. This structural feature underscores the fact that this is the last fasal directly relating to *semendo merdahika sama merdahika* marriage.

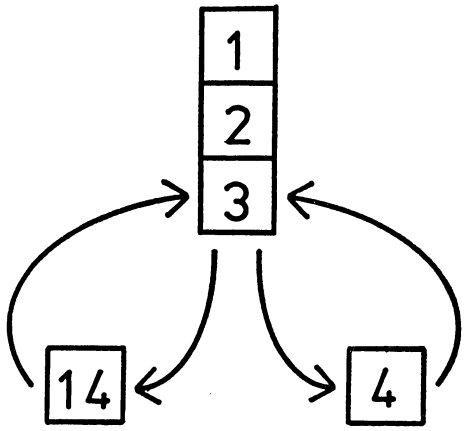


DIAGRAM 2.1

This symmetry notwithstanding, the structure of the block containing Fasals 1, 2, 3 and 14 is the stronger. However, the symmetry of the back referencing establishes Fasals 3 and 4 as a structural entity. But Fasals 3 and 4 are not opposed to Fasals 1 and 2 in a manner analogous to the way in which Fasals 3 and 14 are opposed to the first two. Thus, proceeding from the beginning of the law, one finds a structural unit (Fasals 3 and 4) well established without being certain of the structure to which it belongs. This structure only emerges after reading Fasals 5, 6, and 7.

FASAL 5

Fasal 5 presents an extremely lucid statement on the nature of *ambil anak* marriage. Since this is one of the most important forms of marriage in South Sumatra, it is worth presenting the entire text of the fasal.

5 fasal yangkelima adat semendo diambil anak apabila sarak hidup sarak mati melainkan barang bearapa ada harta benda dan utang piutang tinggal semuanya kepada bapaknya orangyang mengambil anak itu tadi dan oranglaki[2] yangdi ambil anak itu keluar dengan sahelai kain dipinggang demikianlagi kalau ada beranak melainkan anak itu tinggal kesabelah perempuan jua adanya

The fifth fasal, the semendo custom of being married by ambil anak

(passive voice) when there is a dissolution of the marriage by death or divorce, the property, debts and assets, however great they may be, remain completely with the father of the person who marries by ambil anak (active voice). And the man who was married by ambil anak (passive voice) departs with only the single piece of cloth that he wears wrapped around his waist. If there are any children they also remain with the woman or her family, so be it.

In Malay and Indonesian usage *ambil anak* normally means "to adopt a child". This meaning is easily derived from the constituent parts, i.e., *ambil* = take and *anak* = child. The above passage uses both the active and passive forms of the phrase. Thus, *mengambil anak* literally becomes to adopt a child and *diambil anak* literally to be adopted. A noun following a verb in the passive voice is normally the agent. Applying this rule *diambil anak* might be translated as to be taken by a child and *mengambil anak* as to take the child. While these translations are possible, the important symmetrical opposition between active and passive meanings tends to be lost. Indeed, the normal translation as adopting is also doubtful, for when referring specifically to adoption the verb *angkat* is used (c.f. Fasal 13 below). Thus, I prefer to use the expression to marry by *ambil anak* and to be married by *ambil anak* for the active and passive voices respectively, allowing the true sense of the phrase to emerge from its various contexts.

The difference between the active and passive voice of *ambil anak* is extremely important. The man is always the subject of the verb form in the passive voice and the woman or her father is the subject of the verb form in the active voice. Grammatically expressed, the action of marriage by *ambil anak* is something done to the man by someone else. Thus the central notion of the passage could be expressed by the following neologisms: "a man is ambil anak-ed" and "someone ambil anak-s a man".

While this ambil anak marriage is also a type of semendo marriage, it is radically different from *semendo merdahika sama merdahika.* The principle of equality in property or children has vanished. Furthermore, the man has no rights as an individual, for example, he is not responsible for his own debts. While the name of the marriage suggests adoption, the man does not acquire the same rights as a son. And further, if the metaphor of adoption were taken seriously, he would be marrying his own sister. This form of marriage is matrilineal in the extreme and invites the use of the now discarded term matriarchy. If certain forms of patrilineal marriage can be referred to as *patria potestas,* then this

form of matrilineal marriage is most certainly *patria impotestas*. Though the use of the term semendo suggests a link to the previous fasals, the conceptual difference is so great that this connexion is tenuous at best. Further, there is no clear conceptual link to the following fasal.

FASAL 6

The title of Fasal 6 is "perempuan dibeli dibuat bini" (the woman who is purchased and taken as a wife). This fasal is concerned with marriages between master and slave. The woman could have been recently purchased, a slave of long standing in the household, or the child of a slave. Her status as a wife need not be dependent on a formal marriage (nikah). If the woman bears a child by her master, she becomes unconditionally (mutlak) free. A master who sells such a woman is liable to be fined by a judge. On the other hand, if there are no children, and she is guilty of wrongdoing, the master may demand money from her and she becomes his debtor. The amount of her debt must be less than her value when she was purchased and had not yet become his wife. Disputes concerning her sale value or the amount of her debt may be settled by a judge.

This fasal is very similar to Fasal 4. The wife is not free when she is married but upon bearing children she becomes free of all financial obligations. The main difference between the two fasals is in the initial status of the woman. Thus there is an opposition or contrast between Fasals 4 and 6, between the debtor and slave status of the woman, as well as the similarity of her position vis-à-vis her husband. While the complete understanding of Fasal 4 is dependent on a back reference to Fasal 3, the full understanding of Fasal 6 is dependent upon a symmetrical forward reference to Fasal 7.

FASAL 7

Fasal 7 is entitled "adat berjujur" (the adat of jujur marriage). In this marriage form money is paid from the side of the man to the side of the woman. The amount is fixed by agreement and may be paid at once or in installments. If unreconcileable differences or arguments arise, and as a result the man no longer wants his wife, he may send her back to her parents. The woman must return the jujur money; but, the man must pay a certain sum (unnamed) to the woman's parents. The exact amount of this sum is based on the nature of the disagreements. The above rules apparently apply only if the marriage is childless. If there are children, they all remain with the father and the woman is returned to her parents. If the woman was not guilty of wrongdoing, she need not pay the man anything. If, however, she was guilty of serious wrongdoing (salah gedang), then she must pay a sum (unnamed) to her

husband. The amount that she must pay can be determined by a judge who bases his decision on the nature of her misbehaviour. If the woman's parents do not want to take her back or to return the jujur money, the man may sell her or place her as a bondage debtor [20] wherever he wishes.

The two main features of this fasal are its opposition to ambil anak marriage and a detailed description of the financial relations associated with the marriage. The departure of the woman upon divorce, and the residence of the children with the father, establish this marriage form as being patrilineal and patrilocal. This is in direct contrast to the matrilineal and matrilocal rules of ambil anak marriage. The logic of the financial relations is set against the background of the practices in the region. Jujur marriage often involved the transfer of a large amount of money from the man to the woman's family. As a result the man and his family were often in debt. These debts frequently gave rise to numerous troublesome law suits. Here the amount is unspecified and subject only to mutual agreement. There is no requirement that the full amount must be paid at the marriage. This is different than the Lais laws which specify "that this sum shall, when the marriage takes place, be paid upon the spot; that if credit is given for the whole, or any part, it shall not be recoverable by course o[f] law" (Marsden's History, 1811, p. 226). The logic in this rule is that there should be no debt relationship between the parties that could lead to a lawsuit. In Fasal 7 no such logic is present, instead there is a series of specifications that serve to protect the man's investment. His investment is most secure before children are born; up to this point the man can reclaim the money from the woman. If the woman does not return the money, he is entitled to sell her as a slave or place her in bondage as a mengiring debtor (c.f. Fasal 37). The responsibility for the return of the jujur money is placed directly on the woman and not on her family. His right to sell the woman in default of payment means that he does not have to institute legal proceedings in order to obtain his money. This relationship also underscores the woman's position as a chattel and the marriage payment's direct association with a purchase. The man, however, must make a return payment to the woman's parents as compensation; but, this payment is to be made only after they or the woman have returned the jujur money. Thus the man is well protected against the loss of his investment. However, after children are born a different set of rules apply. If the woman is not guilty of wrongdoing, she is not required to make any payment. This suggests that the original

jujur payment was based on the woman's producing children for the man's family. Once she has produced children she is absolved of all financial obligations vis-à-vis her husband, assuming good behaviour. If she is guilty of serious wrongdoing then she must pay a sum of money to the man. The sum is unnamed and apparently is compensation unrelated to the original jujur payment.

The logic of Fasal 7 parallels that of Fasal 6 to such a degree that they are mutually elucidating. The purchased slave, like the jujur wife, becomes free of financial encumberance upon the production of children. Without children the man can regain his money by selling her or by instituting a debt relation. This rule, with only minor variations, applies in both cases. The similarity of the two fasals underscores the logic of jujur marriage. The woman is a commodity purchased for the production of children; having produced children she ceases to be a chattel and acquires specific rights. By placing all of the responsibility on the woman, either to produce children or to be accountable personally for her purchase price, the man's money is protected. However, the pattern of rules is such that any alliance generating potential that this marriage might have, is effectively undermined. Thus, the extreme inferiority of the woman's position is analogous to that of the man in ambil anak marriage. However, this logical opposition, based on the inversion of male and female, is not the opposition developed by this law.

The contents of Fasal 2 provide the first hint of the opposition that is to be developed by this law. At the end of this fasal there is a reference saying that the *antaran* does not become a debt of the wife (tidak jadi utang oleh bininya). From the fasal itself there is no reason to suspect that the money of the *antaran* might become the wife's personal responsibility, taking the form of a debt. This passage gives the distinct impression of explaining a situation that does not need explaining. It is only in Fasal 7 that the reason for this passage in Fasal 2 becomes apparent, i.e., the financial assumptions of jujur marriage do not apply to *semendo merdahika sama merdahika* marriage.

However, it is the structuring of the fasals that reveals the logic of the oppositions in detail. The structured block consists of Fasals 3, 4, 5, 6, and 7. The structural unity of Fasals 3 and 4 was established by the explicit back reference from Fasal 4 to Fasal 3. Furthermore, the 3-4 relationship is symmetrical to the 3-14 manipulation of the first block of fasals. Thus, the first structural unit of this block of fasals is established by an internal feature (back reference) and an external feature (the reference to the 3-14 manipulation). Fasal 4 deals with

a debt relation that becomes converted to a form of marriage, i.e., that discussed in Fasal 3. Or more abstractly, Fasal 4 becomes converted to Fasal 3. Fasal 6 deals with slavery becoming converted to a type of marriage. The conversion principle is analogous and symmetric to that in Fasal 4. Further, the marriage form by the structural analogy and the implicit association of the contents becomes identified with jujur marriage. Thus the structure in Diagram 2.2.

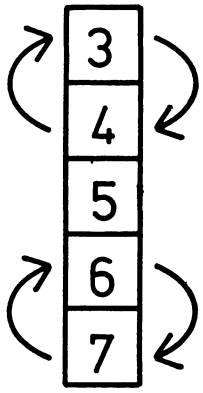


DIAGRAM 2.2

The ambil anak marriage form of Fasal 5 does not enter into any direct relation with any of the other fasals in this block. On the contrary, it isolates the two clearly demarcated structural units from each other. This fasal is a structural insulator whose function is to separate the 7 elements of Fasals 3 and 4 from the opposing elements of Fasals 6 and 7. Logically, Fasal 5 is opposed to all the others. It is a semendo form of marriage but contradicts the rules of all the other semendo forms. It is opposed to jujur marriage both on grounds of locality and lineality. These logical oppositions make it impossible for Fasal 5 to be associated with either Fasal 4 or 6. But its structural position between Fasals 4 and 6 prevents the possibility of an association arising between these two fasals. Thus, the insulator creates a discontinuity between the structural units containing Fasals 3 and 4 on the one hand and Fasals 6 and 7 on the other. The discontinuity, in its turn, underscores the difference and ultimately the opposition between these structural units. Thus, the opposition of marriage forms becomes not one between jujur and ambil anak but between jujur and *semendo merdahika sama merdahika*. This is identical with the second reform logic of the Lais laws collected by John Marsden. (The first reform logic is the opposition of the semendo merdika form to the opposition of jujur and ambil anak, while the second reform logic is the direct opposition of jujur and

semendo merdika forms; c.f. page 39 above). The native logic, therefore, is demonstrated by the structure of the fasals and corresponds to a logic explicitly stated in another law set. Further, the fasal structure leads to an important conclusion. While jujur may be indeed opposed to ambil anak (as in other law sets; c.f. the Sungai Lemau or Sungai Hitam laws), the logic of the writers was to make another opposition which does not conform to the normal anthropological expectation of an opposition between patrilineal and matrilineal.

The logic of reform is not confined to the fasal structure alone. The impression given, though not explicit, is that *semendo merdahika sama merdahika* is the marriage form to be followed as much as possible. The most detail concerning the process of getting married follows this form. Jujur marriage, by way of contrast, makes only passing reference to the contractual basis of the marriage. And ambil anak marriages are only dissolved. On the one hand, the greater detail concerning *semendo merdahika sama merdahika* may be necessary because the rules applying to the new form are not generally known, while jujur and ambil anak marriages need not be explained because of the general public familiarity with the form. On the other hand, the absence of detail on the formation of an ambil anak marriage may tacitly reflect the pressure to discontinue this form. However, some mention of ambil anak is necessary because lawsuits may arise based on marriages contracted at an earlier date. Thus the greater attention given to *semendo merdahika sama merdahika* marriage makes the form better known and positively reinforces its use, while the absence of detail concerning getting married by ambil anak underscores an intention to reduce its importance.

The second structure is articulated to the first by the sharing of Fasal 3 between the two structures. The relationship between Fasals 3 and 14 is mirrored in the relationship between Fasals 3 and 4. This establishes the structural basis of the opposition between Fasals 3 and 4 and Fasals 6 and 7. Thus a feature of one structure is projected on to another, providing the key to the understanding of the second structure. There are other relationships between the two structures that are of a symmetric nature and serve to elucidate the notions of both structures. There are two fasals (13 and 15) which, though external to the five element marriage structure, serve to elucidate the nature of Fasal 5.

FASAL 13

Before turning to the contents of Fasal 13, it is necessary to consider its numerical properties. Fasal 13 is part of the 3-14 numerical mani-

pulation. At the end of Fasal 3 there are instructions to read Fasal 14 that overrule the normal tendency to proceed to Fasal 4. Similarly, the instructions at the end of Fasal 14 to read Fasal 3 override the normal procedure of going back to Fasal 13. Inclusion of the 13-14 sequence as part of the well-established 3-14, 14-3 logical structure allows the full development of the logic of the manipulation rules.

The first rule is to add "belas" to the higher element of the sequence:

tiga-empat becomes tiga-empatbelas (3-4 becomes 3-14)
empat-tiga becomes empatbelas-tiga (4-3 becomes 14-3)

A second rule reverses these manipulations. Subtract "belas" from the higher element:

tiga-empatbelas becomes tiga-empat (3-14 becomes 3-4)
empatbelas-tiga becomes empat-tiga (14-3 becomes 4-3)

These rules can be expressed in the following notation:

I = + belas (high)
II = — belas (high)

The reversal is accomplished by negating the belas aspect of the rule but applying it to the same element of the sequence (the higher one). Two additional rules can be generated by negating the application aspect of the rules, i.e., apply the addition or subtraction of belas to the lower element instead of the higher one.

The third rule is to add belas to the lower element (III = + belas (low)):

tiga-empatbelas becomes tigabelas-empatbelas (3-14 becomes 13-14)
empatbelas-tiga becomes empatbelas-tigabelas (14-3 becomes 14-13)

The fourth rule is to subtract belas from the lower element (IV = — belas (low)):

tigabelas-empatbelas becomes tiga-empatbelas (13-14 becomes 3-14)
empatbelas-tigabelas becomes empatbelas-tiga (14-13 becomes 14-3)

The four rules are:

I = + belas (high)
II = — belas (high)
III = + belas (low)
IV = — belas (low)

The obvious symmetry of these rules can be best expressed by describing the transformations between the rules.

The first transformation relates rules I and II and rules III and IV, i.e., negate the belas aspect:

+ belas (high) ←→ — belas (high)
— belas (low) ←→ + belas (low)

The second transformation relates rules I and III and rules II and IV, i.e., negate the application aspect:

+ belas (high) ←→ + belas (low)
— belas (high) ←→ — belas (low)

The third transformation is a combination of the first two and relates rules I and IV and rules II and III, i.e., negate the belas and application aspect of the rules simultaneously.

+ belas (high) ←→ — belas (low)
— belas (high) ←→ + belas (low)

If an identity transformation is added to the set of three transformations the result is known as a Klein Four group (c.f. Zassenhaus, p. 56).

The above demonstration indicates that at the level of the manipulation rules the 13-14 sequence is a complement to the 3-4, 3-14 pattern which yields a second pattern 13-14, 3-14. The analysis of the transformations between the manipulation rules indicates that the complementary patterns are part of a single structure. In simplest terms it appears that the 3 to 14 sequence is a manipulation of the 3 to 4 numerical sequence, and the 14 to 3 sequence is a manipulation of the 14 to 13 numerical sequence.

The title of Fasal 13 is "hukum orang sebab mengangkat anak" (law of men concerning adopting children). A formal declaration is made before the raja and penghulus who draw up and sign a document. At the occasion a buffalo or goat is slaughtered and a gift of a tahil of gold is presented to them. When these requirements have been met, the adopted child (anak angkat) becomes equivalent to one's own child (anak kandung). The adopted child is entitled to inherit his father's property. However, if there are both adopted and natural children, the adopted child receives only as much as the natural children are willing to give.

The rule here is very simple: adoption is allowed. The adopted child

can assume the role of a son (or daughter?) only if there are no other children born to his adoptive parents. The verb *mengangkat* means to raise, thus the principle of adoption implies an elevation in status for the adoptee. The significance of this fasal is that it establishes a rule for adoption that is independent of the notion of ambil anak. The man married by ambil anak has no rights in property even when his wife dies, whereas the adopted son can have full rights in his adopted father's property.

However, the similarity of the two principles is acknowledged by the placement of Fasal 13 in the *Code of Laws*. While Fasal 13 is part of the manipulation rule structure its position is different from that suggested by the logical structure of these rules. Taking the 3-4-14

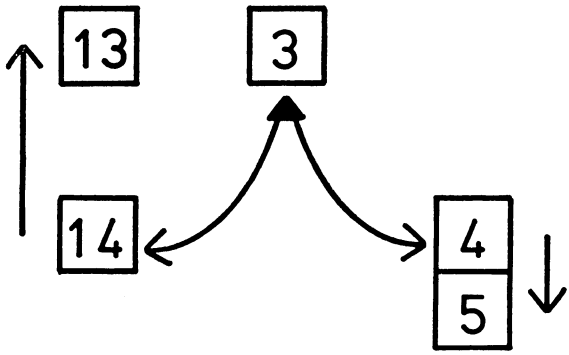


DIAGRAM 2.3

structure as the basic unit Fasals 13 and 5 are appended to it in a complementary manner. Thus while the contents of the fasals serve to differentiate the principles of adoption and ambil anak marriage their position in the fasal structure acknowledges that there is a degree of affinity between the two principles.

Fasal 13 is also the beginning of a short conceptual sequence of three fasals. Fasal 13 deals with adoption; thus the possibility that children other than natural ones can inherit from their father. Fasal 14 presents the rules for the division of inherited property. Fasal 15, which deals with the succession to high office, concludes this sequence and the entire section on marriage, death, and divorce.

FASAL 15

The title of Fasal 15 is "mengatakan erti tungguan" (mentioning the meaning of tungguan). The fasal provides the rules of succession for rajas, penghulus, depatis and mantris. On his death the title holder is

succeeded by his eldest son. If for some reason the eldest son is unsuitable then one of the other children may acquire the position. If there are no sons then the title goes to one of his brothers' sons (?) (dusanaknya anak kemanakannya) or to the descendant of a son who has previously died.

The word "tungguan" has a variety of meanings. The general Malay meaning of "tunggu" is to watch, guard or wait. Marsden's Dictionary (1812, p. 76) adds the meaning "to dwell, inhabit, occupy".[21] For the substantive form "tuñgguan" Marsden's Dictionary (1812, p. 76) gives the meaning "attendance, dwelling, abode, settled residence". Elsewhere, when writing of the Passumah people he gives an extended meaning. "To have a wife, a family, collateral relations, and a settled place of residence is to have a tuñgguan." (Marsden's History, 1811, p. 264). The *Commentative Digest* gives the meaning "Family Respect" (p. 299). The *Code of Laws* gives another not unassociated meaning "Adapun erti tungguan kedudokkan menentukan apa[2] pegangannya" (the meaning of tungguan is: the situation of making somebody's office certain).

While the text is very explicit about the patrilineal principle, the specific reference is to high ranking titles. Neither normal succession within households nor the possibility of succession through a woman by means of an ambil anak marriage is mentioned. The *Commentative Digest,* under the rubric "Titles and Dignities", repeats the contents of this fasal and adds an important second principle. "These, by descent, are generally the Inheritance of the Eldest Son, but not always, because if the capacity of the elder be insufficient to manage the Concerns of the family or support the dignity of the Toongooan, it is not uncustomary to pass over his pretensions in favor [sic] of one of more abilities, and, in failure of Male heirs, to seek for it in the next of kin or his descendants, but in the Country the title may pass to one of the Daughters, who afterwards marries by "ambil annak" [sic], in order to restore the Toongooan to her Family, under which last circumstances the Inheritance does not hereafter descend to the Husband's family, but it is perpetuated in that of the Woman's, even though she may fail of having Male issue by her body, because, as by the nature of their marriage the man reversed the order of Joojoor and became her very humble Slave, he cannot deprive her Family, of any right, Title or Property" (*Commentative Digest,* p. 300 f.). Thus the fasal, by only mentioning higher titles and not mentioning normal succession underscores the use of the patrilineal principle of succession at the highest social levels. This emphasis is a matter of principle which does not

completely reflect social reality. Occasionally titles were, as a result of ambil anak marriage, passed by women to their children. Indeed, the dispute over the title of Pangeran of Sungai Lemau was based upon the relative significance of two ambil anak marriages. Even more relevant is the fact that the dispute was between two of the four men who signed this law text.

Thus, while the text only mentions one form of succession to high office, ancillary sources indicate that a second pattern of succession was also used. In more general terms, therefore, the laws are selective in that they do not reflect the totality of options used in the society. Actually the present example concerning succession to high office presents only one aspect of the problem of selectivity, i.e., exclusion. A complementary feature of selectivity also exists, i.e., inclusion. While the problem concerning succession to high office might be rephrased with a not so subtle legerdemain and stated as a problem of selective inclusion, other laws provide a more satisfactory demonstration of the principle. For example, in Fasal 16 of *Oendang Oendang Manna* (Cod. Or. 12.205) one finds a discussion of the legal consequences of wounds resulting from fights between children. However, elsewhere in this section of the law there is no mention of wounding by adults. This example concerning wounding places the entire problem of selectivity into perspective. While the case from the *Code of Laws* might be explained in terms of an ideal or a preference the example from Cod. Or. 12.205 does not admit to such a facile solution. Indeed it can be demonstrated that the basis of selectivity in the special case of wounding rests entirely on structural considerations. Thus while preferences or ideal forms may play a role in selectivity structural considerations are often the decisive factor. Indeed, in the example from the *Code of Laws* an explanation of the selectivity based solely on notions of preference tends to obscure the structural features that relate both to the positioning of the fasal and to the structural significance of ambil anak marriage.

While the ambil anak principle is not mentioned in this fasal the fasal structure brings the matrilineal principle of ambil anak marriage into juxtaposition with the patrilineal principle of Fasal 15.

On the one hand, the relationship between Fasals 5 and 15 is an opposition between patrilineal and matrilineal. On the other, the association suggests that ambil anak marriage may be used in some cases.

The three fasals (13, 14, and 15) form a structural unit with a logical

progressive sequence. All the fasals deal with various aspects of descent not previously discussed. While Fasal 14 is part of the sequence based on *semendo merdahika sama merdahika,* Fasals 13 and 15 are patrilineal. The patrilineal bias of Fasal 13 is not as explicit as that of Fasal 15. However, in Fasal 13, while the adopted child may inherit

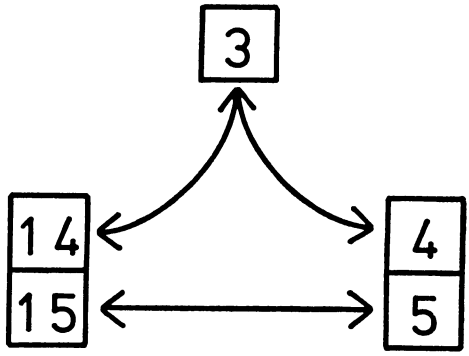


DIAGRAM 2.4

from his father, no direct reference is made to whether he may inherit from his mother. This analysis of the contents of these fasals suggest that Fasals 13 and 15 are collectively opposed to Fasal 14. This supposition finds further support in the analysis of the fasal structure. Fasal 14 is the only member of this sequence which is directly articulated to one of the earlier sequences. This articulation is based on an explicit manipulation of the number system. The contrast in articulation opposes the center of the sequence to the extremities, thereby reinforcing the patrilineal/semendo opposition of the content. Furthermore, the unity of Fasals 13 and 15 vis-à-vis the structure is emphasized by their links to the ambil anak marriage of Fasal 5. The opposition created by these features is between *semendo merdahika sama merdahika* and a patrilineal form. This is the same as the basic opposition of the structure based on Fasals 3, 4, 5, 6, and 7. Further, the basic form of the structure is the same for both sequences. In each case the structure opposes the extremities against the middle. Fasal 5, by its non-participation in relations within the structure, is opposed to both extremities. It is this opposition that allows the fasal to function as an insulator. The extremities are more closely related to each other by their opposition than either one is to the middle. Fasals 13 and 15 share a common principle but are not directly opposed to each other. However, they are opposed to the middle element, Fasal 14. The direct and indirect articulation of the two sequences involves a bricoleurean manipulation of the common features of the two structures. Fasal 14 is articulated

to Fasal 3. That is, the middle of one structure is directly articulated to one extremity of the other. And likewise, Fasals 13 and 15 are linked to Fasal 5, that is, both extremities of one structure are linked to the middle of the other. This link, however, is based on opposition while that between Fasals 3 and 14 is based on similarity. Curiously, there is no direct link between the patrilineal principles of Fasals 13 and 15 with the jujur principles of Fasals 6 and 7.[22] Thus the two structures present the same opposition between *semendo merdahika sama merdahika* and a patrilineal form in different ways but using the same basic structural form. Since the location of this opposition in each structure is different, the impression is given of a careful disassembly and subsequent reassembly of the structure.

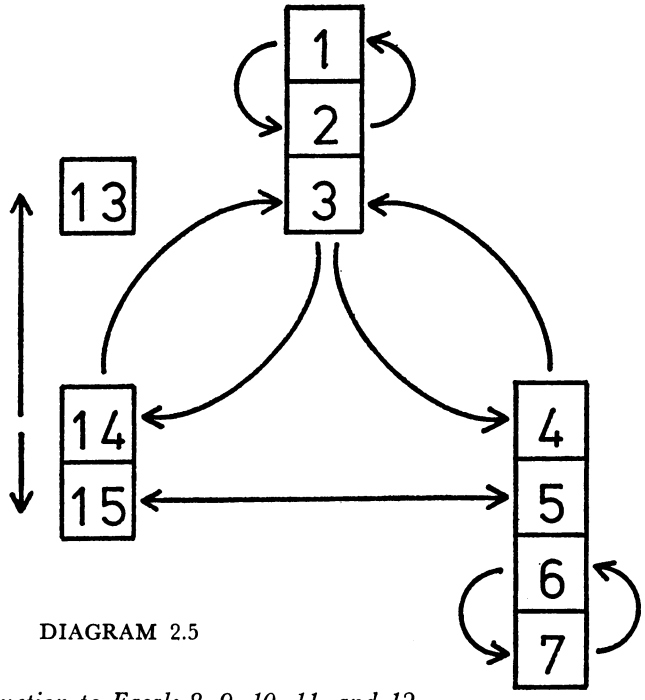


DIAGRAM 2.5

Introduction to Fasals 8, 9, 10, 11, and 12

Having established the structure of the initial and final blocks of fasals, the task of placing Fasals 8, 9, 10, 11, and 12 into these structures remains. The procedure to be used will be an extension of that employed above, i.e., a successive filling of blocks of fasals into the structure proceeding from the clear to the less clear material. Fasals 11 and 12

form a structural unit that is related both to the first fasal structure and to that of Fasals 13, 14, and 15. Fasals 11 and 12 both deal with divorce, in contrast to the inheritance material of Fasals 13, 14, and 15. This sequential relationship in which divorce precedes death is the same as that which divides the structure of Fasals 1, 2, 3, and 14 in two.

FASAL 11

The title of Fasal 11 is "adat orang sarak" (the adat of people divorcing). If the pressure for a divorce comes from the man he must pay the *caro* to the woman. If the pressure for a divorce comes from the woman, then the *caro* is lost (hilang) (i.e., the man need not pay it). If the man has not acknowledged his wife's debts then he is not responsible for them and vice-versa. The fasal concludes with a second principle concerning the *caro*. If the man has paid the *caro* at the time of marriage and later there is a divorce then the *caro* cannot be returned even if the pressure for the divorce comes from the woman.

In this fasal "the pressure for a divorce" is expressed by "keras dari laki[2]", i.e., *keras* from the man. The word *keras* normally means hard, stiff, rigid or inelastic with additional meanings of harsh and obstinate. However, in South Sumatran law texts the word has a specific legal connotation. When *keras* is assigned or attributed to a man or a woman then he or she is held to be legally responsible for the divorce. The sort of behaviour that may be considered to be *keras* is not delineated here or indeed in other texts. To the south of Bengkulu lists of *larangan* (forbidden behaviour) are presented (e.g. Oendang-Oendang Seloema, "old portion", Fasal 8, Cod. Or. 12.200) but it is not certain if these *larangan* are related to *keras* behaviour.

The position of *keras* in the analysis demonstrates an important aspect of structural analysis. In a structural analysis that which actually constitutes *keras* behaviour is not essential. What is important, however, are the legal consequences of *keras*. That is to say, the procedures for deciding what is or is not *keras* behaviour is not as essential as what occurs after the decision has been made. In the British social anthropological tradition the procedure by which responsibility is assigned is as important as the legal consequences of this assignment of responsibility.

The mention of individual responsibility for debts serves to associate these rules with *semendo merdahika sama merdahika* marriage. In ambil anak marriage such individual responsibility is specifically exluded. While in jujur marriage such responsibility is not excluded, the position of the woman as a chattel makes individual responsibility for debts

improbable. Furthermore, the *caro* is only mentioned in relation to *semendo merdahika sama merdahika* marriage. While in Fasal 2 there is an association between *caro* and the *isi kawin,* there is no connexion here nor is the amount of the *caro* mentioned. In John Marsden's Lais Laws there are two passages involving the *caro.* First, referring to semendo mardiko, "If the man insists upon the divorce, he pays a *charo* of twenty dollars to the wife's family, if he obtained her a virgin; if a widow, ten dollars. If the woman insists on the divorce, no *charo* is to be paid. If both agree in it, the man pays half the *charo*" (Marsden's History, 1811, p. 226). Secondly, concerning jujur, "The *charo* of a *jujur* marriage is twenty-five dollars. If the *jujur* be not yet paid in full, and the man insists on a divorce, he receives back what he has paid, less twenty-five dollars. If the woman insists, no *charo* can be claimed by her relations" (Marsden's History, 1811, p. 228). A direct reference to the *caro* in jujur marriage does not occur in the *Code of Laws.* There is, however, the unnamed payment that the man must make to the woman's parents that is very similar to that mentioned by Marsden. The omission of the word *caro* from Fasal 7 reinforces the implication that Fasal 11 is confined to *semendo merdahika sama merdahika.* The last passage of the fasal, however, provides the key. If the *caro* was paid at the time of the wedding like the *isi kawin* then the rules, as stated at the beginning of the fasal, are suspended. The fasal has three main passages. As in many other structures, the middle is contrasted with the extremities. In this case the middle portion, dealing with debt, is an unnecessary repetition of material covered elsewhere. However, the function of this middle element is to insulate the extremities from each other. The two extremities, while both explicitly concerned with the *caro,* are opposed to each other. The initial rule is the traditional application of *caro.* The final rule takes cognizance of the association of *caro* and *isi kawin* and overrides the initial one. The association with *isi kawin* connects the last passage to Islamic notions. Thus this fasal deals with the adat aspects of divorce but it must also cope with the *caro-isi kawin* association. It does so by tacitly asserting that the Islamic rule is superior. The association of this final passage with Islam is also a forward reference to the Islamic notions of the next fasal. This forward reference serves to bind Fasals 11 and 12 to each other.

FASAL 12

The title of Fasal 12 is "adat 'iddah perempuan sarak" (the 'iddah custom for a divorced woman). A divorced woman is not allowed to

take a husband (belaki) until three months and ten days after the divorce. If she does marry within this period but it is clearly a case of inaccurate calculation, then the person who performed the marriage ceremony is at fault. Because he is at fault he must give a meal to the local residents in the mosque. If, however, the woman is guilty of wrongdoing (dapat salah) and sufficient evidence exists, she is condemned to death. She can, however, be free from the death sentence if she pays the *tebus nyawa* (redemption of life) of 100 reals. The man who is her partner must also pay a *tebus nyawa* of 100 reals. The fasal ends with a passage stating that the man is responsible for his wife's maintenance during the 'iddah period.

The *'iddah* is an Islamic notion. The *'iddah* for widows is specified in the Koran as four months and ten days (Sura II, 234). After divorce the waiting period for a woman is three menstrual periods (Sura II, 228) and for non-menstruating women the waiting period is three months (Sura LXV, 4). While this fasal is clearly based on Islamic principles, the actual specification appears to be a hybrid based on the three distinct Koranic principles. While the Koranic rules apply to both widows and divorcees, the association in this fasal is only with divorce.[23]

Thus the opposition between Fasals 11 and 12 is one between Islam and adat. This is similar to the opposition between Fasals 1 and 2. Furthermore, the order of the opposition is preserved, i.e., Fasal 1 corresponds to Fasal 11 and Fasal 2 corresponds to Fasal 12. The associations here follow the general pattern of the belas manipulations, 2-12 (dua-duabelas) and 1-11 (satu-sabelas).[24] These four elements form a structural unit. Fasal 1 contains the customary aspects of getting married, Fasal 2 the Islamic aspects of getting married, Fasal 11 the customary aspects of getting divorced and Fasal 12 the Islamic aspects of divorce. The structure is based on all possible combinations of two oppositional features; Islam vs. adat and formation vs. dissolution of marriage. The second opposition is confined to the domain of culture. Thus the dissolution of the marriage is by human not natural cause (i.e., divorce and not death). The four elements of the structure are:

I = (Islam, formation)
II = (Islam, dissolution)
III = (adat, formation)
IV = (adat, dissolution)

A simple series of transformations between these elements can be generated. The structure of this series is identical to the logical structure

of the relations between transformations of the belas manipulation rules described above. This is significant in that it means that the numerical relations between the fasals of this structure are based on the same sort of manipulation. The numerical combination rules become:

adat = sa, satu
Islam = dua
formation = belas absent
dissolution = belas present

Applying these rules to the basic structure yields:

I = 2
II = 12
III = 1
IV = 11

Thus all of the fasals of the initial structure, i.e., Fasals 1, 2, 3, and 14, belong to at least two distinct structures. This interlocking and articulation of several distinct structures makes a schematic representation difficult. On the other hand, it reflects the basic Indonesian trend of heaping structure upon structure until the result is either a nightmare or a dream for the structural analyst.

The remaining three fasals of the initial section of the law are the most difficult to place into a structural framework. Nevertheless, they are surrounded by highly elaborate interlocking structures. Therefore, their analytical position becomes important.

FASAL 8

The title of Fasal 8 is "hukum orang lari nikah dengan tidak suka induk bapaknya sebelah menyebelah" (the law of persons eloping without the consent of the parents on both sides). Both parties are fined. If the girl was a virgin the fine is twenty reals, if a widow ten reals. The man must also pay the *pengantar* to the woman's parents. The appropriate amount is determined by comparison with the amount paid for the woman's relatives.[25] The person who performs the marriage ceremony is also fined.

This is an anomalous form of marriage. On the one hand, the mention of *pengantar* suggests *semendo merdahika sama merdahika* marriage. On the other hand, the flight (*lari*) means that the marriage cannot be matrilocal like all semendo forms. The elopement is similar to jujur in that the man removes the woman from her house. However,

the lack of consent on *both* sides implies that they fled to somewhere other than the man's home. Thus the marriage is neither matrilocal as semendo nor patrilocal as jujur, but a neolocal form. This marriage, therefore, is outside the opposition of *semendo merdahika sama merdahika* and jujur. However, it is recognizable as a mode of marriage and as such must follow the structure of Fasals 3, 4, 5, 6, and 7 and precede the structures of Fasals 11, 12, 13, 14, and 15.

FASAL 9

Fasal 9 is entitled "adat perempuan bemadu" (the adat of co-wives). If an already married man wishes to take a second wife, he must pay the *pemaduan* to his first wife. The amount of the *pemaduan* is equivalent to the *hantaran* of his first wife. The woman divides the money into two equal portions. She retains one and the other is shared among the old women in the kampung.[26]

In terms of the rigid logical structure of the fasals this form of marriage is also anomalous. The reference to the *antaran* suggests that the man is married by semendo and therefore matrilocally. But his second wife, unless a relative of his first wife, cannot very well be matrilocally married. Thus in one sense the man is married matrilocally to his first wife but patrilocally to his second wife. The anomaly of residence is similar to that raised in Fasal 8. The two fasals form a structural unit by their shared content with semendo implications and the residential anomalies. Fasal 9, however, suggests a reference back to the beginning of the law, that is, the marriage process begins again.

FASAL 10

Fasal 10 is entitled "perkataan sumbang" (what is meant by the word incest). The normal meaning of the word is a man has had sexual relations (dapat salah) with a woman with whom it is not proper to be married. If a man and woman are guilty of incest, following this definition, then they are condemned to death; but, they can obtain release from the death sentence by payment of the *tebus nyawa*. Sometimes, however, the incest is such that they may be married. In this latter case, they incur a large fine equal to one half the bangun (i.e., fifty reals).

While the fasal does not provide a definition of the prohibited degrees of relationship, a very interesting statement on incest occurs in John Marsden's Lais Laws. "A marriage must not take place between relations, within the third degree, or *tuñgal nēnē*.[27] But there are exceptions for

the descendants of females, who passing into other families become as strangers. Of two brothers, the children may not intermarry. A sister's son may marry a brother's daughter; but a brother's son may not marry a sister's daughter." (Marsden's History, 1811, p. 228).

This rule, as stated, operates on the assumption that all marriages are jujur marriages. Father's brother's daughter and father's sister's daughter marriages are prohibited. But mother's brother's daughter marriages are allowed. The rule is not explicit on mother's sister's daughter marriage. However, with the patrilineal assumption of the rule taken into consideration, if mother's brother's daughter marriages are allowed, then mother's sister's daughter marriages must also be permitted. The logic of this rule works on the basis of a continuous patriline. A man is not allowed to marry any of the grandchildren of his father's father, provided that all marriages in the genealogy are by jujur. A parallel set of rules can be derived if the assumption is changed so that all marriages are by ambil anak. The logic is inverted with a male/female substitution. The rule becomes a woman is not allowed to marry any of the grandchildren of her mother's mother. The new cousin marriages rule associated with this logic is: mother's brother's daughter and father's brother's daughter marriages are allowed but father's sister's daughter and mother's sister's daughter marriages are prohibited. It is only by anthropological convention that cousin marriage rules are written as the person whom a man may marry.[28] Thus the ambil anak rules should be that mother's brother's son and mother's sister's son marriages are prohibited while father's sister's son and father's brother's son marriages are allowed. By phrasing the rules in this manner the complementary logic of the two sets of marriage rules becomes apparent.

Jujur:			Ambil anak:		
FBD	=	no	FBS	=	yes
FZD	=	no	FZS	=	yes
MBD	=	yes	MBS	=	no
MZD	=	yes	MZS	=	no

No information is given on semendo mardika marriage but, given the bilateral implications of this type of marriage, a reasonable assumption would be that all first cousin marriages would be prohibited. The problems occur when there is a mixture of all three marriage forms. Using the jujur assumption one could argue that on a genealogical chart every woman who marries by ambil anak becomes a man for the purpose of calculating the permissibility of a certain marriage.

Anthropologically this pattern is significant in that a choice of affinal rules effects the interpretation of a genealogical relationship.

Returning to the *Code of Laws,* Fasal 10 only states that there are two kinds of incestuous relationships: those that can lead to a marriage and those that cannot. The incestuous relationship that cannot lead to a marriage is an illicit sexual relationship and thus this aspect of the fasal does not really belong in the section on marriage. This relation will be explored later (c.f. page 74 below). However, the fasal raises the more general question of the permissibility of marriages. One might have expected this fasal to precede the material on engagement. The fasal structure manages to place Fasal 10 before Fasal 1. Fasal 10 is followed in the text by Fasal 11. However, Fasal 11 is linked to Fasal 1. Therefore, structurally speaking, Fasal 10 does indeed precede Fasal 1. By proceeding Fasal 1, Fasal 10 becomes structurally equivalent to Fasal Zero (which does not exist). This zero-ten relationship is the basis of the numerical manipulation rules. The addition of belas to a word is equivalent to adding ten to a number. Thus the 3-4-14 manipulation can be expressed as follows:

$$3 + 1 + 0 = 4$$
$$3 + 1 + 10 = 14$$

Thus the placement of Fasal 10 at the head of the structure is supported by both the contents of the fasal and the logic of the manipulation rules.

Fasals 8 and 9 are conceptually linked and are placed after Fasal 7. As anomalous forms of marriage, they are included at the end of the discussion of the regular forms. They have, however, a filler quality; they fill in the space between Fasals 7 and 10. A filler is an element whose main function is to take up space, without performing a specific insulation function. In this case the filler is needed to make the numerical manipulations work out. Be this as it may, Fasal 9 has an important function. By its contents this fasal starts the whole marriage process over again, thereby referring back to the beginning of the law. However, 9 is followed by 10 and the combination of the two principles underscores the position of Fasal 10 at the head of the structure.

Diagram 2.6 summarizes the complex of structural relations of the first fifteen fasals.

Fasal 15 ends the clearly defined section on the regulation and consequences of marriage and divorce. The other section of this law to be analysed in detail begins with Fasal 30 and deals with the

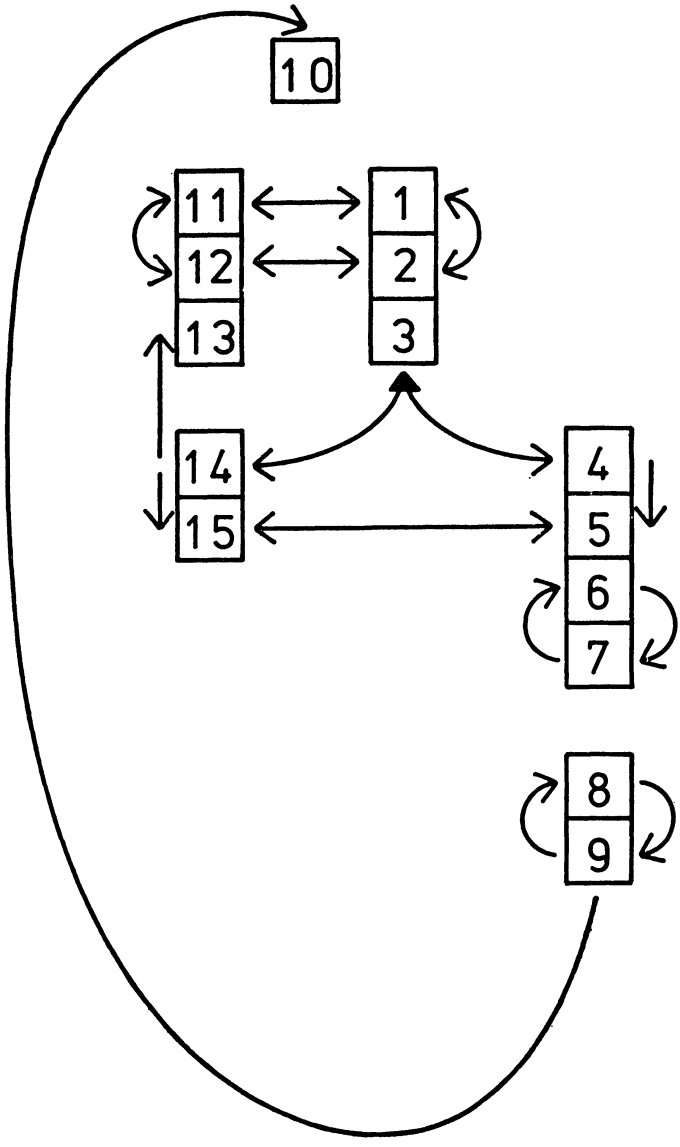


DIAGRAM 2.6

regulation of economic relationships between individuals. The logic of financial relations is especially relevant to the understanding of marriage rules because the structure of the marriage rules is often dependent on the nature of the financial relationship between husband and wife or the marriage relation itself is phrased in financial terms.

Crimes and Misdemeanours

Between Fasal 15 and Fasal 30 there are 14 fasals. (The number 14 may be a co-incidence). These fasals deal with criminal and semi-criminal matters. These fasals will not be analysed in detail. A short enumeration will be presented to give a better picture of the categories of crime and misdemeanour. Some fasals will be discussed in detail. These will be those fasals that present information or concepts that occur frequently in other law sets. Also, there are some fasals that do not participate directly in the fasal structure of the marriage rules but contribute significantly to the understanding of that structure.

Fasals 16 through 20 are concerned with the regulation of illicit sexual activity. Fasals 16, 17, and 18 deal with abortion, sodomy, and rape respectively. In each case the fine (*denda*) is one half the *bangun* or fifty reals. Fasal 19 is of special interest in that it deals with illegitimate pregnancy and thereby sheds important light on the question of descent.

FASAL 19

The title of Fasal 19 is "hukum orang yang andam kepada raja masuk menjadi budak raja" (the law of persons who are andam to the raja entering-becoming the slaves of the raja). If a free woman, a debtor, or a slave, is found to be pregnant, and it is not certain who is the man responsible then the woman becomes the slave of the raja. If a married woman becomes pregnant in her husband's absence and it is absolutely certain that the child she carries could not be her husband's then she becomes a slave of the raja. In all cases the woman may avoid becoming a slave if the raja consents, but she must pay him a sum which represents her value as his slave.

The *Commentative Digest* provides some useful information on this topic. "Pregnancy before Marriage renders a free Woman Slave to her Pangeran . . . but her Freedom is obtainable by payment of a Fine of $ 100, being equal to the Bangoon. This may nevertheless be accommodated at the pleasure of the Chiefs and seldom exceeds 40 or 50 Dollars" (*Commentative Digest,* p. 311). Further, the *Commentative Digest* indicates that *andam* is not uniquely associated with illegitimate

pregnancy. "Andam Andam Implies by the ancient Law of the country a protection to all offenders, whatever their crime may have been, who take sanctuary within the compound or enclosure of the Pangeran's dwelling, the rescue of whom is completed, provided that they can only approach so near as to throw a part of their apparel within the fence, before their pursuers overtake them. The condition of this protection is their becoming Slaves to the Pangeran" (*Commentative Digest,* p. 320). Thus the *Commentative Digest* establishes two points. First, that pregnancy before marriage makes a woman a slave. Secondly, the *andam* is not conceptually a punishment in itself but a means of escaping from a more severe punishment.

While revealing a general abhorrence of unregulated sexual activity, Fasal 19 indicates something of the attitudes towards descent. A child's father must be known. A woman whose husband could not have been the biological father of her child is guilty of the same crime as an unmarried woman. This means that a fiction of paternity cannot be maintained if it were impossible for the man to have been the child's father. The woman's crime could have been classified as either adultery or illegitimate pregnancy. By classifying it as illegitimate pregnancy the possibility of using a "fiction" is removed. Further, the crime as defined in the text is not fornication leading to pregnancy outside marriage but giving birth to a child who has no father, not only a social father but also a specific biological father. This rule implies an essential recognition of cognatic descent. This means that in jujur and ambil anak marriage, the transfer of the woman or the man into the family of marriage, represents, among other things, a surrendering of the rights to the children. The full transfer is necessary because there are rights that must be given up in order to make the descent relation unilineal. Seen this way jujur and ambil anak marriage are a negation of this basic principle of cognatic descent. Therefore *semendo merdahika sama merdahika* is a negation of this negation. This negation of the negation conforms to the Hegelian principle. "This law [the negation of the negation] states one of the most characteristic features of evolutionary process in all fields — that development takes place in a kind of spiral, one change negating a given state of affairs and a succeeding change, which negated the first, re-establishing (in a more developed form, or "on a higher plane" as it is often expressed) some essential feature of the original state of affairs" (Guest, p. 44). The reform leading to the introduction of *semendo merdahika sama merdahika* marriage is a re-establishment in institutionalized form of the more

basic notion that had been previously negated by two institutionalized forms.

The implications of this fasal bring an important distinction into perspective. Fasal 19 is not part of the marriage fasals and yet it reveals an important aspect of the logic of the marriage rules. Fasals 3, 4, 5, 6, and 7 present a structural statement as to the relationship between jujur, ambil anak and *semendo merdahika sama merdahika.* The model presented there makes a basic opposition between jujur and *semendo merdahika sama merdahika.* This is the native model and is derived from the relationships among the fasals. The assertion that this model is the native model and that the basic opposition is between these two marriage forms is explicitly supported by the reform statements in the Lais laws. Fasal 19 is not part of the structure of marriage types, indeed it is not even in the marriage section of the law. Thus, it was not viewed as an essential part of the logic of marriage by the writers of the law. On the other hand, the logic of this fasal is essential to the understanding of the principles on which this set of laws is based. One aspect of this fasal leads to the native model, the other to the anthropologist's. The first is a social fact, the second an analytical device, and as such they are subject to different criteria of evaluation. The native model is derived from the explicit arrangement of conceptual categories (i.e., fasals). The anthropological model is derived from the principles implicit in a particular rule. The native model is based on the goals and ideas that the writers were concerned with. In this particular case they were working to reform their marriage system. In an analogous fashion, the anthropological model is based on the goals and objectives of the analysis. In this case, the goal is explanatory, seeking to place the logic of reform in a general developmental sequence. In both cases, when the goals or objectives upon which the model is based change, so must the model change. The native and anthropological models may or may not coincide. Indeed the opposition between jujur and ambil anak which in turn are opposed to *semendo merdahika sama merdahika* is an anthropological model which corresponds to part of the reform logic presented in the Lais laws but does not correspond to that indicated in Fasals 3, 4, 5, 6, and 7 of the *Code of Laws.* Thus blanket statements on the relationships between anthropological and native models may often be misleading because they do not take into consideration the variety of goals and purposes that both anthropological and native models may have.

Some Methodological Considerations

The problem of native versus scientific explanations is demonstrated by an often troublesome aspect of phonological analysis. In phonology one frequently makes a monophonematic evaluation of sound combinations. That is, two phonetically separable sounds may be analysed as if they were a single unit (a phoneme). In English the consonant sounds before the vowel in the words "chest" and "jest" (choke and joke) may be phonetically described as a combination of two sounds (t + sh) and (d + z) but in most phonological analyses they are single phonemes. Most native English speakers consider these phonemes as single sounds and have difficulty hearing the two separate components. In this case the native view corresponds to that of the phonologist but not to that of the phonetician. A complementary example is offered by the initial sounds of the words "trip" and "drip" (try and dry). To most native speakers there are two sounds before the vowel: a "t" or a "d" and an "r". Most phonological analyses follow the native speakers' perception. Gimson, with a specific purpose in mind, argues that these sound combinations are best considered as single phonemes. This treatment is based on one of the goals of his analysis. By considering "tr" and "dr" as single articulations, it is easier for foreign learners whose r-sound is a lingual or uvular roll to acquire the correct place of articulation for the troublesome English "r" (Gimson, pp. 173-177). Therefore, the relationship between the native perception and the analytical model is based on the level of the analysis and/or the goals of the analysis. And thus it is impossible to make any *a priori* assertions about the relations between the two models.

FASAL 20

Fasal 20 is entitled "hukum orang dapat salah dalam belaki" (the law concerning adultery). If the participants were not killed having been caught *in flagrente,* they are condemned to death provided there is sufficient evidence. The judge is empowered to release the guilty parties from the death sentence, but they must pay the *tebus nyawa* of one hundred reals. If they do not pay this sum the judge can hand down whatever punishment he thinks appropriate.

Fasals 19 and 20 form a conceptual unity regulating illicit sexual relations between men and women. One possible opposition is between crimes involving married as opposed to unmarried women. The one exception is the crime of the illegitimate pregnancy of the married woman in which case she is classed with the unmarried woman.

A second and stronger opposition is between the woman alone versus a man and woman together. The *andam* is the penalty for a sexual relation where the man is not known. Adultery, on the other hand, is defined as a bilateral relationship with both the man and the woman sharing the guilt. Adultery of a married woman leading to pregnancy is classified as being subject to the *andam*.

FASALS 16—20, REVIEW

Fasals 16 through 20 can be roughly classified on the basis of the man-woman component. Fasal 16, abortion, is a crime of the woman alone. Fasal 17, sodomy, is a crime between two men. Fasal 18, rape, is a crime of a man against a woman. Fasal 19, illegitimate pregnancy, is a crime of a woman alone and Fasal 20, adultery, is a crime of a man and woman together. Significantly, all of these crimes are crimes against society and do not involve any compensation to an injured party. In the earlier marriage section only two fasals unambiguously involve the notion of a crime against society without any associated compensation. Fasal 10, dealing with incest, is such a crime. Here the guilt is a joint one and the release from the death penalty is the payment of the *tebus nyawa*. Fasal 12, the 'iddah, also requires the payment of the *tebus nyawa* in order to gain release from the death sentence. The occurrence of the *tebus nyawa* here suggests that co-habitation within the 'iddah period is adultery in one sense. However, in another sense, it is a measure by which confusion over a child's parentage is prevented. The common element of the *tebus nyawa* suggests the possibility of numerical manipulations existing. 10 is sa-puluh, 12 is duabelas, and twenty is dua puluh. Thus the possibility of bricoleurean manipulation is rather strong. Of the two fasals in the marriage section Fasal 10 appears to be the more strongly articulated to Fasal 20. On the one hand, Fasal 12 is strongly articulated to another structure. On the other, the ten to twenty manipulation more closely approximates the "addition of ten" features of the belas rules. Indeed, by its features dealing explicitly with illicit sexual relations, Fasal 10 appears to belong more with Fasals 16-20 than with the fasals of the marriage section. There is another curious articulation between the two groups of fasals. Fasal 18, the middle element of the block of five, deals with rape, a man abducting a woman by force (c.f. the De Perez interpretation in De Perez, 1849, p. 269). Fasal 8, elopement, implies willing abduction. This association is based on the addition of ten principle of the -belas transformation. All of these associations are vaguer and weaker than

those within the marriage section. While their relative weakness invites a summary dismissal of their significance, the possibility of these associations being intentional still remains.

FASALS 21—29, INTRODUCTION

Fasals 21 through 29 are concerned with what is usually labelled criminal law in the European legal tradition. Here, however, one finds an unstable equilibrium between the notions of punishment and compensation. In the language of the text a *denda* (fine) is always associated with punishment while a variety of other terms (e.g. *bangun, pampas, lipat*) are used to express principles of compensation. While the term *denda* may be used in association with any criminal act, the principles of compensation appear to be linked to specific types of crime (i.e., *bangun* for homicide, *pampas* for wounding, and the *lipat* for theft). The *bangun* for homicide also represents a fundamental principle and the amount of the *bangun* is often the reference point for fines or other forms of compensation. Thus for example a fine may be described as being half the *bangun* or fifty reals. This does not imply that the fine has an aspect of compensation, it is simply a mnemonic reference.

FASAL 21

Fasal 21 is entitled "hukum orang mumbunoh orang" (the law concerning persons killing persons). If the evidence is complete in all respects the death sentence is imposed. If the evidence is not complete sometimes the accused must pay the bangun, sometimes swear an oath asserting his innocence, or he may be simply released. In any case, the decision is based on the nature of the evidence. The fasal ends with a statement that the amount of the bangun is one hundred reals and that of the fine fifty reals (even though the fine had not been previously mentioned).

The bangun is, conceptually, the compensation for the taking of a life. Fasal 22 makes this clear.

FASAL 22

If a person kills another person accidentally (involuntary manslaughter) then a bangun of one hundred reals must be paid.

Thus Fasal 22 clarifies Fasal 21, indicating that legal proceedings involve two questions. Did the accused kill someone? And if he did, was it intentional? Homicide with intent involves the death penalty;

homicide without intent involves the *bangun*. Almost but not quite conclusive evidence requires the payment of the *bangun* plus a fine of fifty reals. The fine is apparently only associated with homicide with intent. The mention of the fine for the first time, at the end of Fasal 21, appears to be an afterthought meant to differentiate between the contents of this fasal and those of the following one.

The principles expressed here do not reveal an unequivocal native logic and suggest tampering, either by the British or local reform pressure. Fasal 21 implies that the death penalty, and not the payment of the *bangun,* is the rule in some cases. This suggests that the principle of compensation is suspended not for failing to pay the bangun but due to the nature of the evidence for the crime. The influence of the British is clearly revealed in the *Commentative Digest*. "Bangoon Has before been remarked to be a sum of money given to the Relations of a murdered person in compensation for the loss of their deceased relative, and though the Laws respecting it are still in force at many places on the Coast, it has been superceded at Marlboro' through the influence of the British Government, and is now become obsolete" (*Commentative Digest,* p. 320). Elsewhere it is pointed out that the British often insisted upon an exemplary punishment. Indeed, in at least one case they overruled a local decision in which a man had been freed upon the payment of the bangun (*Commentative Digest,* p. 314 f.).

In contrast to the *Code of Laws,* John Marsden's Lais Laws give a detailed account of the various rules associated with the bangun (Marsden's History, 1811, p. 222 f.). Here the bangun is based on the social status of the murdered person. The payment required for a pambarab is 500 dollars, for his wife and legitimate children 250 dollars, for an inferior proatin 250 dollars, for a common person (male) 80 dollars and for a common person (female) 150 dollars. In addition "a fine of fifty dollars and a buffalo, as *tippong bumi* (expiation), is to be paid on the murder of a *pambarab*; of twenty dollars and a buffalo on the murder of any other; which goes to the *pambarab* and *proattīns*" (Marsden's History, 1811, p. 222). The notion that the bangun itself is compensation is underscored in another paragraph, "the *bangun* of private persons is to be paid to their families; deducting the *adat ulasan* of ten per cent to the *pambahabs* and *proatins*" (Marsden's History, 1811, p. 222). Under the rubric bangun no death penalty is mentioned. However, William Marsden mentions the following legal maxim. "He who is able to pay the *bañgun* for murder, must satisfy the relations of the deceased; he who is unable, must suffer death"

(Marsden's History, 1811, p. 247). This maxim suggests that the death penalty is for failure to pay the bangun as much as it is a punishment for murder. Thus Fasals 21 and 22 indicate that some outside influence distorted a more fundamental native logic. This is demonstrated by a certain lack of consistency in the fasals and supported by material in the *Commentative Digest* and Marsden's *History of Sumatra.*

Some Methodological Considerations

In general, one might be accused of being ethnocentric for applying European notions concerning the distinction between civil and criminal law to these texts. However, the European principles of criminal law are significant because colonial authorities were willing to give more freedom in matters of civil law than in criminal law.[29] Not unnaturally, the Europeans used their own definitions of the difference. Thus those sections of law texts that deal with criminal matters, according to European principles, must be analysed with extreme caution. While a certain caution is always necessary with regard to foreign influences, those portions of a law text that deal with civil law are less likely to be influenced directly. Furthermore, the relative severity of a crime in European law is important. A crime considered severe in European terms, but less so in native law, is most likely to be influenced. A severe crime in native terms but less so in European terms is somewhat less susceptible to foreign influence. Until the colonial authorities assumed the burden of rearranging native society completely, they were more willing to err on the side of severity than of leniency. Murder in particular is the crime where one is most likely to find European influence. Thus the general bias of this analysis in favour of an examination of marriage form reflects, on the one hand, a common anthropological preference but, on the other a choice of domain in which one is most likely to find a minimum of external influence distorting the logic of the laws.

FASAL 23

Fasal 23 is entitled "hukum orang mencuri harta orang" (the law concerning a person who steals another man's property). The basic rule is that, provided there is sufficient evidence, the convicted man must return the goods twofold. In addition he must pay a fine. If the person does not pay the fine or the compensation then he may be banished from the region (negri) for a specified length of time. If he returns before the time is elapsed then he is condemned to death, though a judge may mitigate this sentence. This fasal concludes with an enumeration

of the cases in which stolen goods are found in someone's possession. If he cannot account for the origin of the goods, they are simply seized and he loses whatever he might have paid for them. If the goods were "found" he must swear an oath indicating the place where the goods were found. In some cases he need only pay the value of the goods. Or perhaps the matter is simply theft. The judge is empowered to make his decision on the basis of the evidence.

The basic principle of customary law concerning theft is the *lipat,* returning twofold. In other texts one often finds that certain items are assigned a specific value (e.g. Cod. Or. 12.228, Fasal 11). Thus, the amount of the compensation may be fixed and not open to assessment. Likewise, the fines in such texts are often based on the things stolen (e.g. the Sungai Lemau Laws). While compensation payments tend to reflect the true economic value of the things stolen, fines also reflect the symbolic or ritual value of an object and do not always correspond to the real economic value. There is some question as to whether the deportation rule is of indigenous origin. The *Commentative Digest* says that if the amounts due are not paid then the person may become a slave of the Company or in some cases deported (*Commentative Digest,* p. 317). In the Lais laws, however, one finds a very clear statement of principle. "A person convicted of theft, pays double the value of the goods stolen, with a fine of twenty dollars and a buffalo, if they exceed the value of five dollars: if under five dollars, the fine is five dollars and a goat; the value of the goods still doubled" (Marsden's History, 1811, p. 221). However, the consequences of the failure to meet the obligations of payment are not mentioned.

FASAL 24

Fasal 24 deals with perjury (salah bersumpah). The rule applies to witnesses, persons bringing suits and persons sued. The fine is fifty reals, regardless of the relative importance of the case.

The formal oath in South Sumatra is a very serious matter involving the extended kin in the ritual consequences of the oath. As the *Commentative Digest* points out "indeed people generally regard an oath so sacredly, that many would rather lose their suit, than be obliged to take one on a trifling occasion" (*Commentative Digest,* p. 289). Though this fasal may apply to persons outside indigenous South Sumatran life, its inclusion is somewhat peculiar in that perjury is a most unlikely crime. Its inclusion could reflect a concern on the part

of the writers for progressive secularization. It is more likely, though, that its presence is due to the influence of the British who, having little faith in supernatural retribution, insisted upon a more earthly punishment for those who swear false oaths.

FASAL 25

Fasal 25 deals with the criminal use of medicinal compounds. In the case of simple poisoning, if the evidence is complete and witnesses exist, the guilty party is sentenced to death. If the drug pukau [30] is used then a fine is imposed, the amount of which is determined by the judge.

Pukau is a narcotic used to drug victims into sleep in order to commit theft. Thus these two crimes are special cases of murder and theft, linked together by the common element of drugs. While in a distinct category, this fasal suggests a back reference to the fasals on murder and theft. Thus one might argue that this fasal is a secondary category in contrast to the more basic principles of murder and theft.

FASAL 26

Fasal 26 is entitled "sebab pampas" (concerning the pampas). Whenever a person wounds another the nature of the wound is examined. On the basis of this examination the judge decides the amount of compensation to be awarded (the pampas) and sets the fine (the denda). The maximum pampas is one half the bangun or fifty reals; the minimum is six reals one suku (six and a quarter reals). Below this amount the compensation is no longer the pampas but is called *tepung sitawar*. This lower form of compensation may be five reals or less and sometimes may involve an offering of betel.

The relation of the pampas to an act of wounding is the same as the relationship between the bangun and the crime of murder. Like the bangun, the pampas is purely a matter of compensation. Indeed in this fasal, the notion of compensation is more clearly expressed than those on murder. In the discussion of murder the motive or intent was discussed and appeared to be associated with the fine. Here, on the other hand, the fine is mentioned only in passing and there is no discussion of motive. Thus the damage done is the basis of the amount of the pampas awarded and not the circumstances leading up to the wounding, i.e., there is no difference between accidental and intentional wounding. The concepts of compensation for murder and wounding are frequently associated in various legal contexts in South Sumatra. This association has a wider distribution and is found in the Adat

Parapatih in Menangkebau "tjèntjang berpampas, bunuh berbalas" "whoso wounds shall atone, whoso slays shall replace" (De Josselin de Jong, 1951, p. 74). Furthermore, the logic of the range of the pampas is dependent upon the amount of the bangun. The maximum is explicitly stated as being one half the bangun or fifty reals. The minimum is specified as being six reals and one suku but this works out as one sixteenth of the bangun or one eighth of the maximum pampas. The setting of a lower limit indicates that the pampas is a conceptual category determined not only by the crime itself, but also by its numerical relationship to another type of compensation. According to Wilken *tepung tawar* literally means meal used as an antidote against something harmful or against the harmful consequences of something (Wilken, 1912, II, p. 475; c.f. also Klinkert, 1947, p. 248).[31]

The *Commentative Digest* presents a slightly different set of rules. "The Damages [pampas] however cannot in any case exceed the half of the Bangoon or $ 50, the next gradation is 25, or ¼ of the Bangoon, and if the damage is very trifling ⅛, but if less be given than the last, it is called Sa Tappong, Sa Towar, or a mere compensation for medical expence" (*Commentative Digest,* p. 316). Here the principle of the pampas' dependency upon the bangun is more explicitly expressed than in the *Code of Laws.* The sequence of fractions is clearly established with each step being one half the previous. The *Code of Laws,* however, extends the sequence one step further. In both cases the sequence emphasises a relation based on the sequence 1, 2, 4, 8, 16, etc. In one case the sequence implied contains four elements: ½, ¼, ⅛, and $^1/_{16}$. Thus the number of elements is related to the numerical basis of the sequence. In the *Commentative Digest* the sequence contains only three elements but there are two intervals between the elements of the sequence. Thus while the relationship between the elements of the sequence involves a multiple by two (or its inverse one half), the number of elements or intervals between elements is also related to the number two.

The interpretation of *tepung tawar* as medical expenses is quite literal and does not favour a broader meaning (c.f. Wilken, 1912, I, pp. 607-608; II, p. 475). However the *Code of Laws* mentions that betel may be offered. This suggests that there is at least some element of reconciliation associated with the *tepung tawar,* even if it does not mean a cleansing of the evil consequences of an attack of violence. However, the most important aspect of the fasal is the pampas, which is clearly tied to the bangun, both numerically and as a category of

compensation. Together with the lipat for theft these three terms form the basic categories of compensation. Furthermore, the emphasis on compensation indicates that the illegal act is committed primarily against a person and not against society.

FASAL 27

Fasal 27 deals with falsification of gold, silver or judicial decisions. If the falsification is considerable the death penalty is imposed; if minor a fine is set by the judge.

FASAL 28

Fasal 28 is entitled "hukum kerbau menanduk orang" (the law concerning buffaloes who gore people). If a buffalo is loose in a field and someone approaches the buffalo and is gored, the matter ends there.[32] But if a buffalo is tethered near a road or near the general public, and the buffalo gores someone, then the owner is held to be responsible. If the man dies, the owner must pay half of the bangun. If the man survives his wounds, the owner must pay the pampas.

The principle expressed here is that of liability for the actions of one's property. Murder and wounding are acts of a man against a man; theft is an act of a man against property. However, this case is the act of a person's property against a man. The owner is liable to pay damages only when the injured party could not have been aware of the danger. A person approaching an untethered buffalo is presumably fully aware of the risk of injury and assumes it voluntarily. This fasal represents another secondary category. The settlement is based on two previously introduced principles: the bangun and the pampas. And further, there is an inversion of the theft relationship, i.e., man against property becomes property against man.

FASAL 29

Fasal 29 deals with the consequences of failure to pay a fine. A person who has been fined is given one month in which to pay his fine. If the fine is not paid the person becomes a company slave, which means he must work on the roads as a member of a chain gang. His length of time as a slave is based on the amount of the unpaid fine. One year is equivalent to twenty-five reals.

This fasal strongly reflects European influence. Nevertheless, the principle of enslavement to authority is established in the traditional andam principle. Thus, this rule may not represent that radical a departure from traditional practices. However, the fasal is very

specifically confined to fines and there is no mention of the consequences of the failure to pay compensation. This fasal comes at the end of the section dealing with criminal matters. However, the back reference to all fines extends as far as Fasal 16 (abortion). One function of this back reference is to demarcate the end of one section and the beginning of a new one. In contrast to the back reference, there is also an anticipation of the next section which deals with debt relations. The failure to pay a fine may be seen as one type of financial obligation.

The Structure of Fasals 20-28

By virtue of its back reference to all of the fasals following the marriage section, Fasal 29 is not uniquely associated with the crime fasals. Fasals 16 through 20, which deal with sexual matters, form a distinct cluster within the umbrella created by the back reference of Fasal 29. Fasal 20 anticipates the rules for murder by suggesting that if adulterers are killed in the act, the killing is justifiable homicide. These patterns effectively isolate Fasals 21 through 28 as a single unit. These eight fasals are intertwined by a complex system of cross-referencing.

There are three types of fasals in this section: basic category fasals, secondary category fasals, and independent category fasals. The basic category fasals are those in which a fundamental principle of compensation is presented. The categories of compensation are the bangun, lipat, and pampas. Though there are three categories, there are four fasals because the principles of the bangun are spread over two fasals. Therefore, Fasals 21, 22, 23, and 26 are the basic category fasals. The secondary category fasals are those in which the crime is a special case of a basic category crime or requires the information in one or more basic category fasals to be understood. Fasals 25 and 28 are the secondary category fasals. Fasal 25 deals with murder or theft committed by means of or with the assistance of medicinal compounds. Fasal 28 deals with wounding or killing by an animal and thus is a special case for the bangun and pampas. The independent category fasals are those which neither introduce a basic category of compensation nor refer to such a basic category. Fasals 24 and 27 are the independent category fasals; Fasal 24 deals with perjury and Fasal 27 with various other forms of falsification. In addition to their structural independence, they are bound together by their common attention to falsification. This common feature of their contents serves to underscore their similar structural position.

The system by which the secondary category fasals refer back to the basic category fasals determines the structure of this section. The rules of back referencing are as follows. A secondary category fasal refers back to three basic category fasals. A secondary category fasal cannot refer back to the fasal immediately preceding it. The structural element that insulates these secondary category fasals from the basic category fasal nearest to them when proceeding backwards is an independent category fasal. There are two secondary category fasals. Fasal 25, dealing with crimes committed through the use of drugs, refers back to Fasals 21, 22, and 23. Fasal 25 is insulated from Fasal 23 by the independent fasal, Fasal 24. Fasal 28 dealing with crimes committed by a buffalo refers back to Fasals 21, 22, and 26. Fasal 28 is insulated from Fasal 26 by the independent category fasal, Fasal 27.

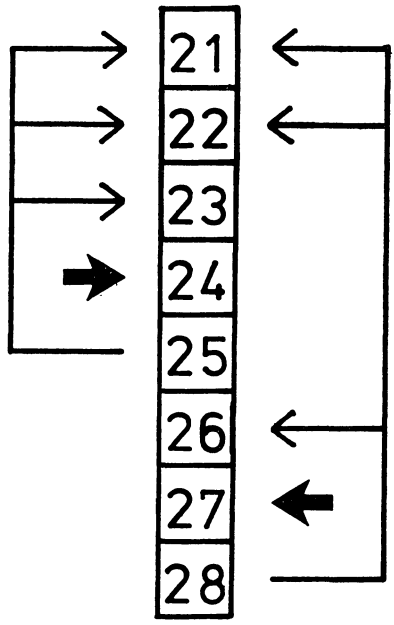


DIAGRAM 2.7

The Financial Fasals

Fasals 30 through 39 are concerned with financial relations. The degree of elaboration given to this type of relation is unusual in South Sumatran legal codes. The types of economic relationships discussed

here was an area of great interest to the British. While an interest in criminal matters may have been related to notions of "good government", a familiarity with local economic practices could be exploited if not for the advantage of the Company then most certainly for the personal advantage of the Company's servants. While these rules are of general interest for an investigation of South Sumatran social life, they are of special interest by their relationships to the structure of marriage forms. In the *Code of Laws* the marriage forms are often defined in terms of the economic relationship between the marriage partners. There is, however, a second feature which gives these rules a broader significance. Because of the size of marriage payments a debt relationship often developed parallel to the marriage relationship. It is obligatory that the structural analysis of these fasals keep these two distinct phenomena separate. The logic of the laws phrases the marriage relationship in economic terms. This logic forms the basis of a mechanical model which is dependent upon neither the size of the marriage payment nor on the particular financial circumstances of the two families involved. However, the size of the marriage payment may easily result in part of it being left unpaid, thus creating a debt relationship. While the debt may have served to define the social reality of the marriage relationship, it was not an automatic consequence of a particular form of marriage. On the contrary, the existence of a debt was dependent on the financial circumstances of the families directly concerned with a particular marriage. A model which describes the nature of debts between affines would necessarily be a probabilistic one. Thus there is a second model that develops parallel to the logic of the laws. This model is by its nature statistical. While some of the possible consequences of debt relations between affines will be discussed, the central theme of this portion of the analysis will be an examination of the logic of these financial relations as they relate to the structure of marriage forms.

FASAL 30

The title of Fasal 30 is "sebab orang berutang" (concerning debtors). When money or goods are loaned they are considered as a debt. As a result of default on an ordinary debt a person cannot become a slave or a bondage (i.e., mengiring) debtor. Furthermore, no interest can be charged unless it was specified in the original agreement.

The principle expressed here is that the debtor status is immutable. A debtor cannot be placed in one of the more severe bondage categories.

This is a reformation of the principle expressed in the *Commentative Digest*. "Debtors incapable of paying their Debts after judgement, may be confined, unless they can find security to the satisfaction of the Plaintiff, and by the Native Laws, should he be incapable of so doing, he is bound to become Mengheering to the Plaintiff" (*Commentative Digest,* p. 308). The reference to interest in Fasal 30 serves as an introduction to the following fasal.

FASAL 31

Fasal 31 is entitled "hukum sebab anak uwang" (the laws concerning interest, lit. the children of money). If disputes arise concerning interest rates one of two rules may apply. If the principal is fifty reals or less, then the maximum interest permitted is one-half wang (uwang) per real per month. The maximum duration of such interest charges is one year. If the principal is more than fifty reals, then the interest is ten reals per one hundred reals per year. The maximum duration of such interest charges is also one year. Higher interest rates are unacceptable.

Since three wang are equal to one tali and eight tali are equal to one real, the interest charge on small sums is one forty-eighth of a real per month or twenty-five per cent per annum. In comparison the interest rate on large sums is only ten percent per annum. The reason for the discrepancy between the two systems is not presented. The inequality between the two rates is striking. For example, the interest on thirty reals for one year would be seven and a half reals; however, the interest on seventy-five reals for the same time period is also seven and a half reals. In the vicinity of fifty reals the discrepancy becomes virtually ridiculous. The interest on fifty reals at the higher rate would be twelve and a half reals, while the interest charge using the lower rate would by only five reals. The difference in the logic of the two systems is based on the actual monetary calculations. The interest on one real over one year would be six wang, which is equal to two tali or one suku. Thus the total value of one real after one year becomes one real, one suku. Thus the lower calculation can be easily used for small amounts, where odd figures are most likely to occur. For example, the value of thirty-three reals after one year becomes thirty-three reals and thirty-three sukus, which is equal to forty-one reals and one suku. On the larger amounts a simple decimal calculation is used.

The non-decimal system appears to be the more traditional one. In John Marsden's Lais Laws there is a single system. Previously the interest had been three fanams (wang) per month or 150 % per annum

but this was reduced by the law to one fanam per month or fifty percent per annum. To this basic principle the provision that interest could only be collected for two years was added (Marsden's History, 1811, p. 224). The *Commentative Digest,* however, presents a two tier system. "It has latterly been only customary to allow an interest of one Fanam [33] per month per dollar, or Fifty perCent per Annum on small sums, lent as temporary convenience or accommodation, but on Sums exceeding one or two hundred Dollars, Ten perCent per Annum" (*Commentative Digest,* p. 310). The *Code of Laws* takes this logic a step further. The interest on small sums is reduced by a half and the cutting point between the two systems is established. The demarcation between the higher and lower interest rates is set at fifty reals which is one half the bangun.

While there is no conceptual connection between murder and interest rates the bangun is a frequently used reference point for numerical calculations. The *Commentative Digest* suggests that the reason for lowering interest rates was not to keep indigenous leaders from exploiting their subjects but to curtail the activities of Bengali Hindus (*Commentative Digest,* p. 309). Thus the single system of the Lais Laws appears to be the more traditional principle. The manner of calculation used in the Lais system finds expression in that used for small sums in the *Code of Laws.* Interestingly, because the fanam or wang is equal to one twenty-fourth of a real, it is easy to calculate both monthly and yearly interest charges in exact monetary units (i.e., one half wang per month equals one suku per year; one wang per month equals two sukus per year, etc.).

COMPARATIVE INTEREST RATES

	Lais 1779		Commentative Digest		Code of Laws 1817	
	Original	Reform	"small sums"	large sums (over 100 to 200 reals)	up to 50 reals	over 50 reals
monthly rate per real (if specified in text)	3 fanams	1 fanam	1 fanam	—	½ wang	—
yearly rate	150 %	50 %	50 %	10 %	25 %	10 %

TABLE 2.1

FASAL 32

Fasal 32 is entitled "hukum orang menjual orang" (the law regarding people who sell people). If a person sells a free person or a slave he is liable, upon conviction, to the death penalty. If the evidence is not complete then the judge may set an appropriate alternative punishment.

This fasal simply prohibits the slave trade. As we shall see below, this fasal appears to function as a structural filler.

FASAL 33

The title of Fasal 33 is "hukum merdika dalam upahan" (the law concerning freemen in the wage employment situation). If a person who has been hired dies in the process of carrying out dangerous work the employer must pay the wages in full irregardless of whether the work was completed or not because this money will help to pay for the funeral expenses (belanja mati) of the employee. If one man gives assistance to another, but not for financial gain, and in the process of helping dies, then the one assisted is responsible for the dead man's funeral expenses.

FASAL 34

Fasal 34 is entitled "sebab budak" (concerning slaves). A slave is a man or a woman who has been purchased and who may not leave his master without the master's consent. If the master is guilty of impropriety (terlampau daripada patut) with respect to his slave, then the judge can fix an amount of money upon payment of which the slave is free. If the master is guilty of serious wrong doing (salah) with respect to his slave, then the slave is released from bondage. Included in this more severe category of misconduct are placing the slave in chains, hanging the slave by his hands and beating him, and excessively severe beating that leads to deep wounds, broken bones, or blindness.

This fasal corresponds quite well to what is reported in the *Commentative Digest*: "If the Slave is not properly supported or treated by his Master, the Court will redress him, by removing him from that Service and allowing him to seek an other on the footing of slavery... If a Slave shall behave ill or disobedient, he or she are liable to a corporal punishment by their Master or Mistress, provided that such chastisement be entirely within the bounds of moderate correction, without losing sight of humanity..." (*Commentative Digest*, p. 303). The fasal itself only places limitations on the authority of the master, without elaborating upon or further defining the slave status.

FASAL 35

Fasal 35 is entitled "sebab anak budak" (concerning the children of

slaves). All children whose parents were slaves are also slaves. Such children are called *anak emas* (literally, the children of gold or golden children). Their status is the same as that of slaves who were purchased. They can be sold or otherwise treated so long as the behaviour of their master does not trespass on what is specifically forbidden by the raja and penghulus.

The right to sell the child of a slave, as mentioned in this fasal, contradicts Fasal 32 which says that the sale of slaves is punishable by death. There is a striking similarity between the notions of interest on money and the children of slaves. The child of a slave can be seen to represent the interest accruing to the master on his original purchase. This relationship is supported by the linguistic features of the terms used for interest and slave children. Interest is "the children of money" (anak uwang) while slave children are "the children of gold" (anak emas).

FASAL 36

Fasal 36 is entitled "orangdapat salah dengan budak orang" (a person guilty of wrongdoing with another man's slave). If a man has sexual relations with a man's slave, then he too becomes a slave. However, the man may buy his freedom by paying the woman's owner one half of her value.[34] If, however, she dies before this amount has been paid, then he must pay her full value. A slave can never enter into a debt relationship, if he does so the person giving him money forfeits his claim. And lastly, if the woman was an "anak emas" the court can determine her value as necessary for the above payments.[35]

Though this fasal deals with the behaviour of both free men and slaves, the logic of the relationship is more clearly expressed with regard to free men. The process by which the man becomes a slave is described as "budak orang satu jadi dua" (one slave becomes two). The language is similar to that used for the lipat compensation for theft. Here, however, the principle is that the value of the original slave becomes distributed over two persons. From this it follows that for the man to buy his freedom he must pay only one half of the woman's value, because he represents only one half of the owner's original investment. But if the woman dies before he has met this obligation then he alone represents the value of the owner's original investment and must pay her full value.

The text is not very clear as to what happens if the guilty man was a slave. The credit principle is the same as that expressed in the *Commentative Digest*. "No person can attach the person of a Slave for

debt, as he had no business to give him credit, and from the nature of his situation, it must be impossible for him to pay . . ." (*Commentative Digest,* p. 304). The fasal's reiteration of this principle indicates that the slave cannot buy his own freedom from the new slavery relationship by acquiring credit. The fasal does not elaborate on the possible relationships that might develop (for example, what happens when the man and woman were slaves in different households?). The lack of clarity of the rules concerning the male slave indicates that the situation involving a free man is the more important for the structure of the law.

Thus the most important rule in the fasal is that if a freeman cohabits with another man's slave he also becomes a slave. In Fasal 6 a complementary rule is presented: if a freeman cohabits with his own slave then the woman ultimately becomes free. The complementarity of the rules serves to unite them. But more important, it also establishes a direct articulation between the marriage and financial sections of the law. Fasal 6 presents one situation, Fasal 36 the other. This relationship suggests a new numerical manipulation: 6 + 30 = 36. Two important principles underly this manipulation. First, all of the numbers beginning with a three (30-39) deal with financial matters and further only those fasals beginning with a three deal with such matters. And, secondly, the number used in the manipulation (three) is the key number in the 3-4-14 manipulation. While the manipulations in the marriage section involve the addition of ten (i.e., belas), here the manipulation operates by the addition of three tens. Enam (6) becomes tiga puloh enam (3, 10, 6, or 36). Thus the complementarity of the rules of these two fasals indicate that a fundamental relationship exists. One aspect of their numerical relationship is a variation on the numerical manipulation rules found elsewhere in the law.[36] If any other articulations exist between the financial and marriage sections which use this particular manipulation rule then one would expect it to exist between Fasals 7 and 37. Since Fasals 6 and 7 form an important structural unit in the marriage section and Fasals 6 and 36 are numerically and conceptually articulated then it is reasonable to expect that Fasals 7 and 37 should be similarly articulated.

FASAL 37

Fasal 37 is entitled "sebab orang mengiring" (concerning mengiring debtors). A mengiring debtor is a free person who contracts a debt and agrees to work for his creditor without financial reward until the loan is repaid. If a mengiring debtor flees he must pay one tali for each day he is absent. This payment represents the value of the debtor's labour

for his master; but, it is the same for a man or a woman. If a mengiring debtor is hung by his bound hands and beaten, then he is freed from bondage by a judge and need not repay the loan. The debt cannot be paid in installments. All the children of a mengiring debtor born in the house of their parents' creditor are freemen. However, the debtor must pay his creditor the *pembasoh rumah* (the cleansing of the house) of ten reals for each child born in his house. The creditor is obliged to provide his debtor with food and clothing. If the debtor wishes to free himself from bondage he must pay the full amount of his debt, neither more nor less without just reason. If the debtor commits a crime either inside or outside his creditor's house he is subject to punishment by a judge. If a female mengiring debtor cohabits with a free man, a debtor, or a slave, the man becomes a mengiring debtor with the woman. The man, however, can purchase his freedom by paying one half the woman's debt. If a female mengiring debtor is "used" (dipakai) by her male creditor against her wishes, she may complain to a judge. Upon verification she may be released and the debt forfeited.

The status of mengiring debtor is between that of an ordinary debtor and a slave. The basic contrast, however, is between a mengiring debtor and a slave. The mengiring debtor is in a self-contracted bondage and can always obtain his release. A slave's bondage is based on a contract between two other persons (i.e., he was purchased) and he may only purchase his freedom in certain special circumstances. The most significant contrast with slavery, however, is not the actual nature of the differences between the two forms of bondage but differences in their presentation in the law. The major rules regarding slaves are spread over three fasals (34, 35, and 36) while the equivalent rules governing mengiring debtors are contained in a single fasal. The mengiring debtor may not be severely beaten. The same provision concerning slaves is to be found in Fasal 34. The children of a mengiring debtor are free [37] while those of a slave, according to Fasal 35, are also slaves. The rules regarding the female mengiring debtor who cohabits with someone other than her creditor are very similar to the rules for a female slave presented in Fasal 36. Further, there are implied references and contrasts with the ordinary debt relationship. The amount to be paid back must be exactly equivalent to the original debt. This implicitly states that the charging of interest is prohibited in contrast to the rules provided in Fasal 31. This rule, concerning repayment, together with those regarding flight, present the specific logic of the mengiring debtor's position. The debtor who flees must pay for substitute labour at the rate of one eighth of a real per day. On the one hand, the rule suggests that the labour of the debtor has a wage

equivalent that accrues to the creditor. On the other hand, it suggests that the labour of the debtor is received *in lieu* of interest charges. In the Lais laws (Marsden's History, 1811, p. 224) the amount to be paid in case of flight is three fanams (one tali) per day [38] which is the same as the interest on one real for one month at the original rate or on three reals per month at the reform rate (c.f. Table 2.1). Thus, in that system the payment by the runaway is equivalent to the interest on thirty reals (or ninety reals using the reform rate). In the *Code of Laws* the interest rates were reformed but not the payment by the mengiring debtor. Thus the daily charge of one tali is equivalent to forty-five reals, five tali per year or the interest on about four hundred fifty reals. Thus the association between the debtor's labour and interest payments is revealed by a relationship described in the Lais laws. There the logical relation is the strongest because the amounts of the principle implied by the calculations is most reasonable. The pattern in this law set indicates an important aspect of reforms. The amount the fugitive debtor must pay is the same in the Lais laws and the *Code of Laws*. The interest rate pattern, however, was radically altered. The reform pressure was selectively applied to interest rates, while the fugitive's obligations remained the same. This substantially altered an important logical relationship. In general, reforms which focus on individual elements tend to obscure or distort structural features of a law. On the other hand, reforms which involve a remoulding of old structural relations provide a new structure equally worthy of study.

However, these observations on the relationship between mengiring debtors and other types of financial bondage are based on the comparison of the contents of the fasals and not the structural features of the fasals. In particular, the rules concerning slaves are spread over three fasals. But similar rules regarding mengiring debtors are compressed into a single fasal. This difference can be attributed to the structural relations between marriage forms and financial relationships. While Fasals 6 and 36 may be linked, a similar relationship exists between Fasals 7 and 37. The logic of the woman's relationship to her husband in jujur marriage is the same as that of the mengiring debtor. The jujur marriage involves the transfer of money from the man to the woman's family. The direction of the transfer means that it *is possible* for the woman to be seen as a debtor. This possibility is made into a logical reality because the responsibility for the money is placed upon the person of the woman and not upon her family. If there is a divorce (before children are born) then *she* must *return* the money.

The logic is that of refunding a debt, not of buying a woman back. The possibility that the original transfer represented a purchase is specifically ruled out by Fasal 32, which specifically prohibits the sale of persons. The patrilocal nature of the marriage is underscored by the notion of a debtor "following" (mengiring) the creditor. The fact that there is only one fasal dealing with mengiring debtors indicates that the jujur marriage form is to be associated with only one form of financial relationship and that the mengiring debtor status is associated with only one marriage form.[39]

Slavery, however, may be associated with more than one form of marriage. This is the basic reason for the distribution of the rules regarding slaves over three fasals. The 6-36, 7-37 relationship has been established above. The only other marriage relation relating to, or implying slavery, is that in Fasal 5, i.e., ambil anak marriage. The numerical link indicated by the previously established relationships is that between Fasals 5 and 35, i.e., *ambil anak* to *anak emas.* Besides the deceptively obvious link based on the word *anak,* a more subtle relationship exists. If ambil anak marriage implies a slavery upon the man, why then is there reference to the children of slaves and not to slaves in general? The rationale behind this phenomenon lies in the definition of a slave. A slave, as defined in Fasal 34, is someone who was purchased, but in ambil anak marriage there is no exchange of money that could possibly imply a purchase. However, in the slave child fasal the desired logical relationship is presented: a slave child is a slave acquired without an exchange of money. While the link with slavery is suggestive there are some important differences. While the man's position in the household becomes similar to that of a slave, unlike a slave he may leave when he wishes. This association between ambil anak marriage and slavery is not confined to this link. In the Lais laws, the implication of slavery associated with ambil anak marriage is one of the reasons given for the efforts to abolish this form of marriage.

Fasals 34 and 4 do not articulate using the same manipulation rule as the 35-5, 36-6, 37-7 associations. *Semendo bayar utang* marriage cannot articulate with slavery. First, this marriage form is associated with *semendo merdahika sama merdahika* marriage, which most certainly has no slavery implications. And secondly, there would be a confusion of financial categories, i.e., debts and slavery. The discontinuity in forms of manipulation follows a structural demarcation line in the marriage section: i.e., that between the *semendo merdahika sama merdahika*

forms and the ambil anak form. Further, the difference in forms of articulation creates an opposition between *semendo merdahika sama merdahika* and jujur plus ambil anak marriage. This is a different opposition than that presented in the marriage section itself but it recalls the explicit reform logic of the Lais laws. The manner of articulation between the *semendo merdahika sama merdahika* forms and the financial section require the rest of the economic fasals in order to be fully comprehended.

FASAL 38

Fasal 38 is entitled "hukum menyuroh budak orang atau orang mengiring kepada orang dengan tidak idzin tuannya" (the law regarding the giving of orders to another man's slave or mengiring debtor without the master's permisssion). If such a person is ordered to carry out work without his master's consent, and dies in the process of doing such work or is lost (?) (hilang), the person giving the orders must pay the master either the value of the slave or the amount of the debtor's loan. If the work was done with the master's permission, only one half the value must be paid. Similarly, if another man's property is used without permission and is damaged, lost, or dies (animals), then the borrower must replace the full value. If the property was used with permission the borrower must also replace the full value unless there exists a formal agreement to the contrary.

Fasal 38, like Fasal 37, gives the impression of containing too much information. Four distinct rules are presented, involving two categories of property and two kinds of relationships between user and owner. The categories of property are human and non-human. The relationships between owner and user involve an opposition between with permission and without permission. The four rules are brought together into a single fasal. Without deviating from the pattern of other fasals these four rules could each be presented in separate fasals or in two fasals by grouping either opposition together in a single fasal. Here, however, they form a single fasal. And even more exceptional is that the first line of the fasal gives the impression that the only topic dealt with is using a person without his master's permission. This impression is emphasised by the fact that the word *hukum* (law) is only used in association with this first principle.

There is, however, an association between this initial rule and one contained in the marriage section, i.e., Fasal 8. Fasal 8 deals with elopement without the consent of the parents. The structural implication is that a man takes a woman without her parents' consent. Fasal 38's

structural implication is that a man uses another man's slave or debtor without the master's permission. This connexion, while without profound significance for the understanding of either the marriage or financial sections of the law, serves to emphasise the validity of the numerical manipulation. Thus there are structural relations which are established for their own sake, or for the general validity of the structure, but their contents are minimally significant. The rules concerning the use of another man's property with permission, which form the last section of Fasal 38, serve to foreshadow Fasal 39.

FASAL 39

Fasal 39 is entitled "hukum bebelah pencarian" (the law concerning the division of earnings). Money is given to a person for the purpose of engaging in trade or otherwise pursuing gain. Unless there is a specific agreement to the contrary, all of what is earned in a month is divided equally between debtor and creditor. The same principles may be applied to wet rice farming or gardening. Sometimes a buffalo and cart are loaned for the purpose of hauling wood or plying for hire. Once again the earnings are divided equally. But in this case losses are also to be divided equally. For instance, if the buffalo dies the loss is shared equally by debtor and creditor. If seed capital is offered to a trader and the money is lost (abis) without extenuating circumstances, the trader is held responsible for the return of the capital. If fifty reals or less had been loaned for six months then the capital is returned twofold. If more than fifty reals had been loaned then one and a half times the original capital must be returned. For the purpose of calculation the value of certain animals is listed: a buffalo is worth twenty-five reals, a cow (sapi) fifteen reals, a "Batak" horse thirty-five reals, and a "Padang" horse fifteen reals. The value of a horse may deviate from these values if the animal's condition warrants it.

This fasal introduces a new principle of financial relationship. It is independent of the bondage implicit in both slavery and mengiring debt. The relationship involves a special kind of debt in which the earnings from capital are shared between owner and user. This division of earnings takes the place of direct interest charges. But most significant is the that user of the capital, while being accountable for the money he is given, does not enter into an explicit bondage relationship. Thus the *bebelah* relationship is a special category of a simple debt.

The association between *bebelah* and debt implies a special type of back reference from Fasal 39 to Fasal 30. The reference is not only to a previously mentioned fasal but is also a reference from the last fasal of a section back to the first fasal, thus forming a structural circle

containing all those fasals which deal with financial matters. This reference back to the beginning of the section is analogous to the behaviour of Fasal 9 in the marriage section. Indeed there is no conceptual link between Fasals 9 and 39 based upon a 9-39 numerical manipulation. However, their structural function is the same. Further, the back reference of Fasal 39 to the beginning is such that Fasals 39 and 30 form a distinct structural unit. This structural unit articulates with the *semendo merdahika sama merdahika* fasals of the marriage section. This articulation not only serves to complete the association between marriage and financial sections but also reinforces the transposition of Fasal 39 to the beginning of the section.

The marriage structure based on Fasals 3, 4, 5, 6, and 7 contains two explicit references to relationships mentioned in the section on financial matters. Fasal 6 deals with the woman who was bought (i.e., a slave) and becomes a wife. Fasal 6, however, is by itself not an independent category but is dependent upon Fasal 7, which deals with jujur marriage, to be fully developed. The other fasal in the marriage sequence which behaves in this manner is Fasal 4. Fasal 4 refers back to Fasal 3 in the same way that Fasal 6 refers ahead to Fasal 7. Likewise, Fasal 4 is not fully independent of Fasal 3 but requires the material in Fasal 3 to be fully understood. And, furthermore, Fasal 4, like Fasal 6, deals explicitly with a financial relationship. The marriage form presented in Fasal 4 is *semendo bayar utang* (semendo by paying a debt). The only appropriate point of articulation to the financial section is Fasal 30 (sebab orang berutang) concerning debtors. The main provision of Fasal 30 is that a debtor cannot become a mengiring debtor or a slave. This rule emphasises the principle of marriage presented in Fasal 4. The woman whose debt is paid becomes neither a slave nor a mengiring debtor but a free wife. Thus the logic of the articulation is not only plausible but the fasal in the financial section clarifies and emphasises the relationship in the marriage fasal. Furthermore, the 4-30 numerical relation is an extension of the logic of the 3-4-14 manipulations.

The basic principle of the 3-4-14 manipulation required the addition of the affix -belas to one element of the 3-4 sequence. Thus, tiga-empat became tiga-empatbelas. The linguistic affixation of belas to empat meant an arithmetic addition of ten to four. The structure of the five marriage fasals implies a reverse sequence from empat to tiga (4 to 30). The articulation to the debt section suggests that empat to tiga becomes empat to tiga puluh (4 to 30). In both cases something is added to

one member of the sequence. The addition is both linguistic and arithmetical. In the 4 to 30 manipulation the word for ten (puluh) is added and not the affix that implies the arithmetic addition of ten (belas). However, adding the word for ten to tiga yields tiga puluh which is the Malay word for 30. Thus, the manipulation involves bricoleurean game playing with the relations between the linguistic representation of numbers and the arithmetic values of linguistic features. By adding belas or puluh to a word, one is adding ten in two different ways: one linguistically, the other arithmetically.

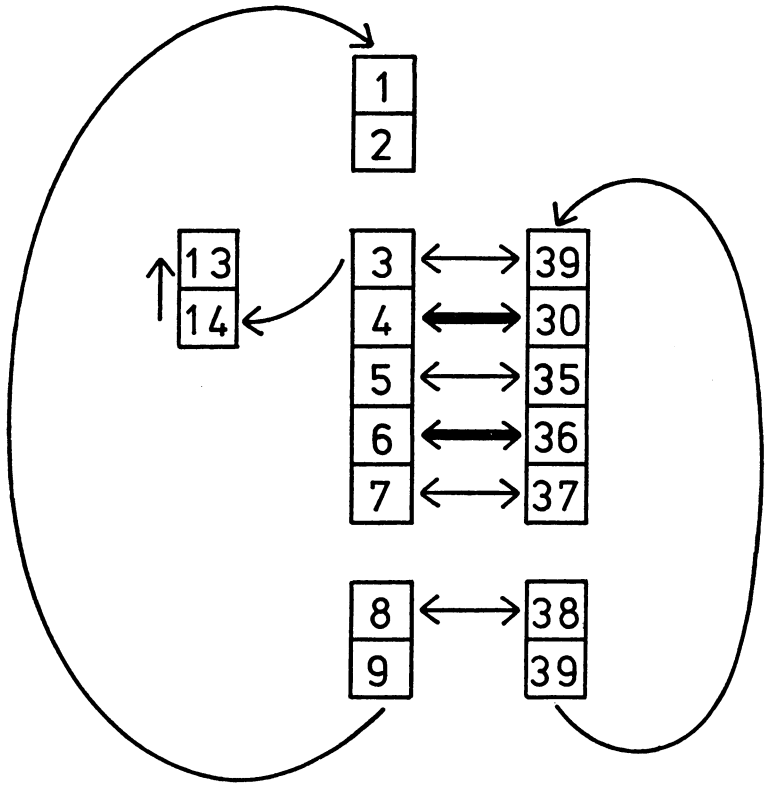


DIAGRAM 2.8

In the financial section Fasal 39 is the fasal that structurally precedes Fasal 30. Further, Fasal 4 is preceded by Fasal 3 in the marriage section. Thus to complete the connexions between the two sections, Fasal 3 should be articulated to Fasal 39. The basic principle of *semendo merda-*

hika sama merdahika marriage is the division of joint earnings. This rule of equal division is the basic principle underlying the *bebelah* relationship as explained in Fasal 39. The logic of the exchange of money is correct. In the marriage the man gives the woman or her family a sum of money; this does not, however, entail bondage upon the woman and whatever joint earnings follow are to be divided equally. This is identical to the logic of the *bebelah* relation. In spite of the large degree of coincidence, the two principles do not coincide completely. In particular, the rules of responsibility for the money exchanged in the bebelah relation do not apply in the marriage form.

Diagram 2.8 [40] summarises the major relationships between the marriage and financial sections.

The Internal Structure of Fasals 30-39

The fasals of the financial section not only articulate with those of the marriage section; they also possess a structure in their own right. While this structure is more or less independent of the articulation structure, it is less elegant and is secondary to the relations based on the articulation with the marriage section.

The structure of the ten fasals (30-39) is based on one major opposition, a system of back referencing, and the use of structural symmetry. Fasals 30 and 31 are conceptually bound together. Fasal 31, dealing with interest, refers back to Fasal 30, the first fasal on debts. In an identical manner Fasal 35, dealing with slave children, refers back to Fasal 34, the first fasal dealing with slavery. The symmetry of these two patterns is underscored by the fact that Fasal 31 deals with *anak wang* (literally, the children of money) and Fasal 35 deals with *anak emas* (literally, the children of gold). Fasals 30 and 31 are concerned with the relations between free men. Fasals 34 and 35 are concerned with slavery. This opposition between free and non-free is the basic opposition of this block of fasals. Fasals 32 and 33 both deal with categories involving free men. Fasal 32 prohibits the sale of persons and Fasal 33 deals with the wage-work relationship. Fasals 36 and 37 present bondage relationships. Fasal 36 deals with sexual relations with another man's slave and Fasal 37 with mengiring debtors. Since the first four fasals all belong to the same element of the basic opposition, it is reasonable to assume that the second four fasals form a discrete unit dealing with bondage or non-free relationships. Thus two blocks of four fasals are indicated: one consists of Fasals 30, 31, 32, and 33; the other of Fasals 34, 35, 36, and 37. In each block the first and last

fasals introduce a new category of legitimate financial relations between individuals. In the first block simple debt and wage relations form the extremities and in the second block slaves and mengiring debtors form the extremities. This structural opposition between center and extremity is the same as that used in the five fasal marriage structure. While a frequently occuring phenomenon in South Sumatran fasal structures, its use in the *Code of Laws* is of more basic significance than is usual. Within the second block there is a complex system of back referencing that does not exist within the first block. Fasal 35 refers back to Fasal 34. Fasal 36 refers back to the unit established by Fasals 34 and 35. Thus, in one sense, Fasals 34, 35, and 36 form a single unit by virtue of their back reference pattern.

Fasal 38 refers back to Fasals 34 and 37 in that it refers to the use of slaves (Fasal 34) and mengiring debtors (Fasal 37) without the master's permission. Fasal 38, however, is not part of the unit formed by Fasals 34, 35, 36, and 37. Two structural features argue against its inclusion in the block. First, the initial structural unit has only four fasals, thus the second block is more likely to contain four than five fasals. Secondly, the principle of introducing new categories of financial relationships at the extremities of a structural unit indicates that Fasal 37 is at a structural boundary.

Fasal 38's somewhat anomalous position is clarified by Fasal 39. It has been previously argued that Fasal 39 is transposed to the beginning of the section. Since the *bebelah* relationship implies a simple debt relation as well as working for someone else but retaining some profit, it refers to Fasals 30 and 33. Thus Fasals 38 and 39 both refer to the extremity categories of the blocks with which they are most closely associated. Thus, this system of referencing lends additional structural weight to the extremity versus center opposition and underscores the basic division of the section into two blocks opposed to each other by the free/nonfree opposition.

The Conclusion: Fasals 40-42

The *Code of Laws* concludes with three fasals that do not form a single conceptual unit.

FASAL 40

Fasal 40 is entitled "orangyang tidak diterima hakim jadi syaksi dengan tidak diterima dia bersumpah" (persons who are not to be accepted by a judge as witnesses and who may not swear an oath). The blind, the deaf, and the insane are unacceptable as witnesses.

Women are unacceptable if there are only two or three of them and the case is a major one. If, however, there are many women of good character the judge may consider the matter. If the case is only a minor one then a woman of good character may serve as a witness. A drunk who has lost his faculties (hilang akal) may not serve as a witness. Likewise a slave may not be a witness even if he wishes to testify on his master's behalf. Furthermore, close family (kaum yang dekat) may not be witnesses. These rules also apply to the swearing of oaths. If an accusation is denied then the accuser is obliged to provide witnesses. And when the witnesses testify under oath, the accused loses the case. If there are no witnesses then the accused may clear himself by swearing an oath. These rules are equally valid in major or minor proceedings.

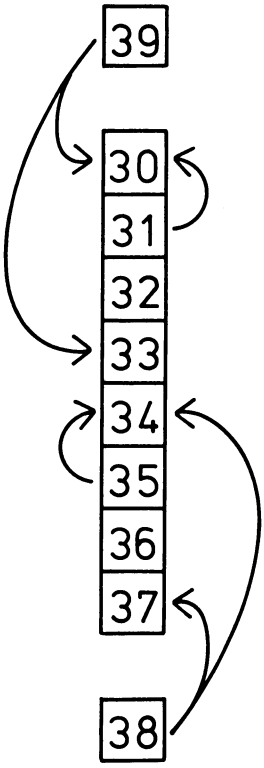


DIAGRAM 2.9 [41]

This fasal provides information on legal procedure as opposed to conceptual categories. In this respect it is similar to Fasals 1 and 2, which deal with the procedures for marriage and engagement. The only fasal which is conceptually related to Fasal 40 is Fasal 24, which deals with perjury. However, the most important structural feature of this fasal is that it separates Fasal 41 from the financial section. Thus, the fasal's function is that of a structural insulator.

FASAL 41

Fasal 41 is entitled "hukum orang mengaku utang orang" (the law concerning people who accept responsibility for another person's debts). There are three types of such acceptance. In the first the guarantor assumes responsibility for the payment of the debt only if the debtor absconds. In the second the guarantor assumes responsibility for the payment of the debt if the debtor absconds or dies. In the third, the guarantor assumes responsibility for the payment of the debt but is not responsible for payment if the debtor absconds or dies. A formal contract of the exact responsibility should be drawn up and signed by the guarantor.[42]

This fasal is a good example of the phenomenon which I shall refer to as a displaced structural element. While concerned with debt relations it is not part of the financial section. This displacement or separation from that section is substantiated by two features. First, the structure of the financial section is closed and complete. Especially relevant is

the transposition of Fasal 39 to the beginning of that section, thus effectively closing the sequence. Secondly, Fasal 40 is between Fasal 41 and the entire financial section. By its lack of conceptual links with the material on either side of it, Fasal 40 effectively isolates Fasal 41 from the financial section. This isolation suggests that Fasal 41 is not only part of the financial section but also it must relate primarily to another section.

The most important specific reference to acknowledgement (meng-aku) of another person's debts occurs in Fasal 3. In *semendo merdahika sama merdahika* only those debts which are acknowledged by both parties are to be paid jointly. Thus, the principles of Fasal 41 are needed for the interpretation of Fasal 3. Furthermore, Fasal 3 is the nucleus of all numerical manipulations. Fasal 3 contains specific instructions to proceed to Fasal 14. But the connection suggested here indicates that the digits of the number fourteen should be reversed. Thus another numerical manipulation is present. The basic numerical sequence 3 to 4 was changed to 3 to 14. In turn the product of the first manipulation is changed again to yield 3 to 41. The 3 to 14 and 4 to 30 manipulations were based on a juggling of the arithmetic and linguistic features of the numerical system. This final manipulation involves a reversal of the digits of the number fourteen, or more precisely, the number is to be read backwards. This manipulation is based on a curious feature of Arabic writing. Texts written in Arabic script must be read from right to left. Numbers, however, must be read from left to right. Thus the actual writing in the text requires a reversal of the normal reading sequence when reading numbers. Thus the manipulation rule is not a reversal of the digits but a failure to reverse the normal reading sequence. Indeed, in reading texts written in Arabic script, this is an error that is very easy to make. Thus the 3-41 manipulation adds the characteristics of the writing system to the arithmetical and linguistic features of the number system as subjects for bricoleurean game playing.

FASAL 42

Fasal 42 is entitled "sebab gedaian" (concerning the pawning of objects). Anyone who pawns objects whose value is five reals or more must appear before the magistrate. Failure to do so results in the loss of the money and the impounding of the object.

This fasal has no particular significance and relates neither implicitly nor explicitly to another fasal. The only noteworthy feature of this fasal is the use of the English word magistrate. Its only possible structural

function is that it prevents the law set from ending with Fasal 41. This may represent an insulation of Fasal 41 on both sides from other elements in the law. Thus the law ends with a fasal that refers to nothing and has no connection with anything else in the law. This is identical to the first fasal which cannot refer to anything other than itself until at least the second fasal has been read.

Conclusion

The *Code of Laws* is the reference text and thus its analysis is the reference point for this study. As will become apparent in subsequent analyses, the *Code of Laws* can be characterised by neither the purity of its oppositions nor by its clarity of presentation of the essential principles of South Sumatran social organization. On the other hand, the complexity of the structural relations between the categories offers a wide range of structural features that are essential to the understanding of South Sumatran legal codes. Indeed, the structure is more important than the contents of the fasals, which by themselves are in no way remarkable. The structure gives meaning to the content by turning a mere catalogue of customs into a coherent legal statement. The relative importance of the structure versus the elemental values of the fasals underscores the basic rule of all structural analyses: the relationships between the elements are more important than the elements themselves. This structure also establishes the fundamental premise of this analysis which may be taken as a corollary of the basic rule of all structural analyses: The patterning of the fasals reveals the oppositional logic of the laws.

CHAPTER 2 — NOTES

1 A homeoteleuton is an error based on similar endings in two neighbouring words, clauses or lines of writing. Thus one often finds that a scribe has omitted a passage because he has left off copying at one word grouping and has begun again at another similar one, omitting the portion between the two similar phrases or word endings. The reverse error also occurs, i.e., the scribe may repeat a passage basing the doubling back on the similarity of phrases.

2 According to the Commission taking over British possessions this Report is dated October 1815 (Van der Kemp, 1894, p. 529).

3 Henceforth this manuscript will be referred to as the *Commentative Digest*. The page references are to the published text which in most cases is an accurate reproduction of the original.

4 The objective basis of this practical experience is difficult to assess. First, certain pragmatic factors made the dictionary relatively easy to use. The exhaustive cross-checking that is necessary while using Helfrich's dictionary,

due to a perverse lack of consistency and an exasperating number of corrections and additions (including corrections to the corrections and additions to the additions), is not necessary when using Marsden. Further, it was one of the few complete English language dictionaries using Arabic script. While the language factor may have influenced me to use the dictionary more frequently, the use of a certain amount of now archaic English may have dissuaded other scholars from its use. In addition to these pragmatic considerations, the dictionary contains entries not to be found in other dictionaries.

5 These contemporary sources are by no means the only ones. The voluminous *Sumatra Factory Records* are another good source. However, those mentioned above are of special significance for their richness of anthropological detail and relative lack of less interesting material from an anthropological point of view. A historian would undoubtedly make a different selection.

6 Another account of the same story is to be found in Appendix A of *The Proceedings of the Agricultural Society* (Proceedings A, pp. 14-16). The main points of both accounts agree, having only minor variations in detail. However, the above, based on a copy of a manuscript, seems to be more complete, especially with regard to genealogical detail.

7 Accounts and further information on the murder can be found in the following sources: Kathirithamby-Wells, 1973; Bastin, 1965; Proceedings III, pp. 28-33; Travers, p. 102 f.; Lady Raffles, 1830, pp. 301-303; Heyne, 1814; Spencer, 1948.

8 For a discussion of the interpretation of this passage c.f. Bastin, 1965, p. 2 n.; Wink, 1926, p. 66 n.

9 On the actual make-up of Sungai Hitam Francis displays an appalling lack of consistency. Francis, 1839, p. 97 "1. Lamba Selapan; 2. Perwatien anablas-die Tape, Aijer and Dari"; Francis, 1842, p. 414 "Lamba Slapan, Porwatien-Doewablas, Tapie Aijer and Diedarat"; Francis, 1856a, II, p. 85 "Lamba-Slapan, Porwatien-Doewablas, Tapie-Aijer and Diedarat"; Francis, 1860, p. 54 "1. Lamba Selapan; 2. Perwatien anamblas die Tape, Aijer and Dari".

10 In the text printed in 1821 part of the conclusion appears as a direct continuation of Fasal 42. De Perez (1849, p. 284) alters this pattern in his translation. Van den Berg (1894, p. 224) alters the pattern of the original in his text and uses this new form in his translation (Van den Berg, 1894, p. 300). However, the manuscript TLVK, M-XLV Cod. 210, OR 94 preserves the form of the printed text. While visually part of Fasal 42, this portion of the conclusion refers conceptually to all the fasals as a single entity and not specifically to Fasal 42. Thus, there may be an error in the Lewis text at this point.

11 The error may be based on a homeoteleuton. However, the form with the error still can be read though its meaning is different from the original.

12 The only major difference between this version and the first edition of Marsden's *History of Sumatra* is the spelling of Malay words, e.g. jujur = joojoor; ambel-anak = ambelano; semando = semundo; and mardiko = mardeeko (Marsden's History, 1783, p. 193).

13 This manuscript (Cod. Or. 12.207) while providing material relevant to the present study also contains a large number of fasals relating only to European administrative practices. The mode of analysis being employed here is not appropriate to this sort of text. Thus, while it will be used as a source, it does not properly belong to the corpus of data of this analysis.

14 Unless the original Malay is quoted all the resumés of fasal material will be summaries of the main points that relate to the analysis or are of general comparative interest.

15 *Belanja* literally means costs; *antar,* to send; and *antaran,* delivery.
16 While the text uses only the terms "hantaran" and "belanja", the De Perez translation (1849, p. 257) uses the single term "blandja antaran".
17 For Islamic conceptions of these terms c.f. Gibb and Kramers, 1965 - IMĀM, p. 165 f. and KHATĪB, p. 251 f.
18 The word "priest" is used here only to indicate the one who officiates at the marriage ceremony and should not be taken to infer the existence of a priesthood. The use of the word "priest" is intended to circumvent the problems of ambiguity associated with the English verb to marry. In the text the forms *menikahkan, dinikahkan,* and *nikahkan* are used to denote the actions of the one who officiates at the marriage ceremony (e.g. orang yang menikahkan itu = the person who marries, i.e., the priest, orang yang dinikahkan itu = the person who is married, i.e., by the priest, and aku nikahkan angkau dengan sianu = I (the priest) marry you (the groom) to so and so (the bride). On the other hand, the form *nikah* is used to denote the actions of the married couple (e.g. aku nikah dengan sianu = I (the groom) marry with so and so (the bride).
19 The text says that the payment may be made at the time of the marriage together with the *wang pengantar.* But from the entire context of Fasal 1 the *antaran* is paid before the marriage, otherwise the provision for changing one's mind (berupah) makes no sense. De Perez bends his translation of the text, writing that the *isi kawin* may be paid at the offering of the *antaran,* at marriage, or upon divorce (De Perez, 1849, p. 258).
20 The reference here is to mengiring debtor, a special type of bondage relationship that is discussed in detail in Fasal 37.
21 C.f. also Van der Tuuk, 1899, Vol. II, p. 839, tungga bapa = bij zijn vader verblijf houden, i.e., to reside with one's father.
22 Since 6 + 7 = 13 this may form one link. While not probable, given the degree of numerical manipulation encountered in this and other laws, such a relation is within the range of possibility.
23 Though the specification of three months and ten days (or one hundred days) is technically a deviation from Koranic principles it is nevertheless frequently found in the Islamic areas of Southeast Asia (Juynboll, p. 189; c.f. also Djamour, 1965, pp. 110, 113; Djamour, 1966, p. 138; Wilkinson, 1959, p. 296).
24 The fasals use ordinal numbers. Thus the 1-11 relation does not correspond exactly to the others; "first" being "yang pertama", while "eleventh" is "yang kesabelas".
25 The text is not completely clear on the kin group referred to. The text says "anak cucunya". De Perez (1849, p. 264) does not mention how the amount was determined. Van den Berg (1894, p. 283) says the reference group is "the daughters and granddaughters of the parents-in-law".
26 Kampung here probably means "yard" and not "hamlet" as is more usual. The same usage also occurs in Fasal 3.
27 "Tuñgal nēnēk" means a single grandparent (usually the grandfather on the father's side).
28 An interesting comparative aspect of these rules can be developed when the two sets of rules are presented in standard notation.

Jujur Assumption	Ambil Anak Assumption
FBD = NO	FBD = YES
FZD = NO	FZD = NO
MBD = YES	MBD = YES
MZD = YES	MZD = NO

The only marriage that is always allowed is MBD marriage and the only marriage that is never allowed is FZD marriage. Thus the two sets of marriage rules based on two principles of descent have a latent feature resulting from their combination that at least suggests a principle of matrilateral cross-cousin marriage. This latent feature would be of only passing interest if it were not for the fact that De Josselin de Jong argues that the matrilateral cross-cousin marriage system of the Minangkabau implies a system of double unilineal descent (De Josselin de Jong, 1951, pp. 82-91).

29 The Québec Act of 1774 provides an interesting example by which a colonial power made a distinction between criminal and civil law. According to Wade, 1968, Vol. I, p. 64 "All future disputes as to property and civil rights were to be determined according to the 'Laws and Customs of Canada', the old French civil law, . . . on the other hand, the criminal law of England was to be retained as a whole, to the exclusion of French criminal law". This principle of jurisdictional difference was incorporated into sections 91, 92, and 94 of the British North America Act of 1867, a statute of the British parliament that still functions as the constitution of Canada; c.f. Laskin, 1951, pp. 1-12.

30 Van den Berg, 1894, pp. 215, 290 misreads *memukau* as *memukul* and thus asserts that the second portion of this fasal deals with striking a person.

31 Klinkert, 1947, p. 248 describes *setawar* as a shrub with medicinal leaves and roots, the latter being used to prepare the *tepoeng tawar.*

32 The fact that "the matter ends there" is denoted in the text by the phrase "kerbau menanduk kerbau lalu" (= lit. the buffalo gores, the buffalo passes) without further elaboration. Fasals 18 and 19 of the "old portion" of Oendang Oendang Seloema in Cod. Or. 12.200 present a detailed discussion of the concept under the name "kerbau menanduk kerbau pergi" (= lit. the buffalo gores, the buffalo goes). These fasals clearly establish that the concept implies that the person injured or killed assumed the risk of being gored by the buffalo and thus the owner is not held liable.

33 The text of the *Adatrechtbundel* incorrectly has "Janam" in place of "Fanam" which is in the manuscript version.

34 This is the interpretation given by De Perez (1849, p. 277). Van den Berg (1894, p. 295) however, interprets this passage as meaning that the man must pay half the value of his wife in addition to his own value as a slave, i.e., he must pay one and a half times the value of the woman.

35 Both the Van den Berg (1899, p. 294 f.) and De Perez (1849, p. 277) translations of this fasal involve considerable interpretative judgment on the meaning of the rules of credit with respect to slaves. The fasal itself is not explicit on who might lend a slave money nor for what purpose. From the context it may be assumed the slave borrows to purchase his release from the second slavery. Of the two translations Van den Berg's is suspect on a number of points and De Perez' is very interpretative but in this case De Perez' is the more accurate assessment of the contents.

36 Another numerical relationship is that six times six equals thirty-six. The importance of the number six in certain other laws will be developed below; c.f. Sungai Lemau laws, p. 154.

37 The *Commentative Digest* indicates that this rule governing the children of mengiring debtors was a recent innovation; such children were formerly also bound by their parents' debt relationship (*Commentative Digest,* p. 305).

38 Interestingly, the Lais laws mention a reform concerning the amounts to be paid by mengiring debtors who flee. Previously, the amount that a woman had to pay was double that for a man. By the reform both amounts were

fixed at the same amount, i.e., three fanams per day (Marsden's History, 1811, p. 224).

39 William Marsden mentions another type of debt relation which is not mentioned in the *Code of Laws* but appears to be a variant form of the mengiring principle. "*Merañggau* is the condition of a married woman who remains as a pledge for a debt in the house of the creditor of her husband. If any attempt should be made upon her person, the proof of it annuls the debt ..." (Marsden's History, 1811, p. 253). Elsewhere (Marsden's Dictionary, 1812, p. 322) Marsden defines meranggau as "to remain (a married woman) as a pledge for a debt in the house of a creditor" and gives the following example: "Perampūan ōrang īang dūduk merañggau ūtang, the man's wife who remained as a pledge for the debt." The significant feature of this form is that it is a debt relation between two individuals entailing a form of bondage upon a third. Viewed in this way it shares certain formal properties with slavery which is a financial transaction between two individuals entailing bondage on a third. However, the meranggau relationship is explicitly concerned with debts. Of special interest is the fact that this debt relation bears certain deceptive similarities with jujur marriage when this marriage form is viewed as involving debt-like obligations between the husband and the wife's parents. Thus it is of more than passing interest to note that this form of debt relation existed but was not even mentioned in the *Code of Laws*.

40 Diagram 2.8 suggests another numerical relationship, i.e., 13 times 3 = 39. That is, the two tiga numbers multiplied together yield the first and last number of the financial section. The validity of this relationship is unverifiable, however. On the other hand, the existence of other manipulations indicates that this relationship may not be accidental. In general, when dealing with numerical manipulations it is difficult to be certain which relations are antecedent and which are consequent. A certain manipulation will usually create other secondary ones automatically. Due to the nature of the number system, it is difficult to be certain where the intentional manipulation occurred.

41 The back reference by Fasal 36 to the unit formed by Fasals 34 and 35 is omitted from Diagram 2.9 so that the symmetry of the other structural relations can be more clearly seen.

42 The text of the *Code of Laws* apparently contains an error at the beginning of the second type. Van den Berg's correction of the text (1894, p. 223 n.) seems reasonable.

CHAPTER 3

THE SUNGAI LEMAU LAWS

The mansucript in this analysis bears the name "Kitab Ondang-Oendang" [sic] (The Book of Laws). Its catalogue name is "Oendang Oendang Benkaoeloe" (The Laws of Bengkulu, Cod. Or. 12.206). The manuscript itself contains three distinct legal codes bound together with a single title page which lists the various sections. Section 1 is entitled "Soengij Lemoúw"; Section 2, "Soengij Itam"; and Sections 3 and 4 "Tandjoeng Aúúr, Selebar". While the title page indicates that there are four sections, there are actually only three. What was intended to be sections 3 and 4 was written as a single unit. The manuscript is a copy of three different sources with different dates. It is written in Romanized Malay and the handwriting, when compared with other manuscripts from the region, is unusually clear.

The Signatories to the Laws

The introduction to the Sungai Lemau portion indicates that the laws were prepared at the request of the Dutch authorities. This section mentions a specific letter of request dated 8 June 1855. The text itself was written in Bengkulu on 7 July 1855. The Sungai Lemau portion concludes with three names meant to be signatures: "Regent Soengij Lemau en Oeloe Benkoeloe Pangerang Mohamad Sah, Radja Aijnsa divisie soengij Lemau, id (i.e. Radja) Mankoeta Alam divisie oeloe Benkoeloe". The introduction of the text gives different spellings for two of these names: "Radja Aijansa" and "Radja Mangoeta Alam". The government Almanak for 1855 confirms these names and positions: Pangeran Moehamad Sah — regent of "Soengij Lemau" and "Oeloe Benkoelen"; Radja Aijensah — division head (divisiehoofd) of "Soengie Lemouw"; and "Radja Menkotto Alam — titular division head of Oeloe Benkoeloe".

Pangerang Linggang Alam, who formerly ruled Sungai Lemau, died in July 1833. The position remained unfilled for a time with "Radjah Poetoe Nagara" carrying out his father' duties (Francis, 1856a, pp. 88 f.). By a governmental decree dated 3 August 1836, this son acquired

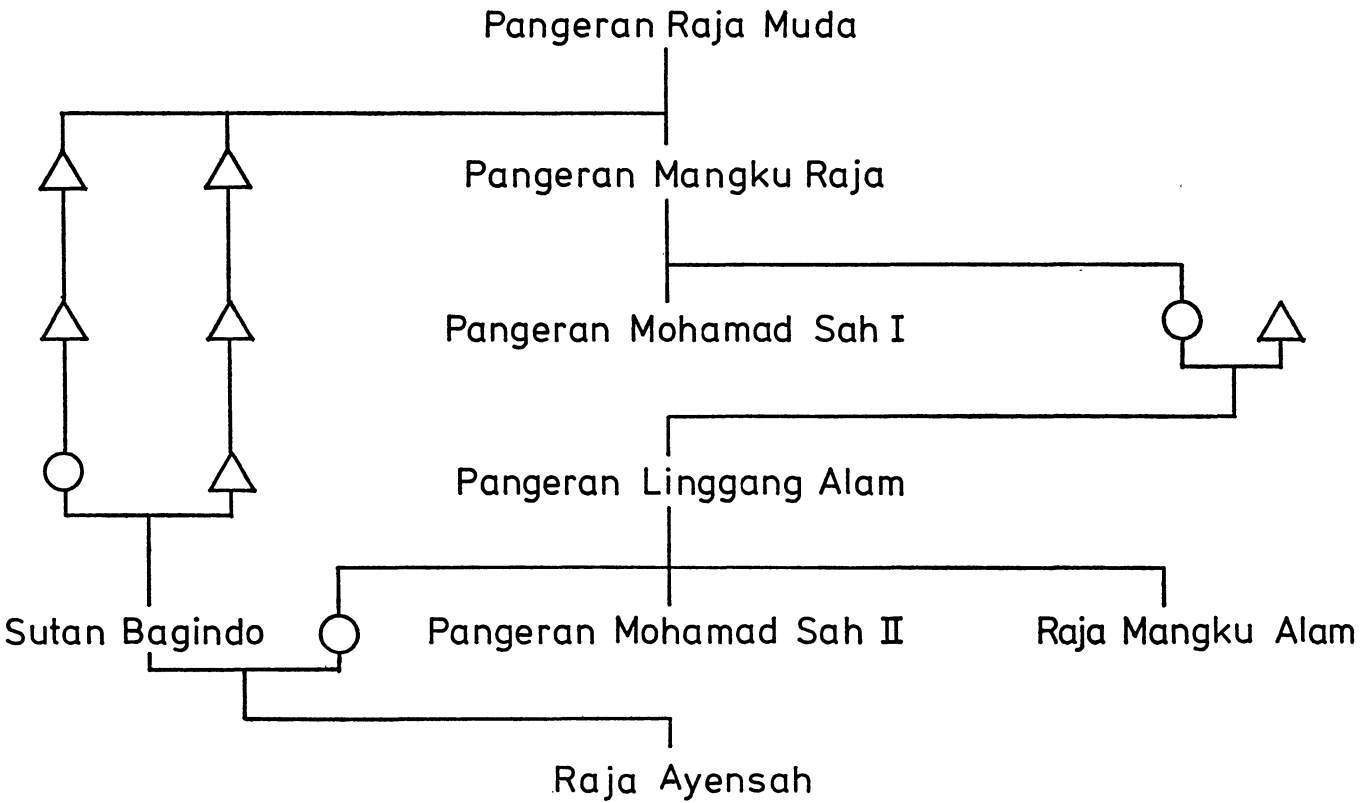

Pangeran Raja Muda
Pangeran Mangku Raja
Pangeran Mohamad Sah I
Pangeran Linggang Alam
Sutan Bagindo
Pangeran Mohamad Sah II
Raja Mangku Alam
Raja Ayensah

DIAGRAM 3.1

his father's position and took the title Pangeran Mohamad Sah (Van Ophuijsen, 1862, p. 195). Thus the highest ranking signatory to this law was the son and successor of one of the authors of the *Code of Laws.*

In the genealogy provided by Van Ophuijsen one "Radja Aijenza" (= Raja Ayensah) was the grandson of Pangeran Linggang Alam and was to have been Mohamad Sah II's successor. Raja Ayensah was not Mohamad Sah II's son but his sister's son. Mohamad Sah II's sister apparently married a certain Sutan Bagindo by ambil anak. Both of Sutan Bagindo's parents were patrilineal descendants in separate lines of two sons of Pangeran Raja Muda. Neither of these sons inherited their father's title. Raja Muda was Mohamad Sah II's father's mother's father's father and the first holder of the title of Pangeran of Sungai Lemau. Thus while Raja Ayensah's claim on his uncle's title is necessarily based on his mother's ambil anak marriage, his father was a direct patrilineal descendant of the first person in the family to bear the title of Pangeran. Thus, the second signatory to this portion of the law was the grandson of Pangerang Linggang Alam, a signer of the *Code of Laws.*

Unfortunately the background of the third individual is less clear. First there is the problem of the actual name of this person. Two sources give three spellings: "Radja Mankoeta Alam" (text), "Radja Mangoeta Alam" (text), and "Radja Menkotto Alam" (Governmental Almanak, 1855). Given the identity of the other persons associated with this section it is probable that he was some relative of Mohamad Sah. However, the only name in the Van Ophuijsen genealogy that even approximates the names above is "Radja Mangkoe Alam", Mohamad Sah's brother.

Thus the Sungai Lemau portion of this law set was signed by three persons, two of whom were certainly direct descendants of Pangeran Linggang Alam, who signed the *Code of Laws.* Of the three Mohamad Sah was the most influential, having an uncontested claim on his title and officially acknowledged by the Dutch. As a local scholar he was of impressive stature, having written an extensive history of Bengkulu which is neatly divided into fasals (c.f. Van Ronkel, 1909, p. 280). According to official sources, in 1861 he requested that the position of Regent of Sungai Lemau no longer be filled. However, the position was not officially withdrawn until 1878 (Wink, 1926, p. 68).

The Sungai Hitam portion of this law set is dated 30 June 1855. However, there are no signatures or names at the conclusion of the text. The Governmental Almanak for 1855 mentions two names associated with Sungai Hitam. "Pangeran Bangsa Negara" is listed as Regent of

"Soengie Itam" and "Radja Chalipa" is listed as titular head of division for the Regency of "Soengie Itam". When the previous Pangeran of Sungai Hitam died in September 1829 the choice of successor was uncertain. The matter was still unresolved when this text was written. Two of the former Pangeran's sons were the chief claimants. Pangeran Bangsa Negara held the title but *one* of his *older* brothers held the family papers (Van Ophuijsen, 1862, p. 196). Thus in all likelihood this portion of the law set was also drawn up by one of the sons of Raja Khalipa, who himself had been a signatory to the *Code of Laws.*

The third section of the law is dated 31 July 1855 and signed by "Daing Makoleh". His position is given in the text as "Divisiehoofd Andelas Soengij Keroe en Lima boea Bada". This is the same as that given in the 1855 Governmental Almanak. It is probable that this Buginese was the son of Daeng Mabéla who signed the *Code of Laws.* While Daeng Mabéla's family history does not mention a son, it does reveal a patterning of names. The original Buginese who left the Celebes was Daeng Marupa. The sequence of his successors is Daeng Mabéla, Daeng Makuleh, Daeng Marupa, and Daeng Mabéla. This sequence suggests that a man takes the name of his greatgrandfather. Daeng Makuleh, as in this text, would be the appropriate name for Daeng Mabéla's son if the sequence were to be extended.[1] Thus Daeng Makuleh was certainly a descendant of Daeng Mabéla and was most likely his son. Though Daeng Makuleh held a post of some responsibility he had none of the power and influence of Daeng Mabéla because the Dutch had greatly curtailed the authority of the Buginese in general.

Thus all three sections of this law were signed by descendants and probably the sons of all the native signatories to the *Code of Laws.* If one accepts this connexion as being a dominant influence in the composition of this later law, certain peculiarities can be explained. The three dated sections of the manuscript are not in temporal sequence. The first is dated 7 July 1855, the second 30 June 1855, and the third 31 July 1855. The ordering, however, is that of the formal ranking of the men who signed the *Code of Laws.* The Pangeran of Sungai Lemau takes precedence over the Pangeran of Sungai Hitam. Both of these were followed by Daeng Mabéla. Thus the inversion of the first two sections appears to be based on the relative seniority of the title holders. A second point concerns the last section. Included in this section is the district of Silebar. The 1855 Governmental Almanak gives the name "Pangeran Natta dhi Radja" as "pangeran van Selebar". The question is: Why does Daeng Makuleh's name occur at the end of the text, and

not that of the Pangeran, or minimally, the two names together? On the one hand, there may have been the desire to create something equivalent to the *Code of Laws*. On the other hand, these men were members of the families who had framed another major code and had been largely responsible for its application and interpretation.

Contemporary Sources

The most important textual aid for these manuscripts is a report by J. E. van den Bor dated 14 September 1855. The contents and date of this report indicate that this set of three laws was used to compile his study. The full title of the report is "Kort overzigt van de inrigting des binnenlandschen bestuurs en van de wetten, gewoonten en instellingen in de afdeeling Ommelanden van Benkoelen" (A brief overview of the structure of the internal government, and of laws, customs and institutions in the district Environs of Benkulen). This report is bound together with six others forming a single manuscript (TLVK. H813c). As the authorship and dating of these reports is important the full list derived from the reports themselves and the 1856 Governmental Almanak [2] is presented below.

1.	Benkoelen (Bengkulu)	14 September 1855	J. E. van den Bor
2.	Lais	31 August 1855	C. B. J. Sausin
3.	Mocco-Mocco (Mukomuko)	31 July 1855	N. Hewetson & Regent of Mocco-Mocco
4.	Seloema (Seluma)	17 July 1855	A. Pruijs van der Hoeven
5.	Manna	24 June 1855	J. van Dulken
6.	Kauer (Kawur)	16 August 1855	A. J. Kluijver
7.	Kroe (Krui)	no date	M. J. A. Arnold

All of these reports except the one dealing with Mukomuko were published in BKI 8, 1862, pp. 255-316. However, the names and dates were not published or were not made available to the editors of the *Bijdragen tot de Taal-, Land- en Volkenkunde*. As a result, the author-

ship of these reports is often mistakenly assigned to J. Abegg, from whom the piece was ultimately received (e.g. Hazairin, 1936, p. 223; Wellan and Helfrich,[3] 1923, p. 204). The Mukomuko text, which was not published, is a very inaccurate copy. Other more accurate versions of this Malay language text are found at the Leiden University Library, Cod. Or. 12.217 and at the Royal Institute of Linguistics and Anthropology (TLVK M-XLIV).

The close dating of these reports and the texts indicate that a systematic investigation was being carried out by the Dutch authorities. However, the legal codes from the Environs of Benkulen indicate that the Dutch had not yet begun to impose either their own legal notions or, more importantly, the manner in which the text was written.

Van den Bor's report, in addition to providing a resumé of the material in the three legal codes, offers useful background information which elucidates the relations between the authors. In particular there is a detailed account of the composition of the Council of Headmen in the Environs of Benkulen (De raad der hoofden in de Ommelanden van Benkoelen) (Van den Bor, 1862, p. 258 f.). In the Governmental Almanaks the Council is referred to as the "Pangerangs-Raad" (the Pangeran's Council).[4] There were three main categories of membership: Members, Substitute Members, and Advisory Members. The titles and positions given in the report may be easily correlated to other data. The Members in 1855 were Pangeran Mohamad Sah, Pangeran Bangsa Negara, Raja Ayensah, and the Dato of the Pasar of Bengkulu.[5] The Substitute Members were Raja "Menkotto" Alam and Raja Khalipa. The Advisory Members were Daeng Makuleh and the Pangeran of Silebar. The identity of substitute members helps to clarify the status of Raja Menkoto Alam. He must have been of sufficient rank and rather closely related to Pangeran Mohamad Sah if he was to act as his replacement. The other Substitute Member, Raja Khalipa, was the brother of Pangeran Bangsa Negara, a full Member. This lends further support to the possibility that Raja Menkoto Alam was Mohamad Sah's brother. The Advisory Members had the right to participate in council decisions only when persons from their own territory were directly involved.

The procedure for the division of fines imposed by the Council provides a numerical statement on the relative status of the various members. If a subject of one of the Advisory Members was fined less than twenty-five guilders, the full amount went directly to the concerned headman. If the amount was more than twenty-five guilders half was

added to the Council's treasury. This treasury was divided into fifteen equal shares. The two Pangerans who were full members each received four shares. Raja Ayensah received three shares and the Dato of the Pasar of Bengkulu and the chief priest each received two shares. A substitute member's share was based on the number of times he sat on the Council, and was deducted from the share of the member whom he was representing (Van den Bor, 1862, p. 259 f.).

The logic of this division follows a pattern which recurs in South Sumatra. This pattern is based on two fundamental principles. First, an even number can be divided into two equal portions. Second, an odd number cannot be divided into equal portions without resorting to fractions; however, an odd number can be divided into two unequal portions so that the difference between the greater and lesser portion is one. For example, $4 = 2 + 2$ and $5 = 2 + 3$. From these two principles two rules of division are generated: an even number is to be divided equally and an odd number is to be divided so that the difference between the portions is one. These rules, successively applied, generate the final division of an amount of money into shares. From these successive divisions a series of equalities and inequalities can be formulated. While the equality relation speaks for itself the inequality relation is such that the relation is minimally unequal. That is, the logic of social relations required an inequality but a countervailing principle required that the inequality be as small as possible.[6] These rules, when applied to the fifteen shares to be divided, lead to the pattern of successive division presented in Diagram 3.2.

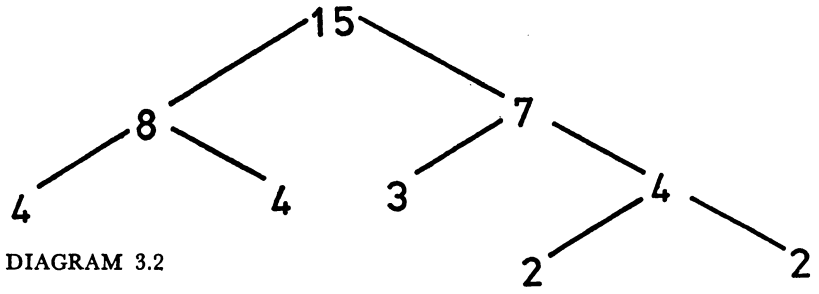


DIAGRAM 3.2

The inequality relations suggested by this division are as follows. The share of the two Pangerans together is greater than the combined shares of the other participants. However, the Pangerans' shares are equal to each other. The share of the Dato plus that of the high priest is greater than that of Raja Ayensah. But the Dato and the high priest

are to share equally. The pattern is such that Raja Ayensah receives a smaller share than either of the Pangerans.[7]

While the direct influence of the Dutch on the structure of the laws was minimal, there was an important indirect effect. The Dutch administrative divisions did not always follow linguistic, ethnic, or legal boundaries. By requesting a legal code for one of these administrative units, the Dutch were posing a problem often alien to local legal thought. However, as long as the colonial authorities remained aloof from the process of codification, the solution to this artificial problem was a native one. Indeed, the solutions to these alien problems often reveal a dimension of legal logic that would remain hidden if the setting of the problem had always conformed to local social reality.

According to Van den Bor the district (afdeeling) Environs of Bengkulu were divided into six subdistricts (distrikten): "Soengei Lemauw, Oeloe Benkoeloe, Soengei Itam, Andelas Soengei Kroe, Lima Boea Bada and the territory of Selébar". Sungai Itam was further divided into four smaller units (onderdistrikten): "Soengei Itam, Lembah Selapan, Proatin doea blas di darat, and Proatin doea blas tepi aijer" (Van den Bor, 1862, p. 255).

In the region Van den Bor demarcates three linguistic groups. Rejang was spoken in Sungai Lemau and Ulu Bengkulu, Lembah in Sungai Hitam, except in the territory of Proatin XII di darat, whose inhabitants were named "Boelang" and spoke a distinct dialect. Serawai was spoken in Andelas Sungai Krui and Lima Bua Bada. These last two districts formerly belonged to the territory of the Pangeran of Silebar but were at the time administered separately. The Pangeran controlled only the four Pasars of Silebar where Malay was spoken (Van den Bor, 1862, p. 256).

This partition into three linguistic groups [8] involves two oppositions of different order. Lembah and Serawai are different dialects of the language usually referred to as Middle Malay. Rejang, however, is a language different from Malay. Though closely related to Malay Rejang possesses both phonological and morphological structures that are distinct from those of Malay. Its vocabulary, however, is strongly infuenced by Malay (Voorhoeve, 1955, p. 20). However, in the gross division of the law text into sections this distinction between languages and dialects is not employed. Nevertheless, these three linguistic divisions provide an important distinction between the sections and form one of the main criteria by which the three sections can be differentiated. Furthermore, the identity and rank of the people who signed the sections provide a

formal statement not only of the relations between the men themselves but also of the relations between linguistic, ethnic, territorial and legal groupings.

The Sungai Lemau Law

The Sungai Lemau portion of this law set contains twenty-five numbered fasals preceded by an introductory paragraph. This introduction lists the persons involved and the reasons for writing the text. In addition to the three individuals discussed above the Proatins, Passiras and Pambarabs of Ulu Sungai Lemau and Ulu Bengkulu were also present. The object of the gathering was to draw up the "Oendang Oendang dalam redjang ampat patoelaij" [9] (The laws of the four rejang clans) which had been used in Ulu Sungai Lemau and Ulu Bengkulu. This was done at the request of "Toean Ambtenaar Ommelanden" (i.e., J. E. van den Bor).

The first five fasals form a single structural unit. Their main function in the law's structure is to fill the space between the beginning and Fasal 6, the key to both the marriage section and the entire law. This unit does, however, have its own internal structure which is similar to, but independent of, the structure of the other twenty fasals. The basic unifying theme of these fasals is the proper relationships between headmen and other individuals. The block may be divided into two similar units containing two and three fasals respectively. The first two fasals deal with the relative ranking of titled individuals and the last three fasals of the block deal with the relationships between headmen (kepala kepala) and lower ranking individuals.

FASAL 1

Fasal 1 states that proatins are responsible for settling the affairs of state (perkara negri) in their respective villages (dusun). The fasal concludes with a ranked list of titles: first, depatis; second, pemangku; third, anak dalam; fourth, Raja Depati with the elders (orang tua tua).

FASAL 2

Fasal 2 simply lists the titles of the headmen in each "merga". First there is the "Passira"; second, Pambarab; third, "Proatin Patikkan" (elected proatins); fourth, Pemangkus; fifth, anak dalam; sixth, Raja Depati. All those who are not in this list are the subjects (anak buah) of the Proatins who obey the government (prenta = perentah).

The opposition between Fasals 1 and 2 is one between village (dusun) and marga (margo, mergo, merga). The precise significance of the word

marga is difficult to evaluate. On the one hand, the term may be used to denote a territorially based clan and on the other, it may be applied to any administrative unit without regard to descent relations among the inhabitants. An extreme example of this latter usage is the use of the expression "margo kauer" to refer to the afdeeling Kauer (the region of Kauer), which was only a Dutch administrative unit of the Residency Bengkulu (TLVK-H813d-i). Though the Dutch clearly favoured the notion of a purely territorial unit this implication cannot be completely attributed to European influence. When describing marriage forms there is a tendency on the part of native writers to vacillate between, or entirely confound, the descent and residence implications of a particular marriage form. For the sake of convenience it is best to view the marga as an aggregation of closely related villages. The basis of this close relation may be territorial or genealogical, depending on the context and/or the particular emphasis which a writer wishes to give.

The list of titles in Fasal 2 simply extends that of Fasal 1 by placing the titles of Passira and Pambarab at the head of the shorter list. This implies that the first title of Fasal 1 (depati) is equivalent to the third title of Fasal 2 (proatin). While Van den Bor's report tends to interchange the terms freely there is a specific difference between the two terms. "The *dupatis* belonging to each river... meet in a judicial capacity at the *kwalo,* where the European factory is established, and are then distinguished by the name of *proattīn*" (Marsden's History, 1811, p. 210). The usage in Fasals 1 and 2 is parallel to this principle. A village headman is a depati when acting in a village context, but a proatin when acting in a marga context. Of further significance is that the list in Fasal 2 contains seven elements (the seventh is anak buah) but only six are numbered. The numerical opposition between Fasals 1 and 2 is the same as that between the numbers 4 and 6. As we shall see this numerical relation is a simple variation on a fundamental pattern in this law set.

FASAL 3

Fasal 3 deals with the assistance (ketolongan) given by subjects (anak buah) to their headmen (kepala). If a headman is travelling, or if his house needs repairing or if his fields are overgrown, he may request the assistance of his subjects.

FASAL 4

Fasal 4 deals with gifts (pembarian) given by subjects to their headman. A headman's subjects are not obliged to give him rice after the

harvest or some other such thing. If a headman needs rice or some other thing he must purchase it from his subjects.

These two fasals are contrasted by two mutually reinforcing oppositions. The basis of unity of these oppositions is the same in both cases. A possible transaction between a headman and his subjects is presented. In both fasals the transaction is asymmetrical: the subject gives, the leader receives. One opposition opposes the acceptability versus the inacceptability of the proposed transaction. In the second opposition two types of transactions are contrasted. *Ketolongan* (assistance) refers to *services* provided to the headman without reward. *Pemberian* (gifts) refers to *goods* provided to the headman without payment. *Ketolongan* is allowed; *pemberian* is forbidden.

FASAL 5

Fasal 5 deals with taxes levied on the products of the land and forests. There is no tax on commerce but if an outsider plants ladang or wet rice he must pay the "adat bunga padi" (the custom of the tax on the paddy, literally, flowers of the paddy). A similar rule applies for the removal of wood, rattan, or planks. After each harvest for one plot of ladang four rupia (guilders) must be paid as "bunga padi". For every hundred bundles of rattan ten bundles are deducted as "bunga rotan" (tax on rattan). For every hundred planks ten are deducted as "bunga kayu" (the tax on wood). For every ten beams two are deducted. There is no tax levied on ivory, wax, or gum. All of these taxes are divided two ways. The Regent receives one share and the Proatin receives the other. The Proatin divides his share with the Pemangku and elders in his village.

This transaction is not between subject and headman. This is made clear from the nature of the payment called "bunga padi". Such a payment involving subject and headman is explicitly forbidden by Fasal 4. Thus the person who must pay these taxes is not a subject (anak buah) but an outsider. The "outsider" is described in this fasal as an "orang di luar negri". The exact reference of the word *negri* (state) is not clear. But "orang di luar negri" apparently refers to someone outside the jurisdiction of the Pangeran of Sungai Lemau.[10] This fasal is opposed to Fasals 3 and 4, which deal with transactions between headman and subject. Fasal 5, on the contrary, deals with transactions between headmen and non-subjects present in their territory. Furthermore, the term applied to the asymmetrical transaction (hasil) is different from that used in either Fasal 3 or Fasal 4 .

The pattern of the first five fasals suggests two possible structures: one of three blocks of fasals (2-2-1) or one of two blocks of fasals (2-3), with the second element being further divided in two units (2-1). Thus the choice is between a (2-2-1) structure or a (2-(2-1)) structure. The latter is the more acceptable in that Fasal 5 is conceptually related to Fasals 3 and 4 but not to Fasals 1 and 2. The first two fasals of the three element group are opposed to each other but the third is opposed to the initial opposition. This reflects the fundamental structural feature of the fasal logic in this law set. A block contains three elements: A, B, and C. A and B are opposed. But the basis of unity of this opposition serves to bind these two elements together. C does not share the basis of unity with either element of the opposition. In fact, C is opposed to the basis of unity of the opposition and not to either element of the opposition. That is to say, C is opposed to the opposition of A and B and not to either A or B individually. Thus, while in the *Code of Laws* there was a tendency for the extremities to be opposed to the center, here the opposition is between the first two elements as a unit and the third element.

Fasals 1 and 2 are opposed to each other but with a strong basis of unity. Thus the structural relationship between Fasals 1 and 2 is similar to that between Fasals 3 and 4. However, Fasals 1 and 2 do not have a third element opposed to them in the way Fasal 5 is opposed to Fasals 3 and 4. The reason for this is that six fasals would have been required but because of the structural and numerical importance of Fasal 6 there was room for only five fasals.

Fasal 6 is the first fasal of the marriage section and establishes the structural pattern of the section.

FASAL 6

Adat kaloe orang *berdjoedjoer* prampoean itu kawin die roema lakie lakie iang akan djadie lakie nja itoe djiekaloe lakie lakie itoe semando dianja kawin die roema prampoean nja iang akan djadie binie nja begitoe djoega kaloe *semando* atoúw *berdjoedjoer* kapada doessoen lain atoúw sama sadoessoen.

The adat when persons marry by jujur. A woman is married [11] in the house of the man who will become her husband. If a man is married by semendo he is married in the house of the woman who is to be his wife. The same rules apply if the semendo or jujur marriage is between different villages or within the same village.

This fasal introduces the marriage section and establishes the basic opposition among marriage forms. The introduction of marriage is based

on the implication that the marriage forms are *initially* distinguished by the place where the marriage takes place. The basic opposition of marriage forms is between semendo and jujur marriage types. The opposition is phrased strictly in terms of the place of the marriage, and by implication, residence. That is, the opposition is that between a patrilocal and a matrilocal marriage. Furthermore, there is not even an implicit reference to descent. Thus there is not only an emphasis on the residential implications of marriage but also a total exclusion of all references to descent.

Each of the next fasals presents a different marriage form. They are divided into two groups, using the opposition of Fasal 6. Fasals 7, 8, and 9 are jujur forms. Fasals 10, 11, and 12 are semendo forms.

FASAL 7

Fasal 7 is entitled "Adat *djoedjoer agoeng*" (the custom of large jujur). The basic amount of the jujur is 160 rupia (i.e. 80 reals). Several additional gifts or payments must be made. First, the "kris langkap" which is a kris with a gold head and a silver sheath valued at 50 rupia. Secondly, there is the "koedjoer tapang perak" (a lance or fish spear wrapped in silver) valued at 24 rupia. The "tombak? (spear) tapang lepoes" is not a distinct payment but is deducted from the basic jujur amount of 160 rupia. If the woman brings ornaments (literally pakakas = perkakas = appliances) valued at 100 rupia then the husband must pay 200 rupia. This payment is distinct from the jujur money and is called "adat tiban kakas" (the deposit on the ornaments). If the woman does not bring ornaments then the value of her clothing is subsumed under the other payments. When the man wishes to take the woman to his own village, he must pay the "wang penurun" (the money of descent, i.e., descending the ladder of the woman's house). When the married couple are both children of Passiras the wang penurun is 48 rupia plus a silver box and a silk handkerchief. When the married couple are both the children of Pambarabs the wang penurun is 24 rupia plus a silver box and a silk handkerchief. When the married couple are both the children of Proatins the wang penurun is 12 rupia plus a silver box and a silk handkerchief. When the married couple are the children of lower ranking title holders or commoners the wang penurun is 4 rupia plus a silver box and a silk handkerchief.

This fasal provides virtually all of the details for jujur marriages. The sum of 80 reals or 160 rupia is a very common but not universally occuring value for the main jujur amount. Still more frequently this amount functions as the minimum price. In John Marsden's Lais Laws (1779) the jujur of a widow is eighty dollars (Marsden's History, 1811, p. 226). Hazairin (1936, p. 43) also gives the customary amount as

eighty reals. And as late as the 1960's Jaspan reported a myth in which the amount was fixed at 80 reals (Jaspan, 1964, p. 121). The exact significance of the three weapons (the kris, the koedjoer, and the tombak) [12] is not clear. However, weaponry with a stated monetary value is often associated with the payment of the jujur (c.f. Jaspan, 1964, p. 121). The significance of the value of the perkakas mentioned in the text is not clear. The 100 rupia may be either an exact amount or only given by way of example. In other texts (e.g. Cod. Or. 12.205) both the value and the items that make up the perkakas are specified in detail.

While the monetary value of the wang penurun varies according to the status of the marriage partners, a silver box (selepa perak) and a silk handkerchief (saputangan sutera) are not dependent on the rank of the individuals. These items are apparently used to present the payment.[13] The amounts of the wang penurun present some interesting features. In this text all amounts are presented as rupia. Sometimes one finds only a florin sign (e.g. f. 24) or a florin sign plus the word "rupia" (e.g. f. 24 rupia). At this time the real was valued at two guilders. Later it was to be equivalent in value to a rijksdaalder (2½ guilders) (c.f. Helfrich, 1904, p. 80 but also p. 137). Though the text reflects current monetary trends, the real equivalent of these values reveal relations that would not be apparent if the analysis was based on the amounts as given. Thus for the purposes of analysis the amounts of the wang penurun will be treated as if they were 24, 12, 6, and 2 *reals* and not 48, 24, 12, and 4 *rupia*. This set of amounts may be divided into two groups. The first three amounts are associated with specific titles, while the last amount is a residual category for all ranks not included in the first three amounts. The three titles involved in the first group are Passira, Pembarab, and Proatin. The complete list of titles is given in Fasal 2. The three titles mentioned in Fasal 7 are the first three of the six titles listed in Fasal 2. Thus the distinct categories versus the residual category of the amounts of wang penurun is paralleled by an equal division of the six categories listed in Fasal 2.

This conceptual division of the four amounts into two groups is also indicated by the relationships between the numbers themselves. The second amount is one half the first amount (i.e., ½ (24) = 12). The third amount is one half the second amount (i.e., ½ (12) = 6). However, the fourth amount is not one half of the third amount (i.e., ½ (6) ≠ 2). Thus the first three amounts form a numerical sequence.

The structure of a sequence may be expressed by a mathematical

formula. The following notation will be used: t_1 = the first term; t_2 = the second term; and t_n = the n^{th} term.

Thus, the above halving pattern can be expressed by the following rule:

$t_{n+1} = \frac{1}{2}\ t_n$
$n = 1$ and $t_1 = 24 \quad t_2 = \frac{1}{2}\ (24) = 12$
$n = 2$ and from the preceeding $t_2 = 12$, $t_3 = \frac{1}{2}\ (12) = 6$

Thus, numerically and conceptually the sequence of amounts 24, 12, and 6 form a structural entity. Even superficially these numbers are important, for as we shall see, Fasals 6, 12, and 24 form the basic structural sequence of the marriage fasals. The ratio of the terms to each other is 4-2-1. This ratio recurs frequently in South Sumatran legal codes and is one of the basic numerical structural relationships. Interestingly, the sequence usually has only three terms and is not extended to 8-4-2-1 or longer sequences. Viewed in these terms, the sequence means that the Pembarab receives one half as much for his daughter as a Passira and the Proatin receives one half as much for his daughter as a Pembarab.

However, there is another structure latent in the sequence.

Letting $t_1 = 24$; $t_2 = 12$; and $t_3 = 6$
Then $t_1 - t_2 = 12$
$t_2 - t_3 = 6$

Firstly, it appears that the differences between amounts are also multiples of six. But more important the difference between the second and third terms is one half the difference between the first and second terms. That is, the difference between Pembarab and Proatin is one half the difference between Passira and Pembarab, with reference to the wang penurun.

This relationship can be expressed by the following rule:

$t_{n+2} = t_{n+1} - \frac{1}{2}\ (t_n - t_{n+1})$
Let $n = 1$; $t_1 = 24$; and $t_2 = 12$
$t_3 = t_2 - \frac{1}{2}\ (t_1 - t_2)$
$t_3 = 12 - \frac{1}{2}\ (24 - 12)$
$t_3 = 12 - \frac{1}{2}\ (12)$
$t_3 = 12 - 6$
$t_3 = 6$

Both of these formulas are equally valid descriptions of the sequence but are based on different relationships within the sequence. These formulas are an abstract representation of the logic of the sequence. While closely reflecting relationships that the native authors may easily have perceived, they are a bit awkward from a mathematical point of view. To discover the terms when the sequence is expanded a step by step procedure must be used. That is, given the first two terms the third can be derived. Having the third term it can be used in turn to derive the fourth term and the fourth term used to derive the fifth term, etc. As they stand, these formulas cannot be used to derive, for instance, the sixth term from the first two terms, without first deriving the intervening terms (i.e., the third, fourth and fifth terms). Thus, it is desirable to derive a fully abstract rule that allows the calculation of any term directly.

Using the property that the difference between the second and third terms is one half of the difference between the first and second terms the following rather imposing formula can be developed:

$$t_n = 2t_2 (1 - 2^{2-n} + 2^{1-n}) - t_1 (1 - 2^{2-n})$$
Letting $n = 3$; $t_1 = 24$; and $t_2 = 12$
Then $t_3 = 2 (12) (1 - 2^{2-3} + 2^{1-3}) - 24 (1 - 2^{2-3})$
$t_3 = 24 (1 - 2^{-1} + 2^{-2}) - 24 (1 - 2^{-1})$
$t_3 = 24 (1 - \frac{1}{2} + \frac{1}{4}) - 24 (1 - \frac{1}{2})$
$t_3 = 24 (\frac{3}{4}) - 24 (\frac{1}{2})$
$t_3 = 18 - 12$
$t_3 = 6$

One of the virtues of such a formula is that it allows the direct calculation of the limits of the sequence. Thus:

$$\lim_{n \to \infty} t_n = 2t_2 - t_1$$

That is, if the sequence is extended indefinitely the n^{th} term will never be less than twice the second term less the first term if t_2 is smaller than t_1. In this particular sequence where $t_1 = 24$ and $t_2 = 12$ the limit as n approaches infinity is zero.

This abstract formula and its limit is the logic behind a variety of numerical sequences occuring in South Sumatran legal codes. The wang penurun sequence of 24 — 12 — 6 conforms to this general rule. However, the wang penurun sequence is a special case in which the second term is one half the first term (i.e., $t_2 = \frac{1}{2}t_1$).

Thus, substituting $\frac{1}{2}t_1$ for t_2 in the above formula a simpler but less general rule may be derived:

$t_n = 2t_2 (1 - 2^{2-n} + 2^{1-n}) - t_1 (1 - 2^{2-n})$
Let $t_2 = \frac{1}{2}t_1$
Then $t_n = 2 (\frac{1}{2}t_1) (1 - 2^{2-n} + 2^{1-n}) - t_1 (1 - 2^{2-n})$
$t_n = t_1 (1 - 2^{2-n} + 2^{1-n}) - t_1 (1 - 2^{2-n})$
$t_n = t_1 (1 - 2^{2-n} + 2^{1-n} - 1 + 2^{2-n})$
$t_n = t_1 (2^{1-n})$
Let $n = 3$ and $t_1 = 24$
Then $t_3 = 24 (2^{1-3})$
$t_3 = 24 (2^{-2})$
$t_3 = 24 (\frac{1}{4})$
$t_3 = 6$

While this second rule is simpler the complex general rule based on the numerical differences between elements is necessary to allow comparisons with sequences occuring in other laws. Two important aspects of structural analysis are indicated here. First, there are at least four distinct formulas, quite different in appearance, that can be used to describe the relationships between the elements of the sequence. While they are not independent of each other, they give the impression of being alternative structural models. None of them can claim to be *the* structure; however, for analytical purposes the most complex and most general rule is the most useful. Two of the formulas demonstrate a second problem occuring in structural analysis. The formula $t_n = t_1 (2^{1-n})$ is a special case of the formula $t_n = 2t_2 (1 - 2^{2-n} + 2^{1-n}) - t_1 (1 - 2^{2-n})$. Frequently, an easily perceivable structure is only a special case of a more general rule. And further, it is only through the discovery of such general rules that broad comparisons become possible.

Thus, the first three amounts of the wang penurun form a distinct sequence and are isolated from the last element which is not part of the sequence. This partition of the four amounts into two unequal groups is also indicated by the factors of the numbers.

$24 = 2 \times 2 \times 2 \times 3 = 2^3 \times 3$
$12 = 2 \times 2 \times 3 = 2^3 \times 3$
$6 = 2 \times 3 = 2^1 \times 3$
$2 = 2 = 2^1$

The three elements of the sequence discussed above all contain a

factor of three (i.e., are divisible by three) while the last term does not.

Most of these properties of the wang penurun payments are maintained when the amounts are regarded either as reals or rupia. In particular, the relational features of the sequence do not change. However, when the sequence is expressed in reals the three numbers become 6, 12, and 24, which are of fundamental significance to this set of laws.

FASAL 8

Fasal 8 is entitled "Adat *djoedjoer betoengoe*" (the jujur of "watching"). The tali kulo is an amount of money left intentionally unpaid and is subtracted from the basic jujur amount of 160 rupia. If the man and woman are the children of Passiras then the tali kulo is 20 rupia. If the woman is the child of a Passira and the man the child of a Proatin or a commoner then the tali kulo is 15 rupia. When the man is the child of a Passira and the woman is the child of a Proatin or a commoner then the tali kulo is also 15 rupia.[14] When the man is the child of a Proatin and the woman a commoner and vice-versa the tali kulo is 10 rupia. When both man and woman are commoners the tali kulo is also 10 rupia.

The tali kulo "is usually, from motives of delicacy or friendship, left unpaid, and so long as that is the case, a relationship is understood to subsist between the two families, and the parents of the woman have a right to interfere on occasions of ill treatment . . . When that sum is finally paid, which seldom happens but in cases of violent quarrel, the *tali kulo* (tie of relationship) is said to be *putus* (broken), and the woman becomes to all intents the slave of her lord" (Marsden's History, 1811, p. 257 f.). Thus the tali kulo is an institutionalized form of non-payment and not a form of debt. The effect of this non-payment is to reduce the absolute authority of the man implicit in jujur marriage. The alliance relationship is usually phrased in terms of residual jural rights in the person of the woman but not her children. For example, in John Marsden's Lais Laws, "If a man kills his wife by *jujur,* he pays her *bañgun* to her family, or to the *proattīns,* according as the *tali kulo* subsists or not" (Marsden's History, 1811, p. 222).

There are amount categories based on three ranks: Passira, Proatin and commoner. The basic opposition is between Passira and commoner. The position of the Proatin vis-à-vis the tali kulo is not fully developed. No amount is given for a marriage when both the man and the woman are the children of Proatins. Further, in any of the marriage possibilities a commoner may be substituted for a Proatin's child without effecting a change in the amount of the tali kulo. Thus the Proatin's position

is not significant in the analysis of these amounts. When both marriage partners are the children of Passiras the amount of the tali kulo is 20 rupia. When both marriage partners are the children of commoners the amount of the tali kulo is 10 rupia. These are the extreme cases. When one partner is the child of a Passira and the other the child of a commoner the amount of the tali kulo is exactly halfway between the two extreme amounts, i.e., 15 rupia. Thus the logic of the categories is high/high versus low/low with the middle category being high/low or low/high. The pattern of the opposition used here recalls that in the *Code of Laws,* i.e., the extremities are opposed to each other and collectively opposed to the center.

A useful comparison can be made between the amounts for the wang penurun and for the tali kulo. The essential structure in both cases is based on three elements. The status of the individuals in the wang penurun enumeration is always the same. That is, the text only presents marriages between equals. In the enumeration of the tali kulo amounts the unequal status of the marriage partners is the basis of the structure of the sequence. Indeed, the proatin's child with proatin's child marriage possibility is omitted from the tali kulo enumeration. Thus, not only is the principle of the numerical sequence different but the division into conceptual categories is based on different relations between ranks.

The omission of the category in which both partners are the children of Proatins may be accidental or due to a scribal error. However, this omission may be analysed structurally. The children of Proatin category does not easily fit into the schema presented in the text. Placing it in the middle category would destroy the clear inequality implications of this category. And placing it in the last category would confuse the high versus low opposition of the extremities. Thus, the omission may be due to the demands of the structural relations between the elements.[15]

FASAL 9

Fasal 9 is entitled "Adat *djoedjoer orang ketjil* atouw orang kabanjakan" (the jujur of commoners). This fasal simply states that the amount of the jujur is 160 rupia and that the custom is the same as that of Fasal 7 (sepertie terseboet dalam Passal 7e itoe djoega).

The first two jujur fasals contrast with each other by means of a stronger/weaker opposition. Fasal 7 presents the stronger form of jujur, Fasal 8 the weaker. Fasal 9 is a structural non-entity and provides no new or additional information. Its function is that of a structural filler. The back reference of Fasal 9 to Fasal 7 effectively terminates the jujur

sequence. Furthermore, the back reference, combined with the lack of substantive content, effectively removes Fasal 9 from the structure.

FASAL 10

Fasal 10 is entitled "Adat *semando terambil*[16] *anak* ijaitoe *tida* beradat" (semendo ambil anak not in accordance with the adat). The man's earnings (pencarian) belong to his wife, his partner in the semendo relationship (pantjarian nja tingal la kapada tampat dia semando itoe). The man has no authority (kuasa). If there is a divorce he does not receive a share of these earnings. If the man dies his relatives have no claim to a share of his earnings.

This fasal presents a standard form of ambil anak marriage. However, there is a reference to his jural rights over his earnings (he has none). No reference is made to the descent status of the children.

FASAL 11

Fasal 11 is entitled "Adat *semando beradat*" (semendo marriage in accordance with the adat). If both marriage partners are the children of Proatins or one is the child of a Proatin and the other the child of a commoner the antaran is 12 rupia plus a goat with glutinous rice, spices (assam-garam),[17] and bedding (tikar bantal). If both marriage partners are the children of commoners the antaran is 10 rupia plus a goat with glutinous rice and spices.[18] In death and divorce the man's earnings go to the children who remain with their mother. If the marriage was childless then the man or his relatives have a claim on the earnings.

This fasal has two portions. The first deals with the marriage payments. The amount of the antaran is presented as being based on rank. However, the rank distinction is only between proatin and commoner. This may indicate that this form of marriage was not normally used by higher ranking title holders, i.e., Passiras and Pembarabs.[19] Unfortunately, the second and more important portion of the fasal is unclear. The text itself is marred by scribal errors and the Van den Bor report, while useful, is nonetheless questionable in its accuracy. However, certain principles can be discerned if not elaborated upon. There is a principle by which the pencarian is to be divided or shared. In particular, in some circumstances the man's relatives have a claim to his pencarian. This is specifically excluded in Fasal 10. Thus this type of marriage is a milder form of semendo than that presented in Fasal 10. In Fasal 10 a man's relatives retain no jural rights over the man. In Fasal 11, however, they do have jural rights over him. In both cases

these rights are phrased in terms of a claim to the pencarian. The relationship between these two fasals is the same as that between Fasals 7 and 8. In each case the second form is a weaker version of the first form. Further, the weakening of the more severe form is expressed by the retention of jural rights over the relative who has married out of the family. Thus the following relational statement is valid. Fasal 7 is to Fasal 8 as Fasal 10 is to Fasal 11. The second important principle discernable in this fasal is that the children remain with the mother. This principle serves to differentiate this fasal from the following fasal.

FASAL 12

Fasal 12 is entitled "Adat *samando baliek djoeraij*" (semendo marriage in which a descendant returns). In this case the antaran is 24 rupia plus a goat with glutinous rice, spices and bedding. This rule applies when both marriage partners are the children of Proatins or commoners. The totality of the earnings (pencarian) is divided equally between man and woman. One child returns to maintain the "djoerai" (descent line) of his father. If the man dies his children inherit his property. If he has no children his relatives have a claim on his property.

The term jurai has a variety of interpretations. Hazairin (1936, p. 18 f.) enumerates four different meanings. First, the jurai is the totality of one's biological descendants. Second, a jurai is a series of persons in which the one is the descendant of the other without reference being made to the form of marriage. Third, a jurai is a descent line, either by genealogical or juridical reckoning. Fourth, a jurai is simply a descendant or relative. In this fasal two of these meanings are used. "Semendo baliek djoerai" implies the fourth meaning, i.e., a descendant returns. In "anak balie panagak djoerai bapak nja" the meaning of descent line is indicated (i.e., a child returns to maintain the descent line of his father). Thus this marriage form is neither strictly matrilineal nor strictly patrilineal. One child behaves patrilineally, the others matrilineally. While the terms cognatic descent or double unilineal descent may not be appropriate in this case, the form is structurally equivalent to the cognatic *semendo merdahika sama merdahika marriage* of the *Code of Laws*. That is, it is a combination of the two more fundamental lineal principles. This notion of a dual principle is also expressed in terms of residence. One child returns to reside with his father and the rest, by implication, stay with the mother. While the first two fasals in the jujur and the semendo sections share a common structural pattern, the last fasals in each of these sections behave differently. The

last jujur fasal (Fasal 9) refers back to the first jujur fasal (Fasal 7). But, the last semendo fasal (Fasal 12) does not refer back to the first semendo fasal (Fasal 10). Fasal 12 instead refers back to the beginning of the marriage section (i.e., Fasal 6). Fasal 6 presents two separate concepts of marriage residence in two distinct categories of marriage. Fasal 12 presents two principles of descent united in a single marriage form. Furthermore, the residential aspects of Fasal 6 are not lost entirely for Fasal 12 has a principle of two kinds of residence for the children born of the marriage that complements the two residence principles of Fasal 6.

The structure of these seven marriage fasals is based both on the contents of Fasal 6 and the number six itself. There are six marriage forms presented and they are divided into two categories along the lines indicated in Fasal 6, i.e., three jujur forms and three semendo forms. In general terms, each of these groups of three fasals conforms to the basic principle of the fasal structuring of this law .The first two in each group form a tightly bound conceptual unit. The third element in both of these cases is independent of this two element structural unit but not opposed to the first two in the manner that occurs elsewhere. These features suggest the representation of the basic structure presented in Diagram 3.3.

But Fasal 9 drops out of the structure by virtue of its back reference to Fasal 7 and its lack of substantive content. Fasal 12, on the other hand, is simultaneously linked with and opposed to Fasal 6. These features suggest the representation of the basic structure presented in Diagram 3.4.

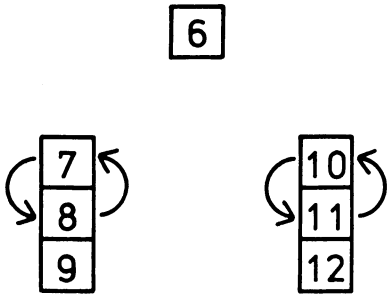


DIAGRAM 3.3

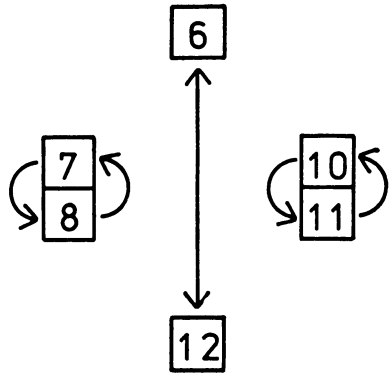


DIAGRAM 3.4

This structure possesses a number of interesting numerical features. The numerical difference between the stronger form of jujur and the stronger form of semendo is three (i.e., 10 — 7 = 3). Likewise, the numerical difference between the weaker form of jujur and the weaker form of semendo is three (i.e., 11 — 8 = 3). Thus, the sum of the numerical differences between the paired jujur forms (Fasals 7 and 8) and the paired semendo forms (Fasals 10 and 11) is six. The opposition between these paired forms is presented in Fasal 6. Thus, the sum of all the oppositions is 6 + 3 + 3 or twelve. Twelve is the number of the fasal where the other oppositions are united together. This relationship may be calculated in another way. The sum of the paired jujur fasals is fifteen, the sum of the paired semendo fasals is twenty-one, and the difference between these two sums is six. Other additive relationships exist. The sum of the paired fasals is equal to 7 + 8 + 10 + 11 or 36. Thirty-six is equal to six times six or twice the sum of the other two elements, i.e., 2 (6 + 12) = 36. And further, thirty-six is equal to four times the omitted element, i.e., 9 × 4 = 36. This elaboration of features based on the number six is related to another feature of this structure.

As Fasals 6 and 12 are conceptually paired similar pairings can be made between Fasals 7 and 11 and Fasals 8 and 10. The oppositional content of these two new pairings is complementary. The stronger jujur form (Fasal 7) is paired with the weaker semendo form (Fasal 11) and the stronger semendo form (Fasal 10) is paired with the weaker jujur form. These two additional pairings complete the possible oppositional relations among the four central fasals. The other pairings involved the following relations: Fasal 7 is to Fasal 8 as Fasal 10 is to Fasal 11 (i.e., 7 : 8 :: 10 : 11 and 7 : 10 :: 8 : 11).

The three pairings 6-12, 7-11, and 8-10 are all symmetrically opposite the center of the diagram. The numerical sum of these symmetrical pairs is the same in each case, i.e., 18. This is twice the value of the omitted number (9 × 2 = 18). Thus the omission of Fasal 9 from the structure, which reduces the number of fasals from seven to six, also figures in the numerical structure. Furthermore, the number 9 is the exact midpoint of the sequence 6, 7, 8, 9, 10, 11, 12.

This additive symmetry is not unique to this structure. In Skeat's *Malay Magic* (pp. 555-558) three types of Malay magic squares are presented. A magic square is a square grid in which each cell of the grid contains a number starting with one and proceeding consecutively until all the cells of the grid are filled. The defining property of a magic

square is that the sums of each row and each column are equal to a constant. This constant is always equal to $\frac{n^3 + n}{2}$ where n is the order of the square (the order of a magic square is the number of cells along one side). Skeat presents a third, fifth, (c.f. Diagrams 3.5. and 3.6) and seventh order square. While there is only one third order magic square possible, the number of fifth order magic squares possible is not known but has been estimated as being more than thirteen million (Gardner, 1961, p. 108). Yet all of the squares presented by Skeat are symmetric, that is, the sum of pairs symmetrically opposite the center are equal to a constant.[20] In each case this constant is twice the value of the middle

6	1	8
7	5	3
2	9	4

Magic Square of 3
(after Skeat)

DIAGRAM 3.5

15	8	1	24	17
16	14	7	5	23
22	20	13	6	4
3	21	19	12	10
9	2	25	18	11

Magic Square of 5
(after Skeat)

DIAGRAM 3.6

cell. And furthermore, like the structure above, the constant is twice the value of the number occuring in the exact middle of the sequence. For the third order magic square this number is 5, for a second order square 13, and for a seventh order square 25.

In both of these cases the symmetric feature may be accidental. That is to say, the property may have been the consequence of another manipulation having an entirely different purpose. This problem of analysis is not unique to this particular feature. When numbers are manipulated in a bricoleurian manner it is often impossible to differentiate between antecedent and consequent structural features.

While Fasals 6 through 12 form a single structural block, there is one displaced fasal which is concerned with jujur marriage.

FASAL 24

This fasal has no distinct title. If a youth removes a maiden from her

village with the intention of marrying her and they have left the woman's village and then the woman dies suddenly it is called "tanpatoea". In this case the man must pay 24 rupia and any money related to the engagement is forfeited. If they have gone as far as the center of a main road (die tenga djalan Gedang) and the woman is seized by a tiger or simply dies the same rules apply. If, however, the woman has arrived at the village of the man but is not yet married and has not yet been followed by her relatives and she then dies it is called "tanpetoedja . . .?" In this case the man pays 40 rupia. If the woman has been followed by her relatives and she has been handed over to the inhabitants of the man's village and the assembled villagers have received ripe "sarho(?)", cut up chicken, as well as food and drink and she then dies it is called "tanpetoengoe". In this case the man pays a jujur of 80 rupia. If the woman has been married for one or two months and then dies suddenly it is called "maijang maijang". In this case the man pays a jujur of 120 rupia. If the woman dies while pregnant or as a result of childbirth it is called "matie ketingang maiang". In this case the man pays a jujur of 160 rupia. If the woman has brought any goods (barang) then the man must pay a fair price for them. If, however, it has been one or two months since the birth of the child and the woman then dies, the man must pay the jujur of 160 rupia with the "kries langkap" and the "tombak lepang lepoes" (c.f. Fasal 7).

This fasal presents the conceptual basis of jujur marriage. Indeed, the contents of this fasal relate more to the conceptual order than to the settlement of actual cases. It must be conceded that the probability of a woman being attacked by a tiger on the way to her wedding is relatively low.[21] The text presents five named categories, each of which is associated with a different amount of money to be paid when the woman dies in the specified circumstances. The sixth category is unnamed and repeats the amount of money given in the fifth category but adds two additional items. The first situation is death outside the woman's village but not in the man's village. The second situation is death in the man's village but before full incorporation into his village by the formal act of marriage. The third category is death just after incorporation into the man's village by marriage. The fourth category is death after marriage but before pregnancy. The fifth category is death during pregnancy or childbirth. The final category begins one or two months after childbirth.

The five distinct amounts of money have an interesting structure: 80, 60, 40, 20, and 12 reals. The first four terms of the sequence conform to a single rule: each term is twenty reals less than the previous one. However, the last term (twelve reals) does not conform to this rule. This recalls the *wang penurun* structure in which all of the amounts

listed except the last one conformed to a single rule. If the sixth category (80 reals + kris langkap + tombak lepang lepus) is considered as belonging to the pattern then neither of the extremities is governed by the rule that applies to the four central elements.

The most significant comparison between categories occurs when the third category is compared with the sixth. The third category is the turning point of the structure. In describing the money to be paid the word jujur is not used with the first two categories but is only applied to the last four. Thus the amount of 40 reals associated with the third category represents the first mention of jujur in this fasal. The value of 40 reals is exactly one half of the total jujur. This category occurs in the middle of the named situations. Thus one half of the full jujur is to be paid when the woman has been incorporated into her husband's village. That is to say, one half of the jujur must be paid after the woman has formally changed her residential affiliation. If the woman dies in childbirth the full amount of 80 reals must be paid. But only if she survives the birth of her first child must the full jujur plus the supplementary items be paid. The defining criteria of these two categories in which two aspects of full payment are indicated, are based on pregnancy and childbirth. This can be seen as providing progeny for her new home. Thus while one half of the jujur money is related to the change in residence the other half is related to descent considerations. When the woman has been surrendered to her husband's village only one half of the jujur must be paid if she dies. The other half is to be paid only if she dies after she has begun to produce descendants for her husband's family. Thus this fasal asserts that one half of jujur marriage is a matter of residence while the other half is a matter of descent. The other categories serve to partition this basic division into finer units. Those in the first half are concerned with the position of the woman both spatially and ritually in the process of transition from her own village to that of her husband. These categories in the second half are concerned with the status of the woman vis-à-vis the production of children. Curiously, the death or survival of the child is not considered to be relevant.

While the meanings of the five labelled categories are given in the text an examination of their linguistic properties provides additional insight to the structure. The basic linguistic distinction among the terms follows the structural division of the categories into two groups. Those categories concerned with residential placement all begin with the same initial letter grouping (i.e., "tanpa(e)toe . . .") . On the other hand, the

named categories concerned with the descent aspect of marriage contain the word "mayang". While only two of the three categories in this second group are named the pattern suggests that there may have been a sixth named term. This pattern recalls the structure of the marriage fasals. The simplest structure there involved the division of the six fasals (Fasals 7-12) into two groups of three. The basis of the division was a linguistic contrast between semendo and jujur. The strongest opposition between these two groups of three elements was located in the first element of each group. In the categories of Fasal 24 the basic division into two groups of three is indicated. However, the strongest conceptual opposition between these two groups is located between the last element of each group (i.e., between the third and sixth categories) instead of the first elements of each group. In the marriage fasals one was very weakly defined (i.e. Fasal 9). In Fasal 24 there is a parallel phenomenon. Instead of the last element of the first group being weakly defined, the first element of the second group is weakly defined. Indeed, the defining characateristics of the *mayang-mayang* category is only the lapse of time from the formal marriage ceremony and not any substantive event. However, the last element of the sequence of six elements in both cases involves a unification of the oppositions. Fasal 12, with its double descent implications, unites the matrilineal/patrilineal opposition aspects of the previous five fasals. In Fasal 24 the last category indicates that jujur is complete. Thus while some relational features are transformed others are invariant under transformation. In particular, the unifying aspects of the opposition are to be found in the last element.

The transformed aspects can be described as a rotation. In Diagram 3.7 the key features of the marriage structure can be represented. The opposition between Fasals 7 and 10 (A-D) and the weakness of Fasal 9 (C) are both present. By rotating the figure through 180° one gets the structure in Diagram 3.8.

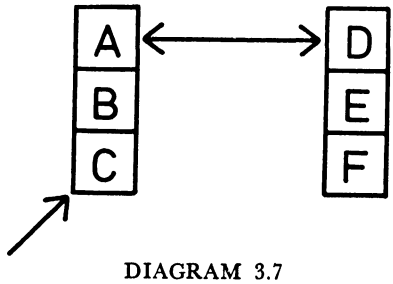


DIAGRAM 3.7

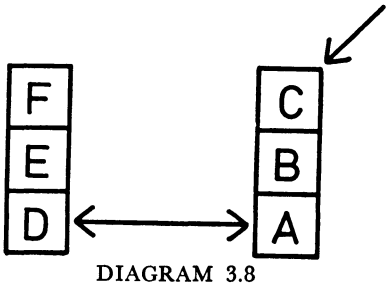


DIAGRAM 3.8

C becomes the weak *mayang-mayang* category and D-A becomes the opposition between residence and descent of the third and sixth categories of Fasal 24. The fact that the terminal position as unifying element is invariant under this transformation means that the last element of the Fasal 24 structure is simultaneously involved with oppositional features and unifying features of the structure.

While the linguistic features of the naming of categories underlies this structure, the etymology of the terms was not necessary. This is the same situation as in the marriage section proper. The derivation of the terms jujur and semendo was external to, and indeed irrelevant to, the structural analysis. However, in Fasal 24, the etymology of the various terms provides some, although very limited, additional information.

The first term in the second group "mayang-mayang" is a reduplication of mayang = palm flower. Helfrich (TLVK-H799, Hoofdstuk VI, Section IX, p. 68) reports that the word "mayang" is used to refer to a young married woman. The derivation of the fifth term is less clear (*matie ketingang maiang*). While *matie* = death and *maiang* = palm flower, the significance of "ketingang" is less clear. Helfrich (1927, p. 97) gives the meaning of "tinggang" as getroffen or geraakt (i.e., hit, touched, struck). Elsewhere, however, he classifies the word "tenggang" as having an unknown meaning (Helfrich, 1927, p. 125). Wilkinson (1932, Vol. II, pp. 591 and 566; 1959, pp. 1225 and 1200) gives the meaning of "tinggang" = "tenggang" as co-operate, assist, advise. Von de Wall (Vol. I, p. 371) gives a similar meaning for "tinggang" with special reference to West Sumatra. Van den Toorn (1891, p. 86) gives the root meaning of "tenggang = tinggang" as middel, list, raad (means, subterfuge, advice). Interestingly, Helfrich gives three Passumah terms involving the word mayang for the death of a married woman. "Koele memajang" is given for a married woman who dies before coitus. "Di timpe majang" is given for a woman who dies in her first pregnancy. "Mayang laloe" or "mayang begris" applies to a woman who dies in her first childbirth (Helfrich, 1921, p. 25 f.; Helfrich, 1926, p. 201 f.; Helfrich, TLVK-H799, Hoofdstuk VI, Section IX, p. 68). While these categories are more clearly defined than those occuring in Fasal 24 of the Sungai Lemau laws, their insertion in the text would destroy the fundamental features of the fasal. First, the weak element would vanish from the structure. Secondly, the completeness aspect of the terminal element would be diminished.

The derivation of the first three terms is more speculative. The

second portion of two of these terms can be readily identified: *toea* = old and *toengoe* = watch, guard, wait, reside. This sugests that the first portion of these three terms is either *tanpa* or *tanpat*. While the Javanese word *tanpa* (= without) is used in both modern Malay and Indonesian, it is not listed in Helfrich's dictionary of Middle Malay and does not yield a particularly meaningful translation in this context. However, by equating *tanpat* with *tampat* (c.f. Marsden's Dictionary, 1812, p. 83) = tempat, two of the terms can be derived: *tanpatoea* = the old place and *tanpetoengoe* = the place of residence. The meaning of the remaining term is more difficult to derive because the text itself is unclear, thus making further speculation difficult and hazardous. While these etymologies may be seen as supporting the structural analysis, their validity or lack thereof does not effect the structural analysis. The structural analysis of the fasal was used to derive the etymologies of these terms and not the reverse.

Fasal 24 completes the sequence begun by Fasal 6. Fasal 6 presents two forms of marriage by discussing two forms of residence. Fasal 12 indicates that there may be two forms of descent occurring simultaneously. Fasal 24 presents the relations between the concepts of descent and residence in one form of marriage. However, while Fasal 6 mentions both jujur and semendo marriage, Fasal 12 is only concerned with semendo marriage and Fasal 24 is concerned only with jujur marriage. These are the only marriage fasals in which two principles are simultaneously suggested or discussed.

Fasal 24's separation from the other marriage fasals can be explained numerically. Six and twelve are the first two terms of a sequence. The number twenty-four is a continuation of this sequence. Indeed six, twelve, and twenty-four are the numbers of the wang penurun sequence. While the contents of Fasals 6, 12, and 24 discuss double principles the numerical progression from one fasal to the next involves a doubling of the numerical value of each fasal in the sequence.

This structure not only uses the number six but continually exploits the properties of six and its multiples. As a number, six has a variety of interesting properties. Six is the equal to the sum of the first three integers (i.e., $1 + 2 + 3 = 6$). According to the ancient Greeks a number with this property was a triangular number, as opposed to a square number like four. (The next triangular number is ten (i.e., $1 + 2 + 3 + 4 = 10$)). Six is also the product of the first three integers (i.e., $1 \times 2 \times 3 = 6$). Thus, it is a factorial number. Significantly, the next factorial number is twenty-four (i.e., $1 \times 2 \times 3$

$\times$ 4 = 24). Six is also what the Greeks referred to as a perfect number. A perfect number is one whose factors other than the number itself add up to the number. That is, six is divisible by one, two and three, which add up to six. Six is the smallest perfect number. Twenty-eight is the next perfect number, i.e., 1 + 2 +4 + 7 + 14 = 28. The third and fourth perfect numbers are 496 and 8128. While it is unlikely that all of these properties of six were known to or used by the people of South Sumatra, it is equally unlikely that all of these features would remain unnoticed.

Fasals 13-15

Returning to the main fasal sequence, Fasals 13, 14 and 15 form a distinct structural unit. These three fasals deal with the crimes of murder, wounding, and theft. The structure of the law is such that these fasals are only concerned with compensation and not punishment.

FASAL 13

Fasal 13 begins with the phrase "Hoekoem orang bersala djikaloe *mamboenoe Passira*" (the law concerning a person who is guilty when he kills a Passira). If a Passira is murdered while in office his bangun is 500 rupia. Additionally, one buffalo and 100 measures of rice with spices must be given as "tepoeng bomie tepoeng mata harie" (meal of the earth, meal of the sun). The bangun of a Pembarab is 300 rupia and that of a Proatin[22] 200 rupia. In both of these cases the "tepoeng boemie tepoeng mata harie" is also given. If the Passira is not in office then his bangun is the same as that of a Pembarab. If a Pembarab is not in office then his bangun is the same as that of a Proatin. If a Proatin is out of office then his bangun is the same as that of a commoner.[23] The bangun of a commoner is 160 rupia plus a buffalo, and 100 measures of rice with the appropriate spices. The "adat kapala bangun" (the custom of the head of the bangun) is 40 rupia. This amount is divided between the Regent and the Passira. If there is no Passira in the marga concerned then the amount goes entirely to the Regent.

The bangun is based on four ranked categories: Passira, Pembarab, Proatin and commoner. If the title holders are out of office then one drops one rank to find the correct bangun. The statuses represented by the four categories are the same as that for the wang penurun given in Fasal 7. Further, the structure of the numerical sequence is exactly the same as that for the wang penurun. The bangun of the three title holders conform to a single rule while the fourth amount is not part of the sequence.

The first three amounts are 250, 150, and 100 reals. The sequential relationship between these numbers is the same as that for the wang penurun, i.e.:

$$t_n = 2t_2 (1 - 2^{2-n} + 2^{1-n}) - t_1 (1 - 2^{2-n})$$
Let $n = 3$; $t_1 = 250$; $t_2 = 150$
$$t_3 = 2 (150) (1 - 2^{2-3} + 2^{1-3}) - 250 (1 - 2^{2-3})$$
$$t_3 = 300 (1 - 2^{-1} + 2^{-2}) - 250 (1 - 2^{-1})$$
$$t_3 = 300 (3/4) - 250 (1/2)$$
$$t_3 = 225 - 125$$
$$t_3 = 100 \text{ Q. E. D.}$$

The use of this relation here indicates the importance of the general form of the rule. The bangun and wang penurun are not directly comparable using the obvious halving rule that is explicit in the wang penurun sequence of 24, 12, and 6. Further, the fact that the lowest element of the enumeration does not belong to the sequence established by the other elements is indicated as being a general principle in this law set. (It occurs in Fasals 7, 13, and 24). This suggests an alternative interpretation of the structural pattern of the three fasal structure that divides the law into sections. The third fasal is not related to the first two as these two are related to each other. This can be generalized by saying that the *last* element of a sequence is not related to the previous elements in the same way that these elements are related to each other. Phrased in this manner the fasal pattern is the same as that of the numerical structure contained in Fasals 7 and 13. Furthermore, phrased in these general terms, the structural behaviour of Fasal 12 may be better explained. Fasal 12 is the last of a three element sequence (the semendo fasals) and thus its structural behaviour differs from that of Fasals 10 and 11. However, it is also the last element of a second sequence, i.e., the entire marriage section initiated by Fasal 6. Thus the structural behaviour of Fasal 12 is related to the fact that it is the last element of not one but of two sequences.

The amount of 80 reals as the lowest bangun does not participate in the internal structure of this fasal but is externally related to other elements in the law. The lowest possible bangun is equivalent to the amount of the jujur as specified in Fasal 7. This association between the value of a murdered person and the value of a woman's bride-price occurs frequently in South Sumatran legal codes. A second external connexion of this amount relates to Fasal 14.

FASAL 14

Fasal 14 begins with the phrase "Djikaloe *maloekakan orang*" (If wounding a man). If the wounded person is severely disabled (e.g., if he is blinded or his legs are broken) so that he is unable to earn a livelihood it is called "buta kakap". In this case the pampas is one half of the bangun or 80 rupia plus a goat. If the wounded person is blinded in only one eye and/or his body is wounded it is called "tjango bartjie-laka". In this case the pampas is 40 rupia plus a goat. If the person's fingers are broken, his teeth loosened, or his head wounded, it is called "koekoe kekek roenggang bilang". In this case the pampas is 24 rupia plus a goat. If an ear is perforated or the wound is to the hand, body or calf, and the wound does not belong to one of the more severe categories, i.e., not severely disabled, it is called "loembang gemawang". In this case the pampas is 16 rupia, a measure of white cloth, and an offering of betel. If the person who is struck is not wounded (luka) but there is a visible bruise it is called "hiram tida bardosa". In this case the pampas is 16 rupia plus a measure of white cloth and an offering of betel. When there is only a little blood or a small bruise it is called "kasiegar koelit koealit koelit". In this case the pampas is 12.50 rupia. And if the money paid is below 12.50 rupia it is called "setapoeng setawar".

One of the most interesting aspects of this fasal is the structure of the relationships among the categories. There are six named categories, requiring the payment of the pampas, each associated with an amount of money. However, there are only five distinct amounts of money, the fourth and fifth being equal. This recalls the pattern of Fasal 24 where there were six categories but only five named and only five distinct amounts of money. In Fasal 24, however, it is the fifth and sixth amounts which are the same. Like the categories of Fasal 24, the pampas categories form two groups of three. The marker of the categories in this case is neither numerical nor linguistic but related to the supplementary items associated with the money of the pampas. In the first three categories a goat must accompany the money. In the first two of the last three categories the supplement is a measure of white cloth and an offering of betel. For the last category there is no supplementary item listed. The behaviour of these markers is exactly the same as in Fasal 24. In both cases the first three categories share a common marker, but only the first two of the second three categories share a common marker. In both cases the marker is not present for the final category. In addition to linking the two structures this also illustrates the basic principle that the final element of a sequence behaves differently than the rest.

In the oppositional structures of both Fasal 24 and the marriage section, one pair of elements formed the basic opposition between the two categories. In Fasal 14 such a structural relation also exists but the numerical structure of the sequence of amounts must be examined before this structure can be presented.

The enumeration of amounts is 40, 20, 12, 8 and 6¼ reals. The middle three elements of this enumeration form a sequence that conforms to the formula for the wang penurun and bangun amounts.

$$t_n = 2t_2\ (1 - 2^{2-n} + 2^{1-n}) - t_1\ (1 - 2^{2-n})$$
$$n = 3;\ t_1 = 20;\ t_2 = 12$$
$$t_3 = 2\ (12)\ (1 - 2^{2-3} + 2^{1-3}) - 20\ (1 - 2^{2-3})$$
$$t_3 = 24\ (3/4) - 20\ (1/2)$$
$$t_3 = 18 - 10$$
$$t_3 = 8 \text{ Q. E. D.}$$

While in other enumerations it was the last element that did not conform to the rule for the sequence, here both the first and last terms do not conform to the rule. While in the bangun amounts the last term was externally determined, here the first and last terms follow the pattern prescribed by Fasal 26 of the *Code of Laws,* There it is stated that the maximum pampas is one half the bangun. In Fasal 14 of the Sungai Lemau Laws the same expression is used but the amount here is 40^{24} instead of the 50 reals of the *Code of Laws.* Furthermore, the *Code of Laws* specifies that the minimum amount of the pampas is 6¼ reals. The *Code of Laws* also indicates that if the amount is below 6¼ reals it is called "tepung sitawar", thus explaining the last phrase of Fasal 14 of the Sungai Lemau text.

This use of the rules of the *Code of Laws* does not preserve the structural relationship between highest and lowest pampas payments. The ratio of 50 to 6¼ reals is eight to one or three successive divisions by two. While both upper and lower limits of the pampas are externally determined the lowest amount comes surprisingly close to following the the rule governing the middle three elements.

$$t_n = 2t_2\ (1 - 2^{2-n} + 2^{1-n}) - t_1\ (1 - 2^{2-n})$$
$$n = 4;\ t_1 = 20;\ t_2 = 12$$
$$t_4 = 2\ (12)\ (1 - 2^{2-4} + 2^{1-4}) - 20\ (1 - 2^{2-4})$$
$$t_4 = 24\ (1 - 2^{-2} + 2^{-3}) - 20\ (1 - 2^{-2})$$
$$t_4 = 24\ (1 - 1/4 + 1/8) - 20\ (1 - 1/4)$$

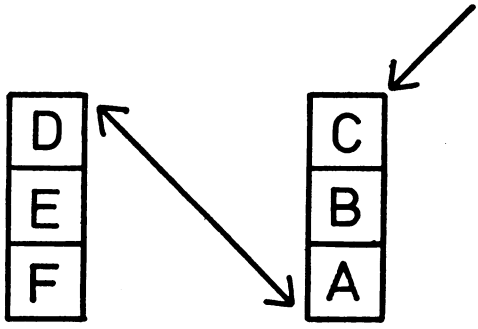
$t_4 = 24\ (7/8) - 20\ (3/4)$
$t_4 = 21 - 15$
$t_4 = 6$

Thus the difference between the value obtained by extending the sequence by one term and the value actually used in the text is one quarter of a real or one suku.

The analysis of the numerical structure indicates that the basic opposition between the two groups of three categories resides in the opposition of the initial and final element. In both the marriage structure and in Fasal 24 one of the categories appeared to be weakly defined. In Fasal 14 the first category of the second group of three elements is the least well-defined. It acquires its definition by involving a wound which is not as severe as certain wounds previously mentioned even though the place of the wound may be the same. In practical terms, it would be difficult to isolate this element from some of the elements in the first group of three categories.

This structure can be directly compared to the structures of the marriage section and Fasal 24 as presented above.

DIAGRAM 3.9



Using the rotation metaphor previously employed, this is a transformation on the structure of Fasal 24. The block D-E-F is rotated through 180° about the center of the block. While these structures may be described as transformation by rotation, another parallel description would involve evoking a bricoleurean manipulation of the relationships between the two groups of three elements while keeping certain features invariant. The basic rule of the structure is that the elements that unite to form the basic opposition as well as the weakest category must occur at the beginning or at the end of a group of three elements. The most important negative feature is that the middle element in each group

of three elements is not allowed to define the relationship between the two groups.

FASAL 15

Fasal 15 is entitled "Djikaloe orang *mantjoerie karbaúw* atoúw barang[24]" (If a person steals buffaloes or property). If a person is found in illegal possession of stolen property he is subject to the "pulang undang",[25] that is, the value of the stolen goods is returned twofold (lipat).

The Structure of Fasals 13-15

Fasal 15 presents a simple statement of the rule governing theft. It is distinct from Fasals 13 and 14 in that no specific values for compensation are listed and consequently no sequential relations exist. Furthermore, while Fasals 13 and 14 share the common use of a sequential rule, a third sequence can be developed that cuts across the fasal boundary that divides Fasals 13 and 14, thus reinforcing their structural cohesion. The last amount mentioned in Fasal 13 is eighty reals. The first amount mentioned in Fasal 14 is explicitly one half this amount or forty reals. This explicit and obvious link is reinforced by the creation of another three element sequence. The second element of the enumeration in Fasal 14 is twenty reals, thus forming the sequence of 80, 40, 20 which is governed by a special case of the rule used for the other sequences in these two fasals.[26]

$$t_n = t_1 (2^{1-n})$$
$$n = 3 \text{ and } t_1 = 80$$
$$t_3 = 80 (2^{1-3})$$
$$t_3 = 80 (2^{-2})$$
$$t_3 = 80 (1/4)$$
$$t_3 = 20 \text{ Q. E. D.}$$

Thus, Fasals 13 and 14 are bound together by certain structural features and a similarity of patterning that neither of them share with Fasal 15.

Fasals 13, 14 and 15 are exclusively concerned with compensation. The principles discussed are the three basic rules for compensation in criminal matters in South Sumatra, i.e., bangun, pampas, and lipat. Furthermore, all references to fines being associated with these principles of compensation are omitted. This exclusive concern with matters of compensation is further underscored by the fact that Fasal 22 presents the fines associated with theft. Following the pattern of displacement

in the marriage fasals, the last fasal of a sequence forms the link to the displaced fasal. In the marriage fasals it is Fasal 12, the last fasal of the semendo and marriage section as a whole, which forms the link to Fasal 24. In the fasal sequence dealing with legal compensation for criminal acts the last fasal (Fasal 15) refers ahead to Fasal 22. If the partition of the fasals into groups of three is extended one finds that Fasals 22, 23, and 24 form a single unit. Thus both of the fasals that are displaced from other portions of the law are to be found in the same block of fasals. It is worth noting that these two fasals are at the extremities of the grouping.

FASAL 22

Fasal 22 has no distinct title. A person who is found guilty of stealing paddy is fined 40 rupia. A person who steals a buffalo or other goods is fined 24 rupia. A person who steals chickens is fined 10 rupia. If the theft is only a very minor one, the fine cannot be less than 4 rupia. If a person is found guilty of robbery he is fined 40 rupia.[27]

The amounts of the fines presented here do not conform to the sequence rules used elsewhere in this law. However, as numbers in isolation they are not unique to this fasal. The first two numbers (20 and 12 reals) are part of the pampas sequence, and occur as a pair in Fasals 18 and 24. Five reals is the minimum tali kulo and two reals is the minimum wang penurun. While no major significance should be attached to these observations, it is worth noting that certain numbers are continually re-used even if the structural relations often associated with these numbers are not universally employed. The dissociation of Fasal 22 from Fasal 15 serves to establish the fact that Fasals 13, 14, and 15 are exclusively concerned with compensation as opposed to punishment.[28]

FASAL 16

Fasal 16 is entitled "sebab orang *manjamoen* atoúw die doessoen atouw die *Talang* atouw die roema *Ladang*" (concerning robbery either in a village or in a hamlet or in a house which is located in the dry farmed fields). If the robber is caught with the goods (barang) in his hands, the goods are subject to the "pulang undang" (i.e., the goods must be returned twofold). The person is brought before the court which decides his punishment. If the accused is wounded or killed while resisting arrest and he is found to be guilty of robbery the matter rests there (i.e., no pampas or bangun can be claimed).

Samun as a legal concept means robbery as opposed to theft. It is

the stealing of property from a person involving the use of violence. In Minangkebau law one finds "*samun-saka*" as one of the *undang-undang nan selapan* (the eight laws). In this context a distinction is made between *samun* (= robbery accompanied by premeditated murder) and *saka* (= robbery accompanied by premeditated wounding) (Van Hasselt, 1882, p. 232). In this text, however, no distinction is made between these two concepts. The implication is that samun means robbery with violence in general.

In the block determined by Fasals 13, 14, and 15 there is a structural opposition between Fasal 15 and Fasals 13 and 14 taken as a single unit. Fasals 13 and 14 involve crimes committed against persons, i.e., someone is killed or wounded. Fasal 15, on the other hand, involves a crime committed against property, i.e., an object is stolen. This important conceptual opposition is parallel to the structural opposition determined by other principles. In Fasal 16, however, this distinction is less clear. A person is assaulted and his property stolen simultaneously. For the act of stealing the rule of Fasal 15 is applied, i.e., pulang undang. But for the act of assault the decision on the appropriate punishment is left for the court to decide. Thus Fasal 16 suggests a merging of the categories of Fasals 13, 14, and 15. However, the subsequent analysis indicates a slight bias in favour of the crime against persons aspect of samun.

FASAL 17

Fasal 17 begins with the phrase "kaloe *manjamoen* orang die djalan" (if a person robs someone on a road). If one or two persons commit an act of robbery on a road the rules of Fasal 16 apply (sepertie terseboet dalam passal 16e djoega).

The sole difference between Fasals 16 and 17 is the location of the crime in space. The opposition is between inhabited and uninhabited areas. In other words, the space between or connecting villages is opposed to the villages themselves. This concern with the location of an activity in a well-defined spatial context is a common theme in this law. The opposition between semendo and jujur was phrased in terms of the location of the marriage in space. Similarly, the first half of Fasal 24 reflects a similar preoccupation with spatial location. However, Fasal 17 has no substantive content and functions as a structural filler. That is, it preserves the integrity of the numerical pattern and participates in a number of important structures but virtually has no content. Fasals 16 and 17 conform to the general structural pattern of

the blocks of three fasals. The first two fasals of a block must be closely related. Here the common element of samun unites them. On the other hand, the first two fasals of a block must be opposed or at least contrasting. In this case the opposition is based on the location of the crime. However, there are no legal consequences deriving from this opposition. Thus the opposition is an opposition created for its own sake. It is the opposition that allows two fasals, and consequently two structural spaces, to be filled. Further, the opposition creates a two element structural unit at the beginning of a three element sequence. This follows the general pattern and allows the comparison and linking of samun to Fasals 13 and 14 (killing and wounding) which suggest that samun is more a crime against a person than against property. However, all of the functional attributes of the opposition between Fasals 16 and 17 are based on the form of the opposition and not the content. This indicates that at least in some cases the demands of the form of a structure take precedence over the substantive content of the structure, as is the case with Fasal 24.

FASAL 18

Fasal 18 is entitled "Die atas perkara *mamangang Roema*" (concerning the burning of houses). If a person accidentally sets fire to his own house and the fire spreads to other houses within the village (dusun), with the result that several or even all of the houses in the village are burnt, the person is said to be the "pokok apie" (the beginning of the fire) and he must pay 40 rupia, a buffalo, and 100 measures of rice. If the fire occurs in a hamlet (talang) with at least five houses and an established agricultural base he is obliged to pay 24 rupia, a goat and spices.

The subject of this fasal can be described as accidental arson.[29] The first two fasals of this group of three elements cover crimes against an individual with an associated crime against property. Fasal 18, however, concerns a crime against property with an implication of an associated crime against individuals or families. A house is a special category of property with a very strong association to persons. In particular there is a strong association between houses and descent lines. The main internal opposition associated with this fasal is based on the location of the accident (dusun versus talang). This opposition within Fasal 18 parallels the opposition between Fasals 16 and 17.

The Structure of Fasals 13-18

Fasal 18 concludes a sequence of six fasals which began with Fasal 13.

Its isolation from the unit formed by Fasals 16 and 17 follows the normal three fasal structural pattern. While certain features of the fasal, in particular the aspects of spatial location of the activity, suggest a relation with Fasals 16 and 17, this relationship is at best a vague one. With regard to certain other features Fasal 18 is more closely associated with the first two fasals of the six element sequence. Fasal 18 is explicitly concerned with an accidental act. Fasal 13 deals with the killing of a person. While the *Code of Laws* makes a distinction between wilful killing and accidental killing, no such distinction is made here. Thus Fasal 13 could be concerned with an accidental act. A similar observation can be made about Fasal 14, i.e., the wounding of a person could be either accidental or intentional. However, it is difficult to conceptualize an accidental theft and virtually impossible to conceive of an accidental robbery. Thus Fasal 18 could be easily placed in the position occupied by Fasal 15. Similarly, Fasal 15 could be substituted for Fasal 18 with the result being that Fasals 16, 17, and 18 would deal with the closely related crimes of robbery and theft. And further, the crime of theft would occur at the end of the sequence of six fasals and the reference to the displaced fasal (Fasal 22) would conform more to the pattern of the marriage section. The fact that the authors created the pattern that they did and did not use this alternative serves to elucidate the structure as presented in the text.

Fasal 18 associates itself with the beginning of the six element sequence as well as with the beginning of its own three element sequence. This helps to isolate these six fasals as a single structural unit. Fasal 15, dealing with simple theft, needs to be introduced before the more complex crime of robbery with violence. However, the crime most closely related to theft, i.e., samun (robbery) is placed immediately after Fasal 15. Indeed, Fasals 15, 16, and 17 can be seen as a three element sequence in the middle of a six element structure. This sequence, however, is the reverse of a normal three element structure. The single element (theft) comes at the beginning of the sequence while the paired elements occur at the end of the sequence instead of at the beginning where they would occur in a normal three element sequence. This structural phenomenon, which overlays and cuts across another structural pattern, is similar if not identical to the sequential structure that links Fasals 13 and 14. In Fasal 13 the last element of a numerical enumeration becomes the first element of a three element sequence which is continued across the fasal boundary into Fasal 14. By abstracting this relationship one finds that one element of a three element

structure occurs on one side of a structural boundary while the other two elements of this structure occur on the other side of the boundary. This description also applies to the relationship between Fasals 15, 16, and 17. The existence of a structure generated by Fasals 15, 16, and 17 indicates that Fasals 13, 14, and 18 form a complementary structural unit. The conceptual opposition between these two structures is between acts that might be accidental and acts that are clearly intentional. Thus the six element structure determined by Fasals 13, 14, 15, 16, 17, and 18 follows the division into two three element structures of the two plus one pattern suggested by the marriage section. However, two secondary and complementary structures cut across this simple three plus three pattern, thus consolidating the six fasals into a tightly bound structural unit.

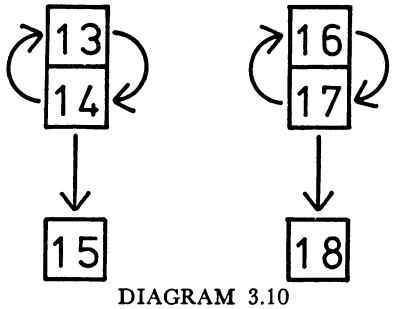


DIAGRAM 3.10

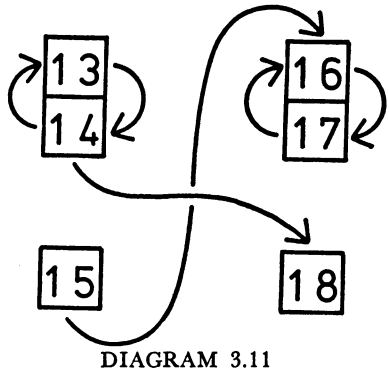


DIAGRAM 3.11

Fasal 18 occurs at the end of a six element structure. From the structure of the marriage section it is reasonable to expect that an element in such a position would possess some special features vis-à-vis the other fasals in the structure. The phrasing of the fasal indicates that accidental arson is a crime against the community. In particular, the hamlet or talang is defined as possessing at least five houses. That is, for these rules to apply a minimal community is necessary. This is the only fasal of the structure that deals explicitly with an act against the community. A second important feature relates to the number eighteen itself. The marriage structure was based on the 6, 12, 24 sequence which, if viewed in reverse order, conforms to the special case represented by the rule $t_n = t_1 (2^{1-n})$. However, the numbers 6, 12, and 24 are all multiples of six. Eighteen is the only other multiple of six which occurs as a fasal number in the laws. At a primary structural level Fasal 18 clearly has nothing to do with this sequence. However, at a more secondary level there is the vaguest hint of relationship. Houses are one of the concrete manifestations of descent lines. Thus,

perhaps the strong sanction against even accidental house burning relates to the possibility that destroying a house is associated with the destruction or interruption of a descent line. The other fasal that is displaced from the marriage section (i.e., Fasal 24) places considerable emphasis in its first portion on the location of the woman when she dies. As was noted above, the location of the crime plays an important role both in Fasal 18 and in the primary three element structure of which it is a part. Thus, Fasal 18 carries at least a hint of a possible relation to the 6, 12, 24 marriage sequence that can neither be discarded as totally irrelevant nor accepted as being of fundamental structural importance.

Fasals 19-21

Fasals 19, 20, and 21 form a distinct structural unit. However, the basic pattern of the three element structure has altered. In this and the following three element group the basic structure involves an opposition between the center and extremities. In both groups this structure is externally determined.

FASAL 19

Fasal 19 is entitled "Diatas orang *pandjingan*" (concerning persons who fornicate). If a married man fornicates (panjingan) with the wife of another man, she becomes pregnant, and it is clear that the child is not her husband's, it is called "patie tiada baroerib". In this case the man is killed. If a married man fornicates with a maiden and the maiden becomes pregnant and the man acknowledges (mengaku) his role in the affair, they are married and both persons fined. The same rules apply for relations between a youth and a maiden, between a married man and a widow, and finally, between a youth and a widow.

Wilkinson (1932, Vol. II, p. 210; 1959, p. 844) gives the definition of *panjing* for the Palembang region as "to become a domestic slave of the ruler, of an unmarried woman when found pregnant and unwilling to give the name of her seducer". This recalls the notion of *andam* found in Fasal 19 of the *Code of Laws.* In nineteenth century legal texts originating in the Bengkulu region, the term panjingan is used to refer either to fornication leading to pregnancy or to the fines imposed on people found guilty of such fornication. The principle found in the Wilkinson definition of the woman refusing to name her seducer is not a distinctive marker in these texts. Here the term panjingan applies whether the man is known or not. However, the question of whether the man is known or not does effect the amount of the fine. While this fasal mentions the existence of fines, the only punishment specified in

detail concerns a married man who fornicates with another man's wife.

FASAL 20

Fasal 20 is entitled "Hoekoem orang dapat *sala dalam belakie*" (the law concerning adultery). If the participants were not killed having been caught *in flagrante,* they are condemned to death provided there is sufficient evidence. The judge is empowered to release the guilty parties from the death sentence, but they must pay the "tebos njawa" of 200 rupia for the man and 200 rupia for the woman. If they do not pay this sum, the judge can hand down whatever punishment he thinks appropriate.[30] The same rules apply for a youth who fornicates with a virgin, i.e., they are married and fined. The fasal concludes with the enigmatic phrase "atoúw dengan anak lakie orang".

The meaning of the first portion of this fasal is clear. It is an elaboration upon the first situation described in Fasal 19, i.e., what happens when a married man fornicates with another man's wife. The final portion of the fasal is less clear. It is no more explicit than Fasal 19 on the illicit sexual activities of youths and maidens; and further, the full explanation of this material is finally presented in Fasal 21. The final phrase of the fasal is enigmatic and totally out of context, suggesting that this phrase and possibly the preceding passage is confused by a scribal error. While the contents of the fasal are not entirely explicit, the structural position of the fasal is clear. Its position as Fasal 20 of the Sungai Lemau laws is based on the fact that the same material is to be found in Fasal 20 of the *Code of Laws.* This interpretation of the structural significance of Fasal 20 is reinforced by Fasal 21.

FASAL 21

Fasal 21 is entitled "Sebab *denda* satoe perkara diatas orang pandjinganan" (concerning the fines of a case of persons fornicating). If a youth and a maiden are paired and the maiden is pregnant, the man and woman are fined 20 rupia each. Together they must also give a buffalo as "Tepoeng Boemie". They are then married. The fines are divided in two: 20 rupia go to the Regent and 20 rupia plus the buffalo go to the Proatin(s). The Proatin's 20 rupia is shared with the Passira and the people of the marga. The buffalo is butchered and eaten collectively. If the fornication involves a widow and a youth, a widow and someone's husband, or a widow and a widower, and the man accepts the act as his own, the man and woman are each fined 10 rupia and must also give a buffalo and one hundred measures of rice. This is divided between the Regent and Proatins as indicated above. If a maiden is guilty of fornication and the man does not acknowledge his responsibility, the woman is fined 80 rupia and a buffalo and the man must swear an oath

professing his innocence. For a widow,[31] rather than a virgin, the fine is 40 rupia and a buffalo. If a youth rapes a maiden (marampas anak gadies dan anak gadies itoe tida mahoe), he is fined 24 rupia. If a youth elopes (malarikan) with a maiden and she is taken to his house and immediately becomes pregnant it is called "mantjoerie ikan dalam kamboe" (stealing the fish in a fish basket). In this case the youth is fined 24 rupia and a goat. At this point the fasal contains a most curious phrase: "dan demikian djoega kaloe lakie[2] itoe pigie karoema betina" (literally, and thus also if the man goes to the house of a female animal (pejoratively woman =? prostitute)).[32] The fasal concludes with the provision that all the fines are divided according to the pattern presented earlier in the fasal.

The amounts of the fines are based on two fundamental oppositions. The first opposition is between meranda and gadis, i.e., between a woman who has been married and a woman who has never been married. In a given category of the second opposition the amount for a maiden (gadis) is twice that for a widow (meranda). The second opposition is between "berlawan" and "tidak berlawan" (literally, opposed versus unopposed). With reference to panjingan, "tidak berlawan" means that there is no man legally recognized as being responsible for the woman's pregnancy. In a given category of the first opposition the amount for "tidak berlawan" is either twice or four times that for "berlawan", depending on the mode of analysis. From these two oppositions four categories are generated.[33] There are two possible approaches to the analysis of the amounts of the fines. One approach involves the analysis of the total amount of the fines subject to division. Thus the amounts of the fines on the man and woman in berlawan categories are summed and treated as a single amount.

	meranda	gadis
berlawan	10 reals	20 reals
tidak berlawan	20 reals	40 reals

Following this approach, in a given category of the meranda/gadis opposition, the tidak berlawan amount is twice that of the berlawan amount. The sequence of amounts 10, 20, and 40 reals conforms to the special case of the general rule for sequences so frequently used in this law.

$t_n = t_1 (2^{1-n})$

$t_1 = 40$ and $n = 2$

$t_2 = 40 (2^{1-2})$

$t_2 = 40 (2^{-1})$

$t_2 = 40 (1/2)$

$t_2 = 20$

$t_1 = 40$ and $n = 3$

$t_3 = 40 (2^{1-3})$

$t_3 = 40 (2^{-2})$

$t_3 = 40 (1/4)$

$t_3 = 10$

While there are four categories, there are only three amounts. Thus two categories are assigned the same amount. The amount that is assigned to two categories is the middle element of the sequence, thus suggesting a structural opposition between center and extremities. The equation of two categories to a single amount suggests that the category in which an unmarried maiden is pregnant and the man responsible is legally recognized is at least formally equivalent to the category in which the unmarried widow is pregnant but there is no man recognized as legally responsible.

A second approach involves the analysis of the fines that the woman alone must pay. In this mode of analysis no summing is necessary and the numbers are used as presented in the law.

	meranda	gadis
berlawan	5 reals	10 reals
tidak berlawan	20 reals	40 reals

Following this approach, in a given category of the meranda/gadis opposition the "tidak berlawan" amount is four times that of the "berlawan" amount. The sequence of amounts adds one term to the sequence derived from the first approach. This additional term conforms to the same sequence rule as used above.

$t_n = t_1 (2^{1-n})$

$n = 4$ and $t_1 = 40$

$t_4 = 40 (2^{1-4})$

$t_4 = 40 (2^{-3})$

$t_4 = 40 (1/8)$

$t_4 = 5$

Here there are four distinct amounts and four categories. From a strict formal viewpoint, it is this feature that makes this the more satisfactory of the two approaches. However, in all probability the first approach comes closer to the native model. First, the numerical sequence contains only three terms. In the other numerical sequences in this law that conform to the general sequence rule there is a strong preference for three element sequences. Secondly, the three element sequence leads to a structural opposition between center and extremity. The structure of the three fasal block in which this fasal is located also takes this form, thus recommending the first approach.

The Structure of Fasals 19-21

The degree of continuity between Fasals 19 and 21 is so strong that it is virtually impossible to create a structural opposition between these fasals. While Fasal 19 discusses fornication between a married man and another man's wife, a case which is not mentioned in Fasal 21, and Fasal 21 presents certain additional material not discussed in Fasal 19, the degree of overlap between the two fasals is considerable. This lack of opposition is all the more striking when one recalls the artificially contrived opposition between Fasals 16 and 17. If it were not for the presence of Fasal 20 in the middle, one would be tempted to say that Fasals 19 and 21 were two parts of a single fasal. Thus the continuity of content between Fasals 19 and 21 is interrupted by the intrusion of Fasal 20. The position of Fasal 20 is based on the fact that this fasal was Fasal 20 of the *Code of Laws.* This creates the impression that Fasal 20 was inserted in the middle of a single conceptual unit, thus creating a structural opposition between center and extremity. When this type of structure was used in the *Code of Laws,* the center functioned as an insulator between two opposed extremities. Here, however, the extremities are not opposed; on the contrary, they are closely bound together. This indicates a reversal of the phenomenon found in the *Code of Laws.* Fasals 19 and 21, the extremities, function as insulators, thereby isolating Fasal 20 (the center) from the other fasals.

Fasals 22, 23 and 24

Fasals 22, 23, and 24 form the last three element group in this law set. The pattern of this group is determined by purely structural considerations and is totally independent of the content of the various fasals. This structure, like that of the previous three element group,

involves an opposition between the center and the extremities. Fasal 22 presents the fines associated with theft and was discussed previously in association with Fasal 16. Fasal 24 presents the details of the amount of the jujur to be paid if the woman dies before the marriage transaction is considered to be completed. Fasal 24 is closely associated with the marriage section in general and Fasal 12 in particular. Thus both of these fasals are associated with fasals outside the three element group. With reference to their content they have so little in common that they can be neither opposed nor considered as a single unit. However, the fact that they both are structurally related to fasals outside the group of three elements serves to create a basis of unity that structurally opposes these fasals to the middle element of the group: Fasal 23.

FASAL 23

Fasal 23 is entitled "Dan diatas *beijo bitjara oetang pioetang*" (and on the legal costs of court cases involving debts and credits). In major cases the costs are 5 rupia. In minor cases the costs are 1.25 rupia. These fees are shared among the persons who sit as judges.

The Structure of Fasals 19-24

This fasal is neither conceptually related to nor opposed to the other fasals of the group in which it is located. Furthermore, it is not specifically associated with any other fasal in this law set. Thus Fasal 23 is structurally opposed to the other two fasals of the group. This structural relation can be abstracted in the following manner: fasals associated with other fasals outside the three element group are opposed to those fasals without such associations. While Fasals 22, 23, and 24 conform to this statement, they are not unique in this respect. The same rule may be applied to Fasals 19, 20, and 21. However, in the group made up of Fasals 19, 20, and 21, the center fasal is the one with external associations, while in the group made up of Fasals 22, 23, and 24, the fasals in the extreme positions are those with external

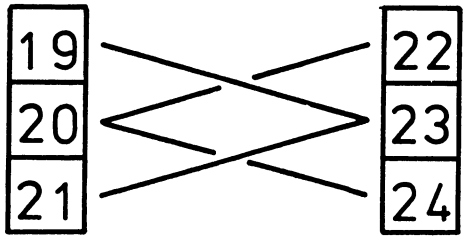


DIAGRAM 3.12

associations. Thus the two blocks of three elements in this six element group have complementary structures.

This complementarity involves two structural processes: expansion and contraction. The single locus occupied by the fasal with external associations in the first group of three elements (Fasal 20) is expanded to two loci in the second group. Similarly, the two loci occupied by the fasals without external associations (Fasals 19 and 21) in the first group of three elements, are contracted to one locus in the second group. These processes are intimately connected to the opposition between the center and extremities. In this example the center is represented by a single fasal while two fasals form the extremities. The structural process of transforming one value of this opposition to the other (the center becoming the extremities or the extremities becoming the center) involves an expansion or contraction of the number of fasals associated with the structural position (i.e., one becomes two or two becomes one).

This complex structural complementarity between these two three element structures indicates that Fasals 19, 20, 21, 22, 23, and 24 form the third and final six element group in this law set. The variation in the structure of the three element groups follows the structural boundaries determined by the six element groups. The three element structure of the first two six element groups (the marriage and crime sections) conform to a single pattern, i.e., the first two are united in their opposition and/or contrast to the third. The last six element group, however, employs a different pattern, i.e., the center is opposed to the extremities. In the first two six element groups there is a strong conceptual association between the two three element structures that combine to form the larger group. In the first group the unifying theme is marriage and in the second group the common subject is criminal matters. However, there is no single conceptual theme uniting the last group of six elements. On the other hand, the final group of six elements serves to bind the three six element groups together. Two fasals in the last three element structure are linked to fasals in the other six element structures, i.e., Fasal 22 to Fasal 15, and Fasal 25 to Fasal 12. In addition to the structural links of the last three element structure to other parts of the law, the first three element structure of the last six element group conceptually unifies the entire block composed of six element structures. Panjingan, like marriage, is concerned with the regulation of sexual activity. But panjingan is also a semi-criminal matter. Fasal 20 suggests that catching adulterers *in flagrante* is reason for justifiable homicide. On the other hand, illegitimate pregnancy is

viewed as a crime against the community in much the same way as accidental arson.[34]

FASAL 25

Fasal 25 is entitled "Sepertie perkataän *soembang*" (what is meant by the word sumbang, i.e., incest). The normal meaning of the word is that a man has had sexual relations (dapat salah) with a woman with whom it is not proper to be married. If a man and woman are guilty of incest, following this definition, then they are condemned to death; but, they can obtain release from the death sentence by payment of the "teboes njawa". Sometimes, however, the incest is such that they can be married. In this latter case, they incur a large fine equal to one half the bangun.

The text of this fasal is taken directly from Fasal 10 of the *Code of Laws*. With the exception of one phrase which was not clear in the original and is omitted in the later version, the Sungai Lemau text follows the *Code of Laws* with word for word accuracy. The position of this fasal in the Sungai Lemau law is revealed by the examination of the total fasal structure of this law set.

The Total Fasal Structure

While the law contains twenty-five fasals, only twenty-four of these participate directly in the total structure. The central feature of the structure is the presence of the three six element groups. The form of the second and third of these six element groups indicates which representation of the marriage section participates in the total structure. Thus the six element group determined by Fasals 7, 8, 9, 10, 11, and 12 participates in the total structure. Fasal 6, which initiates and sets forth the conceptual, structural, and numerical pattern of the marriage

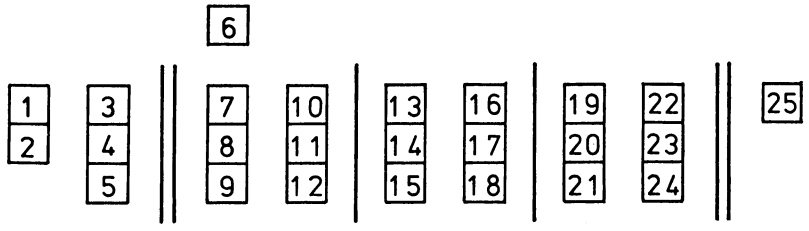


DIAGRAM 3.13

section, remains outside the total structure, thus leaving twenty-four fasals to form the complete fasal structure.

While in one sense Fasal 6 is outside the structure, the number six forms the numerical key to the entire pattern. The central structural

feature is based on three six element groups, i.e., $3 \times 6 = 18$. But this central block contains six three element structures, i.e., $6 \times 3 = 18$. The first two six element groups contain three element structures which follow a single pattern. On the other hand, the last six element group contains two three element structures based on a different pattern (i.e., $18 = 12 + 6$). Preceding these eighteen central fasals are five fasals which are divided into two groups: one containing three fasals, the other two fasals. This composition of five as two plus three is closely related to the number six. Two *times* three equals six but two *plus* three equals five ($2 \times 3 = 6$ but $2 + 3 = 5$). The first five fasals are related to the last fasals by another numerical relation based on the number five: $25 = 5 \times 5$, that is, the first five squared equals the last "five" or twenty-five. The average of these two "five" numbers, i.e., $(5 + 25) \div 2 = 15$, plays an important role in the structure of this law. Fasal 15 refers ahead to another fasal (Fasal 22).[35] Interestingly, fifteen is also the average of the first and last multiple of six (i.e., $(6 + 24) \div 2 = 15$). Thus, while the number six is the structurally most important number, the number five also plays an important role. While the five-based relation links the first five fasals with the twenty-fifth and last fasal, the total number of fasals before and after the central group of eighteen adds up to six. These six fasals at the extremities are divided into three groups: one with three elements (Fasals 3, 4, and 5); one with two elements (Fasals 1 and 2); and one with a single element (Fasal 25). This yields a decomposition of six into one, two, and three. These three elements can be combined in two ways to produce the number six, i.e., $1 + 2 + 3 = 1 \times 2 \times 3 = 6$. To exhaust the totality of recurring numerical features based on the number six would require a *reductio ad nauseam*. However, the above analysis clearly indicates that the entire structure of this law is based on the number six, its factors, and multiples.

CHAPTER 3 — NOTES

1 There is no single rule governing name taking among the Buginese.

2 The time difference between administrative changes and publication of the yearly Almanaks is such that one must consult an Almanak one or two years later than the desired date to get the appropriate information. Contrary to this general rule was the use above of the 1855 Almanak for native titles. This was done because the 1856 Almanak contains a typographical error which disagrees with the manuscripts themselves. Both the 1855 and 1857 editions contain the same information and do not contradict the manuscripts.

3 The error by Helfrich is most curious because the manuscript cited here was part of a bequest made by Helfrich to the Royal Institute of Linguistics and Anthropology.

4 The expression Pangerans-raad may be a simple translation of the English Pangeran's Court mentioned in the title of the *Code of Laws*. While the Dutch word "raad" usually means council (e.g. gemeenteraad = municipal council) occasionally it must be rendered into English as court (e.g. De Hoge Raad = The High Court).

5 The manuscript lists the Dato as a Member but the published version fails to include him in this category, due to a typographical error. The Governmental Almanaks list "Radja Moehamad Tabris" as a member but fail to include Raja Ayensah. Raja Muhammad Tabris was apparently the Dato of the Pasar of Bengkulu.

6 This system of division is not directly verifiable. However, a system based on similar principles can be developed for many of the division rules in the Manna section of Cod. Or. 12.200. In particular five of the first seven sets of division rules, though they apply to different areas, have the same structure with respect to division of income from panjingan (fines for fornicating), denda (fines), padi (rice), and usul (taxes). Especially significant is the fact that though each of these categories involves a different number of shares (bagian) the same inequality relations among shares apply to all four categories.

7 The *Commentative Digest* presents a division pattern based on successive partitions but not on the odd-even principle (*Commentative Digest,* p. 285).

8 Westenenk, 1921, opp. p. 60 provides a map of linguistic division in the Residency of Bengkulu.

9 The word "patulei" is translated by Marsden as "clan" or "tribe" (Marsden's Dictionary, 1812, pp. 209, 407). Other lexicographers have accepted this as a Malay word (e.g. Wilkinson, 1932, Vol. II, p. 221; Wilkinson, 1959, p. 855; Von de Wall, Vol. II, p. 41). This is the most frequently occurring meaning (c.f. Van Hasselt, 1882, p. 212; Westenenk, 1921, p. 42; Hazairin, 1936, p. 4). Jaspan, however, gives another meaning to this word in the phrase "Djang Pat Petulai" (= The Redjang Four Pillars) to refer to the clans. The link between the two notions is that the four brothers were the founders of the four clans. Swaab (1916, pp. 463, 468) gives the meaning of "petoelai" as clanheadmen (stamhoofden). This meaning is followed and elaborated upon by Wink (1926, p. 12) who translates "petoelai" as clan headmen and "tiang" as clans (stammen). However, the most ingenious suggestion comes from Hazairin (1936, p. 4) who translates "petoelai" as "clan" and "tiang" as pillar. But such a pillar, he argues, was made from a tree, thus "Redjang Tiang Empat" is the same as "the Redjang people with the four family trees (stambomen)", i.e., clans.

10 The Van den Bor report makes no mention of the fact that this rule applies specifically to outsiders (c.f. Van den Bor, 1862, p. 263).

11 The word *kawin* has two possible interpretations: to get married and to be married (state). The phrases "iang akan djadi lakie nja" and "iang akan djadie binie nya" suggest the act of getting married. However, the active and passive markers are not used in this passage. The grammatical opposition between active and passive forms is normally a very important means of contrasting marriage forms. The absence of this contrast serves to underscore the importance of location in opposing the two forms.

12 Hazairin (1936, p. 43) mentions a possible significance for the tombak but a lack of clarity in punctuation confuses the text.

13 Hazairin (1936, p. 89) mentions these items together as a means of presenting another type of payment.

14 Beginning with this sentence there is a change in the choice of construction used to express the relationship between the man and the woman. The new form is based on "ambil" (= to take) and is continued to the end of the fasal.

> kaloe anak passira itoe iang lakie lakie mangambil anak *Proatin Petik kan* atouw anak orang ketjil tingal djoega *djoedjoer* betoengoe itoe *f* 15.— kiranja anak Proatien *Petikkan* mangambil anak orang kabanjakan, atoúw orang kabanjakkan mangambil ank [sic] Proatien *Petikkan djoedjoer* betoengoe nja *f* 10.—.

Even though one might expect to find the form "mengambil" used to describe the action of the man in jujur marriage as a contrast to its use in ambil anak marriage (c.f. Fasal 5 of the *Code of Laws*) its use in this manner is extremely rare. The example given here is the only case of such usage in the legal texts of this study.

15 Van den Bor either misinterprets this fasal or is relying on another source of information when he lists the tali kulo as f. 20 for anak passira, f. 15 for anak pembarab or proatin and f. 10 for orang ketjil (Van den Bor, 1862, p. 266).

16 The affix ter- in Malay normally indicates an incidental passive. However, in South Sumatran texts one occassionally finds ter- being used with an agent (i.e., ter- ... oleh ...). (e.g. Seluma portion of Cod. Or. 12.200, Fasal 13).

17 C.f. Klinkert, 1947, p. 26, "asam-garam" is tamarind and salt, the most necessary ingredients for the preparation of the normal side dish (toespijs) for rice.

18 The following portion of this fasal is badly marred by at least one and possibly several scribal errors. However, in Van den Bor's report (Van den Bor, 1862, p. 266) there is a passage that is clearly based on this fasal and permits the unravelling of the text.

19 The lack of tikar bantal (bedding) in a commoners' marriage may or may not be significant, i.e., the omission may be a scribal error.

20 In Skeat's "Magic Square of 3" the symmetric pairs are $6 + 4 = 1 + 9 = 8 + 2 = 3 + 7 = 10$. In Skeat's "Magic Square of 5" the symmetric pairs are $15 + 11 = 8 + 18 = 1 + 25 = 24 + 2 = 17 + 9 = 23 + 3 = 4 + 22 = 10 + 16 = 14 + 12 = 7 + 19 = 5 + 21 = 20 + 6 = 26$.

21 This reference to a tiger (rimau) may be an error and the intended word was outlaw (risau).

22 In this fasal the terms "Proatin" and "Proatin Petikkan" are used interchangeably.

23 The opposition between in and out of office is expressed by the opposition "didalam versus di luar perkaradjan". It is not certain whether this refers only to the carrying out of official duties or not.

24 The implication that the bangun is 80 reals indicates that the amount of the bangun given for commoners in Fasal 13 is the basic amount.

25 The literal meaning of *pulang undang* is difficult to establish with any degree of certainty. The most obvious choice would be to translate the term as "the return of the law". However, this interpretation is suspect. First, it is normal for undang to be redoubled (i.e., undang undang or undang^2). Secondly, in South Sumatran texts undang^2 is almost never used to refer to rules within a text, its use being reserved for the entire text. For the component rules of a text one is more likely to find the words hukum or adat. Helfrich's dictionary of Middle Malay and its supplements clarifies some points but does not resolve

the problem. In Helfrich (1904, p. 127) one finds the meaning of "poelang oendang" as to double. This entry establishes two important points. First, its presence in Helfrich's dictionary indicates that the term is not a distinctly Rejang usage. And, secondly, the entry establishes that the unredoubled form of undang in the text is not due to a scribal error. Helfrich's second supplement to his dictionary (Helfrich, 1921, p. 36) adds a third meaning to the list given under "oendang" in the original dictionary (Helfrich, 1904, p. 108). This third meaning equates *oendang* to *lipat,* thus suggesting that *pulang undang* means to return twofold, the exact meaning given in the text. However, the third supplement (Helfrich, 1927, p. 64) amends the definition given in the second supplement. This ammendation refers the reader to "poelang" (i.e., to Helfrich, 1904, p. 127). This reintroduces uncertainty into the matter, i.e., one cannot be certain if the meaning of undang = lipat given in Helfrich (1921, p. 36) occurs outside the phrase *pulang undang.*

26 This is the special case of the formula $t_n = 2t_2 (1 - 2^{2 \cdot n} + 2^{1 \cdot n}) - t_1 (1 - 2^{2 \cdot n})$ and applies when $t_2 = \frac{1}{2}t_1$. As was demonstrated above for the wang penurun, if a sequence conforms to the rule for the special case it will also conform to the rule expressed in its more general form.

27 The last phrase is not certain and has been written over. The text reads "mantjanoen" which I interpret as an error for "manjamoen", i.e., me + samun.

28 It should be pointed out that while the numerical difference between 22 and 15 is seven, there are only six fasals that occur between Fasals 15 and 22, i.e., Fasals 16, 17, 18, 19, 20, and 21.

29 Technically "accidental arson" is a misnomer in that arson cannot be accidental. Nonetheless, the fasal makes the intended meaning clear. This example concerning the English word arson illustrates an important problem associated with the analysis of legal material in both English and Malay as well as the translation between the two languages. In both of these languages words in a specifically legal context may have meanings different from those of the same words in normal usage. According to English common law arson was defined as "the malicious and wilful burning of the house or outhouse of another man" (Turner, 1958, p. 225). Thus, originally in English criminal law arson was concerned with the burning of houses. An interesting aspect of this definition is that arson was considered to be an "interference with the rights, not of the owner, but of the immediate occupier" (Turner, 1958, idem). Thus a tenant who burned the house which he legally occupied would not commit arson. However, the owner of the house "would commit arson if he burned it whilst it was still in the occupation of the tenant" (Turner, 1958, idem). Though this definition has been significantly altered by statute, the basic point is still valid, i.e., words in a specifically legal context are frequently defined in a manner different from conventional usage. Thus when dealing with legal notions the normal problems of translation are compounded by the fact that legal concepts are defined with reference to a particular legal system that gives the meanings of such words a peculiarly legal shape.

30 Up to this point the text of the fasal is taken from Fasal 20 of the *Code of Laws* with only minor variations that serve to make the text more explicit.

31 I have consistently translated *randa* or *meranda* as widow for the sake of convenience. However, the term is also used to denote a divorcee and occasionally a widower.

32 This could refer to the previously mentioned elopement and the contrast is between *karoemanja* and *karoema betina.* If this is indeed the case then *karoema betina* must have an alternative interpretation.

33 The three transformations based on these two oppositions plus the identity transformation form a Klein $_4$ group.
34 The fasal on accidental arson immediately precedes the panjingan section.
35 The multiples of five in the central block of eighteen fasals display an interesting feature. Fasal 10 is the first in a three element group, Fasal 15 is in the final position and Fasal 20 in the middle position. Besides the fact that the three multiples of five all occupy different positions in three element groups, the sequence in which the positions are occupied is also interesting. The first two (i.e., 10 and 15) occupy the extremities, while the last (20) is in the center, thus indicating a curious recurrence of the center versus extremities opposition.

CHAPTER 4

THE SUNGAI HITAM LAWS

Introduction

The second law in the manuscript (Cod. Or. 12.206) is entitled "Kitab Oendang Ondang [sic] darie Soengij Itam" (The book of laws from Sungai Hitam). This law is dated 30 June 1855, exactly one week prior to the Sungai Lemau laws. However, the structural analysis indicates that the Sungai Hitam law is a transformation of the Sungai Lemau law and not the other way around. Indeed, the impression is that the authors of the Sungai Hitam text either were working from a copy of the Sungai Lemau text or had prior knowledge of its contents. While historical speculation could account for this reversal of the normal temporal sequence by evoking explanations such as scribal error or the existence of an early rough draft of the Sungai Lemau text, such speculation is analytically unnecessary. First, the time difference is so minute as to be almost insignificant. Second, the assignment of temporal direction to transformational patterns is only a convenient way to develop a structural analysis. This is especially true when one is working with manuscripts. However, this convenience need not and indeed, must not come to dominate the structural analysis. In this example, the pattern of transformation is such that it is the historical material that must be questioned and not the analysis.

There are two patterns of transformation between the Sungai Lemau and the Sungai Hitam laws. The marriage section of the Sungai Hitam law is directly based on that of the Sungai Lemau law. The gross structure of two groups of three fasals is maintained, as is the basic opposition between semendo and jujur. The numerical features, however, are lost. But, the content of the structure indicates that the structure was inappropriate for the Sungai Hitam situation. In other words, the structure of the Sungai Lemau laws appears to be imposed on data that do not fit the structure. A second transformational pattern takes the basic three element structure of the Sungai Lemau law and changes it into a two element structure. The most frequent process

involves compressing the first two elements of a three element structure into a single element and leaving the third element unchanged.

The Written Form of the Sungai Hitam Laws

The format of this legal code differs from the usual pattern of South Sumatran legal texts. The text is divided into "Partanjaan" (questions) and "Mandjawab" (answers, literally answerings). These "questions" [1] and "answers" appear opposite each other, with the "Partanjaan" to the left of the center fold and the "Mandjawab" to the right. Each question is numbered while the answers are not. This question and answer pattern replaces the use of fasals. In other laws the fasal was the basic unit of analysis. Within a fasal a distinction can often be made between the title and the content that is roughly equivalent to the contrast between question and answer. In the analyses based on fasal patterns the title is often more important than the contents when one is working with the total structural pattern. However, where fasals are used one rarely finds marked discontinuities between the title and content of the fasal. In the Sungai Hitam text, however, the discontinuity between questions and answers is often so great that they appear to deal with different matters. From an analytical viewpoint the questions form a clear structural pattern. The answers, however, blur the sharp categories indicated by the questions and distort the structural pattern to such a degree that one must ask whether an effort was made to impose the highly structured questions on to an inappropriate set of data.

This question and answer pattern and lack of continuity between questions and answers raises the question of colonial intervention in the structuring of legal texts. In particular, was a series of specifications circulated by the colonial authorities with the intention that the desired information be provided by return post? First, the question and answer pattern need not be ascribed to foreign influence. In the "Undang Undang of Moco Moco" published in *Malayan Miscellanies* (Vol. II, 1822, Nos. XIII and XIV) a large portion of the text is developed by the use of questions and answers. This text, if anything, is more traditional than those represented in this study. While its language displays a richness in its use of metaphor and metonymy, the suitability of this text as data for a structural analysis dealing primarily with social organization is limited. One of the most important factors affecting the usefulness of the law sets used in this study is the fact that they are not genuine traditional products. With the British and Dutch interest

in the content of these laws, they are more explicit and detailed than if they had been written for a purely indigenous audience. At the point that this interest leads to interference the analytical usefulness of the laws diminishes rapidly. This interference takes two forms: one being an interference with the legal content of the laws, and the other an interference with the form.

The problem concerning the Sungai Hitam text, and more generally those texts making up manuscript Cod. Or. 12.206, involves a question of an interference with form. Even if the Dutch authorities did specify the material to be collected and documented, the structural variation within these three texts indicates a considerable amount of manipulation that cannot be ascribed to colonial authorities. Even if the Dutch did specify the form to be used, at this time it is unlikely to have been done without consultation with native authorities. Given the political and intellectual climate of Bengkulu in the 1850's, the most influential native authority on such matters was Pangeran Mohamad Sah, one of the authors of the Sungai Lemau text. Thus, though the possibility of Dutch influence admittedly exists, it had not yet come to dominate the structural pattern of legal texts.

The degree of interference with the content of this and other laws, however, is a much more contentious question. Such interference was focused on specific elemental features and thus is less likely to be revealed by structural analysis. And further, while external influence may have forced a change in content, the structure may have been harmonized to minimize its effect. For example, pressure may have been applied to alter the amount of the bangun while ignoring the amount of the pampas. However, native opinion may have altered both amounts, thus maintaining the structural relationship between bangun and pampas but destroying the absolute significance of their values.

The "Undang Undang of Moco Moco" also serves to elucidate the structural nature of texts presented in the question and answer form. The more traditional texts, like this one, are often written in a rhythmic telegraphic style.[2] Coupled with this style is a mnemonic, aide-mémoire use of language. The text itself easily divides into questions and answers. The most striking aspect of this opposition is the contrast between the length of the question as opposed to that of the answer. The questions are extremely short, the answers long and involved. The shortness of the questions means that the mnemonic effects are strongest in this portion of the text. This also means that the questions are less susceptible

to change than the longer and more involved answers. In addition to the purely linguistic features of the questions, the mnemonic effect is heightened by the presence of a tightly organized structure. Thus the questions, by their shortness, are more stable as a result of mnemonic features. But the shortness also allows a structure to be developed that reinforces both the stability and mnemonic usefulness of the questions. Further, while the structure of the questions links the entire law together, the answers themselves also possess structures. The structures of the answers are linked through the structure of the questions. Thus the structures of the answers may change in either complementary or contradictory manners without altering the structure of the questions. However, the processes of structural change operating independently upon the patterns of the answers may weaken the articulation between question and answers until a complete dissassociation occurs. Thus, while the total structure of the questions and the individual structures of the answers might harmonize themselves in the process of change, the process of harmonization might generate discontinuities in structural boundaries (i.e., the boundary between questions and answers). Thus the fact that the question and answer format is used in the Sungai Hitam laws and that the structure largely resides in the patterning of the questions does not mean that the Sungai Hitam text is a radical departure from the patterns of more traditional legal texts.

In conclusion, the basic structure of the Sungai Hitam laws displays two fundamental characteristics. First, the structure is dependent upon that of the Sungai Lemau laws. It is this dependency relationship that elucidates otherwise incomprehensible structural anomalies and places the text in a general comparative framework. A second fundamental characteristic of this law set is the use of a question and answer format, typified by but not directly related to the *Undang Undang of Moco Moco*. The discontinuity between question and answer implicit in such a format is exploited in such a way as to allow the use of the fasal structure of the Sungai Lemau laws, while still presenting the essentially different legal material relevant to the Sungai Hitam region.

PARAGRAPH 1

Question 1 is "Paratoeran darie kapala kapala iang manjalassijkan parkara Negri" (the regulations concerning the headmen who settle the affairs of state). The answer is that the case is settled in accordance with the adat of the place to which the plaintiff and respondent belong with their respective headmen sitting in judgment.

PARAGRAPH 2

Question 2 is "Pangkat kapala bagiemana kadoedoek kan satoe kapala kapala kapada iang serta kapada anak boea nja" (the ranks of headmen both with respect to each other and with respect to their subjects). The answer is: In the district of Proatin Duabelas there are seven Pambarabs. They are the Pambarabs of *Doessoen Besser, Soeka die Ramie, Lagan, Boekiet* [,] *Talang Engris, Tandjoeng Agoeng* and *Talang Kring.* These are different from the minor proatins. And in the district of *Proatin Lambak Salapan* there are four Pambarabs. They are the Pambarabs of *Bantiring, Pagardin, Tardana* and *Sandawar.* These are different from the minor Proatins.

These two paragraphs closely reflect the titles of Fasals 1 and 2 of the Sungai Lemau law. Fasal 1 begins "Proatin manjalasaij kan perkara Negrie . . ." and Fasal 2 begins "Pangkat kapala kapala dalam satoe satoe merga . . ." While the Sungai Lemau law presents two detailed lists of ranked titles, the Sungai Hitam text is less precise. In the first answer the basic principle of juridical procedure is set forth. In the second answer, instead of an enumeration of titles, the title holders are specifically identified by geographical location. The division of Sungai Hitam into two regions does not agree with the fourfold enumeration given by Van den Bor in his report (Van den Bor, 1862, p. 255). However, there is a high degree of correspondence with the material presented in the *Proceedings of the Agricultural Society established in Sumatra.* The census of the population of Duabelas accompanying Appendix B (Proceedings B) indicates that most of the proper names associated with Pambarabs are the names of villages: Doessoen Besar = Dusuu [sic] Besar; Soeka die Ramie = Socco Rammie; Lagan = Luggan or Luggan Boongin; Boekiet = Bookit; Tandjoeng Agoeng = Tanjoon Agoong hilir or Tandjoong Agoong Moodik. The two names that do not occur in the census (i.e., Talang Engris and Talang Kring) both contain the word Talang (hamlet), suggesting that in the interval between 1820 and 1855 these two settlements acquired village status while previously they were, in all probability, hamlets dependent upon a larger village. Similarly, the census of the population of Lumba Selapan accompanying Appendix C (Proceedings C) indicates a similar pattern for the Pambarabs of Lumba Selapan: Bantiring = Dusun Benteering; Pagardin = Dusun Paggar Dien; Tardana? = Terra Dannah. The presence of only four names follows the pattern of the origin myth which states that initially there were four villages and then were eight while the census lists exactly sixteen. The initial four were

"Benteering, Pagar Din, Sebenjole, and Pakoohajie" (Proceedings C, p. 4).[3]

PLACE NAMES IN SUNGAI HITAM

Kitab Oendang Ondang darie Soengij Itam	Proceedings of the Agricultural Society established in Sumatra
Proatin Duabelas	
doessoen Bessar	Dusuu Besar
Soeka die Ramie	Sooco Rammie
Lagan	Luggan and/or Luggan Boongin
Boekiet	Bookit
Talang Engris	——
Tandjoeng Agoeng	Tanjoon Agoon hilir and/or Moodik
Talang Kring	——
Proatin Lemba Selapan	
Bantiring	Dusun Benteering
Pagardin	Dusun Paggar Dien
Tardana	Terra Dannah
Sandawar	——

TABLE 4.1

The opposition between Proatin Duabelas and Proatin Lemba Selapan would have made an excellent vehicle for the structure of this law set. Indeed, such a territorial opposition forms part of the basic structure of the older portion of the Seluma laws in Cod. Or. 12.200. However, this opposition was not used and the less satisfactory Sungai Lemau pattern employed instead.

PARAGRAPH 3

Question 3 is "Apa kabaikan atoúw katongan [error for katolongan?] anak boea kapada kapala nja" (What kindness or aid from subjects to their headmen). The answer is that no aid (katolongan) whatsoever is to be given to their headmen.

PARAGRAPH 4

Question 4 is "Apa Pambarab [an error for pamberian?] anak boea nja kapada kapala nja, atoúw Padie atoúw iang lain lain kaoentoengan assil kapala kapala diatas barang parniagan atoúw barang iang lain lain dapat oleh dia orang dalam oetan serta bago bagie assil itoe (What gifts from the subjects to their headmen either paddy or other profits, the taxes of the headmen on trade goods or things found in the forest, the division of taxes). The answer is that there is no aid (katolongan) from subjects to their headmen.

In these two paragraphs the parallels with the Sungai Lemau laws are based most strongly upon the questions and to a much lesser degree upon the answers. Like Question 3 of the Sungai Hitam laws, Fasal 3 deals with aid to headmen (katolongan anak boea nja kapada kapala nja). Fasal 4 of the Sungai Lemau laws deals with *pamberian* (gifts) from subjects to headman. The use of "pamberian" in the Sungai Lemau laws helps to clarify the obviously incorrect occurence of the word "Pambarab" in Question 4 of the Sungai Hitam text. Fasal 5 of the Sungai Lemau laws deals with taxes (assil). The comparison of the titles of the fasals of the Sungai Lemau laws with the questions of the Sungai Hitam laws indicates that the three element structure of the former is transformed into a two element structure. While the first element is the same in each case the last two elements of the Sungai Lemau structure are compressed into a single element in the Sungai Hitam structure.

The Structure of Paragraphs 1-4

The comparison of the fasal contents of the Sungai Lemau laws with the answers of the Sungai Hitam text reveals a greater disparity than was suggested by the comparison of titles and questions. The basic structure of Fasals 3, 4, and 5 of the Sungai Lemau laws is based upon the subject/nonsubject opposition. This leads to Fasals 3 and 4 being opposed to Fasal 5 (i.e., the basic two plus one structure of the Sungai Lemau laws). However, the basis of this opposition does not allow easy comparison with Paragraphs 3 and 4 of the Sungai Hitam laws where no structurally significant distinction is made between subject and non-subject.[4] An alternative representation of the structure of these three fasals can be generated. The aid (katolongan) of Fasal 3 and the taxes (assil) of Fasal 5 are allowed while the gifts (pamberian) of Fasal 4 are not allowed. This leads to an opposition between the center and the extremities which is an acceptable alternative to the two plus one structure. The preference for the two plus one structure over the center versus extremity model in the analysis of the Sungai Lemau laws was based on the fact that both of the other two center versus extremities structures are determined by the presence of elements with external associations. Thus there are two oppositions in the Sungai Lemau text that create alternative structures. However, in the transformation to the Sungai Lemau text both of these oppositions lose their ability to create a change in meaning, i.e., they are neutralized. Only the subject element of the subject/non-subject opposition and only the not allowed element

of the allowed/not allowed opposition are employed. This pairing of the subject and not allowed elements of the two oppositions is the combination that occurs in the middle of the three element Sungai Lemau structure, indicating a center versus extremity opposition in the process of transformation. Thus in resumé the transformation from Fasals 3, 4, and 5 of the Sungai Lemau laws to Questions 3 and 4 of the Sungai Hitam laws involves a compression of the last two categories into a single element. However, the transformation from the contents of Fasals 3, 4, and 5 to the Answers 3 and 4 involves not only a neutralization of all oppositions but also a selection of the middle combination of two elements of the two basic oppositions.

Some Analytical Considerations

Of the two transformational processes, the one involving the shift from a three to a two element structure is the more problematical. There is nothing in the three element structure to suggest an affinity between the last two elements which are compressed. Further, neither of the two alternative structures of the Sungai Lemau laws involves an opposition between the last two elements and the first. The observed pattern may be dismissed as a bricoleurean convenience. The imaginary bricoleur, having decided that a two element structure is more elegant than a three element structure, leaves the first element unchanged only to find that the last two elements must be condensed to form a single unit. While this explanation may approximate the native model to some extent, a purely structural solution to the problem would be more instructive.

Let opposition A be between subject and non-subject and opposition B be between allowed and not allowed (denoted by yes and no, respectively). Using this convention the Sungai Lemau three element group can be presented as follows:

Fasal	A	B
3	subject	yes
4	subject	no
5	non-subject	yes

The relations between the three elements can be described in transformational terms: thus to go from 3 to 4 it is necessary to change from one element of opposition B to the other, or in formal notation:

$3 \rightarrow 4 =$ Negate B

The transformation can be reversed, i.e., 4 ← 3 = Negate B. The three elements can be combined in three different ways, yielding the following transformations.

I: 3 ←→ 4 = Negate B
II: 3 ←→ 5 = Negate A
III: 4 ←→ 5 = Negate A and B

Each of these transformations can be used to relate only one pair of elements: that is, I cannot be applied to 5; II cannot be applied to 4; and III cannot be applied to 3. Interestingly, if I were applied to 5, II to 4, and III to 3 the same non-existent element would be generated in each case, i.e., the combination (non-subject, no).[5] However, these transformations, as they apply to a three element structure, display a number of important features. Not only can each combination of elements be related by only one transformation but it is also true that a given transformation can only relate two elements. Thus each transformation is a unique description of the relationship between a pair of elements. Further, the transformations may be divided into two groups: I and II are partial negations, and III is a total negation. Referring back to the elements themselves this means that the opposition between Fasals 4 and 5 is greater than the opposition between Fasals 3 and 4 or between Fasals 3 and 5. Thus the transformation from the Sungai Lemau to the Sungai Hitam structure involves condensing the elements not with the least opposition and the greatest affinity but those with the greatest opposition and least affinity. Thus not only do the individual oppositions lose their ability to generate a change in meaning as a result of the transformation but the transformational process also involves a condensation that overrides the structural boundary at which these oppositions converge to produce the greatest opposition between two categories. Both of these processes by which the oppositions individually and collectively lose their power to create differences may be described as neutralization. However, these neutralizations are operating on different structural levels (i.e., oppositions considered singly versus in combination) and therefore should be considered as complementary but not identical.

PARAGRAPH 5

Question 5 is "Adat Samando, dan adat djoedjoer serta banjak issie kawin nja" (The adats of semendo and jujur together with the amount of the isi kawin). In the district Proatin Lamba Selapan the "gan" is 12 rupia. The antaran of the Malay language is 80 rupia. *Adat Samando*

Radja Radja is used in the district of Proatin Duabelas. Jujur is not used in either Proatin Lamba Salapan or in Proatin Duabelas. The mas kawin (literally gold of marriage = isi kawin) follows the amount of the antaran.

Van den Bor's report (1862, p. 267) contains a passage based on this paragraph which also contains additional information which helps to clarify the meaning of the textual passage. Accordingly, the *Semando Radja Radja* is also called *semando beradat*; the antaran of 80 rupia is associated with this form and is used in the district "Proatin doea blas di darat". In "Lemba Selapan" the brideprice is named "gan" and amounts to 12 rupia.

Question 5 is the structural equivalent of Fasal 6 of the Sungai Lemau laws. The basic opposition in both places is between jujur and semendo forms of marriage. In the answer, however, this opposition becomes one between used and not used (die pakaij and tida dipakaij). On the other hand, the answer develops an opposition between Proatin Lamba Salapan and Proatin Duabelas. This second opposition, while important in this answer, does not acquire any importance as an organizing principle. On the contrary, the subsequent marriage questions and their answers are organized on the basis of the opposition between jujur and semendo marriage forms, even though the answer to Question 5 specifically says that jujur is not used.

PARAGRAPH 6

Question 6 is "Djoedjoer Agoeng" (the large jujur). The answer is that the complete jujur amounts to 160 recepis (= rupia = guilders).

PARAGRAPH 7

Question 7 is "Djoedjoer Tangah" (the middle jujur). The answer is that the money of the jujur is 160 recepis but only 140 recepis is paid while 20 recepis remain unpaid.

PARAGRAPH 8

Question 8 is "Djoedjoer ketjil atoúw kabaikan" (the small jujur or the jujur of kindness). The answer is that this form is not used in Proatin duabelas or Lemba Salapan.

Questions 6 and 8 are very similar to the titles of Fasals 7 and 9 of the Sungai Lemau laws. The title of Fasal 7 is "Adat Djoedjoer Agoeng" while the title of Fasal 9 is "Adat djoedjoer orang ketjil atouw orang kabanjakan". However, the title of Fasal 8, "Adat djoedjoer betoengoe" is considerably different from the "Djoedjoer Tengah" of Question 7.

The structure of the Sungai Hitam questions and their transformations from the Sungai Lemau material demonstrates the mnemonic potential of a highly structured question set in a question and answer system.

The answer to Question 5 explicitly states that jujur forms of marriage are not used in this region. Thus not having a continual reference in the social environment, the mnemonic structuring of the questions acquires special significance as one of the more important means by which the categories of jujur marriage are remembered. Further, the structural form of this mnemonic pattern is given considerable freedom because the categories used need not conform to local social reality. Indeed, with respect to jujur marriage, there apparently is no local social reality to conform to. Thus, even though this region does not use jujur marriage, the categories of jujur marriage are more elegantly structured than those in the Sungai Lemau laws where jujur marriage is actually used. The threefold division is simply large, medium, and small. The transformation from the titles used in the Sungai Lemau laws to this simple but nonetheless elegant structure of the Sungai Hitam laws, reveals the bricoleurean background to the development of these three categories. The first category in both systems is identical. But it is the transformation relations between the last categories that reveal the exact nature of the manipulation. The shift from one form to the other can be described as a series of discrete transformations.

Fasal 9 = *Djoedjoer orang ketjil atouw orang kabanjakan.*

I. Drop the word *orang* wherever it occurs. This yields *Djoedjoer ketjil atouw kabanjakan.*

II. Substitute the word *kabaikan* for *kabanjakan.* This yields *Djoedjoer ketjil atouw kabaikan* = Question 8.

The first transformation establishes the clear opposition between Questions 6 and 8 as an opposition between large and small (agung/kecil). The second transformation establishes the fact that there is a direct link between the Sungai Lemau and Sungai Hitam laws. The second word (kabaikan) is extraneous to the clear structural relations between Questions 6, 7, and 8. Its presence only makes sense in terms of a transformation on the title of Fasal 9 of the Sungai Lemau laws. The rationale behind the substitution relation of transformation II cannot be specified with any degree of certainty. It could easily be a scribal error. Viewed in this manner the type of error is similar to the error in Question 3 (katongan for katolongan) and that in

Question 4 (Pambarab for pamberian). The substitution could also be a genuine lapse of memory or lack of precise information on the part of the authors. Or, the transformation could be intentional. Of the three alternatives the possibility of scribal error is the most likely. First, other similar scribal errors exist in the text. Secondly, the explanation based on the lack of correct information is unlikely to be valid because the law set as a whole reflects an intimate familiarity with the Sungai Lemau text. Thirdly, there is no need or reason for an intentional substitution. If any change other than the omission of the word *orang* were to be applied the simple omission of the second word (i.e., *kabaikan*) would harmonise the structure, while the substitution actually performed effects the structure neither positively nor negatively. In spite of these transformations Question 8 still reflects its close relation to Fasal 9 of the Sungai Lemau laws.

However, the substitution relation between Fasal 8 and Question 7 (*Djoedjoer tengah* for *Djoedjoer betoengoe*) is a complete substitution. The structural effect of this substitution is to harmonize the structure established by the opposition of large and small (agung and kecil). These transformational processes reflect an opposition between center and extremity. The maximal transformation occurs in the center while the extremities remain less affected. While the sequence of large, medium, and small may be viewed as entailing an opposition between the center and the extremities, it may also be seen as a continuum from large to small. Thus the center versus extremity opposition is clearly present in the transformational relationship, and to a lesser extent in the internal structure of the Sungai Hitam questions.

While the internal structure of these three questions is substantially different from the structure of the Sungai Lemau fasals, the structure of the answers in this group of three is identical to that of Fasals 7, 8, and 9. Like Fasals 7 and 8, Questions 6 and 7 form a structural entity of a stronger and a weaker form of jujur marriage. The amount of the full jujur is the same in both law sets. In the Sungai Hitam law the amount that may be left unpaid is unnamed but is equivalent to the highest amount of the tali kulo listed in Fasal 8 of the Sungai Lemau laws. While the contents of Fasal 9 and Question 8 are different, their structural functions are similar. Fasal 9 is removed from the internal system of the marriage fasals by the lack of substantive content (in comparison to Fasals 7 and 8) and an explicit back reference to Fasal 7. Question 8 is removed from the system by a simple denial of the existence of the form. In the context of the structure based on the

answers to Questions 6, 7, and 8, this denial creates an opposition between Answer 8 and Answers 6 and 7. Thus within the context of these three answers there is an opposition between used and unused forms of jujur. However, the possibility of the existence of such an opposition is ruled out by the answer to Question 5 which states that jujur marriage does not exist at all in the region.

This self-contradiction may be explained by the dependency of the structure of the marriage section of this law on both the contents and the structure of the Sungai Lemau laws. The opposition created by Question 5 between jujur and semendo and the fact that the Sungai Lemau laws use this opposition in the organization of the marriage fasals means that there must be questions dealing with jujur in the Sungai Hitam laws. While Questions 5, 6, 7, and 8 follow the pattern of the Sungai Lemau laws only the answers to Questions 6, 7, and 8 conform to the pattern. This indicates the presence of a structural boundary between Question 5 and Questions 6, 7, and 8. As will be shown below, the structural isolation of Question 5 of the Sungai Hitam laws is similar to the isolation of Fasal 6 of the Sungai Lemau laws from the total fasal structure. While all laws written in the question and answer style have a formal boundary between a question and its answer, this type of boundary is particularly significant in the Sungai Hitam laws due to the use of a question structure based on another law. Thus between the answer to Question 5 and the answer to either Question 6, Question 7, or Question 8 there are no less than three structural boundaries. For example, between the answers to Question 5 and Question 6 there is the boundary between Question 5 and its answer, the boundary between Question 5 and Questions 6, 7, and 8, and the boundary between Question 6 and its answer. The cumulative effects of these three boundaries are not always the same. While they produce discontinuities and contradictions between Answers 6 and 7 and Answer 5 there is no such contradiction between the answers to Questions 5 and 8. Indeed, between the answers to these two questions there is a strong associative link based on their common denial of the existence of jujur marriage. This indicates that the discontinuity between the answer to Question 5 and the answers to Questions 6 and 7 resides at the boundary between the question and answer of Questions 6 and 7. If the discontinuity was at either of two other boundaries a discontinuity would also exist between the answers to Questions 5 and 8.

The structure of the relations between Paragraphs 5, 6, 7, and 8 is largely based on a borrowing of both the structure and the content of

the equivalent fasals of the Sungai Lemau laws. However, two changes effect the Sungai Hitam structure and serve to make it unique. First, there is the change in the labeling of categories that simplifies the category title pattern. Second, there is the insistence that jujur marriage is not used in the area. This creates a major contradiction with the use of the Sungai Lemau text that is isolated but not resolved.

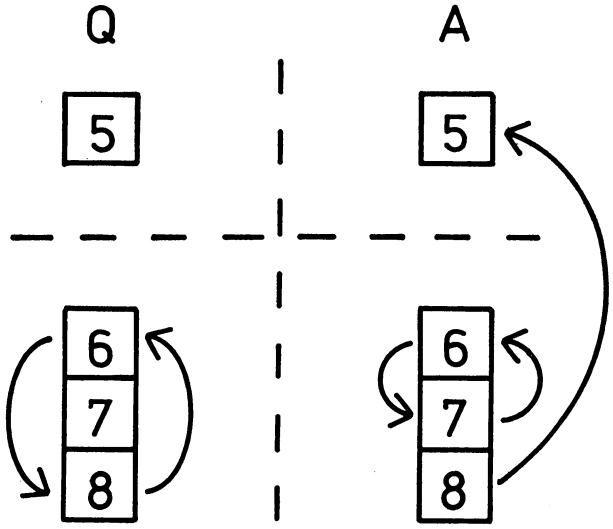


DIAGRAM 4.1

PARAGRAPH 9

Question 9 is "Adat orang Ta ambil anak" (the adat of a person who has been married by ambil anak). The answer is that all of the earnings, debts, and credits of a man are left with his wife. The man gets nothing.

PARAGRAPH 10

Question 10 is "Samando beradat" (Semendo marriage in accordance with the adat). The answer is that when a man separates from his wife their common property is divided. The man gets one share, the woman the other.

PARAGRAPH 11

Question 11 is "Samando balik djoerij" (Semendo mariage in which a descendant returns). The answer is that this is the same as *Samando Radja Radja* mariage. The children are free to choose where they will reside, either with the mother or with the father.

These questions correspond closely with the titles of Fasals 10, 11, and 12 of the Sungai Lemau laws: Adat semando terambil anak =

Adat orang Ta ambil anak; Adat semando beradat = Samanda beradat; Adat Samando baliek djoerai = Samando balik djoerij. In these three paragraphs there is no marked discontinuity between questions and answers. Thus one can speak of Question 9, 10, or 11 in this case and also imply its answer. Questions 9 and 10 are opposed to each other in the same way as Fasals 10 and 11 of the Sungai Lemau laws, i.e., a weak versus strong form of semendo marriage phrased in terms of a man's right over property. Indeed, the content of the opposition between Questions 9 and 10 is clearer and more explicit than the opposition between Fasals 10 and 11. The answers to the two questions contain no information beyond what is necessary to establish the opposition. The two fasals, on the other hand, contain considerably more ethnographic detail, which, while interesting in its own right, is extraneous to the opposition of the two marriage forms. Thus, the transformation from the Sungai Lemau laws to the Sungai Hitam laws not only involves a loss of ethnographic detail but also a sharpening of the opposition. This loss of ethnographic detail should not be construed as a loss of information. In terms of the structure the "information" is the opposition. Thus the clarification of the opposition by the reduction of detail means that this detail was not "information" but "noise" in the structure of the Sungai Lemau law.[6] This transitional process by which the oppositional difference between categories are clarified is similar to the transformation between the titles of Fasals 7, 8, and 9 and Questions 6, 7, and 8. However, while the opposition between Questions 9 and 10 is intensified, their structural unity is also itensified. The clarity of their opposition to each other allows them to function as a discrete structural unit because each form can only be opposed to its opposite. There is no possibility of deriving another opposition for either of these two elements with an equivalent intensity.

Question 11 is independent of Questions 9 and 10 and refers explicitly back to Paragraph 5. The link is established by the common use of the category *Samanda Radja Radja.* Like the relationship of the answer of Question 8 to the answer of Question 5, the links between Paragraphs 11 and 5 reside in the answers to questions. *Samanda Radja Radja* is the only semendo form specifically mentioned in the answer to Question 5. And in the answer to Question 11 *Samanda Radja Radja* is given as an alternate name for *Samanda Baliek Djoerij.*[7] These are the only two references to *Samanda Radja Radja* marriage in the marriage section of the Sungai Hitam laws. The fact that *Samanda Radja Radja* is only used as an alternate name in the answer to Question 11

instead of being substituted for *Samando Balik Djoerij* in the question itself has two structural functions. First, the structure of the question sequence of the Sungai Lemau law is maintained by using the same words in Question 11 as in Fasal 12. Further, the use of the expression *Balik Djoerij* (the return of a descendant) underscores the cognatic nature of the last fasal in the marriage sections. However, unlike its counterpart in the Sungai Lemau laws Paragraph 5 of the Sungai Hitam laws does not introduce a matri and patri principle as alternatives. This double principle and its repetition in Fasal 12 in descent terms formed the content of the structural link between the beginning and the end of the marriage section of the Sungai Lemau laws. In the Sungai Hitam laws the structural link is formally identical to that in the Sungai Lemau laws but the content is different. Here the link is established by the repetition of the phrase *Samanda Radja Radja.* While the link in the Sungai Lemau laws has greater consequences for the total structure, the link in the Sungai Hitam laws is more visible and obvious.

If the opposition between questions and answers is maintained a direct comparison with the structure of the relationships between Paragraphs 5, 6, 7, and 8 can be made (c.f. Diagram 4.1 and Diagram 4.2).

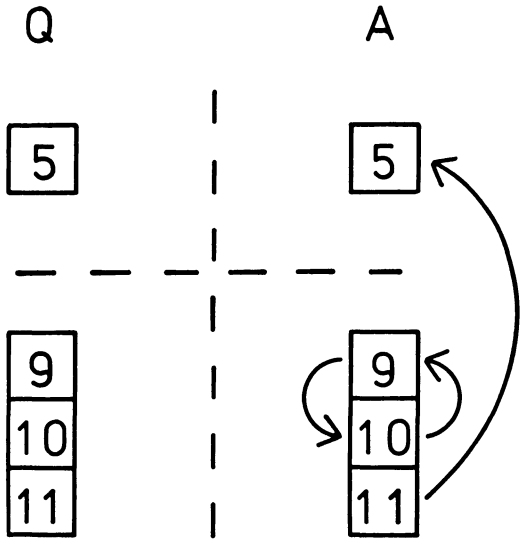


DIAGRAM 4.2

The main difference between the two structures is that there is no center versus extremity opposition in Questions 9, 10, and 11 similar to that between Questions 6, 7, and 8.

The Structure of Paragraphs 5-11

A direct comparison with the marriage structure of the Sungai Lemau laws, however, requires that the use of the question/answer opposition be abandoned.

The difference between this structure (c.f. Diagram 4.3) and its equivalent in the Sungai Lemau laws is the fact that the last fasal of the jujur section refers back to the beginning of the marriage section and not to the beginning of the jujur section. It is worth noting that the structure of the Sungai Hitam laws, using this representation, is more symmetrical and more complex than that of the Sungai Lemau laws.

A further comparison can be made by allowing Paragraph 8 to drop out of the structure. This procedure can be justified both in terms of the content of the question and in terms of the structural similarity with the Sungai Lemau laws.

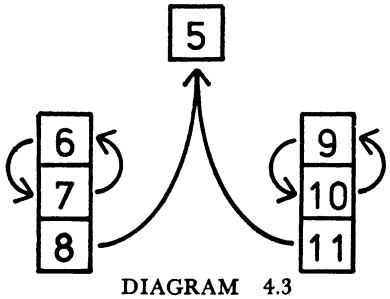


DIAGRAM 4.3

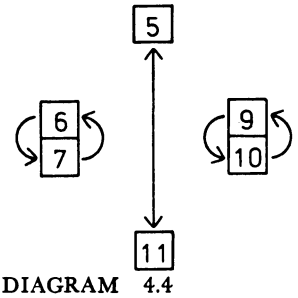


DIAGRAM 4.4

While some numerical features are retained (e.g. additive symmetry about the center), the clear dependency of the structure on the number six is lost. This loss is based on the fact that the starting point of the marriage structure is the number 5 and not the number 6. This in turn is a direct result of the reduction of the three element structure of Fasals 3, 4, and 5 to the two element structure of Questions 3 and 4.

Considering the transformational relationships between these two marriage structures as a whole, there have been both gains and losses in structural features. The Sungai Lemau laws have an elaborate numerical structure based on the number 6. This was underscored by the displacement of one jujur fasal to locus 24. In the Sungai Hitam laws the numerical content of the marriage section is lost as the result of a manipulation outside the marriage section (the two-three structural compression at the beginning of the laws). Furthermore, there is no displaced marriage fasal. The lack of displacement is the critical loss and indicates the non-use of a six based structure.

On the other hand, the Sungai Hitam laws display a clearer oppositional structure. The structural relations between the three jujur paragraphs are clarified, though changed. The opposition between the first two semendo forms is cleansed of all features that might distort or cloud the oppositional relationships. And there is a new symmetry in the relationships of the last elements in the three element groups to the first marriage paragraph. Thus while the Sungai Hitam laws have lost the powerful influence of a numerical structure they have gained an oppositional structure that defines the relations between the paragraphs much more clearly than in the Sungai Lemau laws.

These two complementary structures are mutually reinforcing. There is sufficient difference between the ways in which these two systems are used to build a common formal structure to support the general validity of the structure. Thus, while two elements with the same structural loci are opposed, the manner in which the opposition is achieved and the content of the opposition is not always the same. A case in point is the opposition and unity of the first and last structural loci. In the Sungai Lemau laws the relation is based on the unification versus opposition of a matri and patri principle. In the Sungai Hitam laws the connexion is established by the use and re-use of the expression *Samando Radja Radja.* This restructuring of an opposition is analogous to the linguistic process described by Jakobson (1931, 1949) as rephonolization. An opposition is maintained, but its relationship to the system is altered. What was a complex relation based on the interaction of descent and residence principles with an opposition between patri and matri forms becomes a simple back reference based on the sharing of a common term (*Samanda Radja Radja*). However, the restructuring of the opposition serves to underscore the essential importance of the opposition of the loci at the extremities of the marriage section. And further, there is the suggestion that the formal opposition is more important than the specific content of the opposition.

The gain in oppositional clarity, the loss of a numerical structure, and the restructuring of the oppositions do not require that a direction be assigned to the transformational process. The analysis of these patterns has proceeded on the assumption that the transformation is from the Sungai Lemau laws to the Sungai Hitam laws. In terms of these three processes this assumption is unnecessary and the direction of the transformation may be reversed. Thus it could be said that in the process of transformation *from* the Sungai Hitam laws to the Sungai Lemau laws a numerical structure is gained and oppositional clarity is

lost. The principle of restructuring does not imply any direction. However, the presence of questions and answers concerning jujur marriage requires that the direction of the transformation be from the Sungai Lemau laws to the Sungai Hitam laws.

The answer to Question 5 specifically states that jujur marriage is not used in the two districts that make up Sungai Hitam. Nevertheless, Questions 6, 7, and 8 are concerned with jujur marriage forms and only the answer to Question 8 denies the usage of a jujur form. Thus, there is a structure for something which the law says does not exist. A variety of explanations for this contradiction may be put forward. Perhaps only the higher classes use jujur marriage, perhaps it is occasionally used for interregional marriages, or perhaps it was previously used but discontinued. All of these possibilities, however, do not explain the contradiction in the text. That is, the text allows the contradiction to exist without offering an explicit explanation. However, an analyical transformation helps to clarify the use of socially non-existent categories if a direction is assigned to the transformational relationship. Thus the Sungai Hitam structure is derived by a transformation on the structure presented in the Sungai Lemau laws. This relationship need not imply that the people writing the Sungai Hitam laws were actually using the text of the Sungai Lemau laws. There may very well have been a generally accepted conceptual model for jujur marriage which was most clearly expressed in the Sungai Lemau laws. Further, the transformation from the Sungai Lemau to the Sungai Hitam laws is so strong that the historical validity of the dates on the documents must be questioned.

This assignment of analytical priority to the Sungai Lemau laws means that this law set is functioning as a type of reference law within the framework of the total analysis. More specifically, it is the reference law for the three separate legal codes that make up the manuscript Cod. Or. 12.206. However, its status as an analytical reference point does not mean that it replaces the *Code of Laws* as the reference law for the entire analysis. The *Code of Laws* is *the* primary reference law, and the Sungai Lemau laws are *a* secondary reference law. This hierarchy of structural reference points means that the Sungai Hitam text is analysed in reference to the Sungai Lemau text which in turn may be compared with the *Code of Laws* and that no direct comparison is made between the Sungai Hitam laws and the *Code of Laws*. The status of the Sungai Lemau laws as a secondary reference point is partly based on the comparison of the structures of the Sungai Lemau and Sungai Hitam laws. This comparison favours the use of the Sungai

Lemau text as the secondary reference point. Furthermore, this sequential relation also follows the ordering of the laws in the manuscript which is based on a previously established precedence system (c.f. p. 109 f. above). Thus while this system of analytical priorities overrides the historical relations between the documents, it is based on the comparison of the structure of the two laws and corresponds to a native ranking of the headmen for the areas dealt with in this manuscript.

Introduction to Paragraphs 12-15

Following the marriage section of both the Sungai Lemau and Sungai Hitam laws is a section dealing with criminal matters. In the Sungai Lemau laws this section contains six fasals with a primary division into two groups of three fasals. In each of these two primary groups of three elements the first two elements are united in their structural opposition to the third element. Thus in the six fasals there are four structural units. Two structural units contain two fasals and two structural units contain one fasal each. While the primary division gives one structural arrangement of these four structural units, a secondary division yields another structure. In this second partition the first and last structural units are combined and contrasted with the middle two units. While one of these secondary partitions (Fasals 13, 14, and 18) maintains the two plus one sequence of the primary division, the other partition (Fasals 15, 16, and 17) inverts the sequence, yielding a one plus two structure.

In the Sungai Hitam laws there is a single transformation that affects all of these relations. The structural units of the Sungai Lemau laws which contain two fasals are compressed so that in the Sungai Hitam laws they consist of only one question and answer combination. Thus this section contains only four paragraphs with a primary division into two groups of two paragraphs with a simple opposition between the elements of each group. The secondary division also applies, with the first and last elements united in their opposition to the middle ones. However, the structural inversion of the middle units no longer exists because all of the structural units contain the same number of elements.

In the Sungai Lemau laws there is a clear conceptual basis to the primary division based on an opposition between compensation and punishment. This opposition is highlighted by the fact that Fasal 22 contained the fines associated with the crimes discussed in Fasal 15. In the Sungai Hitam laws the opposition between compensation and punishment is not maintained and there is no structural displacement.

PARAGRAPH 12

Question 12 is "Hoekoeman diatas orang mamboeat sala mamboenoe orang atoúw maloekahie orang" (the punishment of a person who is guilty of killing or wounding another person). The Answer: If there is evidence pointing to the guilty party, the adat says "when there is killing, the punishment is to be killed also" (apabila mamboenoe, hoekoem die boenoe poela). But a person can be free from the death sentence if he pays a "teboes njawa" of 160 rupia and a fine of 40 rupia. In the case of wounding, there are several types of wounds and thus the wound must be examined. For a large wound the pampas is 50 rupia, for an average wound the pampas is 25 rupia, and for a small wound the pampas is 12 rupia.

The *tebus njawa,* rather than the bangun, is the basic payment for murder. While the bangun when it occurs is always associated with compensation for murder, the *tebus nyawa* is usually presented as an alternative to the death sentence. In particular, the *tebus nyawa* is frequently found in association with punishment for sexual offences. However, in this context the significance of the *tebus nyawa* is clearly in its being an alternative to the death sentence. The implication of punishment is also underscored by the fine of 40 rupia. The amount of the *tebus nyawa* (160 rupia) is both structurally and literally equivalent to the bangun of the Sungai Lemau laws. First, the amount of 160 rupia is identical to the amount of the jujur given in the answer to Question 6. Both amounts are located in the answer to the first question of their respective sections. This structural relation is the same as that found in the Sungai Lemau laws. In the Sungai Lemau laws though there was a list of amounts based on rank, the amount specified for a commoner could be identified structurally as the basic amount. First, this amount was equal to the basic jujur price. Secondly, the *Code of Laws* indicated that the highest pampas was equal to one half of the bangun. These two relations indicate that the basic amount of the bangun was 160 rupia, a sum identical to the amount of the *tebus nyawa* of the Sungai Hitam laws. While the Sungai Lemau laws contain no fine, the sum of the *tebus nyawa* and the fine in the Sungai Hitam laws equals 200 rupia or 100 reals, the amount of the bangun in the *Code of Laws.*

The pampas categories are defined in terms of the wounds. The linguistic categories form a clear sequence: *segedang gedang* = large; *partengah* = average (middle); and *ketjil* = small. This three element division into large, medium, and small is similar to the system of jujur categories, the main difference being the word chosen to represent the

large category (i.e., *agoeng* versus *segedang gedang*). The relationships among the amounts of the pampas are more problematical. The lowest amount given in the text is 12 rupia. This amount must be considered suspect. In both the *Code of Laws* and the Sungai Lemau laws the minimum amount of the pampas is given as 12.50 rupia or 6¼ reals. If 12.50 rupia is substituted for the twelve rupia of the text then a halving pattern is indicated: i.e., 12.50 = ½ (25) and 25 = ½ (50). If 12.50 rupia is taken as the lowest amount then the second category (*partengah*) is the middle element of the halving sequence. If there is an error it is most likely based on a scribal fault.

While in both the Sungai Lemau laws and the *Code of Laws* the highest pampas was equal to one half of the bangun, a similar relation does not exist in the Sungai Hitam laws, where one half of the tebus nyawa equals 80 rupia. However, it is worth noting that the highest amount for the pampas is equal to one quarter of the sum of the tebus nyawa and the fine, i.e., ¼ (160 + 40) = 50. Further, if 12.50 rupia is taken as the lowest pampas amount then this is one-sixteenth of this sum.[8] Thus the numerical structuring of the amounts to be paid in compensation for killing and wounding is much weaker than in the Sungai Lemau laws. This phenomenon parallels the lack of numerical structuring in the marriage section of the Sungai Hitam laws. The small quantity of numerical patterning that does exist is largely based on the interpretation of a figure in the text as a scribal error. Given the general lack of concern with numerical relations in the Sungai Hitam laws it is entirely possible that this "error" was made in the original drafting of the text.

PARAGRAPH 13

Question 13 is "Mantjoerie atoúw mantjoerie karbaúw" (stealing or stealing buffaloes). Answer: If it is clear that a theft has taken place the goods are returned twofold (lipat). The thief is also fined. The same rules apply for buffaloes.

The contents of this paragraph, for all practical purposes, are identical to the equivalent fasal in the Sungai Lemau laws. The main structural difference is the reference to a fine in the Sungai Hitam text. In the Sungai Lemau laws all references to fines are specifically omitted and occur elsewhere in Fasal 22.

PARAGRAPH 14

Question 14 is "Orang mantjoerie die djalan atoúw saorang atoúw

ada dengan teman nja" (A person alone, or with an accomplice, commits robbery on a road). Answer: If there is evidence indicating that the person who was robbed was killed, the robber is banished from the state (Negrie) and is punished by the judge.

PARAGRAPH 15

Question 15 is "mambakar Roema" (Burning houses). If there is evidence pointing to the offending party that person is banished from the state as well as being punished. If, however, in a kampung or a village there is an accidental conflagration as, for example, from a kitchen fire, the guilty party must give a "tepoeng boemie" consisting of a buffalo and 100 measures of rice to the persons of the village.

Question 14 and its answer function as the structural equivalent of Fasals 16 and 17 of the Sungai Lemau laws. The opposition between these fasals was based on the contrast in the fasal titles between inhabited areas and roadways. However, the substantive content of the fasals lacks any opposition. While Paragraph 14 functions as a structural equivalent of Fasals 16 and 17, Question 14 is more closely related to the title of Fasal 17 (kaloe manjamoen orang die djalan, atoúw sa orang berdoea . . .). This relationship between Fasals 16 and 17 and Paragraph 14 can be viewed either as a special type of compression or as a simple omission of Fasal 16. The importance of compression in the transformational processes found elsewhere in the analysis favours its use as an explanation here. In the Sungai Lemau laws the opposition between Fasals 16 and 17 was extremely weak. Its only function was to create a sequence of three elements with a given structure at a particular point in the law, even though there was no substantive content to the opposition. The weakness of the opposition suggests a neutralization process. The transformational process of compression therefore involves a neutralization of the opposition and a representation of the opposition in the neutralized position by only one member of the original opposition. Thus, the original opposition between "die doessoen atoúw die Talang atouw die roema Ladang" and "die djalang" is neutralized and represented by only placing "die djalang" in the neutralized position.

Neutralization

This type of neutralization follows certain kinds of neutralization in linguistic analysis. For example, in Dutch the words "de noden" = needs and "de noten" = nuts are distinguished by the opposition between /t/ and /d/. However, in the singular form of these words

the opposition between /t/ and /d/ is neutralized and only the /t/ occurs in the terminal position. Thus the words "de noot" = nut and "de nood" = need are pronounced exactly the same way. In more general terms, the opposition has been neutralized and the original opposition is represented by only one member of that opposition in the position of neutralization. While linguistic analysis has its own rules for determining which member of the neutralized opposition will occur in the position of neutralization, here the selection is based on the boundary between Fasals 17 and 18, on the one hand, and between Paragraphs 14 and 15 on the other. The nature of the boundary remains unchanged in the process of transformation. Thus the opposition is represented in the neutralized position by the member of the opposition closest to the boundary, i.e., Fasal 17.

While neutralization appears to be a special type of compression, contraction, or condensation, these terms are actually special types of neutralization. Compression, as the term suggests, involves taking an opposed pair and reducing the pair to a single unit (or element), but at the same time taking features from both members of the original opposition to form the new single element. English provides a good linguistic example of this type of neutralization. The opposition between /p/ and /b/ normally creates a change in meaning, e.g., "pill" versus "bill". However, after an initial /s/ the opposition loses its power to create such changes in meaning, that is, it is neutralized. Thus if one said "sbill" instead of "spill" most native speakers would assume that "spill" had been said. However, the /p/ in "spill" is not the exact equivalent of either member of the original opposition. The /p/ in "spill" is unvoiced like the /p/ in "pill" but unaspirated like the /b/ of "bill". Thus, in the position of neutralization, the original opposition is represented by features some of which are associated with one member of the original opposition and some with the other (c.f. Trubetzkoy, 1939, p. 71 f.; 1949, p. 82 f.; 1969, p. 79 f.). Thus while I shall continue to use the concept of compression as previously defined, the special type of compression used in the transformation between Fasals 16 and 17 of the Sungai Lemau laws and Paragraph 14 of the Sungai Hitam laws can easily be related to the linguistic notion of neutralization.

The Structure of Paragraphs 12-15

However, the transformation relationship between the title of Fasal 17 and Question 14 is not an exact replication. While the title of Fasal 17 used the verb "manjamoen", Question 14 uses the verb

"mantjoerie". Normally, *samun* is used for robbery while *curi* is used for theft. Moreover, there is a discontinuity between Question 14 and its answer. The question uses the word *mantjoerie* while the answer uses *samoen, manjamoen*. The occurence of *manjamoen* in the answer, the structural relation with the Sungai Lemau laws, and the syntactic construction of the question, all indicate that the paragraph is unequivocably concerned with robbery. There are two possible explanations of the substitution of *mantjoerie* for *manjamoen* in Question 14. First, it could be a scribal error needing no further explanation. Secondly, this substitution could have been intentional. This latter approach to the problem presents some interesting structural possibilities. The common occurence of *mantjoerie* in Questions 13 and 14 suggest that they form a single structural unit. Such a unit is generated by applying the compression transformation to the secondary partition of the Sungai Lemau laws. This relationship with the Sungai Lemau laws, plus the existence of the question and answer discontinuities in the marriage section of this law, suggest that the occurence of *mantjoerie* in Question 14 is not accidental.

However, the difference between Fasal 18 and the answer to Question 15, as well as the similarity between the answers to Questions 14 and 15, establishes Paragraphs 14 and 15 as a primary structural unit. While Fasal 18 is only concerned with accidental arson, Question 15 deals with both accidental and intentional arson. It is the punishment for intentional arson that forms the explicit link with the answer to

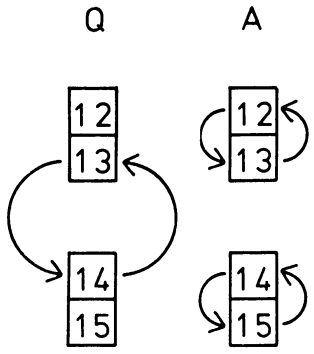


DIAGRAM 4.5

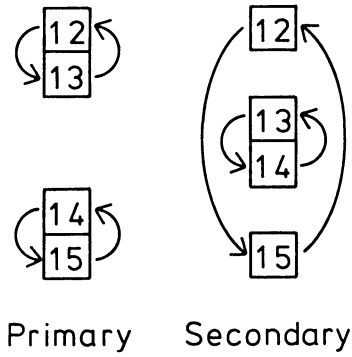


DIAGRAM 4.6

Question 14. Robbery and intentional arson are punishable by banishment that leads to the replication of the transformed primary partition of the Sungai Lemau laws. While the total structure of the Sungai Lemau laws indicated which of the alternative partitions of the crime

section was the primary one, the Sungai Hitam pattern is not as clear. However, the structure indicates that the primary partition of the Sungai Lemau laws is to be found in the answers to the questions of the Sungai Hitam laws and the secondary partition in the questions themselves.

The structural representation in Diagram 4.5 is based on two assumptions. First, the occurence of *mantjoerie* instead of *manjamoen* in Question 14 is not accidental. And second, the link between Paragraphs 12 and 13 resides in the answers and not the questions. If the first assumption is invalid, the center versus extremity opposition of the secondary opposition is not automatically invalidated, but only the assertion that the opposition is specifically located in the questions. Thus two alternative representations similar to those created for the Sungai Lemau laws would be necessary. The second assumption is based on the first. If the substitution of *manjamoen* for *mantjoerie* is not accidental then a discontinuity is created between Question 14 and its answer. This discontinuity allows Paragraph 14 to participate in two different structural arrangements simultaneously. The pattern suggests that a question or an answer may not participate in two structural arrangements at the same time. Thus the link between Paragraphs 12 and 13 must reside in the questions. Therefore, only if the assumption concerning the use of *mantjoerie* in Question 14 is valid, is this structural representation applicable.

Allowing these assumptions to be valid, and taking cognizance of the symmetry patterns of the structure of the marriage section, two further structural relations should exist. First, symmetry considerations suggest the existence of a discontinuity between Question 13 and its answer. Secondly, structural harmony and a tendency towards completeness would require the existence of a link between Questions 12 and 15.

If the assumption concerning Question 14 is invalid and the substitution of *mantjoerie* for *manjamoen* is accidental then the representations of the structure in Diagram 4.6 would be more appropriate.

Both the primary and secondary representations of the structure in Diagram 4.6 can be generated by applying the compression transformation to the appropriate Sungai Lemau structures.

Introduction to Paragraphs 16-18

The last group of six fasals in the Sungai Lemau laws form a distinct block with a structure of its own. The basic feature of this six element

structure was a division into two complementary three element structures, each of which was generated by a center versus extremity opposition. This change in the oppositional nature of three element structures means that the basic compression transformation linking the Sungai Lemau and Sungai Hitam laws is inoperable in this case. Furthermore, each of these three element structures was determined by the external associations of the fasals making up one element of the center versus extremity opposition. In the group containing Fasals 19, 20, and 21, Fasal 20 is directly associated with Fasal 20 of the *Code of Laws*. In the group containing Fasals 22, 23, and 24, Fasal 22 is associated with Fasal 15 and Fasal 24 with Fasal 12. In this latter case the associations are external to the group of six fasals but within the Sungai Lemau laws.

In the Sungai Hitam laws, the principles of displacement and external association are not used and the Sungai Lemau elements with this feature are dropped in the process of transformation. Thus, there are only three elements in place of six. Two of these deal with sexual offences and one with legal costs and fines. This pattern is what would be obtained by omitting the fasals of the Sungai Lemau laws which have a distinct external association. While the Sungai Hitam laws have two paragraphs dealing with sexual offences, the division into categories does not reflect the pattern of the Sungai Lemau laws. This change is a logical consequence of the fact that the categories used in the Sungai Lemau laws were principally determined by the principle of external association. Notwithstanding all of these fundamental changes, Paragraphs 16 and 17 of the Sungai Hitam laws form a distinct two element unit. The structure of this unit is not modelled on the equivalent fasals in the Sungai Lemau laws but on the pattern of two element structures used elsewhere in the Sungai Hitam laws. Paragraph 18, the last one, while being related by its content to Fasal 23 of the Sungai Lemau laws, has a structural function equivalent to Fasal 25, that is, it is a single element not belonging to a structure made up of a larger number of elements, and stands at the end of the law set.

PARAGRAPH 16

Question 16 is "Pandjingan orang iang ada binie nja dengan, binie orang lain atoúw dengan anak Gadis, atoúw dengan prampoean marando" (Panjingan of a married man with another man's wife, or with a maiden or a widow (divorcee). The Answer: This is punishable by death; but he (they?) can be freed upon payment of a *teboes njawa* of 160 rupia. If a virgin (anak Gadis) or a widow (prampoean marando) is involved both parties are fined 40 rupia.

PARAGRAPH 17

Question 17 is "Barkandak atoúw main muda anak Gadies" (Fornication or flirtation with a virgin). If it is only "flirtation" (main moeda) there is no punishment. If the man exceeds the limits of propriety [9] then both parties are fined 20 rupia. If, however, the maiden becomes pregnant then the fine is increased to 40 rupia each and the man marries the maiden.

The meaning of the answer to Question 16 is not entirely clear. In particular, does the fine of 40 rupia involve a separate category of punishment or is it in additon to the tebus nyawa of 160 rupia? A comparison with Fasal 20 of the Sungai Lemau laws ultimately leads to Fasal 20 of the *Code of Laws.* There the payment for adultery, also called *tebus nyawa,* is 100 reals and is equal to the bangun for murder as specified in Fasal 21. In the Sungai Hitam laws the tebus nyawa specified in Paragraph 16 is the same as that in Paragraph 12 for murder. The pattern of the Sungai Lemau laws indicates that the 160 rupia only apply to adultery and are probably to be paid by both parties. In Paragraph 12 a fine of 40 rupia is also associated with the tebus nyawa which is to be paid for murder. In Paragraph 16, however, the fine only applies to relations with a maiden or a widow (divorcee). Thus it is not associated with the tebus nyawa for adultery. The possibility that the tebus nyawa plus a fine is to be paid for illicit sexual relations between a man and a virgin or a widow must be dismissed on three grounds. First, the Sungai Lemau laws indicate that adultery is a more serious offence than fornication. Secondly, this assertion tends to be contradicted by Paragraph 17. Thirdly, the structural analysis of the categories of women involved in different types of illicit relationships indicates that married versus unmarried women is an important opposition.

While the categories of Paragraph 17 are not fully explained, they appear to be simple flirtation, sexual relations not leading to pregnancy, and sexual relations leading to pregnancy. The relations described in Paragraph 17 specifically involve only a woman who has never been married (anak gadis). The marital status of the man is left unspecified. The exclusive reference to gadis (virgin) creates an implied opposition with meranda (widow, divorcee) which helps to elucidate the matter of the 40 rupia fine mentioned in Paragraph 16. The 40 rupia fine of Paragraph 16 is for fornication leading to pregnancy (panjingan) with an unmarried woman. The grouping together of gadis and meranda indicates that the category is *un*married rather than *never* married.

Thus the opposition within Paragraph 16 is between married and unmarried women. On the other hand, the contents of Paragraph 17 suggest a further subdivision of the unmarried category into an opposition between once married and never married women. The two basic oppositions create overlaping categories because a gadis (virgin) is both unmarried and never married and a meranda (widow) is both unmarried and once married. These oppositions also clarify the significance of the fine of 20 rupia in Paragraph 17. The fine of 40 rupia for a never married woman (gadis), as stated in Paragraph 17, agrees with the fine of 40 rupia for an unmarried woman (gadis or meranda) as stated in Paragraph 16. The opposition between once married and never married specifically applies to the fine of 20 rupia. This opposition between once married and never married women implies a parallel opposition between a woman who has had sexual relations with a man and one who has not. Thus one can conclude that the fine of 20 rupia is for having sexual relations with an unmarried and also a never married woman, even though pregnancy does not result. The fact that this applies to virgins but not widows or divorcees indicates that the fine is not for illicit sexual relations in general but for the deflowering of a virgin. This complex intertwining of two oppositions creates a distinct structural unit composed of these two paragraphs.

The structure of the opposition and unity of Paragraphs 16 and 17 is not a transformation on the pattern of the Sungai Lemau laws. In addition to the organizational opposition between internal versus external associations, the Sungai Lemau laws also used the opposition between berlawan/tidak berlawan (with a partner/without a partner) as a fundamental structural device. While the center versus extremity opposition in Fasals 19, 20, and 21 may be associated with an opposition between married and unmarried, this opposition has no role in the structural organization of the six element group. On the other hand, the Sungai Hitam laws develop their own oppositions to form a structural unit which, while vaguely related to the corresponding material in the Sungai Lemau laws, more closely parallels the two element structures so typical of the Sungai Hitam laws.

PARAGRAPH 18

Question 18 is "Banjak denda sebab satoe parkara serta bago bagie denda itoe, dan banjak beijo dalam parkara oetang pioetang, dan bago bagie beijo itoe, kapada kapala kapala (the amount of fines in each case and their division, the amount of legal costs in debt and credit cases and the division of these costs among the headmen). The Answer:

The fines from panjingan are divided in two. One share goes to the headmen of the concerned village and the other share goes to the Regent. The amounts involved follow the specifications of Fasal 16 (literally: Passal 16). The legal costs derived from debts and credit cases are also divided in two. One share goes to the Regent, the other to the judges who hear the case.

The reference to legal costs establishes the link with Fasal 23 of the Sungai Lemau laws which deals exclusively with this matter. The other portion of this paragraph, which deals with panjingan, is explicitly linked with Paragraph 16.[10] Each of these relationships leads to a different structural evaluation of the significance of this fasal. However, the question/answer discontinuity isolates these two structures.

Question 18 contains two portions. The second specifically mentions "beijo" (legal costs). However, the first part of the question is not specifically related to panjingan but is rather vague, referring only to the "amounts of the fines in some court cases". The order of the items and the vagueness concerning the first portion allow a comparison with Fasals 22 and 23 of the Sungai Lemau laws. If one had read Fasal 22 concerning fines associated with theft and Fasal 23 concerning legal costs, and then read only the question portion of Paragraph 18, one might expect that the answer to Question 18 would deal with the same material as Fasals 22 and 23. Thus when only Question 18 is compared with Fasals 22 and 23 the compression transformation seems to apply. This is only possible because the question is vague and omits the explicit reference to panjingan found in the answer to the question. This contrasts sharply with legal costs, which are mentioned in both the question and the answer. This relationship with the Sungai Lemau laws indicates that Question 18 stands apart from panjingan paragraphs and as such may be functionally equivalent to Fasal 25 of the Sungai Lemau laws (i.e., in both cases the law set is concluded by a single element).

However, the answer to Question 18 suggests a different pattern. The explicit reference to panjingan and to Fasal 16 binds this element to the two element structure concerning illicit sexual relations, thus creating a two plus one structure. While the marriage section of the Sungai Hitam laws uses the two plus one structure of the Sungai Lemau laws, the back-referencing system of the last fasal in each of the three element structures has been altered. In the Sungai Hitam laws the last jujur paragraph implicitly refers back to the first paragraph concerning marriage (No. 5) and not to the first jujur paragraph (No. 6) as in the Sungai Lemau laws. The pattern suggested by the answers to Questions

16, 17, and 18 not only reflects the two plus one structure of the Sungai Lemau laws but more strongly reflects the pattern of the jujur fasals of the Sungai Lemau laws than the jujur paragraphs of the Sungai Hitam laws do. First, the last element refers back to the first element of the three element structure. And secondly, in both cases the back reference is achieved by specifically mentioning the number of the concerned element.

This two plus one structure has an interesting transformational relationship with the center versus extremity structures of the last group of six fasals in the Sungai Lemau laws. The two panjingan fasals of the Sungai Lemau laws formed the extremities of a center versus extremities opposition. The center was an externally associated element and is dropped in the transformation process. The two extreme elements become the first two elements of the two plus one structure of the Sungai Hitam laws. And similarly, Fasal 23, the center element of a center versus extremity opposition, becomes the single element of the two plus one structure of the Sungai Hitam laws. This transformational relationship establishes the logical relationship between center versus extremity structures and two plus one structures, especially those used in the Sungai Lemau laws. Thus a center versus extremity opposition involves inserting the single element of a two plus one structure between the halves of the two element unit.

Both of these alternative structural arrangements of Paragraphs 16, 17, and 18 of the Sungai Hitam laws are valid. However, the use of the structure based on Question 18 and not its answer allows a better comparison between the total structures of the Sungai Hitam and Sungai Lemau laws. This is a logical consequence of the fact that the structure of Question 18 is directly based on the structure of the Sungai Lemau laws.

The gross structure of the Sungai Hitam laws can be summarized by Diagram 4.7.

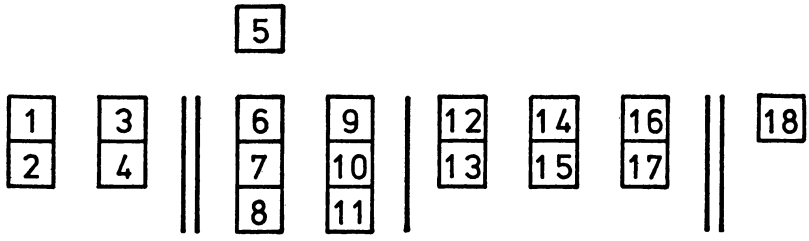


DIAGRAM 4.7

The central structural feature of the Sungai Lemau laws was composed of eighteen fasals divided into three groups of six elements which were in turn divided into two groups of three elements. The central structural feature of the Sungai Hitam laws is composed of twelve paragraphs divided into two groups of six elements. One of these groups of six elements is composed of two groups of three elements. The other is composed of three groups of two elements. This double composition of six (i.e., $2 \times 3 = 3 \times 2 = 6$) is the major six based feature of this law set. While each of the six element blocks of the Sungai Lemau structure ended with a multiple of six, each block of the Sungai Hitam structure begins with a multiple of six (i.e., $6 \times 3 = 18$). The lack of use of numerical features elsewhere in the Sungai Hitam laws suggests that this feature was not intentional but a consequence of the partitioning of the law set into major segments.

CHAPTER 4 — NOTES

1 In the comparative analysis of the Sungai Lemau and Sungai Hitam laws the following convention applies. The form "Fasal" denotes a specific fasal in the Sungai Lemau laws. The form "Question" denotes a specific "Partanjaan" of the Sungai Hitam laws. The form "Answer" denotes a specific "Mandjawab" of the Sungai Hitam laws. The form "Paragraph" denotes a specific Question and Answer pair of the Sungai Hitam laws. The uncapitalized forms of Fasal, Question, Answer, and Paragraphs refer non-specifically to the fasals, questions, answers, and paragraphs of the respective laws.

2 This style is demonstrated by the selection from the *Undang Undang of Moco Moco* in Appendix II. This style and use of language is occasionally found in otherwise easily comprehensible law texts. For example, in the Manna laws of Cod. Or. 12.205 the lists of accessories associated with jujur marriage display this characteristic (c.f. Cod. Or. 12.205, Fasals 1 and 2).

3 Terra Dannah = ? Terdana occurs in the enumeration of eight villages.

4 In the Sungai Lemau laws the opposition between subject and non-subject is expressed by *anak buah/orang di luar negri.* In the Sungai Hitam laws one only finds the term *anak buah* (subjects). While this specific reference to subjects may imply non-subjects, the Sungai Hitam laws lack the explicit opposition of the Sungai Lemau laws.

5 If this fourth element was present a Klein $_4$ group could easily be generated from the transformations.

6 For a discussion of the technical relationship between information and noise c.f. Wiener, 1961, p. 64. "The information carried by a precise message in the absence of noise is infinite. In the presence of a noise, however, this amount of information is finite, and it approaches 0 very rapidly as the noise increases in intensity".

7 This equilibration of *Samando Radja Radja* with *Samando Baliek Djoerij* contradicts Van den Bor's report (Van den Bor, 1962, p. 267) which equates *Semando Radja Radja* with *Semando beradat.*

8 C.f. page 80 above where a similar relation is to be found in the *Code of Laws.*

9 The rendering of this phrase into English is very free and is based as much on the total context of the answer as the precise interpretation of the textual passage. The text reads "tetapie kaloe lakie lakie itoe soeda malaloekan kardjan diatas dirie". It is possible that *malaloekan* is an error for *malakoekan.* However, the phrase *malaloekan kardjan* can be interpreted as "passing over the marriage ceremony", i.e., engaging in a sexual relation without being married. This interpretation is based on the assignment of the meaning marriage ceremony to karadjan = kerjaan. *Kerja* normally means "work" but Helfrich gives the following associations. Helfrich, 1904, p. 74, sub kedjĕ: kĕrdjĕ'an = 'agoq; Helfrich, 1904, p. 5, sub 'agoq (B), 'ago'aq (S): wedding feast (party); and Helfrich, 1927, p. 6, 'agoq, 'agoq'an: work, etc. Marsden's Dictionary, 1812, p. 256, also gives a similar association: pe-karjā-an = nuptial ceremonies and festivities.

10 The reference to "Passal 16" in the text is the only use of the word "fasal" in this text and apparently refers to both the question and its answer. However, in this analysis I have consistently used the word "paragraph" in association with the Sungai Hitam laws and the word "fasal" in association with the Sungai Lemau laws (c.f. note 1, p. 190).

CHAPTER 5

THE SILEBAR LAWS

Introduction

The third law set in this manuscript (Cod. Or. 12.206) is entitled "Kitab Oendang Oendang darie Tandjoeng Aúúr en Selebar" (The Book of Laws from Tanjung Auer and Selebar). The text is dated "Tandjoeng Aúúr, 31 July 1855", and was signed by "Daing Makoleh". The Table of Contents at the beginning of the manuscript, after listing Sungai Lemau after the number 1 and Sungai Hitam after the number 2, lists "Tandjoeng Aúúr, Selebar" after numbers 3 and 4 together. However, this third and last law forms a single coherent unit which cannot be divided into two sections along the lines suggested by the title and Table of Contents. Indeed, the place names mentioned in the title are somewhat misleading and their significance is not equivalent to either Sungai Lemau or Sungai Hitam. Tanjung Auer is simply the name of a village which served as the headquarters for the author of these laws. Silebar was at one time a major Pangeranship in the area with which the English contracted a major treaty in 1695 (c.f. Bastin, 1965, p. 36 ff.). In Raffles' time the Pangeran still claimed control of Sungai Hitam. However, according to Van den Bor's report, in 1855 the Pangeran himself only controlled the four pasars of Silebar (Van den Bor, 1862, p. 256). According to Van Ophuijsen (1862, p. 196), these Pasars were named "Kandang, Pasar Atjéh, Selébar and Pondok Kapoer" and had a population of about 800. However, it is quite clear from the text that the laws do not apply to the area effectively controlled by the Pangeran. These laws are explicitly concerned with "Andelas soengij keroe" and "lima boea Bada". According to Van den Bor the second of these districts was claimed by inheritance right by the Pangeran of Silebar (Van den Bor, 1862, p. 256). Nevertheless, both of these districts were governed by a head of division (kapala divisie = divisie hoofd), Daeng Makuleh. Although one has the general impression that the Pangeran of Silebar and his district played only a minor role in local politics during the first half of the nineteenth cen-

tury, a substantial population was involved. According to Francis (1842, p. 424), in ± 1833 the territory as a whole contained 50 villages and 6,962 people compared to the 42 villages and 4,122 people of Sungai Hitam and the 143 villages and 12,817 people of Sungai Lemau. The discrepancy between Francis' population figure (6,962) and that given by Van Ophuijsen (1862, p. 196), ± 800, indicates that in 1833 Silebar was still a substantial region. From Francis' enumeration it appears that Silebar at that time was considered to include the areas to the east and south of Sungai Hitam, up to the edge of the Seluma region. In 1855 terms this would include that part of the District of the Environs of Bengkulu fairly near the coast that was not part of Sungai Hitam or Sungai Lemau. Thus, while not reflecting the local political situation, Silebar was the name of a large region in Bengkulu. Taking all of the above qualifications into consideration, the term Silebar laws will be used to refer to the third and final law set to be found in the manuscript Cod. Or. 12.206.

While the structure of the Sungai Hitam laws was strongly dependent upon the structure of the Sungai Lemau laws a more general sequential statement can be formulated concerning the contents of these two laws. First, there is a discussion of titles followed by the obligations and rights accruing to headmen. These are followed by a section dealing with marriage. Then criminal matters are dealt with in the following order: killing, wounding, theft, robbery and arson. After criminal matters one finds a section dealing with sexual offences. And finally, there is a discussion of fines and/or legal costs. The manner in which this sequence is partitioned determines the structure of these two laws. While the structures are different one can easily identify the similarities and transformational relationships that relate the two systems of partitioning. The Silebar laws also use this sequence. However, the system of partitioning is substantially different from that used in either the Sungai Lemau or Sungai Hitam laws. The Silebar laws use a three element structure similar to that employed in the Sungai Lemau laws, but they also contain material concerning sexual offences that is more similar to the Sungai Hitam laws. Structurally, there are two main differences between the Silebar and Sungai Lemau or Sungai Hitam laws. First, the marriage section contains only three fasals and does not use the semendo/jujur opposition. Secondly, both the beginning and the end of this law contain blocks of undifferentiated data that are not assigned fasal numbers, with the result that the first numbered fasal begins with the marriage section and the last concludes the section

on sexual offences. Nevertheless, no material in the general sequence of both the Sungai Lemau and Sungai Hitam law is omitted. Furthermore, the language and style of the Silebar text is substantially different from that of the Sungai Lemau or Sungai Hitam laws and reflects a greater affinity to that used for the Manna region in Cod. Or. 12.205 and in the "older" portions of Cod. Or. 12.200 (Seluma), Cod. Or. 12.224 (Ngalam), Cod. Or. 12.228 (Tallo) and Cod. Or. 12.227 (Allas).

In the Silebar laws, between the title of the laws and the first numbered fasal is a section dealing with titles and the relations between subject and headmen. The format of the text is unclear and no single pattern emerges that can be used to distinguish between the various matters dealt with. However, using geographical locations, recurring grammatical patterns, and the structures of the Sungai Lemau and Sungai Hitam laws, a certain degree of order can be imposed on the material. Additionally, the placement of the material on the manuscript page offers some aid but unfortunately this is not consistent. The first partition that can be imposed is one between the material dealing with titles and that dealing with the relations between subjects and their headmen.

The section concerned with titles may be divided into three distinct units. This partitioning leaves out an ambiguous phrase that will be discussed below. All of the titles are stated explicitly. That is, they refer to individuals rather than to more abstract notions like types of titles in general as in the Sungai Lemau laws or like the headmen of specific villages as in the Sungai Hitam laws.

FIRST UNNUMBERED SECTION: UNIT 1

The first unit simply lists *Daeng Makuleh* as the division head (kapala divisie) of *Andelas Soengij keroe* and *lima boea Bada.*

FIRST UNNUMBERED SECTION: UNIT 2

The second unit states: *Pangerang Adie Mangolo* is the Khalipa of the merga *Andelas soengij keroe. Depatie Tjaija Loera* is the eldest Proatin (Proatien toea) of *Andelas soengij keroe.* Proatins other than those listed here are all subjects with ranks below that of Pambarab.

FIRST UNNUMBERED SECTION: UNIT 3

The third unit lists: *Dapatie Radja Moeda* of *Doessoen Dajngalie* in *lima boea Bada, Depatie Pamangkoe Radja* (Pambarab in *lima boea bada*) and *Depatie Singo* (the eldest Proatin (Protien toea) in the merga *Lima boea bada*). Depatis other than those listed here are all subjects with ranks below that of Pambarab.

These last two units are demarcated in two ways. First, one unit applies only to Andelas Sungai Keru and the other only to Lima Buah Bada. Secondly, the ends are marked by the common use of almost identical phrases: "Proatien iang lain diatas sigala[2] anak boea die bawa pangkat Pambarab" and "depatie iang lain diatas sigala anak boea die bawa pangkat pambarab". However, after the second of these recurring phrases is a passage that clearly does not relate to the section on relations between subjects and headmen but appears incomplete and outside the section on titles.

The phrase is "*depatie djaman Radja* doessoen *tjanagrie* Passangan-tongal".[1] This passage is either incomplete or out of place. The phrase could be part of a fourth incomplete unit. There may be either more titles or a further geographical specification of the location of the village. On the other hand, the phrase could be out of place, its correct position being before the final phrase of the third unit of the first unnumbered section. Of the two possibilities, the latter seems the more likely. First, the Silebar laws reflect a strong preference for three element structures, making the likelihood of four units improbable. Secondly, the use of the title Depati in the phrase would not be inconsistent with the other titles listed in the third element.

The latent three element structure of this section suggests an expansion on the two element structures of the equivalent sections of the Sungai Lemau and Sungai Hitam laws. This relationship is further underscored by the first phrase of the Silebar laws: "Paratoeran darie kapala kapala iang manjalasijken perkara negrie" (the regulations of the headmen who settle the affairs of state). This is almost identical to "Proatien manjalasaij kan parkara Negrie dalam satoe satoe doessoen" (Fasal 1, Sungai Lemau) and is identical to "Paratoeran darie kapala kapala iang manjalassijkan parkara Negri" (Question 1, Sungai Hitam). However, the obvious relationship with the Sungai Lemau and Sungai Hitam laws also serves to locate this phrase in the Silebar laws. The other laws indicate that this phrase applies only to the section on titles and not to the entire unnumbered section before the first numbered fasal or indeed the entire Silebar laws.

In both the Sungai Hitam and Sungai Lemau laws the block concerned with titles contains only two elements, while in the Silebar laws the block contains three elements. The most likely oppositional relationship among these three elements unites the second and third in their opposition to the first. Between the Sungai Lemau and the Sungai Hitam laws a compression transformation related the three element

structures of the former to the two element structures of the latter. The transformation compressed the first two elements of the three element structure into a single element, thereby generating a two element structure. A purely formal transformation, analogous to that relating the Sungai Lemau to the Sungai Hitam laws, can be generated to relate the three element structure of the Silebar laws to the equivalent two element structure of either the Sungai Lemau or Sungai Hitam laws. In this transformation the last element of the two element structure is expanded to yield two elements, thereby generating a three element structure. This expansion transformation is purely formal and lacks the substance of the Sungai Lemau/Sungai Hitam transformations. However, it is worthy of note because it is closely related to the compression transformation.

The second unnumbered section which deals with relations between subjects and their headmen can also be divided into three units. This partitioning is virtually identical to the one used in the Sungai Lemau laws. The three categories of the Silebar laws are "katolongan" (aid), "pambriean" (gifts), and "kaoentoengan" (profits). The first two terms are the same as those used in the Sungai Lemau laws. In place of "kaoentoengan" the Sungai Lemau laws have the term *assil* (hasil = taxes). However, Question 4 of the Sungai Hitam laws links the two terms with the phrase "kaoentoengan assil".

SECOND UNNUMBERED SECTION: UNIT 1

The first unit begins "katolongan anak boea kapada kapala nja" (the aid of subjects to their headmen). If there are public works (perkaradjan Negerie) that need to be done, like roadwork, bridging, or the like, then the subjects carry out this work.

SECOND UNNUMBERED SECTION: UNIT 2

The second unit begins "pambriean anak boea kapada kapala nja" (the gifts of subjects to their headmen). Up until now no gifts have been fixed (i.e., no gifts must be given).

SECOND UNNUMBERED SECTION: UNIT 3

The third unit begins "kaoentoengan kapala darie anak boea itoe" (profits of headmen from their subjects). If a subject finds ivory or wax, he gives a percentage (procent) to his headman when he sells them. The amount given is 25 duit per 2 rupia.[2] This money is divided three ways with one share going to the head of division (kapala divisie = divisiehoofd), one share to the Khalipa and one share to the Proatin in the village where the subject trades.

While the structure of these three elements is very similar to that of the Sungai Lemau laws, the distinction between subject and non-subject is not used in the Silebar laws where all relations are between headmen and their subjects. However, both of the oppositional patterns occuring in the Sungai Lemau laws are found here. The first and more obvious opposition is between allowed and not allowed transactions between subject and headman. This contrast unites units one and three in their opposition to the second unit. In other words, this opposition generates a center versus extremity opposition. The second oppositional pattern is much more subtle as it is dependent on a difference in syntactic construction. The first unit begins with "katolongan anak boea kapada kapala nja" and the second unit begins with "pambriean anak boea kapada kapala nja". Both of these units use the same syntactic construction. The words *anak boea* (subjects) are in a possessive relation to the category word, i.e., the subjects' aid and the subjects' gifts. On the other hand, *kapala nja* (their headmen) is the object of the preposition *kapada* (to), i.e., to their headmen. In the third unit this syntactic relationship is inverted. "Kaoentoengan kapala darie anak boea itoe". Here *kapala* (headmen) is in possessive relation to the category word (i.e., the headman's profit, while *anak boea* (subjects) is the object of the preposition *darie* (from). To make the transformation purely at the syntactic level without creating an associated change in meaning it was necessary to substitute *darie* (from) for *kapada* (to). This purely syntactic inversion unites the first two units in their opposition to the third. Or, in other words, a two plus one structure is generated.[3]

The structures in this initial segment of the Silebar laws are implicit and latent as opposed to the explicit and overt fasal structures of other laws. The unmasking of these structures was strongly dependent upon a prior knowledge of the structure of the Sungai Lemau and Sungai Hitam laws. Since the body of the Silebar laws is made up of clearly demarcated three element structures, the fact that these two structures contain three elements strongly supports the argument in favour of their existential reality. The question is not whether these structures exist or not, but why the six elements are unnumbered. There are two possible explanations for this phenomenon that are not mutually exclusive. First, the lack of numbering allows the sequence pattern of the Sungai Lemau and Sungai Hitam laws to be preserved while at the same time the numbered portion of the law begins with a marriage fasal. While neither the Sungai Lemau nor the Sungai Hitam laws begin with the topic of

marriage, the majority of indigenous South Sumatran legal codes start with a discussion of marriage. Secondly, by not numbering six elements, the quantity of numbers used in the laws is reduced by six. Thus if these elements were numbered the law might contain eighteen instead of twelve numbered fasals. Further, by not numbering these six elements the total number of fasals in the law may be reduced without having to resort to the compression transformation and omission patterns that were used to reduce the twenty-five fasals of the Sungai Lemau laws to the eighteen paragraphs of the Sungai Hitam laws.

This second argument is supported by the fact that there appears to be a block of unnumbered elements following Fasal 12. The exact number of elements is difficult to specify because there is some question as to where Fasal 12 ends and the unnumbered elements begin. However, even the most conservative analysis could not include the final element on legal costs (*beijo*) as part of Fasal 12. Thus the evidence indicates that the use of unnumbered elements is related to a numerical manipulation of the total number of numbers used in the law. Furthermore, there is some, but less positive, evidence indicating that the manipulation was devised in such a way as to begin the numbering with a marriage fasal.

FASAL 1

Fasal 1 is entiled "Adat djoedjoer Agoeng" (the adat of large jujur). A man (either a married man or a youth) falls in love with a maiden. When the discussions between them have been settled the man gives 80 reals as jujur money (oewang djoedjoer) to the parents of the maiden. Additionally, the man gives a Bugis style kris with all accessories, which is valued at ten reals. Additional monetary payments include the "beijo-prbeijo" (costs) [4] of 12½ reals and the *mas moetoeng* (literally scorched or burnt money) [5] of five reals. The 80 reals is reduced by 10 reals which is not paid by the man. This amount becomes the tali kulo. Then the maiden is married to the man. The maiden goes to live in the house of her husband. This fixed arrangement extends to her (their) grandchildren (tetapla sampaij kapada anak tjoetjoeng nja).

This fasal contains three main features: the nature and amount of the jujur payment; a statement on residence, and a statement on descent. The basic jujur amount is set at 80 reals, which is equivalent to the 160 rupia of Fasal 7 of the Sungai Lemau laws and Paragraph 6 of the Sungai Hitam laws. The tali kulo is considered as part of this basic amount and is equal to the 20 rupia of Paragraph 7 of the Sungai Hitam laws and the highest amount of the tali kulo in Fasal 8 of the Sungai

Lemau laws. This marriage form is explicitly patrilocal. This statement is necessary because the other forms of jujur listed in this law are not necessarily patrilocal. The final phrase of this fasal apparently extends the residential status of the woman to her grandchildren. From the other marriage fasals it becomes apparent that this means that only after the second descending generation may descendants return to the woman's village. However, it is not clear whether this applies to marriage or not. Thus this rule apparently intertwines the notions of descent and residence.

FASAL 2

Fasal 2 is entitled "Adat djoedjoer Penenga" (the middle jujur). A man falls in love with a maiden. When the matter has been settled between the two of them, the man gives 35 reals, a kris valued at 10 reals, and the *mas moetoeng* of 5 reals. The "prbeijo" is not given. When this has been done they are married. The woman resides either with her husband or her parents, depending on where she (she, he or they??) pleases. This arrangement extends to their children (dan sampaij kapada anak nja). This form of jujur is also called *samando baradat* (poen damikian poela djoedjoer inie die pangil djoega samando *baradat*).

The most striking aspect of this fasal is the equation of jujur and semendo marriage forms. This law not only does not use the opposition between jujur and semendo, but it also neutralizes the opposition. A law could fail to make use of a particular opposition without denying the existence of that opposition. Thus a law might discuss or employ one member of an opposition established in another law without mentioning its opposite. Here, however, the existence of any opposition between jujur forms and semendo forms is denied. This neutralization of the opposition is most apparent through the use of alternative names for the marriage forms. However, the substantive base of the standard semendo/jujur opposition is also removed by the specifications associated with these marriage forms. While the opposition between semendo and jujur may or may not imply a corresponding opposition between matrilineal and partilineal descent, it nearly always implies an opposition between matrilocal and patrilocal residence. By allowing the residence associated with this type of marriage to be optional the normal basis of the opposition between jujur and semendo cannot develop. Then what does the use of the term semendo beradat imply? In both the Sungai Hitam and Sungai Lemau laws semendo beradat marriage was defined by the equal rights that the man and woman had in property. In those laws this rule served to distinguish this form from ambil anak

marriage, which in the Sungai Lemau laws was also called *tidak* (not) *beradat*. While the Silebar laws are not explicit on this point, such a formulation does not contradict the logic of the fasal, especially in view of the marriage residence rule. However, Van den Bor, in his report takes the rule a step further by asserting that both man and woman have equal rights in goods and *children* (Van den Bor, 1862, p. 267).

While it is possible that equal rights exist with regard to the children, the fasal places a curious restriction on their movement by asserting that the residence decision of the marriage partners extends to the children. The corresponding phrase in Fasal 1 extends the residence of the mother to the grandchildren. Once again there is an intertwining of descent and residence rules that is not fully clarified.

FASAL 3

Fasal 3 is entitled "Adat djoedjoer ketjil" (the small jujur). A man wishes to marry a maiden. When the matter has been settled on the basis of discussions, the man gives 10 reals to the maiden's parents. A kris valued at 10 reals is also given. When this has been done, the man and woman are married. The man *must* reside in the house of his in-laws, they (he?) cannot go to his house to live. When there is a separation by death or divorce (apabila sarak hidoep atoúw sarak matie) one person returns to maintain the house (toengoean) of his father. The person who returns may be either a man or woman, depending on the wishes of the man's family (sebla bapak nja). This form of jujur is also called "Samando balik djoeraij" or "Samando ambil anak".

This fasal also equates semendo and jujur as alternative names for the same marriage form. However, the residence rule is purely and absolutely matrilocal; thus, this form of marriage "should be" a semendo form. Of the two possible semendo names "Samando balik djoeraij" has the more obvious meaning because it refers to the child who returns to maintain his father's house. The meaning of *Samando ambil anak* in this context is less clear. In both the Sungai Lemau and Sungai Hitam laws *semendo di* (or *ter*) *ambil anak* is dichotomously opposed to *Djoedjoer Agoeng*. Here such an opposition parallels that between the exclusive patrilocal residence of Fasal 1 and the exclusive matrilocal residence rule of Fasal 3. A full structural analysis of this three element structure determined by Fasals 1, 2, and 3 and its relationship in transformational terms to the Sungai Hitam and Sungai Lemau laws is

necessary to explain why an apparently unequivocable semendo marriage form is called *djoedjoer ketjil.*

Four main features determine the structure of this three element group. They are: the linguistic characteristics of the titles of the fasals; the numerical significance of the amounts of money; the nature of the residence of the marriage partners; and the residential status of children in descent terms. The linguistic features of the titles present a simple division of the elements into large, medium, and small. These categories, while paralleling those used in the Sungai Hitam laws, are more sharply defined and contain no information extraneous to the partitioning. For example, in the process of the transformation from the Sungai Lemau laws the third jujur element of the Sungai Hitam laws retained material not relevant to the partitioning into large, medium, and small. Thus Question 8 was "Djoedjoer ketjil atoúw kabaikan". The "atoúw kabaikan" portion is irrelevant to the logic of the oppositional system. In the Silebar laws the third jujur element is only "Adat djoedjoer Ketjil", thus the irrelevant "atoúw kabaikan" is eliminated. A comparison on this point with Van den Bor's report (Van den Bor, 1862, p. 267) reveals an important aspect of the relationship between the structures found in legal codes and the data external to such primary sources. In a paragraph that is almost an exact translation of Fasal 3 of the Silebar laws Van den Bor uses the term "djoedjoer ketjil atoúw kabanjakan".[6] (Van den Bor, 1862, p. 267). Assuming that Van den Bor's report is accurate and considering the lack of scribal errors in the manuscript version leads to an interesting conclusion. In reality, this marriage form was known as *Djoedjoer Ketjil* or *Djoedjoer Kabanjakan.* However, in order to make the opposition in the legal text clearer only one of these names was selected. Thus, the linguistic structure of the fasal titles involves a partitioning into large, medium, and small that was maximally visible in linguistic terms.[7] However, this does not mean that either the text or the report is more accurate in any absolute sense. The data provided by each source are of different types and while they may be mutually reinforcing, they cannot be considered as contradictory. Furthermore, only a text contains complete structural information.

The amounts of money associated with these marriage forms may be divided into two groups: the basic amounts and the supplementary or ancillary payments. The three basic amounts are 80, 35, and 10 reals. The middle amount is exactly equal to one half of the difference between the largest and smallest amounts, i.e., $80 - 10 = 70$ and $\frac{1}{2}(70) = 35$. This is not equal to the average of the two amounts which is 45, i.e.,

80 + 10 = 90 and ½ (90) = 45. The conventional way of finding the middle amount (averaging) of a three element system produces equal differences between the elements, i.e., 80 — 45 = 45 — 10 = 35. However, the system used in the Silebar laws produces unequal differences between the elements, i.e., 80 — 35 = 45 but 35 — 10 = 25. Thus, the middle term is not equidistant from the two extremes but equal to one half the distance between them. Furthermore, the inequality is such that the difference between the first and second terms was greater than the difference between the second and third terms. This feature of sequences was common to most of the numerical sequences in the Sungai Lemau laws. While most of the sequences of the Sungai Lemau laws occurred within structural units (i.e., fasals) each of the terms of the Silebar law sequence occurs in a single structural unit. Thus one can establish the inequality that the difference between Fasals 1 and 2 is greater than the difference between Fasals 2 and 3. This unequal division has structural significance; i.e., the difference between the two fasals associated with semendo marriage forms is less than the difference between the jujur fasal and the first semendo fasal. Thus, the inequality suggests that the difference between two semendo forms is less than the difference between a jujur and semendo form.

There are three ancillary amounts to be paid: a kris valued at 10 reals; the *beijo-prbeijo* or *prbeijo* of 12½ reals; and the *mas moetoeng* of 5 reals. The first jujur element requires all three, the second only two of them and the third only one. The system is such that one element is dropped in the transformation from one step to the next. The amounts involved in these transitions are such that the difference between the first and second steps is greater than the difference between the second and third steps. This pattern reinforces the inequality relations among the basic amounts and the subsequent partition of the fasals into a one plus two structure. However, the ratios between the difference are not the same in both cases. For the basic amounts the ratio is 45 to 25 or 9 to 5 and for the ancillary amounts the ratio is 12½ to 5 or 5 to 2. In the Sungai Lemau laws three element sequential structures used a ratio of 2 to 1 as the ratio between differences. The two ratios of the Silebar laws are just off a 2 to 1 ratio. By adding one to 9, the ratio of the basic amounts becomes 10 to 5 or 2 to 1. By subtracting one from 5 the ratio of the ancillary amounts becomes 4 to 2 or 2 to 1. This addition and subtraction of one to the ratio implies adding 5 to the larger of the differences between the basic amounts, i.e., 45 + 5 = 50 and ½ (50) = 25, or subtracting 2½ from the larger of the differences

in the ancillary amounts, i.e., $12\frac{1}{2} - 2\frac{1}{2} = 10$ and $\frac{1}{2}(10) = 5$. Curiously, these correction factors are also in the ratio of 2 to 1 (5 to $2\frac{1}{2}$).

Both the basic amounts and the ancillary amounts, as well as their sum, decrease in size as the sequence progresses. For the two semendo amounts (35 and 10) this means that the amount associated with *samando baradat* is greater than the amount associated with *samando balik djoeraij*. This reverses the relationship between the amounts associated with these two marriage forms in the Sungai Lemau laws. There the amount associated with *semando beradat* was either 5 or 6 reals while that associated with *samando baliek djoraij* was twelve reals.[8]

Thus, there are two main structural patterns associated with the amounts of money to be paid with each marriage form. The structural relations among the basic amounts provide a definition of the meaning of the notion "middle" (penenga) occuring in the linguistic structuring of the fasal titles. The "middle" is equal to half the difference between the two extremities. The pattern of the ancillary amounts evokes another structure. The removal of one such payment at each transitional step suggests a structural continuum of decreasing amounts, even though the amounts removed are unequal. These two structural patterns (continuum and the center versus extremity opposition) recur in the residence and descent features of this three element structure.

The residence of the marriage partners is clearly and explicitly defined for each marriage form. The first form is strictly patrilocal, the third is strictly matrilocal, while the second form is either matri- or patrilocal. Thus the middle element is a mixed category defined in terms of the two extremities. The use of the word *penenga* (middle) to describe this form is appropriate. Furthermore, like the middle amount of the basic marriage payments, this category can be seen as being equivalent to half of the difference between the two extremities. These residence categories are the main differentiating feature of the marriage forms. The Sungai Lemau laws also set up an opposition between matri- and patrilocal marriage residence. However, in that law set the opposition was associated with a second opposition between jujur and semendo, which in turn was used to partition the six marriage fasals into two opposed groups of three fasals. In the Silebar laws the same basic opposition between matri- and patrilocal residence opposes the extremities of a three element group without involving a concomitant structural opposition between jujur and semendo. While these extremities are diametrically opposed their clarity and unequivocal nature unite them in their opposition to the middle element. In Hegelian terms the extremities are

thesis and antithesis and the center the synthesis. Furthermore, the opposition of the extremities conforms to the law of the unity of opposites, i.e., a principle is not opposed to any opposite, only to *its* opposite.

In each of these three marriage fasals, following the statement on the residential status of the marriage partners, there is a statement on the status of their descendants. In Fasal 1 the phrase is "tetapla sampaij kapada anak tjoetjoeng nja". In Fasal 2 the phrase is "dan sampaij kapada anak nja". In Fasal 3 the phrase is "apabila sarak hidoep atoúw sarak matie maleinkan kambalie saorang managak toengoean die sabla pihak bapak nja, sama djoega lakie dengan prampoean mana iang die soekhie oleh sebla bapak nja". These phrases are in the same position in their respective fasals and thus presumably deal with the same subject. However, only the meaning of the phrase occurring in Fasal 3 is explicit, i.e., "when there is a separation by death or divorce one person returns to maintain the house of his father. The person who returns may be either a man or a woman, depending on the wishes of the man's family". This is a classic *balik jurai* statement and the usual implication of such statements is that one child born of the marriage returns.[9]

With the information contained in Fasal 3, the meaning of the equivalent passages in Fasals 1 and 2 can be derived. The two phrases determined by *kapada* (to) are comprehensible: *kapada anak tjoetjoeng nja* = to their grandchildren and *kapada anak nja* = to their children. The word preceding each of these prepositional phrases is the same in both cases: *sampaij* = *sampai* = reaching as far as, extending to. The question is: what reaches as far as the children or the grandchildren? Only the phrase in Fasal 1 contains further information, which is embodied in the word *tetapla* (i.e., *tetap* + *lah*). The normal meaning of *tetap* is "steadfast; constant; secure; regular; *fixed (of tenure or residence)* (Wilkinson, 1932, Vol. II, p. 581; 1959, p. 1215). Given the nature of the equivalent phrase in Fasal 3 and the fact that each of the phrases is preceded by a statement on the residence of the marriage partners, one can reasonably conclude that the meaning of the phrases in question is that the residence arrangements of the marriage partners extend to the grandchildren in the first instance, and to the children in the second. The return of the child provided for in Fasal 3 may be interpreted as: the residence arrangements of the marriage partners only apply to them and are not extended to their children. The important structural feature of these three rules is that the extension requirement is shortened by one generation in proceding from one category to the next. This is isomorphic to the reduction in the number

of ancillary marriage payments as one procedes from one category to the next. As intriguing as these extension rules are, it is impossible to specify what is meant in greater detail. Is the rule a marriage prohibition statement or a simple requirement concerning the physical location of individuals? These questions must remain unanswered.

Thus, in the three marriage fasals there are no less than five separate structural systems which suggest two structures for this three element group. Two of these systems use a center versus extremity opposition (i.e., the structure of the basic amounts and the structure of marital residence) and two of these systems use the same device of reduction by one element to form a continuum (i.e., the structure of the ancillary payments and the descent/residence extension rules). The linguistic structure of the titles cannot be unequivocably assigned to either of these two structural systems but can be applied to both with equal validity. If a choice of assignment were absolutely necessary, the center versus extremity structure seems only slightly preferable. This preference is based on the fact that the basic, and thus major financial payments, use a center versus extremity system, while the ancillary and thus minor financial payments use the continuum system.

The explanation of the occurrence of a matrilocal jujur marriage form requires an analysis of the transformational relations between this law set and the Sungai Lemau and Sungai Hitam laws. The first step in any transformational analysis is the establishment of correspondence between the elements of one structure and those of the other. In the comparison of systems with an unequal number of elements, such as in the present example, the process of assigning correspondences is critical. If every element in the larger system is assigned to one element of the smaller system, then a compression transformation is required. If, however, every element of the smaller system is assigned to only one element of the larger system, but at the same time the logic of the transformational process requires a transformation from larger to smaller, the result is that only some elements of the larger system are assigned to elements of the smaller system. Thus, in this second case the transformation between the two systems involves not compression but omission. The analysis of the transformational relationship between the Silebar laws and the Sungai Hitam and Sungai Lemau laws necessitates the use of both of these approaches to the assignment of correspondence. The case in which each element of the smaller system (the Silebar laws) is assigned to only one element of the larger system (the Sungai Lemau or Sungai Hitam laws) will be called a basic or minimal correspondence

relationship. The case in which as many elements of the larger system as possible are assigned uniquely to an element of the smaller system will be called a maximal correspondence relationship.

Because of the complexity of this analytical problem a notational convention is necessary to achieve brevity while at the same time avoiding unnecessary confusion. Fasal 1, 2, or 3 will refer to Fasals 1, 2, or 3 of the Silebar laws. As all three fasals deal explicitly with jujur the symbolic notation for these fasals will be J_i, J_{ii}, and J_{iii} respectively. Since the six marriage elements of the Sungai Lemau and Sungai Hitam laws correspond the convention presented in Table 5.1 will apply.

Symbol	Sungai Lemau	Sungai Hitam	Silebar (minimal correspondence)	Silebar (maximal correspondence)
J_1	Fasal 7	Question 6	J_i	J_i
J_2	Fasal 8	Question 7	—	J_i
J_3	Fasal 9	Question 8	—	—
S_1	Fasal 10	Question 9	—	J_{iii}
S_2	Fasal 11	Question 10	J_{ii}	J_{ii}
S_3	Fasal 12	Question 11	J_{iii}	J_{iii}

For "J_1, etc." read "the first jujur element, etc." For "S_1, etc." read "the first semendo element, etc.".

TABLE 5.1

The basic correspondence relationship requires that each element of the Silebar laws be assigned to only one element of the reference structure (in this case the Sungai Lemau - Sungai Hitam structure). The best assignment is as follows:

I. Fasal 1 = the first jujur element
II. Fasal 2 = the second semendo element
III. Fasal 3 = the third semendo element

This minimal correspondence relationship creates the best element to element correspondence but not the most complete. Assignment III is the only one in which some question of validity may arise. The question is whether Fasal 3 should be considered as primarily *semendo balik jurai* or as primarily *semendo ambil anak*. The choice of *semendo*

balik jurai over *semendo ambil anak* is largely based on the fact that all three laws have a principle with double descent implications in the *last* semendo marriage fasal, which is strongly associated with *semendo balik jurai.* In general, in the assignment of minimal correspondences the structural loci of the various elements play the decisive role.

The transformation from the six to the three element structure can be viewed as a type of lateral compression of two three element groups. In other compression relationships both elements that were "pushed" together were absorbed into a single unit. Here, however, some units are "pushed out of the way" and in the end omitted from the new structure. The breaking point or shear point is between the jujur and semendo elements of the final structure, or between the first and second elements of each of the constituent structures. This cutting point suggests a one plus two, three element structure. While this structure does not occur in either the Sungai Lemau or Sungai Hitam laws, it does occur elsewhere in the Silebar laws. The structuring of the three elements in the first unnumbered section at the beginning of the Silebar laws suggests the unity of the last two elements in contrast to the first. Similarly, the sequences of monetary payments associated with marriage indicate that the difference between the first and second elements is greater than the difference between the second and third elements.

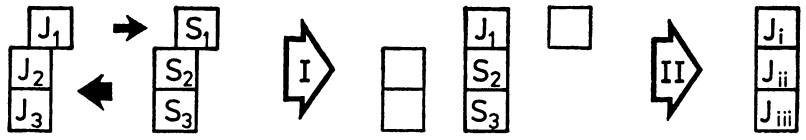


DIAGRAM 5.1

The second step of the transformation involves converting the various jujur and semendo elements to a single jujur system of classification. The linguistic value of the titles in this system are based on the three jujur elements of the Sungai Hitam laws. It is in this second process that normally semendo forms of marriage acquire their jujur names. The rationale for this assignment is not clear and is virtually unique in South Sumatran legal codes. However, the pattern is apparently based on the total structure of the Silebar laws. The unnumbered elements that both precede and follow the numbered fasals indicate that one of

the basic manipulations of this law set was directed at reducing the total number of numbered elements to a minimum. The lateral compression of the first step of the above transformation also contributes to this effect by eliminating three numbered units from the structure. The mode of this lateral compression, however, preserves the essential forms of marriage. The second step creates the illusion of preserving an entire structural unit of the Sungai Lemau and Sungai Hitam laws. However, the exact structure preserved is that of the Sungai Hitam jujur questions. At the same time the structure of the semendo questions is eliminated. Further, like the relationship between questions and answers in the Sungai Hitam laws, there is a discontinuity between title and content which is the result of the second transformational step. The use of jujur titles indicates that the illusion of preserving an entire three element structure from another law was more important than maintaining title-content continuity. Thus the use of jujur names is based on the fact that the Silebar laws reduced the number of marriage elements by three, while preserving the substance of both jujur and semendo marriages and at the same time seeking to create the illusion of not breaking the integrity of three element structures as presented in the Sungai Hitam or Sungai Lemau laws. Thus the logic of the law sets is more important than the content, or any logic directly based upon social reality.

The transformational system based on a maximal correspondence relation indicates a second but closely related pattern. The assignment of maximal correspondence reveals how much of the material in the Sungai Lemau and/or Sungai Hitam laws was carried over into the three element structure of the Silebar laws. While the basic correspondence relation tended to relate structures to each other, the maximal correspondence relation focuses on the element to element relationships. In other words, the basic correspondence relation relied upon information on the structural locus of the various elements in their respective structures to achieve the "best" assignment. On the other hand, the maximal correspondence relation is based entirely on the contents of the elements and not on their structural position. Accordingly, the following maximal assignments can be made.

I. Fasal 1 = the first and second jujur elements
II. Fasal 2 = the second semendo element
III. Fasal 3 = the first and third semendo elements

These correspondences contain two additional assignments. The

second jujur element dealing with the tali kulo can be associated with Fasal 1, which also mentions the tali kulo. The first semendo element dealing with ambil anak marriage can be related to Fasal 3, which lists semendo ambil anak as an alternative name for this form of marriage. Of special interest is the fact that the third jujur element cannot be assigned to any fasal in the Silebar laws and as a result drops entirely out of the structure. The reason for this omission is the same as that in the analysis of both the Sungai Lemau and Sungai Hitam laws, i.e., the third jujur element lacks any substantive content. This system of maximal correspondence involves a type of compression different from that associated with the basic correspondence system, but the same as that used in the transformation between the Sungai Lemau and the Sungai Hitam laws, i.e., two elements of one structure are incorporated into a single element of a second structure. The manner in which the compressed semendo elements acquire jujur names is identical to the process described in association with the system of minimal correspondence.

The assignment of maximal correspondence relationships results in a partitioning of the basic structures different from that created by the system of minimal correspondence. As a result of assignment I the jujur elements of the reference structure are partitioned into a two plus one structure. However, as a result of assignments II and III the semendo elements are partitioned into a center versus extremity structure. The partitioning of the jujur elements reflects the internal structure of both the Sungai Lemau and Sungai Hitam laws. On the other hand, the partitioning of the semendo elements presents a new structure for these elements. However, this structural opposition of center and extremities occurs elsewhere in the Sungai Lemau laws. While the transformation based on a minimal assignment treated the reference structure as being composed of two parallel structures, the transformation based on a maximal correspondence relationship necessitates regarding the reference structure as a continuous sequence of elements.

While the $J_{1+2} = J_i$ relationship presents no ordering problems, the fact that J_1 and J_i are both *jujur agung* indicates that J_2 is compressed into J_1 and not the other way around. On the other hand, in the equivalence relations $S_1 + S_3 = J_{ii}$ and $S_2 = J_{ii}$ the compression transformation is relevant to the ordering of the elements in the final structure. Thus, the assertion that S_1 is compressed into S_3 and not the other way around is based only partly upon the fact that the contents of Fasal 3 of the Silebar laws (J_{iii}) deal primarily with the relations

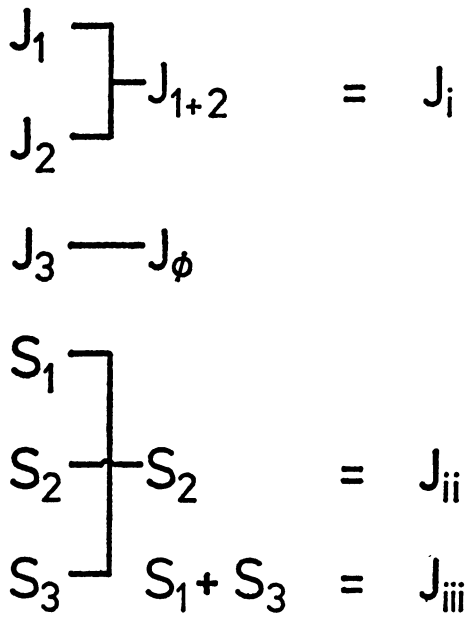


DIAGRAM 5.2

in the third semendo element (semendo balik jurai). It is also based on the fact that the structural locus of the third semendo element (S_3) determines the location of the contents of the first and third semendo elements in the final structure, i.e., in the final structure the fasal dealing with $S_1 + S_3$ follows the fasal dealing with S_2.[10] The dominance of the position of the third semendo element indicates that the structural locus of an element may be relevant in an analysis based on the maximal correspondence between elements. Therefore, since the maximal correspondence relationship is sometimes dependent on the structural locus of an element it is also dependent on the minimal correspondence system.

Thus the transformation from the six element marriage structures of the Sungai Lemau and Sungai Hitam laws to the three element structure of the Silebar laws can be expressed at three analytical levels. By analyzing only the titles of the Silebar laws the transformation appears to involve the omission of three semendo elements. By using a minimal correspondence relation two jujur and one semendo element are eliminated. By using a maximal correspondence relation only one jujur element is completely eliminated from the final structure. The choice of one of these patterns over the other involves the amount of weight

that one wishes to give to the various processes of compression and omission. In terms of the analysis of the total structures of these law sets the transformation based on a minimal correspondence relationship is the more satisfactory in that the process of the assignment of correspondence and the nature of the compression transformation involve a strong dependence on structural loci, which is entirely consistent with the structural patterns of these laws. The maximal correspondence relationship, on the other hand, focuses on the preservation of content. The machinations that would be necessary to couple this transformation with a full consideration of structural loci would be artificially complex and unnecessarily confusing. The transformation based on the titles is of an entirely different order but establishes the fact that the authors were using an external structure and considered the integrity of three element groups an important aspect of that structure.

Introduction to the fasals on criminal matters.

Following the marriage section there are six fasals dealing with criminal matters. As mentioned above (c.f. p. 77), criminal matters were particularly sensitive to colonial influence. Of the three laws in this manuscript the Silebar laws reflect the most colonial intervention. From the Van den Bor report one has the impression that the actual level of interference in legal affairs was much greater than either the texts of the Sungai Lemau or Sungai Hitam laws would indicate. The Silebar laws, on the other hand, more closely reflect the level of Dutch involvement as suggested by the Van den Bor report. This feature of the text can be directly attributed to the author. Unlike the individuals responsible for the Sungai Lemau and Sungai Hitam texts, Daeng Makuleh had no traditional or hereditary authority to govern the area under his control. Thus, not surprisingly, his primary allegiance was to the colonial authority from whom he derived his right to govern. Secondly, as a Bugis, Daeng Makuleh came from a line of influential individuals who habitually acted as middlemen between the colonial authority and the indigenous population. This line, with occasional lapses like the Parr murder aside, tended to associate themselves with the colonial power in one way or another. Thus the tendency to favour the colonial viewpoint may be attributed both to the family traditions and personal circumstances of Daeng Makuleh.

Furthermore, the European distinction between criminal and civil law is relevant to the pattern of external influence. In European law,

killing in general and murder in particular, is almost always completely associated with criminal law. In English law, however, while killing is not normally associated with civil law, there are some interesting complications. "The common law maxim was *actio personalis moritur cum persona* (a personal action dies with the person)" (Smith and Kennan, 1973, p. 218). However, a variety of cases reveal that compensation may be associated with a death. "In *Franklin v. South East Railway* (1858), 3 H. & N. 211, an old infirm father was *held* entitled to damages on his son's death since the son assisted his father with the latter's work . . . and in *Berry v. Humm* (1915) I K. B. 627, it was *held* that a husband might claim in respect of his deceased wife where he was compelled to employ a housekeeper consequent upon his wife's death" (Smith and Kennan, 1973, p. 220). Thus, while in English law killing is normally only associated with criminal law, there are circumstances which may involve a civil action. In South Sumatran legal texts, however, the bangun associated with a killing is often purely a matter of civil law in that it only involves a compensation and only rarely punishment. While colonial influence may be seen as being directed towards establishing the principle that certain acts are criminal and therefore punishable, such influence was not necessarily also directed at removing the possibility of compensation. As the examples from English law show, there is no fundamental objection to the co-existence of the two principles. Furthermore, the Silebar laws do not reveal a replacement of compensation by punishment, but the simultaneous existence of the two principles. In this case the principles of compensation usually retain their indigenous form while punishment is assigned to the colonial power. However, the rules used to distinguish between the two principles are difficult to attribute unequivocably to one source or the other.

FASAL 4

Fasal 4 is entitled "Adat orang sala mamboenoe orang" (the adat of a person who is guilty of killing someone). If a person kills someone unintentionally, for example, a person shoots at something like a deer and hits someone unbeknownst to him, the matter is brought before a judge when the person dies. The judge orders the killer to pay the bangun to the family (tipak kahoem) of the person who dies. The amount of the bangun is 88 reals, 8 wang, 8 tanci (= duit) and 8 keping, if the person who died is of the same class as the killer and not a descendant of royalty (anak raja) or a mantri. If, however, the latter is the case, then the bangun is paid with persons (mambaijar dengan orang). The bangun for anak raja is three slaves and that for the descendants of a mantri (anak mantri) is two slaves. However, if

the person was not killed but only wounded, then he must pay the "tepoeng", that is ,he pays the "timbang dara nja" (the estimation of his blood). The judge can decide the amount. If a person kills someone intentionally and the case is brought before a judge with evidence and testimony, the killer is sentenced to death. But he can be free from death but must be punished severely and banished from the state (negri) where he was born. And if the court (Hakim Hakim) here cannot impose a punishment because it is too severe he is handed over to the government so that the gentlemen (tuan) with authority in the Large Council (Raad bessar) can punish the guilty party.

This fasal is divided into two main portions, each of which is in its turn divided into two again. The main partitioning makes a distinction between intentional and unintentional killing. The phrases setting out these two principles are clearly opposed, i.e., "saorang orang soeda mamboenoe orang dengan tida die sangadja nja" and "saorang mamboenoe orang dengan die sangadja nja". These phrases divide the fasal into two sections. Each of these two main sections contains two elements. In each case it is the first of these elements that is the more closely related to the main partitioning. The second element of each of these larger sections is defined not in terms of the basic opposition but in terms of the first element of the section. Thus, in the first section the second element deals with a situation in which the judge is to impose a less severe judgment because the terms and conditions of the first element have not been met. And in the second section the second element deals with the situation where the judges (court) are unable (or unwilling?) to impose a severe punishment.

The division between intentional and unintentional killing is paralleled by an opposition between compensation and punishment. The unintentional killing requires compensation but no punishment. The intentional killing requires punishment but compensation is not mentioned. This opposition is fundamentally different from that presented in the *Code of Laws*. In Fasal 21 of the *Code of Laws* there are two payments associated with a killing: a bangun of one hundred reals and a fine of fifty reals. The bangun is compensation and the fine (denda) is punishment. Though Fasal 21 makes no reference to intent Fasal 22 contains the following phrase: "Orang membunoh orang dengan tidak disenghaja" (i.e., a person kills someone unintentionally). In this case the payment is only a bangun of one hundred reals. Thus Fasal 22 creates an opposition between intentional and unintentional killing. However, there is not a clear opposition between compensation and punishment. Intentional killing requires both compensation and punishment but

unintentional killing requires only compensation. Thus, when the *Code of Laws* was written compensation was always to be paid and in some circumstances a fine was added. In the Silebar laws only some situations required compensation while others required punishment and none required both. In the Silebar laws this clear opposition between compensation and punishment allows for the isolation of indigenous legal thinking and colonial influence. The details of compensation reflect the basic patterns of local logic while the details and attitudes towards punishment are intertwined with governmental practice.

The most important aspect of compensation is the monetary payment associated with unintentional killing. The payment is specified in the text at 88 reals, 8 wang, 8 duit and 8 keping. This specification contradicts both the Van den Bor report and the text itself. The Van den Bor report (Van den Bor, 1862, p. 268) indicates that in "Andelas Soengei Kroe, Lima Boea Bada and Sĕlébar" the bangun is 88 reals, 8 guilders, 8 suku, 8 tali, 8 wang, 8 tanci (= duit), and 8 keping with a fine of 40 guilders (= 20 reals). And Fasal 10 of the Silebar laws themselves contains the following phrase "dia mambijar teboes njawa nja Sapadoea bangoen dan iaitoe ampat poeloe rial dalam" (they pay the tebus nyawa of one half the bangun that is *forty* reals each). In other words, according to this calculation, the bangun is equal to eighty reals.

These discrepancies present an interesting problem for structural analysis. The first question is whether the difference between the Van den Bor report and the text is accidental or not. The monetary value of this difference is 8 guilders, 8 suku and 8 tali.[11] This amount is equal to seven reals (i.e., 8 (½) + 8 (¼) + 8 (⅛) = 4 + 2 + 1 = 7). If this difference were almost any other amount than seven it could be dismissed as an accident or a scribal error. However, seven and its multiples (especially 14 and 28) occur in the Silebar laws and in the regions to the south in the districts Seluma and Manna as one of the most common specifications for fines. For example, in Cod. Or. 12.205 for Manna, Fasal 12 specifies the payments associated with the theft of property as a fine of 28 reals, compensation of 14 reals, legal costs of six reals, and a tebus tanda of one real. Similarly, Fasal 17 of the same law specifies the payments associated with the theft of goats as a fine of 14 reals, compensation of 7 reals, legal costs of six reals, and the tebus tanda of one real. Thus the importance of the number seven suggests the existence of a logical basis to this discrepancy. A comparison of the various legal codes for Manna present a further example of a similar type of discrepancy. The manuscript entitled "Adat yang di pakai di

dalam pegangan Manna" [12] in bundle H813 of the Western Manuscript collection of the Royal Institute of Linguistics and Anthropology (TLVK - H813 - d - ii) specifies the bangun as 88 reals, 8 tengah, 8 suku, 8 tali, 8 wang and 8 duit. Another manuscript for Manna, Cod. Or. 12.205,[13] presents older and more traditional views than the texts discussed above. This manuscript contains three separate legal codes which, however, are continuously numbered. In Fasal 42 of the text the bangun is set at 80 reals, 8 suku, 8 tanci (= duit) and 8 keping. However, Fasal 16, which is in another section and thus in a separate legal code from Fasal 42, sets the pampas at 40 reals, 4 suku, 4 tali, and 4 keping. These three amounts may be calculated as 95.44 reals, 82.06 reals, and 41.51 reals respectively. Unlike the Silebar laws, however, the differences in the amounts are not suggestive. However, all of the lesser amounts, which apparently contain omissions, have one feature in common. They contain four amounts. In the Silebar laws the amounts are in: 1, reals; 2, suku; 3, tanci; and 4, keping. In Fasal 16 of the older Manna laws the amounts are specified in: 1, reals; 2, suku; 3, tali; and 4, keping. Thus, the facts that the difference between the Van den Bor report and the text is seven reals and the pattern of omission of the Silebar texts conforms to a similar pattern in the various Manna laws, indicate that the difference between the two sources for the Silebar laws is not accidental, even though the rationale for the discrepancy is not apparent.

While the actual amounts of money denoted by these obviously symbolic sequences are not especially revealing, the treatment of the sequences as number systems reveals some important structural patterns. By assuming that there are 10 wang to the guilder, 10 duit to the wang, and 400 keping to the real (c.f. Marsden's History, 1811, p. 171), the amount in the Van den Bor report equals 95.46 reals and the amount in the Silebar text is seven reals less, or 88.46 reals. In the analysis of the systematic and comparative features of these amounts the more complete figure in the Van den Bor report provides the more useful amount. This means than the Van den Bor report figure is regarded as the basic amount and the text is a special transformation on this figure. The advantage of using the complete amount is that it allows the analysis to reconcile all of the various bangun amounts in the texts from the Environs of Bengkulu. And, further, the use of the full figure also permits an explanation of the discrepancy within the Silebar texts itself.

While the monetary system has its own pattern of successive division,

part of it conforms to the frequently occurring sequence rule of successive division by two. By treating the monetary system *as if* it were composed entirely of successive divisions by two an estimate can be derived of the limits of the amounts in the repeated eight patterns. The general pattern of a sequence based on successive halving is: 1, ½, ¼, ⅛ ... $(½)^{n-1}$. The sum of such a sequence is: $1 + ½ + ¼ + ⅛ + \ldots + (½)^{n-1} + \ldots$ A more general form is $k\ (1 + ½ + ¼ + ⅛ + \ldots + (½)^{n-1} \ldots)$ where k is a constant. The general formula for the n^{th} partial sum of the sequence is:

$$S_n = k\ (2 - 2^{1-n}) \qquad \text{(for all positive n)}$$

Then as n increases indefinitely S_n aproaches 2k as a limit. Treating the sequence in this manner implies that the amount of 88 reals contains two portions, i.e., one of 80 reals and one of 8 reals. Thus the sequence in the Van den Bor report becomes 80 reals, 8 reals, 8 tengah (guilders), 8 suku (¼), 8 tali (⅛), 8 wang, 8 duit, and 8 keping. The sequence containing the halving pattern begins with 8 reals. The limit of the amount of the halving sequence in the Van den Bor report can be estimated by means of the above formula as 16 reals. This suggests that the total bangun has a theoretical limit of 96 reals and that this figure may be divided into two portions: one of 80 reals and the other of 16 reals.[14] This theoretical interpretation of the Silebar bangun permits a comparison with other law sets.

The figure of 80 reals as the basic amount of the bangun is supported in the first instance by the Silebar laws themselves. Fasal 10 works on the assumption that the bangun is 80 reals when it specifies half the bangun as being equal to 40 reals. Furthermore, the largest jujur, which in other laws is related to the bangun, is also 80 reals. The second portion of the theoretical bangun (i.e., 16 reals) is equal to twenty percent of 80, i.e., $80 \times .20 = 16$. Thus the total bangun is equal to a basic amount of 80 reals plus twenty percent more. Both the Sungai Lemau and Sungai Hitam laws can be interpreted in such a way as to reveal a similar pattern. In the Sungai Hitam law the payments associated with murder equalled one hundred reals. This amount is composed of two sums: a basic amount called the tebus nyawa valued at 80 reals and a fine of 20 reals. In this case the amount equivalent to the bangun is what remains after twenty percent of the total has been removed. Thus, the principle of taking twenty percent remains but the figure upon which the percentage is calculated is the total and not

the basic amount. Similarly, in the Sungai Lemau laws the basic amount of the bangun is 80 reals. However, associated with this is a second amount called the kapala bangun, which is equal to 20 reals. The text does not specify whether the amount is in addition to the bangun or is to be subtracted from it. Van den Bor (Van den Bor, 1862, p. 268) contends that the kapala bangun is to be subtracted from the bangun. Nevertheless, the figure of 100 reals as the total amount of the payments for murder seems probable in that it conforms to the figure given in the *Code of Laws,* with which the authors of the Sungai Lemau laws were demonstrably familiar.

A law text from a region just to the South of Silebar supports this point of view. Immediately to the south of Silebar lies the district Seluma. Ngalam is the most northerly place in Seluma for which a contemporary law set exists. Fasal 18 of the "older" portion of Cod. Or. 12.224 (Ngalam) contains the following passage "banyak bangun orang — 100 real dan 20 (real) kembali kepada raja penghulunya — dan 20 (real) kembali kapada adik sanaknya oleh orang yang mati itu" (the amount of the bangun of a person is 100 reals. 20 reals returns to the headmen and 80 reals returns to the relatives of the person who dies). This rule explicitly asserts that the decomposition rule is based on twenty percent. The advantage of viewing the total payment for murder as one hundred reals with a subsequent decomposition into two distinct amounts of 80 and 20 reals is that it establishes a relationship between the two most frequently occurring specifications of the bangun, 80 and 100 reals. By treating the 20 real amount as a percentage, one can make a comparison with the repeated eight sequences. Further, the general rule that the basic amount is 80 reals plus twenty percent of something links the majority of bangun specifications into a single framework.

Thus the analysis of the amount of the bangun of the Silebar laws works at two levels. One level proceeds with the figure given in the Van den Bor report and converts this figure to an estimated limit. A comparison with other spatially related laws can be established. At a second level, the pattern of the text, while different from the Van den Bor report, can be demonstrated to be a non random variation on the amount given in the report. The comparison with the Manna laws indicates that the reduction of the number of elements in the specification follows a recurring pattern. Further, the actual amount of the difference is a significant number. However, while these features indicate that the discrepancy is non random they do not reveal the rationale for the patterned phenomenon.

The second portion of the first section of Fasal 4 of the Silebar laws deals with accidental wounding. This is a logical progression from the topic presented in the first element of this section, that is, the accidental situation of the first element results not in death but only in a wound. Be this as it may, the net result is that the situation discussed is not covered by the title of the fasal, which is specifically limited to killing while Fasal 5 deals with wounding. However, a complete confusion of categories does not result because the wounding situation described does not require the payment of the pampas. Thus this element is dependent upon the first element of the section but does not directly relate to the basic partitioning which opposes intentional and unintentional killing.

The second major section of Fasal 4 deals with intentional killing. The consequence of such an act is punishment as a criminal without the possibility of paying a sum of money in lieu of the more severe form of punishment. In the Sungai Hitam laws the punishment for killing, as given in Fasal 12, is death. But this punishment can be commuted by the payment of the tebus nyawa and a fine. The Silebar laws begin with the same rule, i.e., the punishment for intentional killing is death. The fasal continues with the familiar phrase "dan boleh poela lepas darie nama matie" (and he can also be free from the death sentence). However, instead of listing a monetary payment, there is the following ominous passage: "tetapie dia mistie die seksa dengan seksa iang amat pedie serta die hinakan die moeka Chalikoella [15] iang banjak dan die keloear kan dia darie dalam Negrie tempat dia terperanak" (But he must be punished with something very painful, together with being humiliated before the populace and he is banished from the state where he was born). While the Silebar laws are not explicit on the nature of the physical punishment, a manuscript [16] containing court proceedings from Bengkulu dated January 1828, presents a detailed account of what was meant. A man found guilty of being an accomplice to murder was sentenced "to be flogged 100 stripes with a rattan on his back then branded thereon with a red hot Iron afterwards to be banished from Bencoolen for the period of 20 years and worked during that time in chains on the public works" (TLVK H813bi). A second account concerns two men who were found guilty "of having a knowledge of" murder and were sentenced "to be banished from Bencoolen to Nattal or to any other place the Resident shall determine on for the period of six years without chains but to work at the public works during the time of their banishment" (TLVK H813bi). These punishments are

totally contrary to South Sumatran legal thinking and reflect a strong European influence.

The second element of the second section makes the impact of European authority even more apparent. In certain cases the guilty person was to be handed over to the Government for punishment. The text is not very explicit as to the circumstances in which the individual is to be surrendered. The relevant passage is "dan kiranja tida boleh Hakim Hakim die sinie malaloekan itoe hoekoeman sebab terlaloe bessar . . ." (and however if the court here cannot impose a punishment because it is too large . . .). The first element of this section says that they must impose a severe punishment but the second element seems to imply that if the punishment is too severe, the guilty person must be handed over to the government. However, the desired middle range between these two specifications is not elaborated upon. Nevertheless, the second element of the second section, like the second element of the first section, is defined in terms of the first element and involves a continuation of the logic of that element. However, there is no direct association between this second element and the basic opposition which divides the fasal into two sections.

Thus, Fasal 4 is divided into two sections by an opposition between intentional and unintentional killing. Each of these sections contains two elements. The first of these elements are directly related to the basic opposition. However, the second elements of each section are directly related only to the first element of their respective sections. This relationship involves a continuation or elaboration on a point presented in the first element which does not directly involve the basic opposition. Thus, while the first elements in each section may be opposed to each other, a substantive opposition of the second elements is not possible because the exact nature of their links to the first elements are not congruent. In other words, the only structural relations possible between the second elements must be based on the opposition of the first elements to each other and not any inherent difference between the elements themselves. In purely structural terms, the contents of the second element in each section of the fasal lack a basis of unity that would make a meaningful opposition possible. The only basis of unity available is a purely formal one, i.e., they are both related to the first element of their respective sections. The opposition generated from this basis of unity is identical to the opposition of the first elements. However, this opposition is purely formal and totally independent of the contents of the concerned elements.

FASAL 5

Fasal 5 is entitled "Hoekoem orang sala maloekai orang" (the law for a person guilty of wounding someone). One person wounds another for whatever reason. When a suit results it is brought before a judge who examines the wound. If the wound looks like it will become a physical defect on the person's body (tjatjet tjela diatas badan) then the rule is that he must pay a pampas of 12½ reals which is given to the injured party and a fine of seven reals which is kept by the judge. If, however, the wound does not result in a physical defect or can be covered by the clothing then the pampas is 6¼ reals and the fine 3½ reals.

In this fasal no distinction is made between the possible motives in the act of wounding. Instead, attention is focused on the consequences of the act, i.e., the severity of the wound. Two categories of wounds are distinguished: those that result in a permanent bodily defect and those that do not. A qualifying phrase associated with the second category suggests an anomalous case and at the same time clarifies the principle of classification. A bodily defect which can be concealed by the clothing is not a bodily defect. Thus the partitioning of the fasal into two categories is not based simply on the severity of the wound but on the lasting effects of the wound. And further, the injury, in both a literal and a legal sense, is defined in terms of its visible effects. Thus the greater amount of compensation is required for the socially visible consequences of an act of wounding, and not only the fact of injury. The lesser amount of compensation, on the other hand, is primarily for the act of wounding. Since the lesser amount is exactly one half the greater, the following composition rule is indicated. Half of the larger pampas is for the socially visible consequences of wounding and half is for the act of wounding itself. Associated with the pampas is a fine. In each case the fine as punishment is less than the pampas as compensation. And like the pampas, the fine for the less serious case is one half that for the more serious case. This association of a fine with the pampas is unusual and may be attributable to European influence. However, the numerical specification of seven and half of seven as the amount of the fine involves the use of a symbolically important number that cannot be attributed to the Europeans.

The minimum amount of the pampas conforms to the standard minimum specification of 6¼ reals. However, the largest amount is not one half of the bangun as in the other laws for this region but simply twice the minimum amount. This indicates the existence of a discontinuity between the bangun and pampas that violates the normally

strong numerical association of these two fundamental principles of compensation. 6¼ reals is exactly one-sixteenth of one hundred reals. However, one-sixteenth of 96, the theoretical limit of the Silebar bangun, is six reals. A variety of other numerical manipulations produce only approximations of the bangun of the Silebar laws. For example, 9¾ reals (the sum of the fine and pampas) multiplied by ten equals 97.5 reals; 6¼ reals (the minimum amount) multiplied by fourteen equals 87½ reals. However, none of these or similar manipulations yield an exact relationship between the pampas and the bangun. Thus, there is not only the lack of the fundamental rule that the pampas equals one half the bangun but there is also a lack of any numerical relationship between the amounts of the bangun and pampas that is analogous to that found in other laws. However, the amounts can be related by reference to patterns external to the structure of the Silebar laws. The bangun of the Silebar laws can be seen as a transformation upon the one hundred real bangun of the *Code of Laws* or the Ngalam laws (Cod. Or. 12.224, Fasal 18). Similarly, the pampas of the Silebar laws can be related to the one hundred real bangun by a simple transformation on this basic amount. However, while both may be related to a common structure, the transformational relationships are not parallel and thus the resulting discontinuity in the Silebar structure is produced.

This type of structural relationship is not an analytical convenience conjured up on an *ad hoc* basis to explain inconvenient irregularities. Similar structural patterns occur in linguistic analysis. For example, in Portuguese certain irregular plurals are often a confusing problem for the neophyte. The plural of *mão* is *mãos,* the plural of *nação* is *nações* and the plural of *capitão, capitães.* Thus, apparently there is an irregularity in the rules for forming the plural of nouns ending in *-ão.* This is one of the things "that just have to be learned". However, a comparison with Spanish helps to regularize the pattern. The Spanish-Portuguese equivalences are as follows: mano (Sp.) = mão (P); nacion (Sp.) = nação (P) and capitan (Sp.) = capitão (P). Thus three different types of Spanish word endings are compressed into a single Portuguese form: -on, -no, and -an of Spanish = -ão of Portuguese. The plurals of the Spanish forms conform to regular rules: mano = manos; nacion = naciones and capitan = capitanes. (The combination -ns is not allowed in Spanish; thus words ending in /n/ form the plural by adding -es). From these Spanish plurals the Portuguese plurals can be generated: manos = mãos; naciones = nações and capitanes = capitães. This transformation can be seen as a dropping of the phoneme

/n/ and the formation of a dipthong from the two phonemes that were on either side of the /n/. However, while the /n/ loses its phonemic status, the nasality feature of the /n/ is retained and becomes a prosodic feature associated with the first element of the Portuguese dipthong. Thus the discontinuity between the singular and plural Portuguese forms can be explained by the fact that the Portuguese singular forms are related to Spanish by one type of transformation and the Portuguese plural forms are related to Spanish by a second, fundamentally different transformation. The abstract formal properties of this system are isomorphic to the system by which the bangun and pampas of the Silebar laws relate to the system of either the *Code of Laws* or the *Sungai Lemau* laws.[17]

While Fasal 5 does not contain an opposition between intentional and unintentional wounding, such an opposition can be developed in the context of the Silebar laws as a whole. The second element of the first section of Fasal 4 deals with accidental wounding. The compensatory payment for such wounding is called "tepoeng", thus forming a contrast with the pampas for wounding specified in Fasal 5. The opposition between "tepoeng" and "pampas" is exploited in both the Sungai Lemau laws and the *Code of Laws*. In Fasal 14 of the Sungai Lemau laws the "setapoeng setawar" is simply listed as being less than 12.50 rupia (6¼ reals). Fasal 26 of the *Code of Laws* is more specific. If the compensation for wounding is less than six reals, one suku, then it is no longer called the pampas but "tepung sitawar". Thus both of these texts create a fundamental distinction between the pampas and the tepung sitawar. The numerical marker of this distinction is 6¼ reals. In the Silebar laws the lowest pampas is specified as 6¼ reals. Thus by analogy with the other texts the tepung of Fasal 4 is not only for a less severe type of wound but also belongs to a different conceptual category. The clearest indication of this fundamental distinction in categories is the fact that the tepung sitawar occupies a different structural locus than the pampas. And further, it is not unreasonable to assume the opposition in compensation categories and structural loci is parelleled by an opposition between intentional and unintentional wounding. Thus while there is no continuity between Fasals 4 and 5 in terms of the numerical relationships between the bangun and pampas, the relationship is formed in another manner. The pampas/tepung opposition establishes a link between Fasal 5 and the second element of the first section of Fasal 4. However, the second element of the first section of Fasal 4 is related to the first element of that section in terms of their

common feature of unintentional acts. And finally, the first element of the first section of Fasal 4 presents the bangun, thus completing the link between bangun and pampas.

In addition to this pattern of direct reference that links the bangun and pampas, the contents of these two fasals are linked by a system of interlocking structures. In total, these fasals contain six elements: four in Fasal 4 and two in Fasal 5. These six elements can be analysed as a continuous sequence. This procedure requires treating the individual element as the basic unit of the analysis and the partitioning into fasals as a higher order structural phenomenon. This is contrary to the normal method in which fasal partitioning was considered to be the fundamental structural phenomenon. According to this more usual procedure one analysed the relationships between the fasals as elements, or the various features within a single fasal as elements. However, it was only rarely and then only as a supplementary procedure that features in more than one fasal were treated as elements of a single common structure.[18]

The sequence of six elements in Fasals 4 and 5 of the Silebar laws can be described using the following notation:

A_1 = unintentional killing, bangun
B_1 = unintentional wounding, tepung
A_2 = intentional killing, local punishment
A_3 = intentional killing, governmental punishment
B_2 = (intentional?) wounding, pampas (12½ reals), fine (7 reals)
B_3 = (intentional?) wounding, pampas (6¼ reals), fine (3½ reals)

Let A_1, A_2, etc. be the first element dealing with killing, the second element dealing with killing, etc. Let B_1, etc., be the first element dealing with wounding, etc.

This sequence contains two subsequences, one dealing with killing (A_1, A_2, A_3) and one dealing with wounding (B_1, B_2, B_3). These two subsequences are interlocked by interposing the elements of one sequence between the elements of the other. Thus B_1 is inserted between elements A_1 and A_2 of the subsequence A_1, A_2, A_3 and A_2 and A_3 are inserted between elements B_1 and B_2 of the subsequence B_1, B_2, B_3. In each case the inserted element or elements occur between the first and second elements of the other subsequences.

This pattern of interlocking sequences created by inserting elements of one sequence between the elements of another is rare in the legal texts from the Environs of Bengkulu but is more common in law texts from the Seluma and Manna regions. In particular, the three laws that

make up the manuscript Cod. Or. 12.205 use such a system of interlocking sequences as their basic organizing principle.

The process of interposition effectively divides each subsequence into two sections. In addition to their interlocking effect the interposed elements also function as insulators between the two sections of a sequence. Thus, the interposition of elements has two effects on each of the sequences considered separately. First, the interposed element divides the sequence into two sections. And secondly, it insulates the two sections from each other. In both of these sequences the net effect is the same: the interposed elements structurally mark and insulate the opposition between intentional and unintentional acts.

In this sequence of six elements there are five structural boundaries. The most obvious of these are the initial and terminal boundaries. Thus, technically there is a boundary before element A_1 and after element B_3. However, of these two boundaries the one after B_3 is the stronger in that it marks the end of the sequence of the B-elements. This assertion of relative strength is based on the fact that terminal markers are more frequently used than initial markers in South Sumatran legal texts. The most common terminal marker is the back reference. Parallel to the weak initial boundary is a third boundary between A_1 and B_1 denoting the beginning of the B-element sequence. Inside the total sequence there are two relatively strong boundaries. The structural boundary between elements B_1 and A_2 marks the distinction between intentional and unintentional acts for the entire sequence. And the boundary between A_3 and B_2 marks the end of the A-element sequence. In terms of the structure of this two element group two of these five boundaries are extremely strong. The boundary after element B_3 not only marks the end of the B-elements and the end of the structure but is also a fasal boundary in the total structure of the laws and has the typical strength of a terminal marker. The features of this boundary would support the assertion that the boundary before A_1 is actually a terminal boundary for the marriage section, more than an initial boundary of this sequence. The other terminal boundary inside the sequence (i.e., after A_3) also has significance in the total structure of the laws in that it coincides with a fasal boundary. Thus in this six element sequence there are a number of structural boundaries. However, only those associated with terminal markers acquire additional significance in the context of the total structure of this law set.

From a purely formal point of view the two interpositions occur simultaneously, that is, the interposition of element B_1 in the sequence

A_1, A_2, A_3 has the same value as the interposition of A_2 and A_3 in the sequence B_1, B_2, B_3. However, if one of these interpositions can be seen as analytically prior to the other a dependency relationship can be established. The pattern of the sequence is such that if one interposition is seen as occuring first, the other automatically follows. Thus, for example, if A_2 and A_3 were the intentional interposition, the interposition of element B_1 would follow automatically as an effect. However, the assignment of analytical priority in order to be valid must be based on *a posteriori* reasoning.

By reference to external structures it can be shown that the interposition of the element B_1 into the sequence A_1, A_2, A_3 is the antecedent or primary manipulation while the apparent interposition of A_2 and A_3 in the sequence B_1, B_2, B_3 is the consequent effect. In both the Sungai Lemau laws and the *Code of Laws* the rules governing compensation for wounding always *begin* with the pampas and *conclude* with the tapung (or tapung sitawar). Thus the pattern of the B_1, B_2, B_3 sequence of the Silebar laws inverts the pattern of the primary and secondary reference laws in that B_1 and not B_3 presents the tapung. Thus the manipulated sequence was the one dealing with wounding and not that dealing with killing. Thus the entire interlocking effect and the resulting structural relations is dependent upon the changed structural locus of an element that normally would have been located at the end of a sequence. This process also effectively establishes the fasals dealing with killing and wounding as a single structural unit within the Silebar laws. While the means of expressing the unity of these fasals is radically different than that of the Sungai Lemau laws the effect is the same: the first two elements of a three element structure are united in their opposition to the third which deals with theft.[19]

FASAL 6

Fasal 6 is entitled "Hoekoem orang iang mantjorie arta orang atoúw mantjoerie karbouw" (the punishment of a person who steals someone's property or steals a buffalo). If a person steals someone's property but does not "open" a house or break a door or window (mamboekak Roema atoúw mematja pintoe djandela), that is, he only takes goods which were stored, then the following applies. When the case, with circumstantial evidence (tanda biti) and testimony, comes before a judge, the rule is that the goods are returned twofold to their rightful owner and the judge receives a fine of five reals. If a person steals property and there is "opening of a wall or breaking of a door or window in the house which is robbed" (mamboekak dinding atoúw

mamatja pintoe djandela Roema iang die tjoerie nja itoe), together with the removal of property, then the following applies. When the case comes before a judge, with circumstantial evidence (tjantjang ragas nja tanda bitie) and statements against the accused, or there are two witnesses (doea orang sahada = šahādat) who are valid (sahie = ṣaḥīḥ), the person is punished severely, that is, a severe corporal punishment is administered and he is banished from the state (negri) where he was born. However, if the judges here do not have the authority to impose such a punishment then the person is handed over to the authority of the Government so that the gentlemen with the authority in the Hakim besar in the state of Bengkulu will impose punishment upon the guilty.

While this fasal contains three elements the basic division is into two main categories. These categories are opposed by two almost identical phrases: "tida poela mamboekak Roema atoúw mematja pintoe djandela" and "sampaij mamboekak dinding atoúw mamatja pintoe djandela Roema iang die tjoerie nja itoe". The shared contents of these phrases are nicely summarized by the English expression "breaking and entering".[20] Thus the basic opposition is one between thefts involving breaking and entering and thefts without breaking and entering. In both the Sungai Lemau and Sungai Hitam laws the three element groups dealing with killing, wounding and theft have a two plus one structure. One manner of formulating this partitioning is to oppose crimes committed against an individual with crimes committed against property. As if to avoid a possible ambiguity in these laws buffaloes are mentioned in the titles of all three of the fasals (or, in Question 13 of the Sungai Hitam laws) dealing with theft. Thus, it is indicated that while buffaloes are living like men, they are to be classified as property.[21] By way of contrast, in the few laws where slaves are mentioned, they are property but still classed as men in that the bangun must be paid (c.f. Fasal 18, the "old portion", Cod. Or. 12.228 (Tallo)). Thus the basic partitioning of these three fasals involves considering: killing as a crime by man against man, wounding as a crime by man against man, and theft as a crime by man against property. In these three laws the fourth possibility is not developd, i.e., a crime by property (buffaloes) against man. However, this possibility is discussed in Fasal 28 of the *Code of Laws* where in some cases the owner of a buffalo must pay the pampas for the actions of his animal. This opposition between crimes against property and crimes against other men is maintained in the titles of the Silebar fasals.

However, the contents of Fasal 6 of the Silebar laws suggest an

anomalous category, houses. The question raised here is whether houses are property, a special type of property, or are to be equated with men or the community in general. The first category of Fasal 6 provides the rule for theft not associated with breaking and entering a house. The specification "barang satoe mendjadie doea artie nja melipat barang itoe" (goods which are one become two, i.e., they are doubled) is the standard compensation rule for theft. The fine of five reals is somewhat unusual but parallels the equally uncommon fines associated with the pampas discussed in Fasal 5. Thus when damage to a house is not involved the rule evoked conforms to the rules for theft given in the *Code of Laws,* the Sungai Hitam laws and the Sungai Lemau laws. However, when damage to a house is associated with the theft the principle of compensation is dropped and severe corporal punishment and banishment instituted in its place. Thus the damage to a house overrides the crime of theft and its associated rule of compensation. This logical pattern is identical to that presented in Fasal 4. There, the lesser crime, unintentional killing, is associated with a rule of compensation. However, for the more serious crime, intentional killing, the rule of compensation is dropped and a severe punishment and banishment are instituted in its place. Indeed, the rules governing the more serious crime in Fasals 4 and 6 are almost identical, i.e., severe corporal punishment and banishment. And further, in both of these fasals there is a provision for handing over the guilty party to the government. Thus in the context of this three element group theft associated with breaking and entering a house is equated with intentional killing. This equation is reinforced by the actual nature of the punishment for both crimes and by the structural parallels between Fasals 4 and 6. Thus a crime of a man against a house is equated to a crime of a man against a man.

While the word "rumah" is used in this fasal to denote "house", the alternative word for house, "tungguan", indicates the close association between houses and persons. Marsden gives the meaning of tungguan as house (Marsden's History, 1811, p. 244) and as "attendance; dwelling, abode, (or) settled residence" (Marsden's Dictionary, 1812, p. 76). However, this basic meaning is extended in various legal contexts. In Fasal 15 of the *Code of Laws* "tungguan" is synonymous with patrilineally inherited titles. And in the *Commentative Digest* one finds "the Toongooan or Family Respect" (*Commentative Digest,* p. 299). These linguistic usages establish a general association between the literal meaning of houses and the persons or families living in them. However, two law texts from the Seluma region specifically relate damage to a

house by breaking and entering with the crime of murder. In the Ngalam laws (Cod. Or. 12.224, "old portion"), spatially at least the closest in this region to the Silebar laws, Fasal 25 reads as follows: "kalau menikam orang meretas dinding kalau seperti kurang daripada adat rukunnya melainkan hakim boleh memikirkan" (If a person is stabbed while breaking through a wall and there is something in the situation that does not conform to the appropriate legal rule the court may consider the matter). While the precise legal meaning of this fasal is not entirely clear the other fasals give the impression that the stabbing of a person caught in the act of breaking through a wall is not a crime. A second more distant text from Tallo (Cod. Or. 12.228 "old portion") confirms this impression and is very specific. Fasal 19 reads "membunoh orang maling didalam rumah melainkan mati² saja kalau ada risau itu membunoh orang yang punya rumah kalu dapat keterangannya melainkan risau itu terbangun - dan kalau orang sedang meretas dinding ditikam mati² saja luka² saja" (If a thief is killed in a house the matter ends there. If an outlaw kills the person who owns the house and there is testimony to that effect, he must pay the bangun - if a person is stabbed in the act of breaking through a wall the matter ends with the killing or with the wounding). This fasal specifically asserts that the killing of a thief who is inside one's house or in the act of breaking through a wall is justifiable homicide. The phrases used to indicate this (mati² saja or mati² saja, luka saja) literally mean "death only" or "death only, wound only" and are used in a variety of contexts in South Sumatra to indicate that the bangun or pampas need not be paid. Thus the notion of justifiable homicide is directly connected with situations in which the bangun need not be paid.[22] These references to the Ngalam and Tallo laws indicate that breaking and entering a house is considered to be equivalent to or more serious than the act of killing in some of the regions to the south of Silebar. This order of precedence can be established in several ways. By analogy to intentional killing, which overrides the possibility of compensation, the entering of a house as a crime overrides the possibility of punishing the killer of the thief. Another possibility is that the crime of housebreaking allows the owner of the house to usurp the legal process and punish the criminal himself. This is an unusual situation and serves to underscore the seriousness of the crime. Thus the association between the structures of Fasals 4 and 6 as well as the contents of the more serious case in each of these fasals is entirely reasonable.

The Tallo laws (Cod. Or. 12.228) provide a further, somewhat

curious association. Fasal 19 occurs between the fasal dealing with compensation for killing and the fasal dealing with wounding. The similar association between the crime of breaking and entering a house with the fasals for killing and wounding in the Silebar laws, therefore, may not be entirely related to two kinds of theft alone. However, the main thrust of Fasal 6 of the Silebar laws is to create two categories relating to the crime of theft.

Fasals 4, 5, and 6 form a three element group with a pattern similar to that found in the Sungai Lemau laws. The first two elements are united in their contrast to the third. However, the structure of this oppositional relationship is based on the component elements of the three fasals. The sequence discussed in the analysis of Fasals 4 and 5 can be extended to include the three elements of Fasal 6. Thus the total sequence can be represented as follows: A_1, B_1, A_2, A_3, B_2, B_3, C_1, C_2, C_3 with A_1, A_2, A_3; B_1, B_2, B_3; and C_1, C_2, C_3 being the subsequences. Thus the three fasals contain nine elements that may be divided into three subsequences with three elements each. The A-sequence deals with killing, the B-sequence with wounding and the C-sequence with theft. This partitioning of the elements into subsequences suggests a composition of nine as three plus three plus three or three times three (i.e., $3 + 3 + 3 = 3 \times 3 = 9$). However, the partitioning of these nine elements into fasals suggests another composition. Since Fasal 4 contains four elements, Fasal 5 two elements, and Fasal 6 three elements, the following composition of nine is indicated: $2 + 3 + 4 = 9$. This closely parallels the composition of six as: $1 + 2 + 3$ of the Sungai Lemau laws, i.e., both six and nine are revealed as equal to the sum of three consecutive numbers. On the other hand, the two plus one structure of the three element group determined by the three fasals suggests a $6 + 3 = 9$ composition with $6 = 2 + 4$.

However, in each fasal there is one basic opposition. In Fasal 4 this opposition is between intentional and unintentional killing. In Fasal 5 the basic opposition is between more serious and less serious wounds. And in Fasal 6 the opposition is between thefts associated with breaking and entering and thefts not associated with breaking and entering. The relationship between these oppositions, the partitioning into fasals, and the three element subsequence is most fully revealed in Fasals 4 and 6. In this regard the most important feature of these fasals is that they each contain a complete three element subsequence. Thus all the A-elements are in Fasal 4, all of the C-elements in Fasal 6, but not all of the B-elements are to be found in Fasal 5. In both Fasals 4 and 6

the basic opposition that characterises the fasal is expressed in the first two elements of the subsequence that is completely contained in that fasal. Thus, A_1 deals with unintentional killing, A_2 with intentional killing, C_1 with theft not associated with breaking and entering, and C_2 with theft associated with breaking and entering. In both of these cases the third element of the subsequence is not directly related to the basic opposition. The A-element subsequence and the C-element subsequence, therefore, contain two plus one structures of the fasals themselves. On the other hand, the B-element sequence appears to reverse this pattern, since the basic opposition is contained in the second and third elements of the sequence and together they are contrasted to the first element (B_1). However, this inversion is more apparent than real when one examines the logical internal structure of the subsequence. The notation of the elements in the B-element sequence can be changed as follows:

B_1 = the first element of Fasal 5
B_2 = the second element of Fasal 5
B_3 = the second element of Fasal 4

This procedure allows the B-element subsequence to conform to the two plus one structural pattern of the A and C-element subsequences as well as the structure of the three element group determined by the partitioning of the fasals. This approach to the B-element sequence is supported by the fasals dealing with the pampas in both the Sungai Lemau laws and the *Code of Laws*. Further, this change in notation suggests that the apparent inversion of the structure of the B-element subsequence is not so much the result of the internal logic of the subsequence as the result of the structural manipulation leading to the interlocking structure of Fasals 4 and 5. A similar conclusion was reached in the analysis of the structural relations between Fasals 4 and 5 (c.f. p. 222 f. above). However, that analysis did not indicate that any particular analytical advantage could be gained by changing the notation of the B-element subsequence. But, the total configuration of the nine elements of Fasals 4, 5, and 6 reveals the advantage of this change in the notation.

A Methodological note

The general procedure by which analytical notations are assigned and subsequently modified reveals an important aspect of the methodo-

logy of structural analysis. The purpose of any notation is to permit a more facile means of analysing a structure by creating a series of symbols. While such symbols have a correspondence relation to the original data they are more manageable than the data themselves. In the greater part of this analysis the correspondence relationship is simple and obvious, i.e., a square box with a given number inside corresponds to the fasal with that number. However, in a partial analysis where the basic elements are not the explicitly numbered fasals, the correspondence relationship is more difficult to establish. As a general rule, in such cases the initial correspondence rules should be based on some simple but explicit feature of the data. In the above case two such features were selected, the overt content of the element (i.e., killing, wounding and theft) and the order in which they occur in the text. However, such assignments often require an interpretative decision as to what is explicit. Nevertheless, an initial correspondence can be established based on the fundamental features of the text but without reference to the detailed structural analysis. Upon completion of all or part of the analysis it may become apparent that an alternative notation is desirable. The basis of the change in notation should always be to make some structural feature more explicit in the final representation of the total structure. However, since the initial correspondence rules are based on a primitive interpretation of the structure, the change in notation can be related to a transformational relation between the initial primitive structure and the complex final one. Thus while a change in notation may be based on the need to make a particular structural relation more explicit, the relationship between the alternative notations also reflects a change in level within the analysis.

The structure of Fasals 4, 5, and 6

Using the changed notation Diagram 5.3 represents the structure of the nine elements that make up Fasals 4, 5, and 6.

This representation indicates that the basic oppositions of each fasal are: (A_1, A_2); (B_1, B_2); and (C_1, C_2). The third element is represented as being primarily contrastive to both elements of the opposition, rather than to a particular element of this opposition. This approach maximizes the two plus one aspects of the entire structure and tends to minimize the fact that A_3 is more closely related to A_2 than to A_1 and that C_3 is more closely related to C_2 than C_1. This emphasis means that greater importance is attached to the basis of unity of the fundamental op-

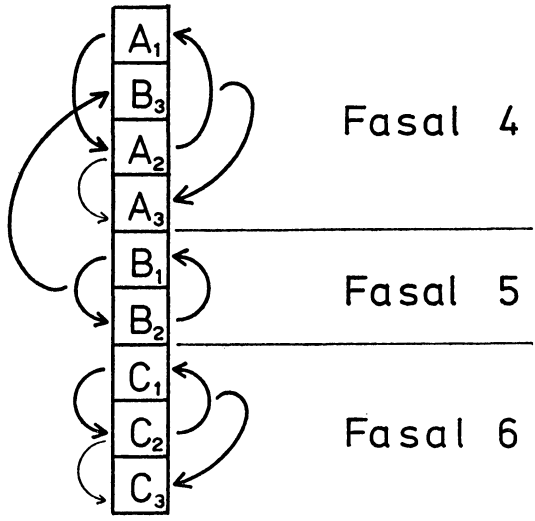


DIAGRAM 5.3

positions than the partial less powerful oppositions that either of the elements may be a party to. This representation also serves to indicate the nature of the interlocking structure. The element interposed in the A-element subsequence (B_3) occurs between the elements of the basic opposition in that sequence (i.e., A_1 and A_2). Thus B_3 functions as an insulator between the elements of the opposition and is at the same time bound closely up in the A-element subsequence by virtue of the strong basis of unity of the basic opposition. On the other hand, the binding effect associated with the consequent interposition is much less. A_2 and A_3, which become interposed between B_3 and B_1, do not form a primary structural unit in the A-element subsequence. While A_2 and A_3 may be contrasted as a single unit to A_1, this partition of the subsequence is secondary to the partitioning based on the basic opposition. Secondly, the basis of unity of the opposition between $B_1 + B_2$ and B_3 is weaker than the basis of unity of the opposition between B_1 and B_2 (or A_1 and A_2 or C_1 and C_2). Thus the binding effect in this consequent opposition is less than if the elements had been interposed between the more strongly opposed elements. While the analysis of the structure of Fasals 4 and 5 revealed that the locus of B_3 was the antecedent interposition the final analysis also reveals that the interlocking effect and the subsequent binding of the two subsequences is more closely related to the interposition of B_3 in the A-element squence than the interposition of A_2 and A_3 in the B-element sequence.

Fasals 7—9, Introduction

Fasals 7, 8, and 9 form a third three element group. While there is a certain degree of continuity between the last element of Fasal 6 and this group of fasals, the integrity of the group is nevertheless maintained by a system of back referencing. The contents of these three fasals follow the pattern suggested by Fasals 16, 17, and 18 of the Sungai Lemau laws or Paragraphs 14 and 15 of the Sungai Hitam laws. However, while the distinction between the first two categories is not fully developed in either of these other laws, the Silebar laws develop a full structural sequence based on the material in all of these fasals.

FASAL 7

Fasal 7 is entitled "Hoekoem orang *manjamun doessoen atoúw Roema*" (the punishment of a person who robs a village or a house). If the thief is caught he is brought before a judge and is examined by him. If the robbery has involved killing, the subduing of a victim (mannawan orang), or the lowering (i.e., from a house) of a substantial amount of goods, and there exists condemning circumstantial evidence (tambang tjaija) as well as valid testimony, then the following punishment applies. The person is killed or is banished (die hilang kan) from the state for as long as he lives. And if the judges do not have the authority to impose such a punishment the case is handed over to the authority of the Government.

Unlike Fasals 4, 5, and 6 this fasal contains only one category: robbery with the implication that a house is entered. Indeed, it is somewhat difficult to differentiate in terms of the details of the crime and its punishment between the contents of this fasal and the last two elements of Fasal 6 which deal with theft which is associated with breaking and entering a house. However, a distinction can be made on the basis of the difference between the two verbs: *samun* (*menyamun*) and *curi* (*mencuri*). Normally *curi* is associated with simple theft and *samun* with robbery with violence. The last two elements of Fasal 6 involve theft which is paired with breaking and entering. This attack on or damage to a house is *indirectly* related to an attack on individuals and has a punishment that reflects the implied severity of the crime. However, the *samun* of Fasal 7 *directly* implies an attack on an individual with the intent to steal. However, the title of the fasal also implies that there may be an attack upon a house correlated to the intended theft and associated violence. Thus Fasal 7 presents a crime more severe than that presented in the last two elements of Fasal 6, in that a crime by a man against a man is directly implied. And further, the punishment,

because the death penalty is explicitly mentioned, more closely follows that discussed in the last two elements of Fasal 4 (i.e., intentional killing).

The essence of this fasal, however, is that the nature of the crime involves or could possibly involve, all of the categories presented in the immediately preceding three element group. While such a relation existed between Fasal 16 and Fasals 13, 14, and 15 of the Sungai Lemau laws, the Silebar laws are even more comprehensive. This increase in detail is due to the fact that the first element dealing with robbery (*samun*) in both of these law sets could involve breaking and entering a house. However, it is only in the Silebar laws that this possibility is worked into the fasal dealing with theft. However, while this connexion in one sense establishes a back reference link to the previous section, the main function of this fasal is to establish an initial reference point for its own three element group.

FASAL 8

Fasal 8 is entitled "Hoekoem orang *manjamoen die tengah djalan saorang dirie atoúw bertaman taman*" (the punishment of persons who commit robbery in the middle of a road (i.e. commit highway robbery), either a person by himself or with accomplices. If a case comes before a judge it is examined by him. If the person who was robbed dies, then the punishment follows the punishment for persons who rob villages or houses (hoekoem orang manjamoen doessoen atoúw Roema). In this case he is also handed over to the Hakim Besar. However, if the person who was robbed does not die but is only wounded or bruised, the punishment is to be severely beaten and made a governmental slave (boedak kampanie) but only within the state (Negri). Furthermore, he is given a specific time for this service by the court and then he is released. But the following is requested. The final settlement of the matter is left to the Hakim Besar who can either approve the punishment of the lower court or impose its own punishment.

The title of this fasal creates an opposition with the title of Fasal 7. The opposition is based on the location of the crime, either in inhabited or uninhabited areas. This is the opposition which was used to differentiate Fasals 16 and 17 of the Sungai Lemau laws. Within the fasal itself there is a return to the two opposed category pattern which characterized the basic structure of Fasals 4, 5, and 6. The basic opposition here is between those robberies in which the associated violence results in a killing and those in which the violence results in a wounding. This opposition between killing and wounding is the same as that used to differentiate Fasals 4 and 5 from each other. However,

here there is no second opposition between intentional and unintentional acts in that all robbery is presumed to be intentional. The lack of this second opposition also means that there is no contrast between compensation and punishment. Thus the killing, wounding, and property loss remains uncompensated and the guilty party is liable only to punishment.

Correlated to these two basic categories are two sets of rules which specify the appropriate punishments. For robbery associated with a killing the punishment is specified as being equivalent to that for the crime presented in the previous fasal. The back reference is accomplished by giving the name of the fasal in full and not its number, as is usually the case in explicit back referencing. While Fasal 7 contains a double punishment rule (local punishment or surrender to the government), the possibility of handing the guilty party over to a higher authority (in this case the Hakim Besar) is restated in Fasal 8. Thus, while the mere existence of a back reference to Fasal 7 might imply two elements being associated with the punishment of a robbery with killing, the text of this fasal makes the structural existence of two such elements in Fasal 8 explicit. The back reference also serves to underscore the seriousness of crimes associated with an attack on a house. The back reference equates a robbery in which a killing *has* taken place with a robbery in which an attack on a house is strongly implied but a killing need not have accompanied the crime. Thus, while a robbery associated with a killing is punished in almost the same way as intentional killing, the logic of the laws makes the association with a robbery committed against a house or village. This phenomeon demonstrates a fundamental principle in the structural analysis of legal codes. A specific act may be labelled in a variety of ways. The manner in which specific action by a specific person is matched to a specific crime is an aspect of the study of comparative jurisprudence. However, the procedures and methods used by the indigenous population to label a specific act are not of fundamental significance in structural analysis. Structural analysis is concerned with the logical relationships between categories as conceptual entities, and not with the relationship between action and category. Thus, from a juridical point of view, a robbery associated with killing is punishable by death, banishment, etc., *because* it is clearly a case of intentional killing. However, from a structural point of view a robbery associated with death is a subcategory of robbery and the more relevant question is whether the crime took place in an inhabited or uninhabited area.

The second logical category of Fasal 8 is a robbery that results only in a wound to the assaulted party. This category is the least severe form of robbery and as such provides a minimum definition of *samun* (*menyamun*). The minimum requirement for a crime to qualify as *samun* is that some act of aggression must be intentionally committed against another person. In South Sumatran legal codes the minimal aggressive act with well defined legal consequences is wounding. Thus a robbery associated with only the threat of violence is not classified as samun. The specific mention of a wound in this fasal establishes the difference between theft and robbery as an opposition between the presence or absence of committed, not threatened, violence. However, while wounding is the minimal requirement of robbery, the logic of Fasals 7 and 8 provide a definition of the least serious form of robbery, that is, the robbery must take place outside of an inhabited area. Thus there are two defining principles associated with this category. First, the location of the crime allows for the placement of this category within the various types of robbery. And second, the specification of wounding means that it is less serious than a robbery with killing but still serious enough to be considered *samun*. In terms of all crimes labelled *samun* there are two hierarchically arranged oppositions. One opposition contrasts the relative severity of the violence associated with the crime. The other contrasts the possible locations of the crime from each other. Of the two oppositions the one concerned with location takes precedence, that is, if a robbery takes place in an inhabited area the opposition between the forms of associated violence is irrelevant. If, however, the robbery takes place in an uninhabited area the second opposition comes into play. While the relationship between these two oppositions may be analysed in hierarchical terms, the structural principle of neutralization may also be applied.

The use of neutralization requires that the differences in spatial location of the crime be treated as structural contexts in which the second opposition may occur. When a robbery occurs outside an inhabited area, the opposition between killing and wounding produces a change in significance (i.e. punishment). However, when the robbery occurs within an inhabited area the opposition between killing and wounding loses its ability to produce a change in meaning.

It is noteworthy that the behaviour of the opposition in the position of neutralization conforms to linguistic patterns. First, the features common to both killing and wounding (i.e., violence against a person) remain. This undifferentiated violence is necessary so that the crime may

be classified as *samun*. Secondly, while only the features common to both members of the original opposition are relevant in the position of neutralization, the opposition may be *represented* in the position of neutralization either by a combination of features distinct to either element or by one member of the opposition.[23] In this particular case the opposition between killing and wounding is represented in the position of neutralization not by a combination of features but by only one element of this opposition. Thus, in the position of neutralization, the opposition between categories of violence is represented by the killing element of this opposition. This representation is explicit in that a specific back reference is employed to indicate the connexion.

FASAL 9

Fasal 9 is entitled "Hoekoem orang *mambakar Roema* orang" (the punishment of a person who burns someone's house). If someone burns a house and is caught at the scene of the fire with circumstantial evidence in his possession, such as a torch, a slow match (toenam), or sulphur matches, then the matter is brought before a judge who examines the extent of the damage. If the fire does not completely destroy the house or its contents then a corporal punishment is administered and the person is made a governmental slave (boedak kampanie) for six months to a year. If, however, the fire inflicts severe damage to the house and its contents then the punshment follows the specifications of Fasal 7.

The pattern of this fasal follows that of Fasal 8. Two main categories are distinguished based on the seriousness of the consequences of the illegal act. While in Fasal 8 there is a clear distinction between killing and wounding, Fasal 9 is rather vague as to the dividing line between the categories based on the amount of the damage. However, the similarity between Fasals 8 and 9 is revealed by a comparison of the punishments associated with the crimes. In both fasals the punishment for the more serious offence is described by means of an explicit back reference to Fasal 7. In Fasal 8 this back reference is accomplished by referring to the title of the fasal and in Fasal 9 the back reference explicitly mentions the number of the fasal. These two processes are complementary in that one mentions the title but not the number of the fasal and the other mentions the number but not the title. In both fasals the punishment for the less serious offence involves becoming a "boedak kampanie" (= budak kompani = governmental slave). However, there is a difference between the fasals. Fasal 9 gives a specific time period for this bondage but makes no reference to handing the guilty party over

to higher authority. Fasal 8 does not specify limits for the bondage but has a provision for handing the case over to the Hakim Besar for approval. While the structures of the two fasals are similar, one is the inverse of the other. Thus while the back reference to Fasal 7 occurs in the initial category of Fasal 8, it occurs in the final category of Fasal 9.

The structural features of the relations between Fasals 8 and 9 help to elucidate the conceptualization of the crime of arson as described in Fasal 9. Incomplete burning of a house is equated with wounding and total destruction is equated with killing. This logical association further supports the assertion that attacks on or damage to a house can be equated with assaults on human beings. Also, this fasal presents a crime which is explicitly and solely an attack on a house. When free from complications, such as a second associated crime, the equivalence of houses and individuals is complete. The lesser crime against a house is associated with the lesser attack on a human being (i.e. wounding) and the more serious crime against a house is associated with the more serious attack on a human being (killing). However, conceptual problems develop in those crimes which involve a combination of acts that are individually associated with different crime categories. Thus, the second category of Fasal 6 involves a theft and an assault on a house and Fasal 7 involves stealing, an assault on a person, and an assault on a house. While the actual damage done to a house in either of these cases would, in all probability, be less than or equivalent to that presented in the lesser category of Fasal 9, the effect of the involvement of a house is to increase the seriousness of the combination beyond what would be expected if the same person had committed the individual crimes on separate occasions. In other words, the whole is greater than the sum of the parts. Therefore, when another crime is associated with an attack on a house, the involvement of the house serves to potentiate the significance of the crime. Thus, in Fasal 7 the implied involvement of houses automatically makes the crime the most serious of the *samun* categories, and in the process neutralizes the opposition between categories based on the severity of the assault on a person.

The three element group determined by Fasals 7, 8, and 9 has two main structures. The first, based on the titles of the fasals, is the frequently occuring two plus one configuration. The titles of both Fasals 7 and 8 contain the word *menyamun* (*samun*), while the title of Fasal 9 contains the word *mambakar*. Thus, a structure is established in which the first two elements dealing with robbery are opposed to the single final element dealing with arson. Like other such structures the first

two elements, while forming a single structural unit, are also opposed to each other. The opposition in this case is between inhabited and uninhabited areas. This two plus one structure is isomorphic to the structure of the equivalent fasals in the Sungai Lemau laws.

A second structure can be generated from the contents of the fasals. This structure is the inverse of that based on the titles. Instead of a two plus one structure, there is a one plus two structure. This partitioning of the three elements into a one plus two structure can be based on the opposition between dependent and independent units. Thus the back references of the first element of Fasal 8 and the last element of Fasal 9 to Fasal 7 mean that Fasal 7 is totally independent while Fasals 8 and 9 are dependent upon Fasal 7. This same partitioning can be generated by using a second principle. Fasals 8 and 9 contain two main categories while Fasal 7 contains only one category of crime.

Further analysis of the structure of the contents of Fasals 7, 8, and 9 requires an examination of the constituent units of these fasals. While the analysis of Fasals 4, 5, and 6 required the use of the smallest possible units, the analysis of Fasals 7, 8, and 9 is optimally based on units which are distinguished by the nature of the crime and not the nature of the punishment. Thus while the analysis of Fasals 4, 5, and 6 treated the alternative punishments of a single crime category as distinct units, this method is difficult to employ in the analysis of Fasals 7, 8, and 9. In the more serious categories of Fasals 4 and 6 there are two possible punishments: one administered locally and one administered by a higher authority. The same pattern is repeated in Fasal 7. However, the back references to Fasal 7 create an analytical problem. In particular, does the element containing the back reference count as one element or are the two elements of Fasal 7 to be counted again? This problem is not insurmountable and a solution will be attempted below. However, such a solution involves considerable speculation in comparison with an analysis which is based purely on categories of crimes as opposed to categories of punishment.

Five categories can be distinguished in Fasals 7, 8, and 9. They may be differentiated using the following notation.

7 = Fasal 7, robbery in an inhabited area
8_a = Fasal 8, robbery in an uninhabited area and a killing
8_b = Fasal 8, robbery in an uninhabited area and a wounding
9_a = Fasal 9, arson and minor damage to a house
9_b = Fasal 9, arson and major damage to a house

These five categories are partitioned by a one plus two fasal structure using either of the principles discussed above. In terms of these five categories this partitioning of the fasals results in a division into two segments, one containing a single element and the other four elements. The structure of the four element segment provides the key to the total structure of the five categories. The punishments associated with 8_a and 9_b are the same and involve a back reference to category 7. Similarly, the punishments associated with categories 8_b and 9_a are nearly the same in that they both involve the use of the concept "boedak kampanie" (= budak kompani = governmental slave). The opposition between these two pairs of elements involves an opposition between center and extremity in the context of the four element system. The strength of this pattern suggests that the back reference to Fasal 7 can be described as being from the extremities of the four element segment as well as from elements 8_a and 9_b as individual structural units. Thus the representation of the structure presented in Diagram 5.4 is indicated.

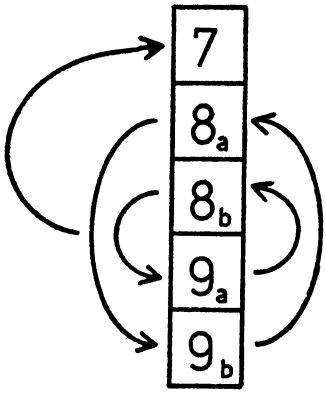


DIAGRAM 5.4

Another interesting feature of the structure of Fasals 7, 8, and 9 can be demonstrated through the analysis of the smallest possible units. The sub-division of the punishments associated with a particular category are counted as individual elements. A most interesting result can be obtained if the punishments associated with a back reference to Fasal 7 are counted as two elements (i.e., the back reference is to both elements of Fasal 7). Using these principles the following may be obtained.

Category	Number of minimal elements
7	2
8_a	2
8_b	2
9_a	1
9_b	2

TABLE 5.2

There are a total of nine elements distributed among the three fasals as follows: Fasal 7 = 2 elements; Fasal 8 = 4 elements; and Fasal 9 = 3 elements. Thus a composition of 9 as equal to 2 + 3 + 4 is indicated. This is the same result as obtained in the analysis of the minimal units of Fasals 4, 5, and 6, i.e., there are nine elements partitioned by fasal boundaries into groups of two, three, and four elements. The major difference between the two partitionings is in the order relation obtaining between the groups of elements. In Fasals 4, 5, and 6 the order is four elements, two elements, and three elements. In Fasals 7, 8, and 9 the order is two elements, four elements, and three elements. In other words, the order of the first two groups is inverted. However, the composition of nine using the two plus one structure remains unchanged (i.e., 6 + 3 = 9), the only difference is that in one case 6 = 2 + 4 and in the other 6 = 4 + 2.

As in other laws, the fasals dealing with criminal matters form a single major subdivision of this law set. What is perhaps unique to this law set is the degree of European influence found in criminal matters. The particular manifestation of this influence is the unusual severity of physical punishments and the frequent references to higher governmental authority. However, while the contents of the fasals reveal so much external influence, their structures conform almost entirely to the patterns found in other more traditional laws. In addition to these general observations about the fasals dealing with criminal matters, one notes that these fasals as a whole display a number of structural features. Fasals 4, 5, and 6 have a two plus one structure. Similarly, this type of structure is found in the titles of Fasals 7, 8, and 9. On the other hand, the contents of Fasals 7, 8, and 9 invert this pattern and have a one plus two structure. This inversion can be described as a transformation upon either the structure of the fasal titles or upon the structure of Fasals 4, 5, and 6.

Another more interesting structure involving all six fasals also demonstrates this inversion relationship. The six fasals can be partitioned into two groups based on the nature of the crimes presented in each fasal. The opposition is between those fasals which unequivocally deal with one sort of crime and those which involve a combination of criminal acts. In the first division one finds Fasal 4 dealing with killing, Fasal 5 dealing with wounding, and Fasal 9 dealing with arson.[24] In the second division one finds Fasal 6 in which theft and breaking and entering may be associated, Fasal 7 in which stealing, wounding or killing, breaking and entering, and robbery may be associated, and Fasal 8 in which stealing, wounding and/or killing may be associated. Each of these divisions has its own internal structure. In the division containing Fasals 4, 5, and 9, Fasals 4 and 5 are united in their contrast to Fasal 9. This oppositional contrast is expressed in a variety of ways. First, there is the traditional association of bangun and pampas uniting Fasals 4 and 5. Secondly, there is the elaborate interlocking structure which further reinforces this frequently occuring association of bangun and pampas. And thirdly, the standard partitioning of the six fasals into two groups of three consecutive elements isolates Fasals 4 and 5 in one group and Fasal 9 in the other group. Thus Fasals 4, 5, and 9 have a two plus one structure. In the division containing Fasals 6, 7, and 8, Fasals 7 and 8 are united in their contrast to Fasal 6. First, the structure of the titles of Fasals 7 and 8 in the three element sequence determined by Fasals 7, 8, and 9 unites these two elements in a single unit. Secondly, the standard partitioning of six fasals into two groups of three consecutive elements isolates Fasals 7 and 8 in one group and Fasal 6 in the other. Thus Fasals 6, 7, and 8 have a one plus two structure. Therefore, these two three element structures are the inverse of each other in much the same way as the structure of the contents of Fasals 7, 8, and 9 is the inverse of the structure of the titles of these fasals or the inverse of the structure of Fasals 4, 5, and 6.

In conclusion, Fasals 4, 5, 6, 7, 8, and 9 form a single structural block with a variety of unusually complex structures. This level of complexity may be ascribed to two main features. First, the categories dealing with criminal matters are abnormally elaborate, and necessitate a more complex structure in order to unite them into a single coherent whole. And secondly, the punishments associated with these categories are also elaborate but they are still further complicated by continual references to higher European authority. While alien in conception to the legal

categories of the crimes, these punishments are nonetheless worked into the structure of these six fasals.

FASAL 10

Fasal 10 is entitled "Hoekoem orang *Pandjingan*" (the punishment of panjingan). When a man is guilty of wrongdoing with another man's wife who has been left behind while her husband is travelling, the case comes before a judge with testimony (sahada = šahādat) or with the woman naming the responsible or guilty party. For this to occur complete guilt (sah samparna kassalaän) must be established. In other words, the woman must be pregnant while it is perfectly clear to the people of her house or neighbourhood that the pregnancy occurred in the absence of her husband. When these legal conditions have been met the parties are sentenced to death. They can be free from the death penalty, however, if they pay a "teboes njawa" of one half the bangun, i.e., 40 reals each. They cannot be married until she has been divorced from her husband.

Although the text is long, complicated and involuted, the implication is clear. Adultery is defined as an illicit pregnancy in circumstances in which the biological father and social father of the child could not possibly be the same person. Thus, this fasal presents two distinct but related notions. First, this is the only fasal in this law set which deals with the infidelity of a married woman. Second, in the range of possible illicit sexual relations, the fasal presents the case in which a married woman becomes pregnant by someone other than her legal husband. The first of these notions is significant in that it reflects an important category of Fasal 20 of the Sungai Lemau laws. However, the second notion presents the category which is specifically relevant to the last group of numbered elements in this law set.

FASAL 11

Fasal 11 is entitled "Hoekoem *Pandjingan dengan Gadies atoúw Marando*" (the punishment for panjingan with a maiden or a widow). If a maiden or a widow is found by her penghulu to be pregnant without being married (barlakie), and if when the matter is investigated, she accuses a particular youth or married man, the matter is brought before a court which examines both parties. When the man acknowledges his responsibility, they are fined 14 reals, i.e., 7 reals each. They are also responsible for the "pambassoe doessoen" (cleansing the village) which consists of giving a goat, 50 measures of rice with the appropriate spices (assam-garam) to the penghulu and malims of the village, or they themselves may prepare a meal which they give to all the people of the village. However, if the accused man denies his responsibility

under oath and the woman cannot provide a satisfactory explanation or witnesses, then the woman is fined singly. If she does not pay a fine of 28 reals she becomes the slave of the Raja (boedak Radja).

The title of this fasal provides the basic contrast with the material of the previous fasal. While Fasal 10 deals with the illicit pregnancy of a married woman, Fasal 11 deals with the illicit pregnancy of an unmarried woman. An important point is that in both of these fasals the marital status of the man is irrelevant to the partitioning of categories. Fasal 11 is explicit on this irrelevancy and refers to "saorang lakie lakie sama djoea boedjang atoúw batin" (a man, equally a youth or a married man). Fasal 10, on the the other hand, makes no specific reference to the marital status of the man. Thus there are no grounds for assuming that the marital status of the man is relevant and considerable support for the assertion that the distinction between unmarried and married men is not pertinent to the relationship between these two fasals. However, the opposition between married and unmarried women is the basis of the opposition between Fasals 10 and 11. On the other hand, there is unity in this opposition in that both fasals deal with illicit sexual relations that have resulted in pregnancy. While Fasal 10 does not elaborate upon the basic category presented, Fasal 11 has an internal partitioning into two opposed categories. The opposition is between cases in which a man accepts his responsibility for the pregnancy and cases where he denies any such responsibility. This opposition of categories is paralleled by a multiplication of the associated fine. When considering the total fine imposed on the crime, the 14 reals of the less serious case is multiplied by two to produce the 28 reals of the more serious one. However, when considering the amount actually paid by one person, the amount in the lesser case is seven reals and that in the more serious case 28 reals, or the multiple is four and not two. The three amounts of money discussed (i.e., 7, 14, 28 reals) form a numerical sequence governed by the special case of the general rule for halving sequences.

$$t_n = t_1 (2^{1-n})$$

$n = 2,\ t_1 = 28$	$t_2 = 28\ (2^{1-2})$	$n = 3,\ t_1 = 28$	$t_3 = 28\ (2^{1-3})$
	$t_2 = 28\ (2^{-1})$		$t_3 = 28\ (2^{-2})$
	$t_2 = 28\ (1/2)$		$t_3 = 28\ (1/4)$
	$t_2 = 14$		$t_3 = 7$

In addition to the important sequence relationship, the numbers of the sequence themselves display a variety of significant properties. The

most important number is 28 in that it shares some of the distinguishing properties of the number 6. Like 6, 28 is a perfect number, that is, all of the factors of 28 other than 28 itself add up to 28. Thus 28 may be evenly divided by 1, 2, 4, 7 or 14 and 1 + 2 + 4 + 7 + 14 = 28. Furthermore, like 6, 28 is what the ancient Greeks called a triangular number, that is, it is the sum of consecutive integers, the first of which is one. Thus 1 + 2 + 3 + 4 + 5 + 6 + 7 = 28. Of particular importance to the 7, 14, 28 sequence is that 28 is equal to the sum of the first *seven* consecutive integers. The number seven also possesses an interesting property, i.e., 7 = 1 + 2 + 4. While these addends have the same ratio to each other as the terms of the sequence in which the seven is located (7:14:28::1:2:4), the ratio of 1, 2, 4 is a basic feature of most of the major sequence relations in the numerical features of South Sumatran legal codes. In general, this sequence of 7, 14, 28 is one of the most frequently occuring of all numerical series, especially in the texts from the Manna and Seluma regions. In particular, there is a strong association between multiples of seven and sexual offences, with seventy often being the highest amount. However, the strength of 7, 14, 28 as a sequence as opposed to being a collection of numbers which are the multiples of seven is demonstrated by the fact that twenty-one almost never occurs as the specification for a fine.

The contents of this fasal display two further interesting features. The reference to the woman becoming the slave of the raja recalls the andam rules of Fasal 19 of the *Code of Laws*. However, in that law set andam as a punishment was also applied to a woman who became pregnant in her husband's absence. Given the peculiar political circumstances of the region governed by the Silebar laws, it is not certain who the raja was. Normally one might expect it to be the Pangeran of Silebar, but in this case it could refer to the Division Head or even the government. Secondly, the details of the "pambassoe doessoen" appear to be closely related to the food payments associated with the bangun in Fasal 13 of the Sungai Lemau laws. There, in addition to the money, one was obliged to give a buffalo, 100 measures of rice, and the assam-garam (karbauw saikoer bras 100 koelak serta dengan assam garam nja). The specification of the Silebar laws (a goat and 50 measures of rice and the assam-garam) appears to be one half that of the Sungai Lemau laws in that the sequences are obviously conceptually related (animal + x measures of rice and assam-garam). This comparison produces the useful suggestion that a goat is equal to one half of a buffalo. This assertion is supported by the fact that the animal associated with the bangun in

the Sungai Lemau laws is a buffalo while the animal associated with the pampas is a goat. This parallels the basic assumption that the largest pampas payment is equal to one half of the bangun. However, as interesting as these associations may be, the basic feature of the internal logic of this fasal is a two element opposition between more serious and less serious situations concerning illicit pregnancy which are correlated to multiples or fractions of a basic fine. This opposition is maintained by the distinction between cases in which the man responsible for the pregnancy is identified and cases in which his identity is not known.

FASAL 12

Fasal 12 is entitled "Hoekoem *orang barmain moeka boedjang sama Gadis atoúw batin dengan maranda*" (the punishment of persons who indulge in "illicit playing", either a youth with a maiden or a married man with a widow). If they are found by someone in a room or some other secluded place and there exists sufficient evidence of their guilt (i.e., their hair or clothing is in disarray), the matter is brought before a judge. The judge considers whether or not the discovery is valid and whether those concerned were involved in a situation governed by the law of illicit relations (oendang oendang soembang).[26] If so, they are fined 14 reals and married. However, the court must order the person who catches them to swear an oath that he caught them engaged in illicit activity (parkardjan soembang).

The title of this fasal is contrasted with the unity and opposition of the previous two fasals. First, Fasals 10 and 11 are united by their common concern with illicit pregnancy. However, Fasal 12 is concerned with illicit sexual activity in which pregnancy is not involved and thus an eye-witness account is necessary in order to establish the fact that an offence took place. This partitioning of illicit sexual activity into those acts which result in pregnancy and those which do not yields a two plus one structure for this group of three fasals. However, the opposition between married and unmarried which contrasted the first two fasals of this three element group is remoulded and presented in the title of the last fasal. While Fasals 10 and 11 opposed the acts of a married woman with those of an unmarried woman, Fasal 12 uses this opposition in another manner. In the title of Fasal 12 one finds an opposition between married and unmarried men (batin/bujang) which is correlated to an opposition between once married (but no longer married) women and never married women (merando/gadis). These two oppositions are paired to produce only two combinations. Firstly, an unmarried and presumably never married man (bujang) is paired with an unmarried and never married woman (gadis). Secondly, a married man

(batin) is paired with a formerly married woman (merando). This explicit pairing rules out a number of possibilities: youth/widow; married man/maiden; etc. Thus the title of Fasal 12 imposes an artificially stringent limitation on the categories of the individuals who might be paired up in illicit sexual activity. This limitation is achieved by remoulding the opposition of the first two fasals of the three element group. Thus while Fasals 10 and 11 opposes married and unmarried women, Fasal 12 creates a double opposition between married and unmarried men and once married and never married women. Significantly, the use of these oppositions results in the omission of the adulterous wife who does not become pregnant.

The contents of Fasal 12 have two main features: the determination of the crime and its punishment. Unlike panjingan, where the existence of a pregnancy is taken as *prima facie* evidence of an offence, the case presented here requires an eye-witness not only to identify the guilty parties but also to prove that an offence has even occurred. While this seems to encourage legalised voyeurism, other texts go even further. Fasal 13 of the "old portion" of the Ngalam laws (Cod. Or. 12.224) deals with the wages (upa) of the person who reports the various categories of illicit sexual activity to the authorities.[27] Given the dependency of even the existence of an offence on the account of an eyewitness, it is necessary for an oath to be sworn. Unlike other matters, where the offence is known to have occurred, this procedure is not simply a judicial one designed to match a crime with a guilty party but an essential aspect of the logic of categories in that the procedure helps to establish the fact that an offence has occurred.

The only other crime with a similar problem is theft. In some cases involving the notion of theft the occurence of a crime is obvious but in other cases there may be a question of legal versus illegal possession of property. However, unlike the above example, in cases of theft there is usually some material evidence indicating that a crime occurred. The problem is whether or not this evidence is indicative of a crime, e.g., if A has property that B says belongs to him, the property involved may be used as evidence of a crime if A cannot establish his legal right to possession. However, in the present example there is no procedure for the examination of virgins that would provide *prima facie* evidence for the existence of an offence,[28] even though it might be difficult to locate the responsible male. This is the only type of offence where the normal problems of evidence which relate to a statistical model may directly influence the existence of a category in the mechanical model.

The nature of the punishment further elucidates the evidence problem. The fine of 14 reals is the same as that for panjingan between a man and an unmarried woman when the man acknowledges his responsibility. In Fasal 12 the specification of the woman remains unchanged even though there are logical but not necessarily legal restrictions on the possible combinations of categories of men and women. Thus the fact that the fines are the same means that fornication leading to pregnancy and fornication not leading to pregnancy are equated. The nature of the evidence procedure in Fasal 12 precludes the possibility of an offence defined as fornication not leading to pregnancy when the man is unknown. Thus acts of fornication are punished when proof exists, irregardless of whether a pregnancy results or not. Thus in this law set the existence of pregnancy does not affect the seriousness of the offence when other procedures can establish the fact that a punishable offence has occurred. On the other hand, the existence of a pregnancy is a category of evidence opposed to another such category, i.e., the eye-witness account. Thus the two plus one structure which opposes fornication leading to pregnancy and fornication not leading to pregnancy involves not so much an opposition between categories of illicit sexual activity but between the possible forms of evidence indicating that an offence has occurred. The differences in the nature of the evidence in these categories allows for a greater degree of elaboration when a pregnancy results, i.e., a woman *can* be punished alone when a pregnancy exists.

Of particular significance is the fact that adultery which does not result in a pregnancy is not discussed at all whereas it is discussed in Fasal 20 of the Sungai Lemau laws and the *Code of Laws*. This omission can be explained in terms of the limitations that the structural pattern of the laws imposes on the possible categories of illicit sexual activity. The adultery of a married woman not associated with pregnancy would have made an excellent fourth category. However, the strong preference for three element groups with a two plus one structure makes the existence of a fourth category impossible. Similarly, the inclusion of such a category in Fasal 10 would have confused the clarity of the two plus one structure. Thus this logically possible and exceedingly probable category was omitted simply because there was no room for it in the structure. Furthermore, the omission is explicit, i.e., the category is ruled out by the title of Fasal 12. Thus, the assumption of omission is not based on the fact that there is no mention made of the category. Fasal 12 explicitly concerns itself with illicit sexual activities of unmarried women (widows and maidens). And further, the pairing of youths with

maidens and married men with widows makes the generation of a third category involving married women extremely difficult. This insistence on unmarried women in Fasal 12 generates an alternative structure in that the last two elements of the group of three are concerned with unmarried women while the first is concerned with married women, thus creating a one plus two structure based on this opposition. However, as stated above, the adultery of the married woman which does not result in a pregnancy cannot be worked into the structure.[29]

The final unnumbered sections

Fasal 12 is the last numbered element in this law set. In the manuscript after Fasal 12 there is a space (± 17 mm) which is more than twice the size of the space that normally occurs between consecutive lines (± 7 mm). Following this space there are four unnumbered elements. The individual elements can be indentified by a variety of phenomena, none of which is used all of the time. These phenomena include exaggerated capital letters at the beginning of an element, spaces left unfilled at the end of the final line of an element, and identations. These four elements are partitioned into two sections. There are three elements in the first section but only one in the second. This partitioning is primarily made on structural grounds but there may have been a visible partioning in the original. However, in the copy analysed here, the third element ends at the bottom of one page, while the fourth begins on the following page. Thus any space that may have existed in the original does not appear in this copy.

The third unnumbered section provides the rules for dividing the fines levied in accordance with the provisions of Fasals 10, 11, and 12.

THE THIRD UNNUMBERED SECTION, FIRST ELEMENT

[The rules for dividing] the fines levied on panjingan with a man's wife (denda orang pandjingan dengan binie orang). The 40 reals is divided three ways: one share goes to the Raja who rules in the state (negeri) (the government???); one share goes to the Chalipa, Pambarabs or Mantris; and one share to the Proatin of the village where the offence takes place or to the Datos, Pemangkus, or Penghulus.

THE THIRD UNNUMBERED SECTION, SECOND ELEMENT

[The rules for dividing) the fines levied on panjingan with a maiden or widow (denda pandjingan dengan Gadis atoúw marando). The 14 reals is divided as is stated above.

THE THIRD UNNUMBERED SECTION, THIRD ELEMENT

[The rules for dividing] the fines levied on illicit sexual activity (denda orang main moeda). The 14 reals is divided as is stated above.

The structure of these three elements repeats that of Fasals 10, 11, and 12 in that each of the three elements refers to one and only one fasal without any alteration in their order. However, since the division of the fines is the same in all three cases, a fact which is explicitly presented by back references, the three element structure appears to exist for its own sake. In other words, the examination of the contents of these three unnumbered elements reveals nothing that would preclude their compression into a single element. Thus, the existence of these three elements is based on an intentional transfer of certain features that might normally be a part of Fasals 10, 11, and 12 into a parallel but unnumbered structure.

The relationships between the individual unnumbered elements and their numbered counterparts display a number of important features which elucidate the structure of Fasals 10, 11, and 12 and suggest alternative structures for the unnumbered elements. The basic difference between the titles of the fasals and the identifying phrases of the unnumbered elements is the first word. Fasals 10, 11, and 12 all begin with the word "hoekoem" (punishment, rule) and the unnumbered elements begin with the word "denda" (fine). There are some curious but irregular differences between the titles of the fasals and their counterparts in the unnumbered elements. While Fasal 10 deals with fornication leading to the pregnancy of a married woman, the title of Fasal 10 is simply "Hoekoem orang Pandjingan" (the punishment of panjingan). However, the first phrase of the first unnumbered element is more specific, i.e., "Denda orang pandjingan dengan binie orang" (the fine for panjingan with a person's wife). The difference between Fasal 11 and the second unnumbered element is only the difference in the use of hoekoem or denda. There is, however, a considerable difference between the title of Fasal 12 and the first phrase of the third unnumbered element. The title of Fasal 12 is "Hoekoem orang barmain moeka boedjang sama gadis atoúw batin dengan maranda" (the punishment of persons who indulge in "illicit playing" either a youth with a maiden or a married man with a widow).

On the other hand, the first phrase of the third unnumbered element is

"Denda orang main moeda" (the fine of persons who indulge in "youthful playing"). The major structural difference between the fasal and the unnumbered element is the omission of the detailed specification of the pairing patterns. However, the shift from *bermain muka* to *main muda* may help to compensate for this loss of detail provided that the shift from muka to muda was intentional and not associated with a scribal error. *Mukah* as defined by Wilkinson (1932, Vol. II, p. 151; 1959, p. 785) means "illicit sexual intercourse" or "a party to such intercourse". *Muda* normally means young but in association with *main* it comes to mean flirtation or illict association. The implication of fornication is confirmed by the answers to Question 17 of the Sungai Hitam laws. Thus, the reference to *main muda* might compensate for the loss of specification in so far as it suggests the involvement of unmarried people.

Thus, the process of referring back to the various fasal categories also involves a transformational pattern of abbreviation. But the abbreviated references have a structure in their own right. The most apparent structure is a two plus one partitioning of the three elements involving an opposition between panjingan and main muda, i.e., between fornication leading to pregnancy and fornication not leading to pregnancy. The internal opposition of the two element segments is between married and unmarried women. If anything, this structural pattern is clearer than that of the fasals because a majority of the information not directly relevant to the opposition has been removed. Thus the features of the unnumbered elements tend to be either opposed or identical to each other with little extraneous information which does not contribute to either an identity or opposition relationship. However, while this structure preserves the main features of the structuring of Fasals 10, 11, and 12, the remoulding of the married/unmarried opposition occurring in the title of Fasal 12 is lost.

A second system of reference suggests an alternative structure. In each of the three elements only one amount is mentioned as being subject to the rules of division. The amounts are 40, 14, and 14 reals respectively. While Fasals 10 and 12 only mention one amount of money, Fasal 11 discusses two fines, one of 14 reals and the other of 28 reals. Thus the use of only one of these amounts (14 reals) in the second unnumbered element implies a degree of selectivity. This is the amount of the fine for fornication leading to pregnancy of an unmarried woman when the guilty man accepts his responsibility. And as stated above, it is the aspect of Fasal 11 most closely related to Fasal 12. This association leads to the

assertion that an alternative one plus two structure existed based on the opposition between married and unmarried women involved in fornication. This one plus two structure is to be found in the unnumbered elements but is expressed differently. Here the opposition is generated by the contrast between 40 and 14. The linguistic equivalents of these numbers (empat puluh and empatbelas) indicate that the opposition is, in reality, only that between puluh and — belas. These two words for ten are associated with empat in different ways, thus creating the numerical difference. It is worth noting that the puluh — belas relationship played an important part in the structure of the *Code of Laws.*

Distinctive Features of Fasals 10, 11, and 12 and The last Unnumbered Section of the Silebar Laws

Fasal	Status of woman (married/ unmarried)	Basic Fine in Reals (as in unnumbered section)	Pregnancy (present/ absent)	Panjingan in Title (fasals & unnumbered section)
10	+	40	+	+
11	—	14	+	+
12	—	14	—	—

TABLE 5.3

FOURTH UNNUMBERED SECTION

The legal costs (Beijo) in debt and credit cases. The costs amount to 5 "tantjie" (= duit) per rupia. The amount is divided among the individuals who act as judges in the settlement of the case. The relative rank of the penghulu is relevant to the division and each gets a share according to his rank.

The significance of this element is purely structural. It is a single isolated element standing at the end of the structure and as such corresponds to Question 18 of the Sungai Hitam laws and Fasal 25 of the Sungai Lemau laws.

The total structure of the Silebar laws can be represented by Diagram 5.5.

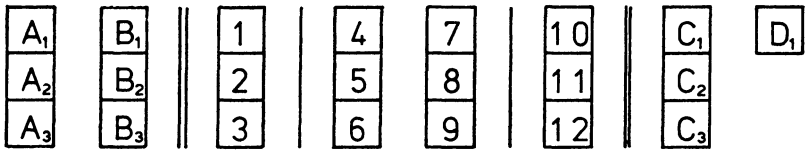


DIAGRAM 5.5

The structure contains seven three element groups with a single element at the end. The most prominent structural feature is the contrast between numbered and unnumbered elements. Thus there are three unnumbered three element groups and four numbered three element groups. However, the relationship is more appropriately seen as an opposition between the totality of elements and the numbered elements, and in particular those elements occurring in three element groups. Thus the totality is 21 or 7 x 3 and the numbered elements equal to 12 or 4 x 3. The fact that 12 and 21 may be related to each other by a transformation which interchanges the position of the digits may not be coincidental.

Within the numbered elements there is a center versus extremity opposition. The center deals with criminal activity while the extremities are concerned with the regulation of sexual activity. The extreme elements are opposed to each other in that the first three element group deals with the regulation of legitimate sexual activity while the last three elements are concerned with the regulation of illicit sexual activity. This center versus extremity opposition may be expressed numerically; the sum of the numbers in the extreme categories is equal to the sum of the numbers in the central category, i.e., $1 + 2 + 3 + 10 + 11 + 12 = 4 + 5 + 6 + 7 + 8 + 9 = 39$. Similarly, the contrast between numbered and unnumbered elements involves a somewhat asymmetric center versus extremity opposition, or quite simply, the numbered elements are surrounded by unnumbered elements.

The rationale behind the existence of the unnumbered elements is quite clearly to manipulate the total number of numbered elements. In particular, the Silebar laws contain exactly twelve numbered elements. This is six less than the eighteen elements of the Sungai Hitam laws. If one accepts the premise that even though the Sungai Lemau laws contain twenty-five elements the structurally significant number is twenty-four (c.f. p. 153 f.), then a variety of interesting relations emerge based

on the number six. Thus the 24 of the Sungai Lemau laws is equal to 6 x 4, the 18 of the Sungai Hitam laws is equal to 6 x 3 and the 12 of the Silebar laws is equal to 6 x 2. As one progresses through the laws of this manuscript each successive law has six less significant numbered elements. This six based factor relation is actually only one of a number of possibilities.

Sungai Lemau	24 = 6 x 4	= 3 x 8	= 2 x 12
Sungai Hitam	18 = 6 x 3	= 3 x 6	= 2 x 9
Silebar	12 = 6 x 2	= 3 x 4	= 2 x 6

Another relation is that 18 is halfway between, or the average of, the extreme elements, i.e., 24 + 12 = 36; ½ (36) = 18. As with all such numerical analyses one is confronted with the problem as to which features are antecedent or consequent and which are accidental or intentional.

In conclusion, while the Silebar laws reflect a considerable degree of affiliation with the category names of the Sungai Hitam laws, their structure, which is based on a partitioning into three element groups, is that of the Sungai Lemau laws. However, the Silebar laws do not reveal the close structural dependency on the Sungai Lemau laws that the Sungai Hitam laws do. As for their contents, the Silebar laws are more similar to the codes from the Seluma region than to the other laws from the Environs of Bengkulu. The similarity in the topics discussed, as well as the order in which they are presented, suggests that in all probability the problem had been set by the Dutch authorities. However, the structure and intricacies of the solution are a distinctly native product. Indeed, the settling of the problem with minimal limitations is an asset and not a hindrance in that these three legal codes are so similar that their differences are dramatic.

CHAPTER 5 — NOTES

1 The last two words of this phrase may belong to the next section.

2 According to indigenous usage ten duit often equalled one wang (c.f. Helfrich, 1904, p. 194), and because three wang equalled one tali and eight tali equalled one real there were 240 duit to a real. However, a Dutch monetary reform specified one hundred duit to the guilder or two hundred duit to the real. In this case, however, the two hundred duit to the real system was intended for Van den Bor's report (Van den Bor, 1862, p. 263) gives the amount as 12½ per cent. A similar confusion exists concerning the value of the real. One finds the real valued at both two and a half as well as two

guilders (c.f. Helfrich, 1904, p. 80 f. and p. 137). Although Helfrich consistently values the real at two and a half guilders, legal texts usually value it at two guilders. The logical patterns of South Sumatran legal codes usually indicate which relationship was intended, even if these contradicted the amounts actually paid as revealed by contemporary Dutch reports.

3 Interesting but inconclusive support for the existence of this two plus one structure can be found in the visual form of the manuscript. The beginning of the second unnumbered section is difficult to demarcate visually with any degree of certainty. There is, however, a clear partition in the second unnumbered section. Instead of direct visual continuity between the units concerned with "pambriean" and "kaoentoengan", there is a blank space in the manuscript. This space follows the last phrase concerned with "pambriean" and allows the discussion of "kaoentoengan" to begin on a new line. The structural significance of this blank space is that it partitions the second unnumbered section in a manner identical to that suggested by the variation in syntactic construction.

4 The word *beo, beijo,* etc., is usually used to refer to legal costs associated with court cases and is not to be confused with costs related to the wedding. These latter "costs" are usually referred to with the word *belanja.*

5 For moetong c.f. Helfrich, 1904, p. 102.

6 The use of *kabanjakan* in place of *kabaikan* supports the assertion made above, c.f. p. 170, that the use of *kabaikan* was a scribal error.

7 The shift from *Djoedjoer tengah* of Question 7 of the Sungai Hitam laws to *Djoedjoer Penenga* (pe + tengah = penengah) of the Silebar laws does not affect the structure in any way.

8 The possibility that the last jujur fasal of the Silebar laws is also associated with the ambil anak forms of either the Sungai Hitam or Sungai Lemau laws will be examined below.

9 The Van den Bor report specifically supports this contention for the Silebar laws (Van den Bor, 1862, p. 267).

10 In the text itself *Samando balik djoeraij* is the first of the alternative names given for *djoedjoer Ketjil.*

11 In texts where such eight based sequences are employed one usually finds "tengah" (literally one half) instead of guilders, recepis, or rupia.

12 The body of this manuscript is an incomplete Romanized version of "Kitab Undang^2 Adat Lembaga Manna", which is part of Cod. Or. 12.200. However, the initial part of the Cod. Or. 12.200 version is removed and two sections, one dealing with murder and the other with theft, are inserted and form the first portion of the Manna manuscript in Bundle H 813. On the other hand, the report by J. van Dulken dated 24 July 1855 (TLVK H 813-c-v) and printed in BKI 8, 1862, pp. 301-308, refers to a law text with the same date as Cod. Or. 12.200 but gives a specification of the bangun which is not to be found in Cod. Or. 12.200. But the basic amount given by Van Dulken is equivalent to the Manna manuscript TLVK H 813-d-ii.

13 The "Kitab Undang^2 Adat Lembaga Manna" discussed above is written in Arabic characters. In another part of the same manuscript (Cod. Or. 12.200) is a legal text in Romanized Malay also dealing with Manna. This is not a transcription of the "Kitab Undang^2 Adat Lembaga Manna" but a partial transcription of the Manna laws presented in Cod. Or. 12.205.

14 It is worth noting that both of the actual figures of the complete Silebar and Manna specifications are less than this amount, i.e., 95.46 and 95.44. These figures indicate that the portions associated with the sequence are 15.46 and 15.44. It is also worth noting that these figures occur between the fourth

partial sum ($S_4 = 15$) and the fifth partial sum ($S_5 = 15.50$) of the halving sequence.

15 "Chalikoella" is probably a corruption of the Arabic *khalqullah* = the creatures of God (c.f. Lane, 1865, p. 801). Thus in the context of this fasal "chalikoella" means populace.

16 There are actually two manuscripts which are almost the same in Bundle H 813 (TLVK H 813b-i and H 813b-ii) of the Western manuscript collection of the Royal Institute of Linguistics and Anthropology. Although one of these is in very bad condition, both are signed by Robert Bogel. The signature is apparently authentic in that it is different from the handwriting in both of the texts. It is worth noting that even though the Dutch had officially taken over the administration of English possessions in Sumatra by virtue of a treaty dated 7 March 1824 and their official presence had begun to be felt in 1825, in 1828, the date of these documents, official copies of court proceedings were still being kept in English.

17 I am indebted to W. F. W. Adelaar for pointing out this relationship between Spanish and Portuguese; however, I am responsible for any or all linguistic heresies associated with the use of this example.

18 C.f. the numerical sequence linking Fasals 13 and 14 of the Sungai Lemau laws, p. 140.

19 This argument concerning structural boundaries is dependent upon the assumption that Fasals 4 and 5 are the constituent elements of a two element structure. This is not an unreasonable assumption given the normally strong association between the bangun and pampas and the presence of a system of interlocking relationships that binds the two elements together. However, the total fasal structure of the laws indicates that these fasals are also among the constituent elements of a three element structure. The difficulty is that the two element structure is not embedded in the three element structure. This means that the above argument on structural boundaries so essential to the description of the two element structure is irrelevant to the analysis of the three element structure described on pages 231-232 below.

20 In English Common Law the legal notions associated with burglary and housebreaking were closely related to houses. Originally in English law burglary "consisted in breaking into houses, churches, or the walls or gates of a town by night. Later, however, it came to be defined in common law as breaking and entering the dwelling house of another in night, with intent to commit some felony therein, whether such felony be actually committed or not" (Turner, 1958, p. 229). While initially the condition that the offence must take place at night did not apply, later this condition became an essential feature of the definition of burglary. Thus if all conditions for the felony of burglary were met except the time condition the offence was only a misdemeanour known as housebreaking (c.f. Turner, 1958, pp. 233, 236). Thus the use of the term "breaking and entering" to describe the conditions of Fasal 6 of the Silebar laws in place of the more suggestive term "housebreaking" reflects the fact that the text does not mention a condition essential to making a distinction between burglary and housebreaking. As with the discussion of arson presented above this example demonstrates some of the problems associated with the translation of Malay language legal concepts.

21 It is worth noting that only the Sungai Hitam laws mention buffaloes in the substantive discussion of theft.

22 The only other case of justifiable homicide regularly occurring in South Sumatran legal texts is related to a "crime passionnel". If a person catches his wife with a lover *in flagrante* and kills them on the spot he is not guilty

of any crime. However, this rule apparently does not extend beyond the act of discovery situation.

23 The /p/ of *spill* in English is an example of the first type of representation and the final /t/ of *de nood* and *de noot* in Dutch is an example of the second type of representation (c.f. pages 181-182 above).

24 The presence of unintentional wounding in Fasal 4 does not violate the partitioning principle in that unintentional wounding cannot occur simultaeously with either unintentional or intentional killing.

25 The text actually has 40 reals but the reference to 7 reals each and another reference to 14 reals in the second element of the third unnumbered section at the end of the text clearly indicate that 14 reals was intended.

26 In Malay *sumbang* usually means incest but in this case such a meaning is much too strong and limited.

27 The text of the Ngalam laws uses the word mengembarkan (= pairing) for the act which is rewarded. But Fasal 16 of the "old portion" of the Tallo laws (Cod. Or. 12.228) has the words mengembarkan and mengabarkan (literally = report), suggesting that the mim (= m) in mengembarkan may may be an excrescent.

28 Such an examination of virgins played an important role in the trial of Joan of Arc.

29 It should be pointed out that the manipulation of categories specified in the title to Fasal 12 relates directly to the structure of this law and cannot be ascribed to generally held notions about illicit sexual activity common to all South Sumatran legal texts. In particular, Fasals 19 and 21 of the Sungai Lemau laws mention other possible combinations: married man with widow (Fasal 19), youth with widow (Fasal 19), widow with youth (Fasal 21), widow with married man (Fasal 21), widow with widower (Fasal 21), man with married woman (Fasal 20). Fasal 20 of the Sungai Lemau Laws gives the impression of dealing with adultery between married persons and Question 16 of the Sungai Hitam laws is specific in its reference to the man being married. Thus the only category that might be ruled out either on cultural or probabilistic grounds is illicit sexual activity involving a married woman and an unmarried man. Thus the specific existence of other combinations in other texts supports the assertion that the title of Fasal 12 involves the manipulation of categories for the sake of the structure.

CHAPTER 6

CONCLUSION

The anthropological study of law can be characterized by two fundamentally contrastive but not necessarily opposed approaches. On the one hand, law is often viewed as a functional system that operates at multiple levels and in a variety of ways to regulate and maintain the social order. On the other hand, in this study, I have taken the view that law is a conceptual system (i.e., a formally organized system of categories).

Before turning to an examination of the relations between these two approaches it is perhaps useful to examine some of the linguistic dimensions of the problem. While anthropologists are quick to point out that the societies they study often use words that are difficult to render into their own language, they often fail to realize that one scholarly language may employ words and concepts that are difficult if not impossible to render into another scholarly language. This problem is especially acute in structural anthropology, and to a lesser extent in the anthropological study of law. The development of structural anthropology has been strongly influenced by the fact that most of the important contributions to the field have been written in French or Dutch. The anthropological study of law, on the other hand, has made its greatest strides forward in English language studies, particularly with reference to Africa. In law, where there is a body of generally accepted vocabulary and concepts, the problem of being tied to a single language is less severe. In a developing discipline like structural anthropology, which has no established vocabulary to draw on, the linguistic problem is peculiarly acute. And further, the basic problem has been exacerbated by the traditional intransigence and hostility that the French and English have had towards each others' languages.

Perhaps the best known example related to structural anthropology that demonstrates this point is de Saussure's opposition between *langue* and *parole*. Attempts to translate this into English have often resulted in an opposition between *language* and *speech*. This has proven to be

so unsatisfactory that many writers have elected to use the original French. However, while this opposition is difficult to translate, it has come to the attention of anthropologists in an already simplified form. In de Saussure's original formulation there were three elements: *langage, langue,* and *parole.* He describes their relations as follows: "La langue est pour nous la langage moins la parole" (de Saussure, 1968, p. 112). Mauss offers another example that is structurally indentical to de Saussure's but is specifically relevant to the anthropological study of law: "le droit comprend l'ensemble des coutumes et des lois" (Mauss, 1967, p. 135).

This quotation from Mauss points out a problem concerning the discussion of law in English. In contrast to French and Dutch, among other languages, English has only one basic word for law.[1] In French one finds the words *droit* and *loi* which correspond fairly closely to the Dutch words *recht* and *wet.* With relatively few modifications, this opposition between *recht* and *wet* (or *droit* and *loi*) can be used to help clarify some of the differences between law as a functional system and law as a conceptual system.

With a few important exceptions the English word "law" can be translated as *recht.* The most striking of these exceptions is that legislation or statutes (and by implication any written law) must be translated into Dutch as *wet* (pl. *wetten*). The other main exception is that laws of science or nature are also *wetten.* With respect to the semantic domains of the Dutch word *recht,* one finds a variety of connotations of which only one corresponds closely to the English word *law.* The closest correspondence between *recht* and *law* relates to the study of law. Thus, a law student is a *rechtenstudent* and not a *wetsstudent,* a jurist is a *rechtsgeleerde* and not a *wetgeleerde,* and Indonesian customary law is *adatrecht* and not *adatwet.* However, the Dutch word *recht* extends to semantic domains not covered by the English word *law.* In Dutch the notion of *recht* is closely associated with the judicial process. Thus the Dutch word for judge is a *rechter,* the administration of justice is *rechtspraak,* a legal case is a *rechtszaak,* a court of law is a *rechtbank,* and a courtroom is a *rechtszaal.* The Dutch word *recht* also has strong ethical and perhaps even moral connotations. Thus the opposition between *recht* and *onrecht* must be translated as *justice* and *injustice* and the terms *rechten* and *plichten* as *rights* and *obligations.*[2]

Thus the Dutch word *recht* implies many of the attributes that are assigned to law in functional analysis. The association with the formal judicial process emphasizes one element of law that some anthropolo-

gists see as one of the necessary conditions for law. The association of *recht* with the notions of ethics, justice and rights helps to underscore the fact that law (i.e., *recht*) can be viewed as an open system. On the other hand, the Dutch word *wet* seems to be more appropriate to the laws that form the basis of this study. In the first place *wet* is used to refer to legislation and statutes, and by implication, written laws in general. In Malay and Indonesian *undang-undang* generally refers to statutes or legislation. *Undang-Undang* is the name most frequently given to legal codes in South Sumatra.[3] Secondly, the word *wet* (*wetten*) must be used to translate the English expression "the laws of Nature" (Wetten der Natuur)[4] into Dutch. It is this second usage of the word *wet* that begins to approximate the view of law that I have taken in this study. In the Western scientific tradition a law of nature often means little more than a statement about the natural order. One of the basic assumptions implicit in the structural analysis of Malay language legal codes is that they are statements about the social order. One finds support for this view in the use of the French word *loi*. Montesquieu's masterpiece is entitled *De l'Esprit des Lois* and not *De l'Esprit du Droit* and Montesquieu quite clearly is attempting to describe the fundamental principles of the social order as he saw it.

This opposition between *recht* and *wet* (or *droit* and *loi*) is useful if it is not carried too far. It can be used quite profitably to separate the view of law as a functional system from the view of law as a conceptual system. In general, I believe that the notion of law as *recht* is more appropriate to the functional approach than the notion of law as *wet* is to the conceptual approach. With this restriction in mind, the following example from Dutch helps to illustrate the usefulness of the opposition of *recht* and *wet*. In Dutch the two words *rechtsgeleerde* (literally, one learned in law (*recht*)) and *wetgeleerde* (literally, one learned in law (*wet*)) have sharply contrastive meanings. *Rechtsgeleerde* may be translated into English as jurist. *Wetgeleerde* usually has the connotation of one learned in written law, especially religious law, e.g., Jewish rabbinical law. Implicit in the difference between a *rechtsgeleerde* and a *wetgeleerde* is an opposition between open and closed systems. A *rechtsgeleerde*, by implication, goes beyond the narrow confines of law and may often take ethical, social or moral factors into consideration. On the other hand, a *wetgeleerde* strictly confines himself to the literal implications of law as a closed system. Thus a *wetgeleerde* is primarily concerned with the relation of law to itself and not to any external factors. For example, it is entirely possible for an opinion by a

wetgeleerde on some point of law to be on the one hand unethical and immoral in its implications, but completely legal on the other.

The opposition between *rechtsgeleerde* and *wetgeleerde* can be profitably used to describe the authors of the law texts used in this study. When sitting as judges, hearing cases, and passing judgment the authors were undoubtedly functioning as *rechtsgeleerden.* However, when they undertook to write the texts it is clear from the preceding detailed analyses of the laws that they were functioning as *wetgeleerden.* In one situation they were evaluating circumstances, testimony, social conditions and perhaps the moral and ethical implications of the matter before them. In the other they were attempting to formulate a statement about the laws of their society as if they were a closed system of formally organized legal categories. Thus, the authors of the law texts, when writing these texts, were functioning as *loigiciens* and the study of their work is properly called *loigique*, i.e., the Logic of the Laws.

The functional approach

The basic characteristic of the functional approach to the anthropological study of law is the assertion that law or legal systems are the means by which conflicts and disputes are resolved in a given society. The most eloquent advocates of this approach to the study of law are Gluckman and his followers. The Manchester school embracing Radcliffe-Brown's notion of functionalism has taken the view that law is a system that operates in conjunction with other systems to regulate and control the social order. They consider society as a system in equilibrium and believe that law functions to maintain or establish equilibrium through the management and regulation of conflict.

This view of law and legal systems is not in and of itself fundamentally antithetical to the view taken in this study that law is a closed system of formally organized legal categories. However, in many legal systems the administration of law may be such that the conceptual order must give way to other considerations in the practical administration of justice. Thus J. F. Holleman, in explaining his selection of case material for inclusion in his study of *Shona Customary Law* writes: "They have been selected not, because they are always correct interpretations of Shona law (many of them are not), or because they carry the weighty authority of a legal precedent such as is found in our legal system (they are never, in fact, interpreted like that), but because they are illustrations of an indigenous administration of justice in which a satisfac-

tory solution of the conflict between the parties often matters more than a correct interpretation of the legal principles involved" (Holleman, 1952, p. x).

Another area where it is quite possible for the functional and conceptual views to be at variance with each other relates to the distinction previously made between *rechtsgeleerde* and *wetgeleerde*. A person functioning in a judicial capacity may find himself in a dilemma. On the surface of the matter he may be confronted with a case that seems to indicate that a certain legal principle must be followed even though ethical and moral considerations require that the legal principle be ignored or even overruled. However, the skilful judge in a primitive system may be able to evoke a rule that had never before been considered in order to reconcile the demands of justice (i.e., recht) and the ideas inherent in the legal system. Having described just such a case among the Barotse Gluckman points out, "Barotse law, like all bodies of law, consists of a large number of rules of different kinds, which are not necessarily related logically; and juristic skill, in the Barotse's estimation, consists in the ability to find and apply the rule that will most appropriately give justice in the case under trial" (Gluckman, 1965, p. 17). In legal systems such as this the skilful judge is one who is able to reconcile his double function of *wetgeleerde* and *rechtsgeleerde*. However, when the demands of the two functions are at variance with each other that of *wetgeleerde* will usually give way to that of *rechtsgeleerde*.

The double institutionalization of law

Among the differing views and definitions of law espoused by the various authors writing within a functional framework the work of Bohannan stands out as being especially useful in bridging the gaps that exist between the functional and conceptual approach to the anthropological study of law. Bohannan has been able to describe law in terms of a deceptively brilliant principle which he calls "double institutionalization" (Bohannan, 1965, pp. 34-37). This concept is developed in such a way that it requires the notion of legal institution to have been previously defined. He describes a legal institution as "one by means of which the people of a society settle disputes that arise between one another and counteract any gross and flagrant abuses of the rules. . . of at least some of the other institutions of society" (Bohannan, 1965, p. 35). This definition is phrased so that it includes the focus on conflict resolution of the functionalist approach as well as the genuine penal law

of modern nation states. Having established the meaning that Bohannan assigns to a legal institution we can now turn to the principle of double institutionalization. "All social institutions are marked by 'customs' and these 'customs' exhibit most of the stigmata cited by any definition of law. But there is one salient difference. Whereas a custom continues to inhere in, and only in, these institutions which it governs (and which in turn govern it), law is specifically recreated by the agents of society, in narrower and recognizable context — that is, in the context of the institutions that are legal in character, and, to some degree at least, discrete from all others" (Bohannan, 1965, p. 34).

It is quite clear that not all of the rules associated with legal institutions are laws that are the result of the restatement of the rules or norms of another institution. In short, one can usually identify rules or customs that are peculiar to, or inhere in, the legal system. Such rules can be described by the blanket term "procedure" and are sometimes called *adjectival law* (Bohannan, 1965, p. 35; Hoebel, 1966, p. 441). In contrast to procedural or adjectival law there is substantive law, which includes those aspects of law which are the result of the process of double institutionalization. Hoebel describes the relationship between substantive and adjectival law in the following terms, "*Procedural* or *adjectival law* designates who may rightly punish a breach of substantive law; it also lays down the rules for prosecuting a case and fixes the customary penalties to be applied to each type of offence" (Hoebel, 1966, p. 441).

In the Malay language legal codes that form the basis of this study the categories of substantive law are the means by which the writers have identified the fasals relating to a specific legal category (i.e., the fasal structure is the structure of categories of substantive law). Thus the penalties (I take the term penalty to include both compensation and punishment) for murder, wounding and theft (bangun, pampas, and lipat), while they form a basic structural framework within the fasal structure, are never used in the titles of the fasals. Thus one finds *adat orang membunoh orang* (the custom relating to a person who kills a person) and not *adat bangun* as the title for fasals dealing with homicide. With the exception of the categories of penalties I have not used the rules of adjectival law as a means of identifying or analysing the basic legal categories of the texts in this study.[5] In particular, I have not been concerned with the rules for handling cases, nor the social background to these cases. It is my belief that the functional approach to the anthropological study of law has relied heavily on aspects of procedural law

while the conceptual approach is fundamentally concerned with substantive law. The analysis of how a legal system manages conflict *requires* a knowledge of legal procedure. The structural analysis of conceptual legal categories is not dependent upon such knowledge though in many instances it might be useful.

The principle of the double institutionalization of law thus applies almost exclusively to substantive law which in turn is the main basis of the conceptual approach to the anthropological study of law. The great advantage of this principle is that it provides a conceptual framework for describing how rules, customs, norms, ethics, morals, etc. acquire the power or status of law and how laws lose their legal status and become customs or norms. In short, it is a dynamic model that can be used to describe change as well as account for the curious but well-recognized phenomenon that law often appears to be out of step with society as a whole.

In many legal systems there are formal mechanisms through which the process of double institutionalization operates. The legislative process is perhaps the most obvious of the formal mechanisms. An example of how such a mechanism works is prohibition in United States law. As a result of various political and moral pressures the moral statement that one should not drink alcohol acquired the force of law by virtue of an amendment to the United States Constitution. There are strict formal procedures by which this constitution is amended and the power of this constitution is such that this law could not be altered by the judicial process. As a result, when the law prohibiting the consumption of alcohol became unworkable the same process of amendment had to be followed in order to remove the legal power of the originally moral statement, i.e., another amendment was passed saying that the previous one was no longer valid.

Another mechanism of double institutionalization is the judicial process itself. In many legal systems judicial decisions arising out of the settlement of a case may create law. The precedent system in English law works in this fashion. Llewellyn and Hoebel see the Cheyenne system of law developing through cases though it is uncertain how similar the mechanism is to the precedent system. While the judicial process may create law in many simple legal systems, the use of cases in the anthropological study of law poses certain methodological problems. On the one hand, cases may function to create law, i.e., the judicial process is a mechanism of double institutionalization. On the other hand, a legal case may serve as evidence indicating that a custom

has the authority of law. In the latter instance the case does not create law but only indicates that the process of double institutionalization has taken place.

In addition to the legislative and judicial mechanisms customs may acquire the authority of law by virtue of the fact that they satisfy certain requirements intrinsic to the custom itself. For example, in English law a local custom can acquire the status of law if it satisfies certain formal criteria, the most fundamental of which is immemorial existence. Another feature required is that "People must feel bound to observe it" (Smith and Kennan, 1973, p. 9), i.e., "the custom must have obligatory force" (ibid.). Furthermore, the custom must be consistent with the legal system, i.e., it cannot be contrary to statute (i.e., legislation) or a rule of common law (c.f. Smith and Keenan, 1973, p. 9). This process is essential in the English legal system because the process of creating common law involved taking local customary rulings and moulding them "into one uniform law 'common' to the whole kingdom" (Smith and Keenan, 1973, p. lf.).

Some of the features that are essential to local customs acquiring the authority of law in the English legal system may be seen to operate, though in altered form, in many other legal systems. In English law the principle of immemorial existence means that the custom must have existed at the beginning of legal memory. Leaving nothing to doubt, the limit of legal memory is arbitrarily fixed at 1189 A. D. (Smith and Keenan, 1973, p. 8). In many other types of legal systems this mythical charter of antiquity is often replaced by reference to specific mythical or historical personages who either established the law themselves or acquired it from another figure who is frequently the creator. Thus, according to the *Undang Undang of Moco Moco,* the two basic but conflicting systems of Minangkabau law were established by "Perpati Sabadang" and "Katummunggungan." The law of the revealed scriptures of Judaism (i.e., the *Torah*) was revealed to Moses by God. This is in direct contrast to Talmudic law, which is derived from rabbinical commentary on the *Torah.*

Though in many instances one is able to identify the mechanism of double institutionalization, i.e., the specific process by which customs or norms become laws, this is often impossible. When the mechanism is not readily recognizable or definable, case reports often provide the desired evidence that double institutionalization has taken place; however, as I stated above, this does not necessarily mean that the case has made the law.

The view of law as the result of the process of double institutionalization is useful in the present context because it can be used to bridge the gap between the functional approach to the anthropological study of law and the approach taken in this study. As has been demonstrated above, the notion of double institutionalization can account for many of the aspects of law emphasized in the functional approach without creating what I believe to be any fundamental injustices to this view. Similarly, this principle can be applied to the conceptual approach without distorting the views I have adopted in this study.

The law texts that form the basis of this study are legal statements about the social order of the society for which they were written. The process of extraction or abstraction from the social order and their formulation into formal legal statements is analogous to the process of double institutionalization described by Bohannan. The legal codes of South Sumatra are not a simple legal statement of the principles operating in the legal system but a restatement of those principles in different terms in an effort to impose order upon what Gluckman refers to as "a large number of rules of different kinds, which are not necessarily related logically" (Gluckman, 1965, p. 17). From the analysis of the texts it is apparent that the writers felt that it was necessary to make their rules logically related, not necessarily to find *the* order but to find *an* order. Though the range of variation in these legal codes indicates that no single solution to the problem of imposing order was uniformly selected, the formal properties of the logic of the various solutions show a remarkable degree of similarity. While the process of restatement and imposing order on the legal system is in part responsible for the quasi-legal appearance of these legal codes, it is not solely responsible for this. The same process of imposing order on the legal system is also applied directly to the customs and norms of the society.

Thus the texts are part of a triangular relation. On the one hand they are drawn from law, which in turn is a restatement of custom. On the other hand, they are also drawn from, and are a restatement of, the customs and norms of the society without reference to the legal system.

The conceptual approach

The conceptual approach to the anthropological study of law is concerned with the nature and results of the process by which the principles of legal systems and the non legal norms and customs of a society are restated as a system of formally ordered categories. While material

written by the members of a society is not necessarily the only type of data amenable to this approach, such material is undoubtedly the best. With every attempt to commit a set of laws to writing, the authors will usually endeavour to present the material in at least a minimally ordered fashion. The texts from South Sumatra which form the basis of this

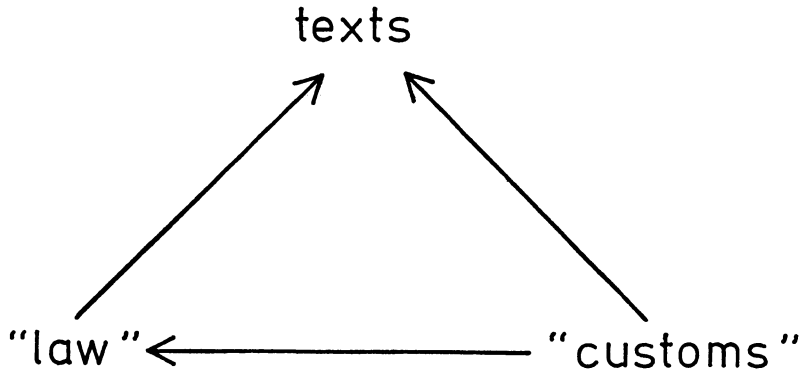


DIAGRAM 6.1

study are significant in that they are elaborately ordered, i.e., they possess a structure that is the result of a conscious attempt to present the material in a more or less logical fashion. In the legal codes of South Sumatra this conscious effort manifests itself in the ordering of the individual fasals that comprise a single text. On the other hand, the contents of the individual fasals often display a variety of structural features that are difficult to interpret as the result of conscious processes.

The problems related to the interplay of the conscious and unconscious dimensions of the structuring of the laws is admirably demonstrated by Fasal 24 of the Sungai Lemau laws. This fasal presents the various legal consequences associated with the eventuality of a woman, who is in the process of marrying by jujur, dying after she has left her own village but before the process of marriage is complete. Though this fasal clearly deals with marriage it is separated from all of the other fasals relating to marriage. The numerical structure of the laws indicates that this placement is not random. Thus, it is only possible to conclude that the placement of this fasal in the text was a conscious and

deliberate act on the part of the writers. In contrast to this manifestly conscious phenomenon, one is confronted by the categories that make up the fasal itself. The almost pedantic richness of these categories is such that it is extremely difficult to assert that all of their structural features are attributable to conscious fabrication on the part of the writers. However, one cannot be certain as to whether they are entirely unconscious. For example, it is entirely possible that some of the categories existed and were part of the legal system but the authors may have added some categories of their own in order to create the balanced internal structure of the fasal.

This problem of disentangling unconscious and conscious phenomena is probably the most artificial and most unnecessarily confusing aspect of structural analysis. The notion of unconscious espoused by Lévi-Strauss is brilliantly deceptive in its simplicity. As is so common in dealing with the works of Lévi-Strauss a simple example from linguistics easily demonstrates his use of the term. At the phonemic level language possesses a structure; this structure is not conscious, *ergo* it is unconscious. Social anthropologists greatly (and perhaps unconsciously??) influenced by Freudian thinking have interpreted this simple notion of unconsciousness as The Unconscious and have assigned an almost mystical force to it not dissimilar to that possessed by the three Freudian homunculi: the ego, the id, and the superego. The distinction that Lévi-Strauss makes is not one between conscious and unconscious but one between conscious and unconscious models. In his article "Social Structure" under the heading "consciousness and unconsciousness" (N.B., unconsciousness and not the unconscious) he asserts that "a structural model may be conscious or unconscious without this difference affecting its nature" (Lévi-Strauss, 1953, p. 527).[6] He then goes on to make the perhaps paradoxical point that where conscious models exist they may serve to obscure the structural organization being studied. Once again, an example from the study of language provides elucidation of what was intended. The use of Latin based grammars to account for features of the English language for a long time exercised a malevolent if not perverse influence on the understanding of this language. An explicit example of this influence is the fact that most native speakers will insist that English has at least three tenses (past, present, and future) while technically there are only two (present and past). Among the educated elite one is likely to find more tenses, e.g. the future perfect, the past perfect (pluperfect), etc. This is the basic principle; but how was it applied in anthropology? "For conscious models, which are usually

known as 'norms', are by definition very poor ones, since they are not intended to explain the phenomena but to perpetuate them" (Lévi-Strauss, p. 527; 1963, p. 281). This equation of conscious models with norms is somewhat idiosyncratic but accords well with the reference to linguistics. One of the main functions of the Latin based grammar of English has been to perpetuate and maintain specific standards of usage.

This equation of norms and conscious models is especially relevant when one views law as the result of the double institutionalization of norms. The primary function of the double institutionalization process is to increase the probability that the desired behaviour implied by a norm will be perpetuated. And indeed, the process operates in such a way that there can be no question of whether the norm is explicit and conscious or not. In order to have the authority of law a norm *must* be explicit and conscious. However, while the restatement of a norm into law is intended to perpetuate behaviour without explaining it, the restatement of the rules of the legal systems in South Sumatra into legal codes explains the law by imposing order upon it.

This aspect of legal codes shares certain features with myth. Like the legal codes myths are primarily explanations. They account for, explain, and often justify the social order by means of a process not intrinsically different from that employed in the legal codes. For both myths and legal codes the key to this process is selectivity or what Lévi-Strauss calls "appauvrissement" (c.f. Lévi-Strauss, 1964, p. 347). This process is, as Lévi-Strauss points out, analogous to the acquisition of phonemes in child language. The initial babbling stage in which an enormously wide variety and combination of phonetic sounds can be heard gives way, often dramatically, to the disciplined and restricted patterns of the phonemic system. The actual process of this transition from babbling to phonemic structures is especially relevant to the analogy. On the one hand, "those articulations which are lacking in the language of the child's environment easily disappear from this inventory" (Jakobson, 1968, p. 21f.). But on the other hand, "it is striking that, in addition, many other sounds, which are common both to the child's babbling and to the adult language of his environment are in the same way disposed of, in spite of this environmental model that he depends on" (Jakobson, 1968, p. 22). Then the phoneme system is built up by means of a series of progressive oppositions (c.f. *inter al.* Jakobson, 1968, pp. 65-91). Thus the process contains two fundamental characteristics: impoverishment (i.e., selectivity) and the building up of a structure based on oppositions. Lévi-Strauss unites these principles and describes their relation-

ship to each other in the following manner "il faut d'abord l'appauvrir: ne retenant d'elle qu'une petit nombre d'éléments propres à exprimer des contrastes, et à former des paires d'oppositions" (Lévi-Strauss, 1964, p. 347). However, it is possible and perhaps desirable to extend the use of this analogy. Not only are the irrelevant elements removed but also many of the relevant ones as well. And the developmental progress of a child's language is often such that these relevant forms are only reacquired after a substantial period of time. When all relevant forms have been acquired the structure may be said to be complete. Thus with reference to myths and legal codes it is correct to assume that the elements included are relevant and important but in a given myth or legal code it may be incorrect to assume that all of the important and all of the relevant materials are included. This observation is especially true in legal codes where frequently one has evidence that some important aspect of the legal system has been omitted from the code.

In the legal codes of South Sumatra this process of impoverishment is displayed in two ways. First, only certain categories of the legal and social system are included in the conscious fasal structure of a law while others are omitted. For example, in Fasal 16 of Cod. Or. 12.205 one finds a discussion of the legal consequence of wounds that are the result of physical aggression between children, while no mention is made in this fasal or any other of what happens when the wounds are to adults by adults. When there is evidence of selective exclusion (or inclusion), it is not always possible to ascertain whether the excluded element is relevant or not. The second type of impoverishment relates to the amount of information given with regard to a specific category. Frequently one is given only the essential and minimal information necessary to contrast (or oppose) a given category from (or to) another. This aspect of the principle is demonstrated by the answers to Questions 9 and 10 of the Sungai Hitam laws (c.f. p. 173 above).

While both myths and legal codes share certain features there are some essential differences. The logical constraints operating on legal codes in the process of impoverishment and restatement are much greater than those for myths. This phenomenon is especially apparent in the legal codes that I have chosen for this study. Because I was seeking, in the first instance, to explain the structural principles in operation in South Sumatran social organization, I was forced to choose texts that were neither unduly influenced by the colonial authorities nor so traditional as to render them incomprehensible. Thus texts like the *Undang Undang Moco Moco,* which in many ways could be analysed as a myth,

were unsuitable for inclusion in this study because I did not possess enough background information about the social structure. Thus, in structural analysis one is often confronted with an analytical paradox. In order to understand a law or myth it may be necessary to have a good working knowledge of the social organization on which they are based. However, in order to fully comprehend the social order one must analyse laws and myths where they are available.

In addition to the constraints imposed on the selection of legal codes for inclusion in this study, there are constraints related to the intrinsic nature of the legal codes of South Sumatra in general which do not apply to myths. At a superficial level it is possible for a myth to appear to be at variance with the social order. Indeed, frequently the mythic structure intentionally inverts or distorts the social order in the process of providing an "explanation" of it. Thus, mythic thought has a wide range of freedom in the processes that it may use. On the other hand, legal codes must maintain a high degree of verisimilitude. A legal text must appear to be true, even at the most superficial of levels. This need is largely the result of the fact that the social consequences of a misinterpretation of a legal code are much more serious than those that would result from a misreading of the significance of a myth. However, at deeper levels of analysis and interpretation the myth may often provide the more profound explanation of the social order than a law because the myth is not so constrained in its choice of vehicles for expression.

These differences notwithstanding, I take the view that the differences between the structural analysis of myth and legal codes reside not at a theoretical level but at a methodological one. That is to say, the differences between Lévi-Strauss' approach to the analysis of myth and the approach to the structural analysis of legal codes employed in this study are due to the nature of the data and not due to any fundamental differences in the realm of theory. There is, however, a significant difference in the use of structural analysis. In the four volumes of *Mythologiques* Lévi-Strauss has searched for and found certain regularities in the structures of the myths occuring in the New World. He has succeeded in demonstrating that a relatively small number of structures and oppositional forms enjoy a very wide distribution. His search for recurring structures has meant that while he has demonstrated the breadth of distribution of particular structural features, he has underestimated the diversity of possible structural features. Thus, in the analysis of individual myths he has endeavoured to find and

identify those structures that are similar or related to the structures in other myths, while at the same time minimizing the fact that any one of the myths may possess a much larger number of latent structures. This implied criticism, however, must be seen in the light of what he was trying to achieve. His own goal was to demonstrate that the processes of mythical thinking are fundamentally similar in a wide range of cultures and thus by inference in mankind in general. Thus his successful search for recurring structures may be seen as a consequence of this basic goal.[7]

In this study I have taken a somewhat different approach. Instead of trying to demonstrate that the structures of marriage systems are fundamentally the same throughout South Sumatra by showing that the same structural patterns recur in a large number of legal codes I have endeavoured to analyse the full range of structural phenomena occuring in a relatively small number of legal codes. My original reason for attempting to analyse the legal codes of South Sumatra was to find regularities in the diversity of marriage forms. (Though I have not demonstrated it here, I believe such regularities exist). But as the analysis of successive legal codes proceded it became apparent that the logic of the marriage laws was in reality only a part, though a very important part of a complex structure of relations that embraced the full range of legal thought. Accordingly, the focus of the study shifted and as a result each code has been analysed almost exhaustively. Out of these detailed analyses the most significant phenomenon to emerge is the fact that a relatively small number of formal properties are distributed through a large number of structures within a single legal code and because of their formal similarities these structures are mutually reinforcing.

CHAPTER 6 — NOTES

1 P. E. de Josselin de Jong (1961, p. 32) has previously pointed out that the fact that English has only one word for law has contributed to the confusion surrounding the meaning of "law".

2 Some of the other meanings of the Dutch word *recht* not directly associated with the concept of law help to add depth to the perception of its meaning. *Rechts* is also opposed to *links,* i.e., right versus left. *Recht* is the word used to describe a straight line, as opposed to a curve. *Recht* may be used to describe something in a vertical position as opposed to slanted. In this last usage it is worth noting that the word for slanted (*schuin*) is used to describe a "dirty (in a sexual sense only) joke" (schuine mop).

3 Wilkinson, 1932, Vol. II, p. 632; 1959, p. 1266 defines *undang undang* as "laws made by a legislature and not based on ancestral custom (*adat*) or

religion (hukum)". He associates (Wilkinson, 1932, Vol. I, p. 413; 1959, p. 413) *hukum* with Moslem law and *adat* with customary law but limits the usage to Minangkabau and Negri Sembilan. In modern Indonesian jurisprudence *undang undang* usually refers to legislation while the compound word *hukum-adat* is roughly equivalent to common law. With respect to South Sumatran legal texts *undang undang* usually refers to a formal collection of laws. An exception to this general rule is the use of the expression "*undang undang sumbang*" in Fasal 12 of the Silebar laws. On the other hand, the words *hukum* and *adat* are most frequently used to refer to the component parts of such an *undang undang*. I have not been able to discover any consistent rule governing the use of the words *hukum* or *adat* based on the nature of the material involved.

4 The expressions 'wetten der natuur' and 'natuurwetten' should not be confused with 'natuurrecht' which means natural law.

5 Another aspect of procedural law that might play an important role in specifying the relations between categories of substantive law are the categories of evidence in the broadest sense of the term (i.e., testimony, oaths, circumstantial evidence, etc.). The Minangkabau possess elaborate categorical systems related to types of circumstantial evidence (c.f. Van Hasselt, pp. 236-240). However, in South Sumatran legal codes detailed specifications as to the requirements of evidence are rarely given. And when some information is given it is so irregular that it cannot be used as the basis of structural analysis. An exception to this general statement is to be found in Fasal 12 of Cod. Or. 12.205 where certain linguistic features of the descriptions of oaths may be used as a basis for analysis.

6 It is worth noting that the distinction between "consciousness and unconsciousness" is made in an article that originally appeared in English in Kroeber's *Anthropology Today*. Thus Lévi-Strauss seems to have been explicitly careful in his choice of words in that he avoided the facile and more common opposition between "the conscious and the unconscious". In the French translation that appears in *Anthropologie Structurale* the opposition is between "conscience et inconscient" (Lévi-Strauss, 1958, p. 308). When the translation of *Anthropologie Structurale* into English appeared, in spite of the fact that the original article "Social Structure" was reprinted with some modifications (c.f. Lévi-Strauss, 1963, p. 383), this original opposition was left unchanged (Lévi-Strauss, 1963, p. 281).

7 The frequent use (some critics would have us believe exclusive use) of binary oppositions in Lévi-Strauss' work can, in part, be explained in terms of his search for recurring structures. Since binary oppositions are the simplest structural form, they are most likely to enjoy the widest distribution.

APPENDIX I

The fundamental premise of all structural analysis is that the relations between elements are more important than the elements themselves. When structural analysis employs mathematics in the pursuit of essentially anthropological goals this premise must acquire the strength of an axiom. Thus the elements of a mathematical group must be relations between elements and not units of basic data. Such "relations between elements" have been habitually if not rigorously described by anthropologists as transformations. Unfortunately, the anthropological and mathematical implications of the word transformation are not the same. For most mathematicians the word mapping would be a more acceptable term for what anthropologists usually call a transformation. Thus the elements of a mathematical group are and must be anthropological transformations.

A rigorous definition of a group is to be found on page 1 of Zassenhaus' classical work *The Theory of Groups.*

> "Definition: A *group* is a set in which an operation called multiplication is defined under which there corresponds to each ordered pair x, y of elements of the set a unique third element z of the set. z is called the *product* of the factors x and y, written $z = xy$. For this multiplication we have
>
> I. The associative law: $a(bc) = (ab)c$.
>
> II. The existence of a left identity e with the property $ea = a$ for all elements a of the group.
>
> III. The solvability of the equation $xa = e$ for all elements a of the group."

For the purposes of structural analysis this mathematical definition can be restated in a less rigorous form as a list of properties which are necessary conditions for a set of transformations to be a mathematical group.

1). The set is closed with respect to multiplication: i.e., if the transformations x and y are elements of the set then the mathematical product

of x and y (i.e., z) must be a member of the set. In anthropological terms the mathematical product of two transformations is equivalent to the successive application of these transformations. Thus xy = z means that if the transformation x is applied and then the transformation y is applied the result is the same as if the transformation z had been applied.

2). "The associative law states that a product of three factors is determined soleley by the order of its factors" (Zassenhaus, p. 1). No satisfactory intuitive anthropological explanation of this rule is available. However, the example given below demonstrates its significance.

3). Zassenhaus' second axiom (II) can be interpreted, for anthropological purposes, as stating that an identity element (e) exists such that ea = ae = a. This essential mathematical property is anthropologically trivial. In anthropological analyses one can always postulate the existence of a transformation which when multiplied by a second transformation always yields the second transformation.

4). Zassenhaus' third axiom (III) can be interpreted for anthropological purposes as stating that for every element of the set there exists an inverse. In anthropological terms this means that for every transformation there exists a means of reversing or undoing that transformation.

One of the most frequently used groups in anthropological analysis is the Klein group (c.f. Lévi-Strauss, 1968, pp. 293-295, 332, 346 and 1971, pp. 188, 240, 244, 581f.; Barbut, 1969). Some of the properties of groups in general and of the Klein group in particular can be demonstrated by the following example based on Islamic law.

According to Islamic law the punishment for the first conviction for theft is amputation of the right hand. For the second, third, and fourth convictions the punishments are, respectively, the amputation of the left foot, right foot, and left hand. The punishment for the first conviction for certain types of robbery is amputation of the right hand and left foot and for the second conviction amputation of the right foot and left hand (Juynboll, 1930, pp. 308-310).

These punishments involve both hands and both feet. Three transformations can be used to describe the process of proceding from any one of these extremities to any other.

1). The *horizontal transformation* describes the transition in a horizontal direction from one hand to the other or from one foot to the other.

2). The *vertical transformation* describes the transition in a vertical

direction from one hand to one foot or from one foot to one hand on the same side of the body.

3). The *diagonal transformation* describes the transition from one hand on one side of the body to the foot on the other side of the body or from the foot on one side of the body to the hand on the other side of the body.

To this set of three transformations one may add an Identity (I) which *in this case* may be described as a transition that results in no displacement, either vertically or horizontally.

The relations among these transformations can be represented by Diagram I.1.

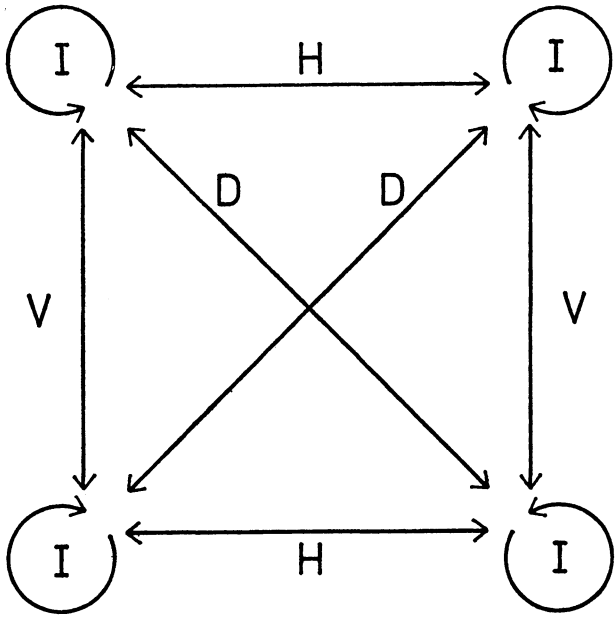


DIAGRAM I.1

This set of four transformations is a group.

1). The multiplication table below demonstrates that the product of any two transformations is a third transformation which is an element of the set.

a \ b	V	H	D	I
V	I	D	H	V
H	D	I	V	H
D	H	V	I	D
I	V	H	D	I

TABLE I.1

An element in list a is multiplied by an element in list b and the result is read from the table, e.g., V x H = D; these multiplications may be checked against Diagram I.1.

2). The fact that the associative law holds for this set can be demonstrated by using the table:

$$a(bc) = (ab)c$$

Let a = V; b = H; c = D $\qquad V(HD) = (VH)D$

From the table H x D = V; V x H = D $\qquad V(V) = (D)D$

From the table V x V = I; D x D = I $\qquad I = I$

Note: A full proof of the associative law would require that every possible combination of factors be tested.

3). As indicated above the identity is a member of the set. Its fundamental property appears in the multiplication table: V x I = V; H x I = H; and D x I = D.

4). The inverse is a transformation which when multiplied by any element yields the identity. The following equations can be solved by consulting the multiplication table.

$$V \times q = I \qquad q = V$$
$$H \times r = I \qquad r = H$$
$$D \times s = I \qquad s = D$$

In other words, each element is its own inverse. This is a property common to many transformations employed in structural analysis. In anthropological terms one usually says that such a transformation is reversible.

While the preceding example has focused on the mathematical properties of a group, this particular group structure, known as the Klein group, has a number of features that are of particular interest to anthropologists. For the anthropologist only three of the four transformations are especially relevant. The identity alone is devoid of anthropological content. From a strictly formal point of view any one of these transformations can be derived from the other two:

$$\text{i.e., } V \times H = D;\ H \times D = V;\ V \times D = H$$

From the formulation used to describe the transformations used above it appears logical that the diagonal transformation is the result of the combination of the vertical and horizontal transformations. However, if one examines the original data on Islamic law one notices that transitions for successive punishments only employ the vertical and diagonal transformations. Thus from a strict anthropological viewpoint one must conclude that the horizontal transformation is derived from the vertical and diagonal transformations.

Thus for the anthropologist the Klein group is the exhaustion of possibilities generated by two transformations (or oppositions). Lévi-Strauss continually emphasises this aspect of the Klein group in his choice of terms to describe the basic processes, "opposé, inverse, inverse de l'opposé" (e.g. Lévi-Strauss, 1968, pp. 293-295).

The purpose of the example given here has been to demonstrate some of the anthropological features of groups in general and the Klein group in particular. The approach used here has been designed to minimize a basic confusion implicit in the use of group theory by anthropologists. Transformations are relations between elements. But the transformations in their turn become the elements of a group. In careful analyses these two types of elements, each belonging to different structural levels, must be rigorously separated. However, an anthropologist who suspects the presence of a Klein group relating a set of transformations on elements of his data may represent the material in another manner which is usually much clearer for the anthropologist but may be confusing for the mathematician.

Returning to the example from Islamic law the extremities can be represented by the following notation:

RH = right hand; LH = left hand; RF = right foot; LF = left foot.

And the pattern of transformation can be represented by Diagram I.2.

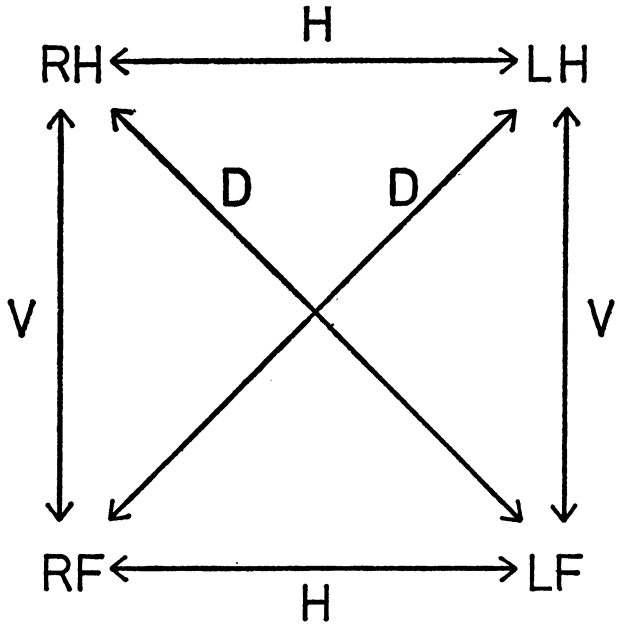


DIAGRAM I.2

When an anthropologist finds that he can represent the transformational relations between elements of his data with a diagram that is formally equivalent to Diagram I.2, he can in all confidence assert that the structure of the relations between the transformations is a Klein group.

APPENDIX II

In this study structural analysis has been employed as a means of gaining insight into the manner in which the people of South Sumatra viewed their own legal systems. In the process of choosing material for analysis a degree of selectivity has been employed. On the one hand, for obvious reasons, texts which reveal a strong degree of colonial influence are unsuitable. On the other hand, for less obvious reasons, those texts which are genuine indigenous products are also unsuitable. The problem with these indigenous texts is that they often employ an abbreviated aide-mémoire style of writing that does not provide the anthropologist with sufficient information for a structural analysis. Thus in order to read and analyse this type of text it is often necessary to have a prior knowledge of the nature of their social systems. In a study such as this where the primary goal has been to discover the nature of indigenous legal systems such texts often present more problems than they can possibly solve. This does not mean that these truly indigenous legal statements cannot be analysed by structural methods. On the contrary, once the structures of South Sumatran legal systems are adequately known the analysis of such texts becomes not only possible but highly desirable.

The following passage is an example of a traditional legal statement taken from the "Undang Undang of Moco Moco" which was published in 1822 as Numbers 13 and 14 of Volume II of *Malayan Miscellanies*. The Malay text is a transcription of the text which was published using Arabic characters. The notes to this transcription are those of the present author. The translation of this passage is exactly as was published and the notes are those of the original translator.

The following passage is based on the sixth paragraph of the text. However, in the fifteenth paragraph of the Malay text there is a repetition of the sixth paragraph. Because of the similarities between the sixth and fifteenth paragraphs, the translator of the previously published version did not provide a translation of the fifteenth paragraph. However, these two paragraphs are not identical and the

differences are mutually elucidating. The most important of these differences are mentioned in the notes to the Malay text.

> manatah adat bagi dek rayat tuanku pertama adat katumunggungan di cenceng dipampas di bunoh di bangun salah mati gawa berutang utang di bayar potong[1] di terima surang berageh[2] selang berpalangan bertaku kayu bertahil emas terang berhukum kelam berkalam allah[3] ber . . .[4] berpapar bercupak bergantang[5] sabong nan berjuara keran[6] bertungganai pukat berpuawang prau bernakhoda ubar[2] gantong kemudi hak dacing pengeluaran berupeti kabawah duli tuanku itsulah[7] adat nan di pegang nan di pakai didalam alam minangkerbau

NOTES

1 The English translation indicates that the form "piutang" as found in paragraph 15 is correct.

2 C.f. Wilkinson, 1932, 1959, p. 9, "*Suarang di-ageh*" (property acquired during coverture is shared equally on divorce).

3 In paragraph 15 one finds "kelam bersumpah" in place of "kelam berkalam allah". Furthermore, in paragraph 15 "kelam bersumpah" precedes "terang berhukum".

4 In paragraph 6 one finds "ba-ra-alif-ya(?)-ra" and in paragraph 15 "ba-ra-hamzah-ya-wau-ra"; possibly beriur from iuran = regular payment, e.g., subscription or contribution.

5 In paragraph 15 one finds "beteraju beneraca" between the forms "bergantang" and "sabeng", c.f. Wilkinson (1932 II, p. 573; 1959, p. 1207) "teraju = pair of scales, balance" and Wilkinson (1932 II, p. 169; 1959, p. 803) "neracha = balance for weighing".

6 The construction of the phrase "keran bertungganai" and the following pair of similarly constructed phrases indicates that the word "keran" is a substantive. The translation indicates that this substantive has something to do with salt making. The most fruitful suggestion as to its meaning comes from Helfrich (1904, p. 73; 1915, p. 11; 1927, p. 45) who suggests that a keran is a fireplace outside the house where aren(g)? or sugar syrup is boiled down. This extends the distribution of the usage given by Wilkinson (1932 I, 1959, p. 511) for Sarawak and Brunei Malay, i.e., karan = earthen oven for sugar boiling.

7 Paragraph 15 replaces the obviously incorrect letter *tha* with *ta*.

* * *

What are the usages applicable to the subjects of the Tuanko? — they are the usages of Katumunggungan, for wounds, pecuniary compensation; for killing, the payment of the bangun; for high crimes, death; for offences, fines; for debts, payment and receipt; for partners, their just shares; for accounts, adjustment; — to notch the tree [1] (*ber taku kayu*); to pay fees [2] (*be tahil amas*); to receive sentence when proved; to be acquited on oath when doubtful; to bestow freely; to purchase fairly; to measure by the chupa and gantang; to cock fight skilfully; to make salt in appropriate places; to fish by fishermen; to have vessels with nakhodas or masters; to pay duties on anchorage [3] (*ubar ubar gantang kamudi*); to receive fees on weighing; to pay tribute at the foot of the throne of the Tuanko; these are the usages which are observed and enforced in the kingdom of Menangkarbau.

---

[1] This alludes to the custom of recording solemn agreements by cutting a notch in a tree on the spot where the engagements are concluded; hence the name of Durian di taku Rajah, above mentioned, having been cut by the king in commemoration of the settlement of boundaries.

[2] Literally to weigh the gold, the fees of the courts having usually been paid in gold which was weighed in court.

[3] Literally, "the ubur ubur" (medusa) clinging to the rudder, a figurative expression for harbour dues.

KEY TO MANUSCRIPT REFERENCES

Koninklijk Instituut voor Taal-, Land- en Volkenkunde (TLVK), Western Manuscript Collection

TLVK H580: Correspondence of J. Walland

TLVK H799: *De Besemahers, volkenkundige bijdragen*; O. L. Helfrich; unpublished ethnography of the Pasummah Peoples; for full description c.f. De Graaf, p. 80 f.; Hoofdstuk IV, Familieleven en Familierecht; Section IX, Huwelijks en erfrecht.

TLVK H813: "Stukken over het Rechtswezen in de Residentie Benkoelen"; originally on loan from the local Archives of Bengkulu; part of the Helfrich bequest to the Institute in 1958; c.f. De Graaf, 1963, p. 66.

TLVK H813-a: Extract uit het Register der Besluiten den G.-G. v. N.-I. dd. Buitenzorg, 5 April 1844; c.f. De Graaf, 1963, p. 66.

TLVK H813-b: Proceedings of the Native Court in the Bencoolen Residency; c.f. De Graaf, 1963, p. 66.

TLVK H813b-i: Proceedings of the Native Court in the Bencoolen Residency; thin paper, bad condition.

TLVK M813b-ii: better copy of H813b-i with slight variations, especially in format.

TLVK H813-c: According to De Graaf, 1963, p. 66: "Kortoverzigt van de inrigting des binnenlandsche bestuurs en van de wetten, gewoonten en instellingen in de afdeeling Ommelanden van Benkoelen". However, this is the title of the first section while the proper name of the bound bundle is on the cover: "Assistent-residentie Benkoelen - Kompendium van de instellingen gewoonten en zeden". The contents of the bundle are divided into seven separate reports which have been labelled by the present author as H813c-i to H813c-vii.

TLVK H813c-i: Kort overzigt van de inrigting des binnenlandschen bestuurs en van de wetten, gewoonten en instellingen in de Ommelanden van Benkoelen; Date: 14 Sept. 1855; Author: J. E. van den Bor; published in BKI 8, 1862, pp. 255-270.

TLVK H813c-ii: Overzigt der zeden en gewoonten en instellingen in Afdeeling *Lais* in gebruik; Date: 31 August 1855; Author: "De W^{d} Posthouder"; published in BKI 8, 1862, pp. 271-274.

TLVK H813c-iii: Atoeran den Oendang Oendang de dalam pegangan Mocco Mocco; Date, 31 July 1855; Authors: Tuankoe Regent van Mocco Mocco and De Gezaghebber.

TLVK H813c-iv: Kort overzigt betreffende de wetten en instellingen benevens de inrigting van het Inlandsch-Bestuur in de afdeeling Seloema; Date: 17 July 1855; Author: Pruijs v. d. Hoeven; published in BKI 8, 1862, pp. 291-300.

TLVK H813c-v: Kompendium over de afdeeling Manna; Date: 24 June 1855; Author: De Gezaghebber, published in BKI 8, 1862, pp. 301-308.

TLVK H813c-vi: Nota van toelichting nopens de instellingen onder de bevolking van de afdeeling *Kauer*; Date: 16 August 1855; Author: De Posthouder van Kauer; published in BKI 8, 1862, pp. 309-316.

TLVK H813c-vii: Circulaire Assistent-Resident van Benkoelen dd. 14 Mei No. 196 — Beantwoording van den Kontroleur 2e klasse belast met het gezag te Kroe; Date: none; Author: Arnold; published in BKI 8, 1862, pp. 275-290.

TLVK H813-d: "Maleise fragmenten"; c.f. De Graaf, 1963, p. 66.

TLVK H813d-i: "Kauer pada 1 hari Juni 1844"; a brief legal document.

TLVK H813d-ii: Adat jang di pakai di dalam pegangan Manna.

TLVK H813d-iii: Adat boedjang Gadis; Soengei Lemauw Oeloe Benkoelen.

Koninklijk Instituut voor Taal-, Land- en Volkenkunde (TLVK), Oriental Manuscript Collection

TLVK M-XLIV
Cod. 180
Or. 93
Neg. 141

Atoeran dan Oendang Oendang di dalam pegangan Mokko Mokko.

TLVK M-XLV
Cod. 210
Or. 94

A code of laws as established by the Pangerans' Court at Fort Marlborough collected by Henry Robert Lewis, Esq., of the Bencoolen Civil Service and late Magistrate; plus a letter from J. A. Aeckerlin dated Benkoelen, 14 Maart 1883.

Leiden University Library (UB), Oriental Manuscript Collection

U. B. Cod. Or. 12.200
Mal. 6828
Van Ronkel 142
Oph. 79

"Oendang Oendang adat Kauer, Kroé, Manna en Seloema"; A large assemblage of legal material in Dutch, Romanized Malay, Arabic script and indigenous alphabets. Contents relevant to this particular study include:

a) "Kitab undang[2] adat lembaga mana", a revised and extended version of TLVK H813d-ii;

b) "Oendang Oendang Seloema", similar in format, construction and content to Cod. Or. 12.224, Cod. Or. 12.227 and Cod. Or. 12.228. Contains two legal codes:
   i) one dated 27 July 1844
   ii) undated, contains 26 fasals, referred to in this study as "older" portion;
c) A partial transcription into Romanized Malay of Cod. Or. 12.205;
d) "Undang yang bernama undang ini adat lembaga" for Kauer, a variant of text found in Cod. Or. 12.225 and TLVK H813d-i.

U. B. Cod. Or. 12.205
Mal. 6833
Van Ronkel 144
Oph. 84

Oendang Oendang Manna; a single code of consecutively numbered fasals in which three distinct sections can be identified.

U. B. Cod. Or. 12.206
Mal. 6834
Van Ronkel 131
Oph. 85

Oendang Oendang Benkaoeloe; contains 3 legal codes:
a) for Sungai Lemau dated 7 July 1855;
b) for Sungai Hitam dated 30 June 1855;
c) for Silebar dated 31 July 1855.

U. B. Cod. Or. 12.207
Mal. 6835
Van Ronkel 145
Oph. 86

Oendang Oendang Lais; largely an administrative document.

U. B. Cod. Or. 12.217
Mal. 6845
Van Ronkel 132
Oph. 96

Oendang Oendang Mokko Mokko; an additional copy of TLVK H813c-iii and TLVK M-XLIV.

U. B. Cod. Or. 12.224
Mal. 6852
Van Ronkel 140
Oph. 103

Oendang Oendang Ngalam; contains two legal codes:
a) one dated 24 January 1846;
b) undated, contains 26 fasals, referred to in this study as the "older" portion.

U. B. Cod. Or. 12.225
Mal. 6853
Van Ronkel 143
Oph. 104

Oendang Oendang Kauer; c.f. Cod. Or. 12.200 and TLVK H813d-i.

U. B. Cod. Or. 12.227
Mal. 6855
Van Ronkel 141
Oph. 106

Oendang Oendang Allas; contains two legal codes:

a) one dated 7 August 1848;

b) undated, contains 24 fasals, referred to in this study as the "older" portion.

U. B. Cod. Or. 12.228
Mal. 6856
Van Ronkel 146
Oph. 107

Oendang Oendang Tallo; contains two legal codes:

a) one dated 20 July 1842;
b) undated, contains 22 fasals and additional unnumbered regulations, referred to in this study as the "older" portion.

Archief van de Adatrechtstichting (Archives of the Customary Law Foundation)

No. 96 (c.f. Jaquet, 1973, p. 13); a Commentative Digest of the Laws of the Natives of that part of the Coast of Sumatra immediately dependent on the settlement of Fort Marlborough and Practised in the Court of that Presidency.

Algemeen Rijksarchief (National Archives), Ministry of Colonies Archives (non-secret)

27 September 1894, No. 41. Memoranda concerning areas in the Residency Palembang.

1.	30 January 1899	Schuller tot Peursum
2.	9 July 1889	Van Driest
3.	17 October 1889	De Heer
4.	31 October 1889	Van Driest
5.	12 November 1889	Van der Meulen
6.	16 December 1889	Raedt van Oldenbarnevelt
7.	10 January 1890	Roskott
8.	10 January 1890	Vonck
9.	23 January 1890	Engelhard

BIBLIOGRAPHY

ABBREVIATIONS

BKI: Bijdragen tot de Taal-, Land- en Volkenkunde

TBG: Tijdschrift voor de Indische Taal-, Land en Volkenkunde (Batavia)

TNI: Tijdschrift voor Neêrlandsch (Nederlandsch) Indië (Batavia)

VBG: Verhandelingen van het Bataviaasch Genootschap van Kunsten en Wetenschappen (Batavia)

Proceedings: Proceedings of the Agricultural Society established in Sumatra, (q.v)

Abegg, J. R.
1862 *BKI* 8, pp. 255-316; incorrect assignment of authorship, c.f.:

Bor, J. van den	pp. 255-270
Sausin, C. B. F.	pp. 271-274
Arnold, M. J. A.	pp. 275-290
Pruijs van der Hoeven, A.	pp. 291-300
Dulken, J. van	pp. 301-308
Kluijver, A. J.	pp. 309-316.

Anonymous
1821a "Substance of a Report on the Condition of Society among the Native Population of Bencoolen and its immediate subordinates on the West Coast of Sumatra, October 1819", *Proceedings,* Vol. I, No. II; referred to as Proceedings II.

Anonymous
1822a "Translation of the Undang Undang of Moco Moco", *Malayan Miscellanies,* Vol. II, No. XIII, 1822.

Anonymous
1822b "The Undang Undang of Moco Moco in the Menangkarbau Dialect and Character", *Malayan Miscellanies,* Vol. II, No. XIV, 1822.

Anonymous
1822 "Benkoeleesche [sic] Adat", *Recht en Wet,* Afl. 2, 1882, pp. 68-71.

Anonymous
1913 "Oendang Oendang Moko-Moko (1862)", *Adatrechtbundel* VI, 1913, pp. 322-352.

Anonymous [H. R. Lewis?]
1913 "Engelsche Opteekening van Adatrecht ter Hoofdplaats Benkoelen (omstreeks 1807)", *Adatrechtbundel* VI, 1913, pp. 281-321.

Anonymous
1972 *Pedoman Edjaan Bahasa Indonesia Jang Disempurnakan*; Departemen Pendidikan dan Kebudajaan Republik Indonesia 1972.

Arnold, M. J. A.
1862 "Kort overzigt van de inrigting des Binnenlandsche Bestuurs, en van de wetten, gewoonten en instellingen in de Afdeeling Kroe", *BKI* 8, 1862, pp. 275-290.

Barbut, Marc
1969 "Sur le Sens du Mot Structure en Mathématiques", *Les Temps Modernes* 22, Nov. 1969, No. 246, pp. 791-814.

Bastin, J. (ed.)
1957 *The Journal of Thomas Otho Travers, 1813-1820; Memoirs of the Raffles Museum.* No. 4, May 1957.

Bastin, John
1965 *The British in West Sumatra (1685-1825).* Kuala Lumpur.
1966 "Introduction", pp. iii-x in Marsden, W. 1966.

Berg, L. W. C. van den
1894 "Rechtsbronnen van Zuid-Sumatra", *BKI* 43, 1894.

Bohannan, P.
1965 "The Differing Realms of the Law", *American Anthropologist,* Special Publication *The Ethnography of Law,* ed. Laura Nader, Vol. 67, No. 6, Part 2, pp. 33-42.

Bool & Feith
1867-68 "Adats in werking in de afdeeling Mokko-Mokko adsistent-residentie Benkoelen", *Koloniaal Verslag over 1865*; Tweede Zitting 1867-1868, Bijlage B, No. 4, pp. 27-40.

Bor, J. E. van den
1862 "Kort overzigt van de inrigting des Binnenlandschen Bestuurs, en van de wetten, Gewoonten en Instellingen in de Afdeeling Ommelanden van Benkoelen", *BKI* 8, 1862, pp. 255-270.

Church, T. and Bogle, J.
1821 "Comparative Statement of Rice Planted in the Years 1819-20 & 1820-21", *Proceedings,* Vol. I, Addenda II; referred to as Proceedings J.

Delamotte, D. and Halhed, C.
1821 "New Regulations Regarding Debtors and Slaves Dated November 1820", *Proceedings,* Vol. I, Appendix G; referred to as Proceedings G.

Djamour, Judith
1965 *Malay Kinship and Marriage in Singapore.* LSE Monographs in Social Anthropology, No. 21; London; with corrections.
1966 *The Muslim Matrimonial Court in Singapore.* LSE Monographs in Social Anthropology, No. 31; London.

Dulken, J. van
1862 "Kompendium over de Afdeeling Manna", *BKI* 8, 1862, pp. 301-308.

Elout, C. P. J.
1825 *Maleisch, Nederduitsch en Fransch Woordenboek* door C. P. J. Elout naar het Maleisch en Engelsch Woordenboek van den Hr. W. Marsden: *Dictionnaire Malai, Hollandais et Français* par C. P. J. Elout traduit du Dictionnaire Malai et Anglais de Mr. W. Marsden.
Haarlem.

Forbes, H. O.
1885 *A Naturalist's Wanderings in the Eastern Archipelago.* London.

Francis, E. A.
1838 "Korte beschrijving van het Nederlandsch Grondgebied ter Westkust van Sumatra, 1837", *TNI,* II, No. 1, 1839, pp. 28-45, 90-111, 131-154.
1842 "Benkoelen in 1833", *TNI* 4, 1842, pp. 417-450.
1856-1860 *Herinneringen uit den Levensloop van een Indisch' Ambtenaar van 1815 tot 1851.* Vol. I, 1856; Vol. II, 1856a; Vol. III, 1860; Batavia.

Gardner, Martin
1961 *More Mathematical Puzzles and Diversions.* London.

Gersen, G. J.
1873 "Oendang-oendang of verzameling van voorschriften in de Lematang-Oeloe en Ilir en de Pasoemahlanden van oudsher gevolgd en door langdurig gebruik hadat of wet geworden", *TBG* XX, 1873, pp. 108-150.

Gibb, H. A. R. and Kramers, J. H.
1965 *Shorter Encyclopaedia of Islam.* Leiden and Ithaca.

Gimson, A. C.
1972 *An Introduction to the Pronunciation of English.* 2nd edition with corrections; London.

Gluckman, Max
1965 *The Ideas in Barotse Jurisprudence.* New Haven and London.

de Graaf, H. J.
1963 *Catalogus van de Handschriften in Westerse Talen toebehorende aan het Koninklijk Instituut voor Taal-, Land- en Volkenkunde.* 's-Gravenhage.

Guest, David
1939 *A Text Book of Dialectical Materialism.* London.

Halhed, G.; Church, T.; and Lewis, J. D.
1821 "Report on the Population, § c. of the District of Lumba Selapan", *Proceedings,* Vol. I, Appendix C; referred to as Proceedings C.

Hasselt, A. L. van
1882 *Volksbeschrijving van Midden Sumatra.* Leiden.

Hazairin
1936 *De Redjang.* Bandoeng.

Helfrich, O. L.
1904 "Bijdragen tot de kennis van het Midden Maleisch (Běsěmahsch en Sěrawajsch dialect)", *VBG* 53, 1904.
1915 "Nadere Aanvullingen en Verbeteringen op de Bijdragen tot de kennis van het Midden Maleisch (Běsěmahsch en Sěrawajsch Dialect)", *VBG* 61/3-4, 1915, pp. 1-28.

Helfrich, O. L.
1921 "Supplement op de in deel LXI, 3e en 4e stuk, der Verhandeling en gepubliceerde Nadere aanvullingen en verbeteringen op de Bijdragen tot de kennis van het Midden Maleisch (Běsěmahsch en Sěrawajsch Dialect) (verschenen in Deel LIII der Verhandelingen)", *VBG* 63/1, 1921.
1926 "Lampoengsche en Midden-Maleische Adatrechtstermen", *Adatrechtsbundel* XXV, 1926, pp. 191-216.
1927 "Nadere Bijdragen tot de kennis van het Midden Maleisch (Běsěmahsch en Sěrawajsch Dialect)", *VBG* 68/3, 1927.
1933 "Bijdragen tot de kennis van het Midden Maleisch (Běsěmahsch en Sěrawajsch dialect)". Supplement op de "Nadere Bijdragen". The Hague.

Heyne, B.
1814 *Tracts, Historical and Statistical on India; with journals of Several tours through various parts of the peninsula; also, an account of Sumatra in a series of letters.* London.

Hoebel, E. A.
1966 *Anthropology: The Study of Man.* Third edition; New York.

Holleman, J. F.
1952 *Shona Customary Law.* Manchester; second impression 1969.

Jack, W.
1821 "First report of the Agricultural Society Established in Sumatra in 1820", *Proceedings,* Vol. I, No. III; referred to as Proceedings III.

Jakobson, R.
1931 "Prinzipien der historischen Phonologie", *Travaux du Cercle Linguistique de Prague,* IV, pp. 247-267, 1931.
1949 "Principes de Phonologie Historique"; revised version of Jakobson, 1931, translated by J. Cantineau; appears as Appendix I to Troubetzkoy, 1949, pp. 313-336; reprinted in Jakobson, 1971, pp. 202-220.
1968 *Child Language, Aphasia and Phonological Universals.* The Hague.
1971 *Roman Jakobson, Selected Writings: Vol. I Phonological Studies.* Second expanded edition; The Hague.

Jaquet, F. G. P.
1973 "Overzicht van het Archief van de Adatrechtstichting", Koninklijk Instituut voor Taal-, Land- en Volkenkunde.

Jaspan, M. A.
1964 *From Patriliny to Matriliny: Structural Change among the Redjang of Southwest Sumatra.* Doctoral thesis; Australian National University.

Jennings, W. R.
1821 "New Regulations for the Management of the Out-Stations, Dated May 1820", Proceedings, Vol. I, Appendix F; referred to as Proceedings F.

Jennings, W. R.; Lumsdaine, J.; and Presgrave, E.
1821 "Report on the Population, § c. of the Town and Suburbs of Marlborough", *Proceedings,* Vol. I, Appendix A; referred to as Proceedings A.
1957 "Report on the Population, § c. of the Town and Suburbs of Marlborough"; referred to as Proceedings A; reprinted as Appendix II in *The Journal of Thomas Otho Travers 1813-1820, Memoirs of the Raffles Museum*; No. 4, May 1957, pp. 166-181.

de Josselin de Jong, P. E.
1951 *Minangkabau and Negri Sembilan: Socio-political Structure in Indonesia.* Leiden.
1961 Review of *Kapakau Papuans and their Law* in *Man,* January, 1961, No. 23, pp. 31-32.
1968 "Anthropological Tradition in the Netherlands: Its Formation and Change" (mimeographed); unpublished paper prepared for the participants in a conference entitled "The Nature and Function of Anthropological Traditions", 17-21 April, 1968 at the Werner-Gren Foundation for Anthropological Research, New York, N.Y.

Juynboll, T. W.
1930 *Handleiding tot de kennis van de Mohammedaansche Wet volgens de leer der Sjâfi'itische School.* Fourth edition; Leiden.

Kathirithamby-Wells, J.
1973 "A Survey of the Effects of British Influence on Indigenous Authority in Southwest Sumatra (1685-1824)", *BKI* 129, 1973, pp. 237-268.

Kemp, P. H. van der
1894 "Een bijdrage tot E. B. Kielstra's opstelling over Sumatra's Westkust", *BKI* 44, 1894, pp. 257-320, 525-615.

Klinkert, H. C.
1947 *Nieuw Maleisch-Nederlandsch Woordenboek, met Arabisch Karakter, naar de beste en laatste bronnen bewerkt.* Vijfde Druk; Leiden.

Kluijver, A. J.
1862 "Nota van toelichting Nopens Instellingen onder de bevolking van de Afdeeling Kauer", *BKI* 8, 1862, pp. 309-316.

Kroeber, A. L. (ed.)
1953 *Anthropology Today.* Chicago and London.

Lane, E. W.
1863-1893 *An Arabic English Lexicon.* London-Edinburgh; 8 vols. 1863, 65, 67, 72, 74, 77, 85, 93.

Laskin, B.
1951 *Canadian Constitutional Law.* Toronto.

Lawrence, T. E.
1940 *Seven Pillars of Wisdom.* London.

Lekkerkerker, C.
1916 *Land en Volk van Sumatra.* Leiden.

Lévi-Strauss, C.
1953 "Social Structure" in Kroeber, 1953, pp. 524-553.
1958 *Antropologie Structurale.* Paris.
1963 *Structural Anthropology.* New York.
1964 *Le Cru et le Cuit.* Paris.
1968 *L'Origine des Manières de Table.* Paris.
1969 *The Raw and the Cooked, Introduction to the Science of Mythology: I.* John and Doreen Weightman, translators; New York.
1971 *L'Homme Nu.* Paris.

Lewis, Henry Robert
1821 *A Code of Laws as established by the Pangeran's Court at Fort Marlborough collected by Henry Robert Lewis, Esq., of the Bencoolen Civil Service, and late Magistrate.*
Undang[2] *adat lembaga melayu yangdi pakai oleh raja dengan penguhulu dalam negri bengkehulu kota malbera yang dimuafakat kan oleh Henry Robert Lewis Magistrate.*
Lincoln's-Inn-Fields (London).

Llewellyn, K. N. and E. A. Hoebel
1941 *The Cheyenne Way.* Norman, Oklahoma.

Lumsdaine, J.
1821a "Report on the Cultivation of Spices at Bencoolen, 1819-20", *Proceedings,* Vol. I, Appendix D; referred to as Proceedings D.
1821b "Report on the General Salubrity of the Settlement", *Proceedings,* Vol. I, Appendix E; referred to as Proceedings E.
1957 "Report on the Cultivation of Spices at Bencoolen, 1819-1820"; referred to as Proceedings D; reprinted as Appendix III in *The Journal of Thomas Otho Travers 1813-1820; Memoirs of the Raffles Museum,* No. 4, 1957, pp. 181-195.

Lumsdaine, J.; Lewis, W. T.; Baskett, W.
1821 "Report on the Value of Landed Property and the Produce of Spices for the Ensuing Five Years, Dated February 1821", *Proceedings,* Vol. I, Addenda I, referred to as Proceedings H.

Mackenzie, W. G.; Lewis, W. T.; Bogle, R.
1821 "Report on the Population, §c of the District of Dua-Blas", *Proceedings,* Vol. I, Appendix B; referred to as Proceedings B.

Marsden, E. W. (ed.)
1838 *A Brief Memoir of the Life and Writings of the late William Marsden, D. C. L., F. R. S. §c. §c. Written by Himself: With Notes from his Correspondence.* London; referred to as Marsden's Memoir.

Marsden, W.
1783 *The History of Sumatra.* London; referred to as Marsden's History, 1783.
1784 *The History of Sumatra.* London; referred to as Marsden's History, 1784.
1811 *The History of Sumatra.* London; referred to as Marsden's History, 1811.
1812 *A Dictionary of the Malayan Language.* London; referred to as Marsden's Dictionary, 1812.
1812 *A Grammar of the Malayan Language with an introduction and praxis.* London; referred to as Marsden's Grammar, 1812.
1966 *The History of Sumatra.* Kuala Lumpur; a reprint of the third edition introduced by John Bastin.

Mauss, M.
1967 *Manuel D'Ethnographie.* Paris.

Ophuijsen, C. A. van
1896 "Eenige opmerkingen naar aanleiding van de door Prof. Mr. L. W. C. van den Berg, bezorgde uitgave van de Oendang-Oendang Djambi", *BKI* 46, 1896, pp. 153-213.

Ophuijsen, J. A. W. van
1862 "Iets over het ontstaan van eenige Regentschappen in de Adsistent-Residentie Benkoelen", *TBG* XI (1862), pp. 193-196.

de Perez, P. J. B. (trans.)
1849 "Maleische Wetten, Gewoonten en Instellingen (Adat Lambaga) door Radja en Pongoeloe in het landschap Benkoelen opgevolgd wordende zoodanig als dezelve in overeenstemming met gezegde Radja en Pongoeloe bij dezen bundel (Oendang-oendang) zijn Verzameld en in schrift gebragt, door Henry Robert Lewis, Esq. Magistraat te Benkoelen", *Het Regt in Nederlandsch-Indië,* Vol. I, 1849, pp. 256-284.

Proceedings of the Agricultural Society Established in Sumatra
1821 Vol. I, Bencoolen.
Proceedings I = Raffles, T. S. 1821
Proceedings II = Anonymous 1821a
Proceedings III = Jack, W. 1821
Proceedings A = Jennings, Lumsdaine, and Presgrave 1821
Proceedings B = Mackenzie, Lewis, and Bogle 1821
Proceedings C = Halhed, Church, and Lewis 1821
Proceedings D = Lumsdaine, J. 1821a
Proceedings E = Lumsdaine, J. 1821b
Proceedings F = Jennings, W. R. 1821
Proceedings G = Delamotte, D. and Halhed, C. 1821
Proceedings H = Lumsdaine, Lewis, and Baskett 1821
Proceedings J = Church and Bogle 1821

Pruijs van der Hoeven, A.
1862 "Kort Overzigt Betreffende de Wetten en Instellingen, Benevens de Inrigting van het Inlandsch Bestuur in de Afdeeling Seloema", *BKI* 8, 1862, pp. 291-300.

Raffles, Lady Sophia
1830 *Memoir of the Life and Public Services of Sir Thomas Stamford Raffles.* London.

Raffles, T. S.
1821 "Address by the President on the Institution of the Society", *Proceedings,* Vol. I, No. 1; referred to as Proceedings I.

Ronkel, Ph. S. van
1908 "Catalogus der Maleische Handschriften van het Koninklijk Instituut voor de Taal-, Land- en Volkenkunde van Nederlandsch-Indië", *BKI* 60, 1908, pp. 181-284.
1909 "Catalogus der Maleische Handschriften in het Museum van het Bataviaasch Genootschap van Kunsten en Wetenschappen", *VBG* LVII, 1909.
1921 *Supplement-Catalogus der Maleische en Minangkabausche Handschriften in de Leidsche Universiteits-Bibliotheek.* Leiden.

Sausin, C. B. J.
1862 "Overzigt der Zeden en Gewoonten en instellingen in de Afdeeling Lais in gebruik", *BKI* 8, 1862, pp. 271-274.

De Saussure, F.
1968 *Cours de Linguistique Générale.* Paris.

Skeat, Walter William
1900 *Malay Magic being an introduction to the Folklore and Popular Religion of the Malay Peninsula.* London.

Smith, Kenneth and Keenan, Denis J.
1973 *English Law.* Fourth edition by D. J. Keenan; London.

Smith, W. Robertson
no date *Kinship and Marriage in Early Arabia.* Reprint of the 1903 edition; Boston.

Spencer, A. (ed.)
1948 *Memoirs of William Hickey.* London; 4 vols.

[De Sturler]
1876 "Oendang Oendang Simboer Tjaija, Verzameling van adats uit de Residentie Palembang", *TNI* (new series), No. 5, 1876, pp. 13-32, 122-141.

Swaab, J. L. W.
1916 "Beschrijving der Onderafdeeling Redjang", *BKI* 12, 1916, pp. 460-552.

Toorn, J. L. van der
1891 *Minangkabausch-Maleisch-Nederlandsch Woordenboek.* The Hague.
1899 *Minangkabausche Spraakkunst.* The Hague.

Travers, Thomas Otho
1957 *The Journal of Thomas Otho Travers 1813-1820.* Edited by John Bastin; *Memoirs of the Raffles Museum,* No. 4, May 1957.

Trubetzkoy (English, German) Troubetzkoy (French), N. S.
1938 *Grundzüge der Phonologie.* 5 Auflage 1971; Göttingen.
1949 *Principes de Phonologie.* Paris; trans. J. Cantineau.
1969 *Principles of Phonology.* Berkeley and Los Angeles; trans. C. A. M. Baltaxe.

Turner, J. W. C. (ed.)
1958 *Kenny's Outlines of Criminal Law.* 17th edition; Cambridge.

Tuuk, H. N. van der
1899 *Kawi-Balineesch-Nederlandsch Woordenboek.* Volume II; Batavia.

Vollenhoven, C. van
1918-1933 *Het Adatrecht van Nederlandsch-Indië.* Vol. I, 1918; Vol. II, 1931; Vol. III, 1933: Leiden.

Voorhoeve, P.
1955 *Critical Survey of Studies on the Languages of Sumatra.* Koninklijk Instituut voor Taal-, Land- en Volkenkunde, Bibliographical Series 1; The Hague.

Wade, Mason
1968 *The French Canadians: 1760 - 1967.* Revised edition; 2 volumes; Toronto.

Wall, H. von de
1877-84 *Maleisch-Nederlandsch Woordenboek. Op last van het gouvernement van Nederlandsch-Indië samengesteld. Uitgegeven met weglating van al het overtollige door H. N. van der Tuuk.* 3 volumes; Batavia.

Wellan, J. W. J.
1928 *Zuid-Sumatra. Overzigt van de literature der Gewesten Benkoelen, Djambi, de Lampongsche Districten en Palembang.* Deel II, *Loopenden van 1916 tot en met 1925.* 's-Gravenhage.

Wellan, J. W. J. and Helfrich, O. L.
1923 *Zuid-Sumatra. Overzigt van de literature der Gewesten Bengkoelen, Djambi, de Lampongsche Districten en Palembang.* Deel I, *Loopende tot het einde van 1915.* 's-Gravenhage.

Westenenk, L. C.
[1921] "Memorie van overgave van den aftredenden Resident van Benkoelen", *Mededeelingen van het Bureau voor de Bestuurszaken der Buitengewesten bewerkt door het Encyclopaedisch Bureau,* XXVIII, Semarang-Soerabaia-Den Haag.
1922 "Residentie Benkoelen Schaal 1 : 750,000 Bewerkt door het Enclopaedisch Bureau Naar gegevens van den Top. Dienst van den Marine 1922". Map accompanying Westenenk [1921].

Wiener, N.
1961 *Cybernetics or Control and Communication in the Animal and the Machine.* Second edition; Cambridge (USA).

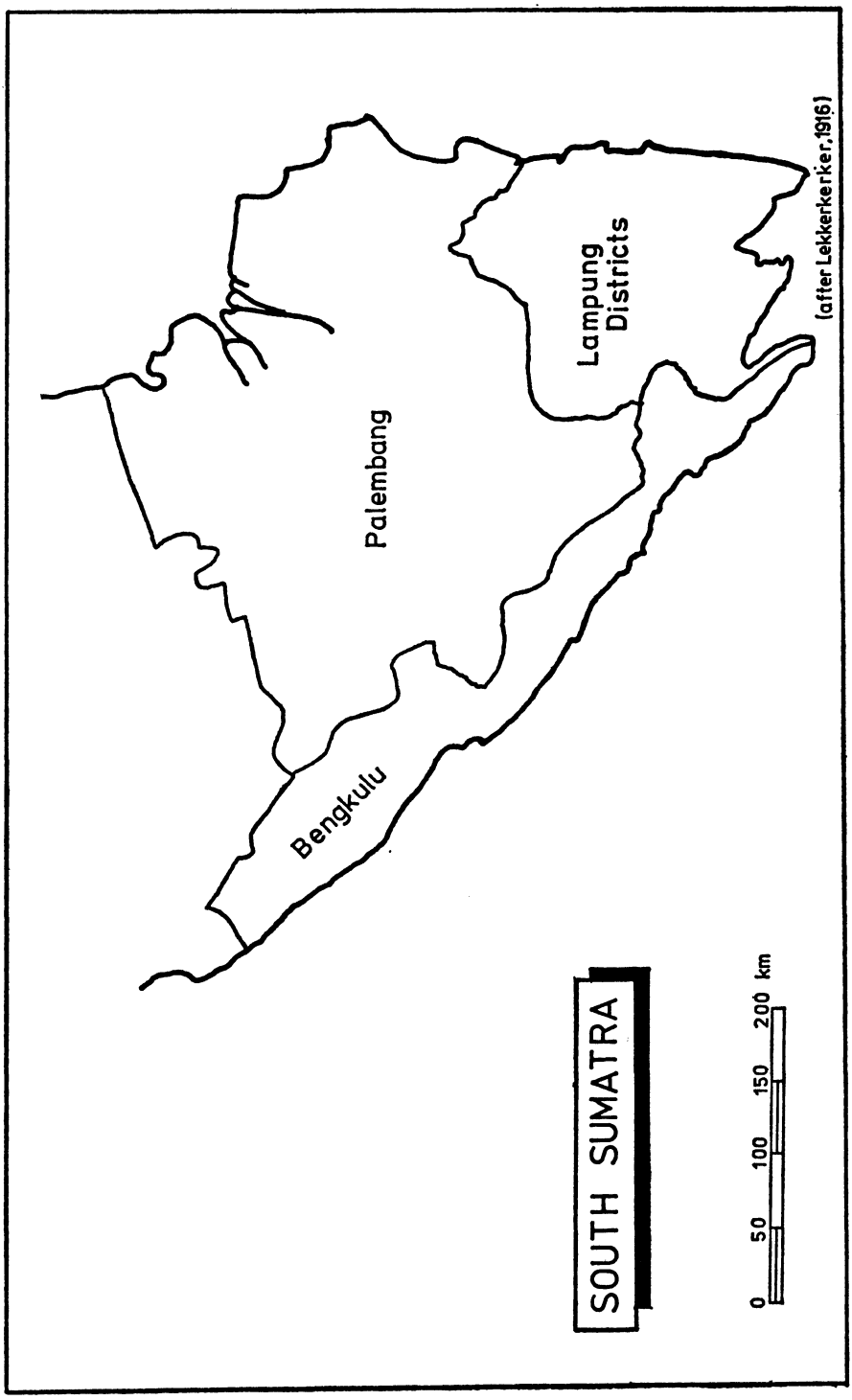
Wilken, G. A.
1888 "De Verbreiding van het Matriarchaat op Sumatra", *BKI* 37, 1888, pp. 161-215.
1891 "Over het Huwelijks- en Erfrecht bij de Volken van Zuid Sumatra", *BKI* 40, 1891, pp. 149-235.
1912 *De Verspreide Geschriften van Prof. Dr. G. A. Wilken* verzameld door Mr. F. D. E. van Ossenbruggen. 4 volumes; Semarang, Soerabaja, 's-Gravenhage.

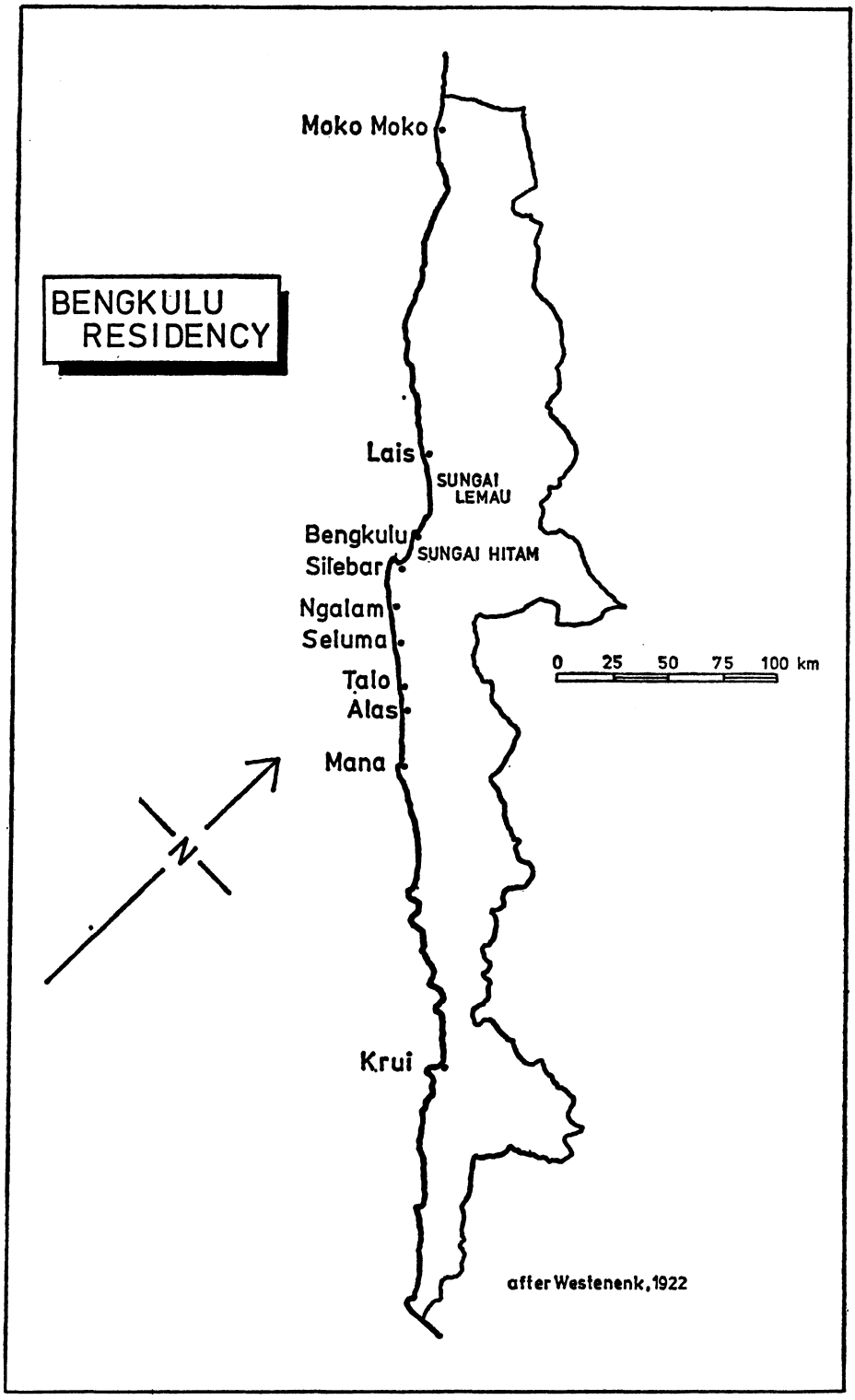
Wilkinson, R. J.
1932 *A Malay-English Dictionary (Romanized).* 2 volumes; Mytilene (Greece).
1959 *A Malay-English Dictionary (Romanized).* 2 volumes; London.

Wink, P.
1924 "De Bronnen van Marsden's Adatbeschrijving van Sumatra", *BKI* 80, 1924, pp. 1-10.
1926 "De Onderafdeeling Lais in de Residentie Bengkoeloe", *VBG* LXVI, Tweede Stuk, 1926.

W[inter]
1874 "De Familie Daing Mabella, volgens een Maleisch handschrift", *TNI* III, n.s. 1874, pp. 115-21.

Zassenhaus, H.
1958 *The Theory of Groups.* Second edition 1958?; Göttingen.


Lampung Districts
Palembang
Bengkulu
SOUTH SUMATRA
0 50 100 150 200 km
(after Lekkerkerker, 1916)


BENGKULU
RESIDENCY
Moko Moko
Lais
SUNGAI
LEMAU
Bengkulu
Silebar
SUNGAI HITAM
Ngalam
Seluma
Talo
Alas
Mana
Krui
0 25 50 75 100 km
N
after Westenenk, 1922

FASAL INDEX
AND INDEX OF MIDDLE MALAY LEGAL TERMS

In the indexes the following notation has been used:

1) An "L" with a subscript refers to a legal code with:
   L_1 = The Code of Laws
   L_2 = The Sungai Lemau Laws
   L_3 = The Sungai Hitam Laws
   L_4 = The Silebar Laws

2) The Arabic numerals following the indicator of a law refer to the numbered fasals
   e.g. L_2 6 = the sixth fasal of the Sungai Lemau laws

3) The upper case Roman numerals following the indicator of a law refer to unnumbered sections. The lower case Roman numerals refer to the subdivisions or units of the unnumbered sections
   e.g. L_4 IIii = the second unit of the second unnumbered section of the Silebar laws.

FASAL INDEX

Code of Laws

Fasal	Page	Fasal	Page	Fasal	Page
L_1 1	40	L_1 15	57	L_1 29	81
L_1 2	41	L_1 16	70	L_1 30	84
L_1 3	44	L_1 17	70	L_1 31	85
L_1 4	47	L_1 18	70	L_1 32	87
L_1 5	48	L_1 19	70	L_1 33	87
L_1 6	50	L_1 20	73	L_1 34	87
L_1 7	50	L_1 21	75	L_1 35	87
L_1 8	65	L_1 22	75	L_1 36	88
L_1 9	66	L_1 23	77	L_1 37	89
L_1 10	66	L_1 24	78	L_1 38	93
L_1 11	62	L_1 25	79	L_1 39	94
L_1 12	63	L_1 26	79	L_1 40	98
L_1 13	56	L_1 27	81	L_1 41	99
L_1 14	45	L_1 28	81	L_1 42	100

Sungai Lemau Laws

Fasal	Page	Fasal	Page	Fasal	Page
L_2 1	114	L_2 10	125	L_2 19	146
L_2 2	114	L_2 11	125	L_2 20	147
L_2 3	115	L_2 12	126	L_2 21	147
L_2 4	115	L_2 13	135	L_2 22	141
L_2 5	116	L_2 14	137	L_2 23	151
L_2 6	117	L_2 15	140	L_2 24	129
L_2 7	118	L_2 16	141	L_2 25	153
L_2 8	123	L_2 17	142		
L_2 9	124	L_2 18	143		

Sungai Hitam Laws

Fasal	Page	Fasal	Page	Fasal	Page
L_3 1	162	L_3 7	168	L_3 13	180
L_3 2	163	L_3 8	168	L_3 14	180
L_3 3	164	L_3 9	172	L_3 15	181
L_3 4	164	L_3 10	172	L_3 16	185
L_3 5	167	L_3 11	172	L_3 17	186
L_3 6	168	L_3 12	179	L_3 18	187

Silebar Laws

Fasal	Page	Fasal	Page	Fasal	Page
L_4 Ii	194	L_4 3	200	L_4 11	243
L_4 Iii	194	L_4 4	212	L_4 12	246
L_4 Iiii	194	L_4 5	220	L_4 IIIi	249
L_4 IIi	196	L_4 6	225	L_4 IIIii	249
L_4 IIii	196	L_4 7	233	L_4 IIIiii	250
L_4 IIiii	196	L_4 8	234	L_4 IV	252
L_4 1	198	L_4 9	237		
L_4 2	199	L_4 10	243		

INDEX OF MIDDLE MALAY LEGAL TERMS

The following index of Middle Malay legal terms is based on the original texts and not the translations of the material as provided in this book. The index is complete. Thus, the number of references following a given legal term serves to indicate its frequency and distribution of occurrence.

aku, mengaku: to accept responsibility for
L_1 3, 11, 41
L_2 19, 21
L_4 10, 11
ambil anak: lit. to take the child or children
ambil anak: marriage form (c.f. semendo)
L_1 5
L_2 10
L_3 9
L_4 3
ambil anak: verb form
L_2 8
anak: child
anak angkat: adopted child
L_1 13
anak budak: child of a slave (c.f. anak mas)
L_1 35
anak kandung: one's own child
L_1 13
anak mas: lit. child of gold; child of a slave (c.f. anak budak)
L_1 6, 35, 36
anak semendo: semendo child
L_1 3
anak uwang: lit. child of money; interest
L_1 30, 31
andam: a form of bondage
L_1 19
anggun[2]: ritual payment or gift
L_1 14
angkat: lit. to raise, to adopt (not to be confused with ambil anak q.v.)
L_1 13
antaran, pengantar, pengantaran: marriage payment
L_1 2, 8, 9
L_2 11, 12
L_3 5

baik: good; kebaikan: goodness
L_3 3, 8
bakar: to burn; membakar rumah: arson (c.f. panggang)
L_3 15
L_4 9
bangun: compensation for killing
L_1 10, 21, 22, 26, 28
L_2 13, 14, 25
L_4 4, 10
adat kapala bangun
L_2 13
basoh: to wash
pembasoh dusun: cleanser of a village
L_4 11
pembasoh rumah: cleanser of a house
L_1 37
berbelah: to share, esp. a debt relation
L_1 39
belanja: costs
L_1 1, 14, 33

beo, bea: costs
L_2 23
L_3 18
L_4 1, 2, IV
beri: to give
pemberian: gift
L_2 4
L_3 4
L_4 IIii
budak: slave
L_1 6, 19, 30, 32, 34, 36, 37, 38, 40
L_4 4, 11
budak kompani: governmental slave
L_1 29
L_4 8, 9
buka, bukak: to open (c.f. paca)
membukak rumah: breaking and entering
L_4 6
bunga: lit. flower; tax
bunga kayu: tax on wood
L_2 5
bunga padi: tax on rice
L_2 5
bunga rotan: tax on rattan
L_2 5
bunoh, membunoh: to kill
L_1 21, 22
L_2 13, 16, 19
L_3 12
L_4 4, 7

cari: to earn
pencarian, harta pencarian: earnings
L_1 3, 37, 39
L_2 10, 11, 12
L_3 9
caro: payment related to marriage and/or divorce
L_1 2, 11
cerai: divorce, separation (c.f. sarak)
L_3 9, 10
curi: to steal
L_1 23
L_2 15, 21, 22
L_3 13, 14
L_4 6

denda: fine
L_1 6, 8, 21, 23, 25, 26, 27, 29
L_2 19, 20, 21, 22, 25
L_3 12, 13, 16, 17, 18
L_4 5, 6, 11, 12, IIIi, IIIii, IIIiii

gan: marriage payment
L_3 5
gadaian: pawn
L_1 42

harta: property
harta pembujangan: property of bachelorhood
L_1 3
harta pencarian: see sub cari
harta pusaka: inherited property
L_1 13, 14
hasil: tax
L_2 5
L_3 4

'iddah: waiting period
L_1 12
iring, mengiring: to follow; bondage debt relation
L_1 7, 30, 37, 38
isi kawin: lit., contents of marriage; marriage payment (c.f. mas kawin)
L_1 2
L_3 5

jujur: general, patrilocal marriage form
L_1 7
L_2 6, 24
L_3 5
jujur agung: marriage form
L_2 7
L_3 6
L_4 1
jujur bertungu: marriage form
L_2 8
jujur kecil: marriage form
L_3 8
L_4 3
jujur orang kecil atau orang kabanjakan: marriage form (c.f. jujur kecil)
L_2 9
jujur tengah (penengah): marriage form
L_3 7
L_4 2
jurai: descent line, descendent (c.f. semendo balik jurai)
L_2 12
L_3 11
L_4 3

kakas, perkakas: lit. appliances
accessories brought by a woman in marriage
L_2 7
L_4 1
perkakas risau: an outlaw's tools
L_4 9
kendak: paramour; berkendak: fornication
L_3 17
keras: harsh, obstinate, cause of divorce
L_1 11
kerbau: buffalo
kerbau menaduk kerbau lalu: legal phrase
L_1 28
kris: a weapon with ritual value
L_2 7, 24
L_4 1, 2, 3

lacung: to falsify
L_1 27
lari: to flee
L_1 8, 37, 41
L_2 21
lawan: partner; berlawan: paired
L_1 12
L_2 21
lipat: to return twofold, compensation (c.f. pulang)
L_1 1, 23, 39
L_2 15
L_3 13
L_4 6
luka: wound
L_1 26, 34
L_2 14, 16
L_3 12
L_4 4, 5, 8

madu: co-wife; bermadu: co-wife relation
L_1 9
main: play
main muda: flirtation
L_3 17
L_4 IIIiii
bermain muka: flirtation
L_4 12
marga, merga, mergo: group of associated villages
L_2 2, 13, 21
L_4 Ii, Iiii
mas: gold
mas kawin: marriage payment (c.f. isi kawin)
L_1 2
L_3 5
mas mutung: marriage payment
L_4 1, 2
mungkir: to deny responsibility for (c.f. aku)
L_1 1, 40
L_4 11

paca: to break (c.f. buka)
memaca pintu jandela: breaking and entering
L_4 6
pampas: compensation for wounding
L_1 26, 28
L_2 14
L_3 12
L_4 5
panggang: to burn (c.f. bakar)
memanggang rumah: arson
L_2 18
pangkat: title (c.f. tungguan)
L_2 2
L_3 2
panjingan: fornication and/or fines for fornication
L_2 19, 21
L_3 16, 18
L_4 10, 11, IIIi, IIIii
pukau: sleep inducing drug
L_1 25
pulang: to return (c.f. lipat)
pulang undang: to return twofold
L_2 15, 16

racun: stomach poison
L_1 25
rampas: take by force, rape
L_1 18
L_2 21

sahadat, syahadat: testimony
L_4 10
saksi, syaksi: witness
L_1 2, 3, 24, 25, 40
L_4 11

salah: wrongdoing
L_1 4, 6, 7, 10, 12, 20, 23, 24, 34, 36, 37
L_2 13, 19, 20, 21, 25
L_3 12, 17
L_4 4, 5, 6, 10, 12, IIIi
samun: to rob
L_2 16, 17, 22
L_3 14
L_4 7, 8
sarak: divorce, separation (c.f. cerai)
L_1 3, 5, 11, 12
L_2 10, 11
L_4 3, 10
selesai: to settle
menyelesaikan perkara negri: to settle the affairs of state
L_2 1
L_3 1
semendo: general: matrilocal marriage
L_1 1
L_2 6
L_3 5
semendo ambil anak: marriage form (c.f. sub ambil anak)
L_4 3
semendo balik jurai: marriage form (c.f. jurai)
L_2 12
L_3 11
L_4 3
semendo bayar utang: marriage form
L_1 4
semendo beradat: marriage form
L_2 11
L_3 10
L_4 2
semendo merdahika sama merdahika: marriage form
L_1 3, 4
semendo raja raja: marriage form
L_3 5, 11
seraya: asking for help
L_1 33
sumbang: illicit sexual relation, esp. incest
L_1 10
L_2 25
L_4 12
sumpah: oath; bersumpah: to swear an oath
L_1 21, 23, 24, 40
L_2 21
L_4 11, 12
tali kulo: marriage payment
L_2 8
L_4 1
tebus nyawa: redemption of life
L_1 10, 12, 20
L_2 20, 25
L_3 12, 16
L_4 10
tepung: lit. meal
L_4 4
tepung bumi: offertory meal
L_3 15
L_4 4
tepung bumi tepung mata hari: offertory meal
L_2 13
tepung si tawar: compensatory offering
L_1 26
L_2 14
tolong, ketolongan: aid, assistance
L_2 3
L_3 3, 4
L_4 IIi
tombak: a weapon with ritual value
L_2 7, 24
tungguan: house, title (c.f. pangkat)
L_1 15
L_4 3
turun: to descend
wang penurun: marriage payment
L_2 7

umanat: testament
L_1 14
undang^2: law, esp. statute
undang^2 sumbang: law of illicit relations
L_4 12
untung, keuntungan: profit
L_3 4
L_4 IIii
upah, upahan: wages
L_1 33
utang: debt; piutang: credit
L_1 3, 4, 5, 6, 11, 36, 37, 38, 39, 41
L_2 23
L_3 9, 18
L_4 IV
utang utangan, orang berutang: debtor
L_1 6, 19, 30