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An Essay on the *Adat Perpateh* in Negri Sembilan

PREFATORY NOTE.—*In order to be in time for the first number of the University of Ceylon Review this essay has been written at great speed and amid the distractions of much work. The writing has thereby suffered but not, it is hoped, its general accuracy. A few liberties of translation, definition and generalisation have been taken, but deliberately; because the essayist's desire is to present the main outlines of an interesting subject for study without incommoding the reader with a lot of details on which authorities rather disconcertingly differ. This is why, for example, no past or present list of all the territories forming the federation of Negri Sembilan has been given; for they are variously cited.*

Introductory and Geographical "What a country! Owned by women and ruled by proverbs!" Such was the *obiter dictum* of a High Court Judge on circuit in Negri Sembilan, the only matriarchal state in the Malay peninsula. Rather might he have said: "How powerful a Custom (*Adat*) to have survived the superimposition of Islamic and latterly of modern statutory law!"

The home of the Custom lay across the Straits of Malacca in the Sumatran state of Minangkabau. Thence in the sixteenth and seventeenth centuries small bands of emigrants sailed across the water in search of new rice-lands. Nobody denied them ingress into the peninsula, where the ancient Kingdom of Malacca had fallen to the Portuguese in 1511. Neither they nor the Dutch, who supplanted them in 1641, worried much about the lands that lay outside a score or so of miles from their citadel and harbour. Southward, successive Sultans of Johore contented themselves with a loose titular suzerainty over the Sumatran settlements. Of these six lay to the west and three to the east of the spinal peninsular range. These were the original Nine Territories (*Negri Sembilan*). Although five of them fell ultimately under the domination of neighbouring States the titular number, Nine, was perpetuated by citing as territories certain sub-divisions of the remainder. The identification of the original nine is disputed; but there is no doubt about the surviving four, in which the Custom still runs. They are Sungei Ujong and Rembau, on the West of the mountains, and Jelebu and Johol on the East. The five modern additions required to bring the number up to Nine are all geographically parts of Johol.

It is necessary at this point for the essayist to confess his limitations. He has never been in Sumatra, where so much has been written about the

Custom both in Dutch and Malay. There are bound to be small divergences of practice and interpretation between the Malays of Minangkabau and their cousins in Negri Sembilan. The Custom however remains one Custom, in spite of superficial variations, and any recital of its precepts or saws (*pebilangan Adat*) by an inhabitant of Negri Sembilan will always begin by a profession of his people's Sumatran origin :

We are children of Minangkabau
So long as sky is above us and the earth beneath ;
Of the lands coiled round Merapi mountain,
As far downstream as Pintu Raya
And upstream to Sri Legundi ;
Of the country whose name is Sumatra
Or the Island of Andalas.

The Tribe

The basis of the Custom is a tribal system. The tribes (*suku*) are mostly named after places in Sumatra and almost certainly had a territorial origin. Each tribe would initially have comprised all the families cultivating a common valley or watershed. In order to keep its human stock strong and sturdy no inbreeding was allowed. A man had to find his mate in another valley, and a woman to wed a spouse from outside. This adamant rule of exogamy admits of no exception : it is the keystone of the Customary order. Tribal lands devolve therefore in the female line, and this is what is meant by the common statement that the Custom is matrilineal. It would be more correct to coin a word and describe it as ' matrilineal,' for the Custom knows no female chief or headwoman :

Our heritage comes through our women,
But men are appointed to wear the insignia of hereditary office.

The headman of the tribe (*lembaga*) is in fact elected by the tribe, in the manner described below, from among the males of the tribe ; and in a tribal demesne he will be the only resident adult male of the tribe (the others having departed to marry into, and to live with, other tribes) and his wife will be the only resident woman not of his own tribe. The children which she bears to him will belong to her tribe, not his : nothing therefore that he does as headman can bring material benefit to his own offspring.

The Clan

The family or clan (*perut*) is a sub-division of the tribe and, as the clan names still attest, was also originally geographical. Each clan elects from its members an elder (*ibu-bapa*), again a male, whose duty it is to preserve law and order within the clan. The preceding paragraph now requires amendment to the extent that the elders will also be males living within the precincts of their own clan and tribe, while their wives and children will be members of other tribes. Each clan in rotation (*giliran*) provides the candidates for the tribal headmanship (*lembaga*). Election there-

never is not by the clan, but by the whole tribe ; although they may go outside the clan whose turn it is to furnish candidates. Theoretically election of a headman by the tribe, and of an elder by the clan, must be unanimous and the vacancy remain unfilled until unanimity (*bulatan*) has been reached. Unanimity is in fact usually, if only superficially, achieved after delay, intrigue and compromise.

Interspersion of Clans and Tribes

In Negri Sembilan it often happened that immigrants of one tribe settled along the same river or in the same valley as those of another, so that as their hamlets extended the tribal settlements coalesced. The same thing happened also in Sumatra. But both there and in Negri Sembilan the laws of exogamy and of matrilineal inheritance governed the tribes in interspersion just as rigorously as when they were territorially separate and compact.

Absorption of Aborigines

When the Sumatran colonists arrived in that part of the Malay peninsula which is now Negri Sembilan the country was not altogether uninhabited. The most numerous section of the aborigines (*Sakai*) were of Proto-Malay stock and spoke an archaic form of the Malay language. They called themselves by the names of Mantra or Biduanda. Women of these hill-folk were taken to wife by many of the Sumatran colonists, and the descendants of such unions form the important Malay tribe of Biduanda. The hill-folk had been wont to appoint one of their number as leader or chief (*batin*) and, as the immigrant Sumatrans overran each district and intermarried with the hill-women, they recognized the aboriginal chieftaincy over it as transferred matrilineally to the Biduanda tribe. From among the males of that tribe therefore the tribal headmen (*lembaga*) elected a territorial chief (*penghulu* or *undang*). For this reason the members of the Biduanda tribe are known as ' heirs of the territory ' (*waris negri*) or ' heirs to the chieftaincy ' (*waris berundang*). In some provinces there is a distinction between the two, and the heritage divided between separate divisions of the Biduanda tribe. The territory presided over by a territorial chief was called a *Luak*.

Not all the hill-women were wedded to the immigrants. A few stuck to their men-folk and became the ancestresses of the present sparse and dwindling communities of Mantra aborigines in Negri Sembilan.

The Federation or 'World'

The territories of the Chiefs (*luak*) were eventually knit loosely together in a federation known to the Custom as its ' world ' (*alam*). Over this presided a Prince (*Raja*) or Fountain of Justice (*Keadilan*) elected by the territorial chiefs from among the scions of a royal family in which succession ran in the male and not in the female line. This distinction was necessary because the Custom claimed caliphate authority for its Raja, and matrilineal inheritance is anathema to Islamic

law. Such a federation is Negri Sembilan, whose Raja bears the title of 'Yang Di-pertuan Besar' abbreviated in common parlance to 'Yam Tuan.'

A Summary of the Customary Order The whole politico-social structure delineated above is summarized in this customary saw:

- The check upon the wife is her husband ;
- The check upon the husband is his wife's family ;
- The check upon the clan is the Elder ;
- The check on the tribe its Headman ;
- The check on the Territory its Chief ;
- The check on the federation its Raja.

Yet one more provision of Custom was needed to complete this dovetailing of social and political control. The unanimous election of an Elder, Headman, Territorial Chief and even Raja was subject to subsequent unanimous dismissal (*pechat* or *chabut*) if he abused his authority. This was seldom resorted to, but the penal sanction was there and universally known. Everybody under the Custom was therefore at the same time both watchman and himself watched, policeman and himself policed.

Basic Principle of the Custom The basic principle of the Custom is that in a properly ordered society there is, subject to their good conduct, room for every man and beast. This is propounded in many and quaint saws ; for example in the following :—

- It is the function of goats to bleat,
- Of buffaloes to bellow,
- Of cocks to crow,
- Of robins to twitter,
- Of chiefs to implement customary law,
- Of religious authorities to administer Islamic law,
- Of a military leader to make raids,
- Of trainers to let fly the fighting cocks,
- Of traders to manipulate weights and measures,
- Of a woman to be busy with thread and cotton.

The purpose of the Custom is to ensure that all such proper functioning shall be without interference :

- Keep straight and you shall pass through ;
- Come crooked and you shall be broken.

Administration of Justice Administration of justice under the Custom has two aspects, restitutory and penal. If wrong was done by a member of one tribe against a member of another justice was satisfied if there was mutually agreed restitution.

plied even to murder :

For wounding smart-money is payable ;

In cases of murder a person of the killer's tribe must be handed over in substitution to the tribe of the killed ;

The children of the killer and the killed are called to the feast of atonement,

And one of the killer's kin is there handed over in restitution.

It is probable that when the tribes were geographically separated all inter-offences were settled by restitution. Damage to growing crops must, in a primitive agricultural community, have been one of the commonest forms of chief or injury. A common-sense provision of Custom lay in the saw—

Unfenced rice-fields are prairie grass :

Unpenned buffaloes are wild gaurs.

This means that if your buffalo is at large in your neighbour's field or garden you have no claim against him if he shoots it. Conversely he has no claim against you if his damaged crops were unfenced.

A Penal Code The practice of restitution became difficult when the tribes grew to be territorially interspersed (though it is still, whenever possible, observed in compoundable matters) and it could not cope with the hardened recidivist. A rough criminal code was therefore evolved and the following offences made capital :—

- Treason, rebellion ;
- Incest, adultery ;
- Burglary, dacoity ;
- Damage by arson ;
- Privy larceny and theft ;
- Swindling and cheating ;
- Drugging and poisoning ;
- Stabbing and murder ;
- Robbery with violence and wounding.

It did not however follow from the classification of these crimes as capital that death must follow a conviction. Very far from it : execution was a last resort. The convict's tribe was mulcted in as much as it could bear, and death was seldom imposed for a first offence. The culprit was rendered unpopular with his fellow tribesmen by their payment for his crime, and they placed him under careful watch and scrutiny. This supervision compensated for the entire lack of gaols : incarceration under the Custom being unknown. Heavier crimes, punished by repeated mulctings of the offender's tribesmen, would eventually lead to a plea by them for his removal. Executions there were often 'by request.'

Methods of Execution

Only the Raja had power to shed blood: and a royal execution was always by the sword. The Territorial Chiefs however found a method of killing by the creese without shedding blood. Its blade was thrust downward from the collar bone to the heart through a pad of cotton which at the same time cleansed it of blood and stanchd the wound. The Custom accepted this solution (for, when communications were only by jungle track, access to the Raja involved weeks of delay) and added a provision that tribal Headmen might arrest offenders on their own initiative.

A cord for binding pertains to the Headman ;
A creese for execution to the Territorial Chief ;
A sword for beheadings to the Raja.

Evidence

There could of course be no punishment without evidence of the crime. Moreover the Custom required that circumstantial evidence might be orally attested only if its distance in space or time prevented the Chief from seeing it for himself. Certain suspicious facts could however be accepted as circumstantial evidence. By the laws of theft, for example—

Twelve circumstances are forbidden :

- (1) The setting of a strut against a house pillar ;
- (2) The rending of a partition ;
- (3) To be caught running away ;
- (4) To be found in a state of exhaustion ;
- (5) To be found with stolen property ;
- (6) To be found wounded ;
- (7) To be found bruised ;
- (8) To be found with palpitating heart ;
- (9) To have invited assault ;
- (10) To have the reputation of a crook ;
- (11) To be found transplanting evidence ;
- (12) To give an unintelligible or contradictory account of oneself.

The Custom in fact demanded of every man as his first duty that he maintain himself above suspicion. To be suspected of crime is as bad or worse for the neighbours' sense of security as to be convicted of it. If you cannot give a plain account of your actions then your guilt may be presumed. To be suspected is unsocial and therefore criminal.

Crime leaves traces like a beetle in the mud ;
Like a snail it leaves its slime ;
Like a horse-mango its reek.

Nor can you complain of punishment if you allow yourself to be involved in doubtful situations. It is a rule of nature :

Brush against a nettle and you get its sting ;
Knock against a dewy branch and the drops will fall on you.

Judicature

There was no judiciary under the Custom distinct from the executive. Simple and clear issues could be decided by the Headman ; complicated ones must be referred to the Territorial Chief. Disputes between the Chiefs themselves must be adjudicated by the Raja.

Thus ordains the customary saw :

The matter is for the Raja
When at night in the dark of the moon
Buffaloes fight in the byre.

The matter is for the Territorial Chief
When a black fowl flying by night
Perches in a leafy tree.

The matter is for the Tribal Headman
When a white fowl flying by day
Perches on a leafless twig.

Divorce

There remain to be cited the regulations governing divorce. Nothing could be plainer than the customary saw on this

subject, which is as comprehensive as it is brief.

Earnings during marriage are given to him or to her who earned them ;
What a man got by his wife stays with her tribe ;
What the husband brought he takes away ;
Property acquired in partnership is split up ;
Joint acquisitions are equally divided ;
Any loss or profit on the wife's estate accrues to her tribe ;
The man's person is restored to the service of his own tribe.

Tribal Entail

Similarly terse and exhaustive is the saw regulating transfers of tribal entail, especially land.

The woman's nearest of kin can approve or prevent ;
The full members of her tribe can, by finding the money required, save the tail ;
If there are next of kin they can bar the sale ;
If the property is the subject of a claim to ownership the sale cannot proceed ;
The Tribal Headman can quash the transfer.

The Customary Saws

Finally a word must be said about the customary saws themselves, in which the whole Adat lies enshrined. One of them naively admits that, just as a river bank changes with every flood, every succession of a Chief spells some alteration in the Custom. That is perfectly true as regards interpretation ; but the saws themselves remain unalterable and in them lies the permanency of the Custom's essentialities. The nature and character of the saws can be gathered from

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the few specimens quoted in this essay. They have been mis-stated, mis-interpreted and mocked by modern Bench and Bar ; but they remain popular and democratic to an extent that statutory or case-made Law can never be. They, and certain cognate Songs of Origin (*teromba*), are crooned over the cradle, recited at all village feasts, and chanted at weddings and funerals. They permeate all society and all domestic and public activities. The claim that they, and the Custom which they perpetuate, provide law without lawyers and justice without justices is perhaps too pretentious. The desire of the Negri Sembilan peasant is not so much for law as for its avoidance. The development of towns, mines and estates in his vicinity has indeed woken him to a recognition of the fact that his ancestral Custom is insufficient to cope with intricacies of modern commerce and economics. But in his homestead (*kampong*), orchard and rice-field the ancient tradition still prevails ; and the essayist has little doubt that it will prove as resistant to present Japanese invasion as it has to past impacts and intrusions.

“ Dead we lie in the womb of the earth ;
So long as we live, in the womb of our Custom.”

A. CALDECOTT.
