

The Fate of an Opposition in the Malay Speaking World: A Case Study in Secular Symbolism

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RÉSUMÉ

L'étude de variations entre des systèmes juridiques malais forme l'objet de cet article. On y examine des permutations reliées au rang social, au principe lignager et au territoire. La structure qui s'en dégage permet de mettre au point un appareil conceptuel pour analyser, de façon comparative et dynamique, des codes criminels dans cette partie du monde.

One of the recent trends in structural anthropology in the Netherlands has been the examination of the conceptual aspects of the secular world. This study of secular symbolism has focused on how a people represent their society to themselves and to others. The work has been directed primarily towards the analysis of sociological problems, i.e., how do a people rationalize their social order? In particular, what do they feel needs to be explained and how do they explain it to themselves? In most cases the tendency has been to analyse particularistic as opposed to universalistic problems and yet the methods used are essentially the same as those that have been used by others in the structural analysis of cosmological problems. One of the risks implicit in such research is that one might confuse *structure* with *événement*. However, the type of structure sought after has not been the sort that produces regularities in the *ordre vécu* but the sort that produces regularities in the explanations and rationalizations that people have of their own social order. Aphoristically, one might express this as

a search for the consistencies not in what people are doing but in what they say they are doing. Two areas in which this research approach has been specifically manifest have been P. E. de Josselin de Jong's work on myths of political legitimacy and my own work on legal codes. In both cases the region has been the Malay speaking world.

The present paper attempts to extend this work to the problem of the indigenous perception of variations in social practice or in Malay terms the indigenous perception of variations in adat. In particular I will examine the fate of one explicit opposition in adat types among the Minangkabau, the peoples of South Sumatra, and the peoples of the Malay peninsula.

The Minangkabau themselves recognize two kinds of adat, i.e., *adat Parapatih* and *adat Katumanggungan* (c.f. de Josselin de Jong 1951). One of the key features of this opposition is the difference between their attitudes towards homicide. One (*adat Parapatih*) demands compensation; the other (*adat Katumanggungan*) legitimizes retaliation. There are other associations that oppose these two adats. *Adat Parapatih* is recognized as being more republican and has matrilineal associations. *Adat Katumanggungan* is recognized as being more kingly or aristocratic and has patrilineal associations. This internal opposition of the Minangkabau is transformed as it is transferred to the Malay Peninsula. There, among the Minangkabau people of Negri Sembilan, one finds no distinction between forms of adat based upon this opposition. Indeed the statements on legal matters seem to involve a compression of various aspects of the opposition into a single form. However, the opposition between *adat Parapatih* and *adat Katumanggungan* is used to refer to the distinction between the matrilineal practices of the people of Negri Sembilan as opposed to the patrilineal practices of their neighbours. In comparing the Peninsular situation to the situation in the Minangkabau homeland one notices, therefore, that the opposition maintains itself but there seems to be a neutralization of the opposition between compensation and retaliation and an increase in the significance attached to the patrilineal and matrilineal associations.

Given this pattern it was clear to me that the opposition between *adat Parapatih* and *adat Katumanggungan* was an indig-

enous means of classifying differences in adat that might be useful as a means of ordering the South Sumatra data. In particular I was curious if the *adat Parapatih/adat Katumanggungan* opposition could elucidate the opposition between *jujur* and *ambil anak* marriage (i.e., between patrilineal and matrilineal forms of marriage). Though the evidence for the use of this opposition in South Sumatra is rather scanty, I have located three distinct sources (Anon. 1822 a,b; UB Cod. Or. 12.268; Jaspan 1964) from three different areas in South Sumatra (Moko-Moko, Bengkulu proper (?), the upland Rejang) and dating from three distinct time periods (the 1820's, the 1860's, and the 1960's). All three of these sources agree on one point: there is an association between the virtually universal practice of compensation for homicide, in South Sumatra, and *adat Katumanggungan*. In the truly indigenous source from 1820 one is told of an aboriginal dispute between *Katumanggungan* and *Perpateh Sabatang* over customary practice. However, while it is very clear that *Katumanggungan* favours the use of compensation for homicide and wounding (the *bangun* and the *pampas*), one is only told that *Perpateh Sabatang* is opposed to the idea.

those [i.e. the followers] of Katumanggungan said, if compensation is not paid for wounds and bangun for murder, there is an end of the people; those of Perpati Sabatang said, if for every wound compensation is paid and for every murder, the bangun, there is an end of the people; those of Katumanggungan said, if they who wound are not to pay compensation, nor they who murder the Bangun, better let us return to Menangkarbau and to the country of the Duapulo where the country is under the sovereign, the towns under mantris, high crimes are punished with death and offenses with fines; those of Perpati Sabatang said, if compensation is to be paid for wounds and the Bangun for murder, that is the custom of the men of Ujong Tanjong, of Tapa Selulong, and of Batu, Mendamei, the custom of robbers and plunderers... with whom what is strong is uppermost and what is weak is lowermost. (Anon. 1822a: 9f.)

Thus it is clear that *Parapatih* is opposed to the payment of the *bangun* and *pampas* but the use of the *lex talionis* is not explicitly stated as an alternative.

The question of the aristocratic versus republican associations is more problematical. In only one source (Jaspan 1964) where the opposition is clearly mentioned, the association with kings is assigned to *Parapatih*.

It is the adat of Temenggung, the law of the Redjang Four Pillars, the law of mutual trust and help, of compassion and concern for other men and mutual respect for individual rights and property. It is not the adat of Pati Sebatang which is the law of kings, despotic, arbitrary, and inflexible. (Jaspan 1964: 239)

As with the association of compensation with *Katumanggungan*, here we also have an inversion of the Minangkabau situation.

Turning to the question of patri and matri associations, as Jaspan points out (Jaspan 1964, p. 34), there is no clear *manifest* association between one side of the *Katumanggungan/Parapatih* opposition and the opposition between *jujur* and *ambil anak* marriage (or between patrilineal and matrilineal descent). However, if one examines the fate of the compensation versus retaliation opposition as it is transferred from Minangkabau to South Sumatra, one can make a latent association. As the above evidence suggests, the Minangkabau opposition between compensation and retaliation becomes in South Sumatra an opposition between compensation and the lack of compensation.

This is identical to one aspect of the opposition between *jujur* and *ambil anak* marriage. The legal texts from South Sumatra habitually oppose these two marriage forms. The distinctive features employed in these texts vary but are usually patrilocality versus matrilocality, patrilineality versus matrilineality, or the inversion of the authority relations between man and woman. There is a marked tendency to emphasize the symmetry of the inversion between the two marriage forms. However, there is an essential asymmetry that is frequently ignored or suppressed. In *jujur* marriage where the woman comes to live with her husband a substantial brideprice is paid. In *ambil anak* marriage where the man comes to live with his wife not only is there no brideprice but there is no financial transaction at all. It is significant that this essential asymmetry is systematically ignored. However, there is an important association to be made. This apparent asymmetry can be described as an opposition between compensation (*jujur* marriage) and no compensation (*ambil anak* marriage). Thus one can argue that there is a latent association between the patrilineal form of marriage and *adat Katumanggungan* and the matrilineal form of marriage and *adat Parapatih*.

One can summarize the various associations with the opposition between *adat Katumanggungan* and *adat Parapatih* as they occur in Minangkabau, the Malay Peninsula and South Sumatra by Table 1. Examining the relationships between the reference

TABLE 1

MINANGKABAU		MALAY PENINSULA		SOUTH SUMATRA	
Katumang- gungan	Parapatih	Katumang- gungan	Parapatih	Katumang- gungan	Parapatih
retaliation	compensation	neutralized		compensation	no compensation
aristocratic kingly	republican commoner	aristocratic kingly	republican commoner	republican commoner	aristocratic kingly
patri-stress	matri-stress	patri-stress	matri-stress	patri-stress	matri-stress

opposition (*adat Katumanggungan* versus *adat Parapatih*) and the various associated oppositions one notices that the stability of the association varies greatly. First, the strongest and most stable association is between *Katumanggungan* and patri-stress on the one hand and *Parapatih* and matri-stress on the other. Secondly, the aristocratic/republican (or kingly/commoner) opposition more or less maintains its internal qualities but inverts itself in the case of South Sumatra. The most interesting opposition, however, is that related to the role of compensation in the three areas. Taking the Minangkabau case as the reference point we notice that the opposition loses all significance in the Malay Peninsula. In linguistic terms one would say that the opposition is neutralized. Or to use the terminology proposed by Jakobson (1949; cf. also 1931) in his *Principes de Phonologie Historique*, the opposition has been de-phonolized. In South Sumatra, however, the compensation versus retaliation opposition has been transformed into an opposition between compensation and the lack of compensation. Furthermore, the association between this transformed opposition and the basic opposition between *adat Katumanggungan* and *adat Parapatih* has been inverted. Of these two transformations that which alters the nature of the internal features of the opposition between compensation and retaliation is the more interesting from a purely structural point of view. In the Minangkabau case the opposition appears to be more purely Hegelian, i.e., an element interacts not

with any opposite but its opposite. However, in the South Sumatran case the form opposed to compensation is simply the lack of compensation, i.e., the opposition is between a marked and unmarked form.

This contrast between two types of oppositions suggests a potentially profitable avenue for further research in structural analysis. Though in the long run an elaborate taxonomy of oppositional patterns may be developed, I feel that at present there are two clearly recognizable types of oppositions: the Hegelian opposition and the marked-unmarked opposition. The Hegelian type is the more easily perceived in a corpus of data and is the more common in structural analysis. The more common Hegelian type oppositions would include male/female; nature/culture; left/right; up/down; etc.; that is, an element is opposed not to any opposite but to its opposite. However, these Hegelian or more perfect oppositions can be transformed into another type (i.e., the marked-unmarked variety) that is essentially different from the original type. To take an example, the opposition between male and female can be transformed into an opposition either between male and non-male or between female and non-female. Comparing the male versus female opposition to the male/non-male opposition, the two are not necessarily the same. To establish the fact that there is a difference one must simply demonstrate that there is some aspect of the non-male category that does not imply or entail femaleness.

Returning to the transformation of the compensation versus retaliation opposition into an opposition between compensation and the lack of compensation, in order to demonstrate that the transformation is analytically valid, it is necessary to provide evidence that some aspect of the lack of compensation category does not imply retaliation. Furthermore, the demonstration of the validity of the transformation is not only relevant to the discussion of oppositional types but also to the placement of *jujur* and *ambil anak* marriage in the oppositional structure. For, if and only if the opposition between compensation and the lack of compensation is valid is it possible to articulate the opposition between *jujur* and *ambil anak* marriage to that between *adat Katumanggungan* and *adat Parapatih*. The desired evidence for this demonstration

is to be found in the South Sumatran legal manuscript UB Cod. Or. 12.268.

Fasal 2 (the second paragraph or article) of this manuscript says that it is presenting the customs of *Katumanggungan*. The first portion of the fasal describes the geographical spread of these customs from the Minangkabau homeland through South Sumatra. Then follow eleven numbered rules entitled "raja segala undang", i.e., the prince of all law(s), or if I am permitted to make a pun, "the *princeple* laws". The second and third of these rules lists the classic statements:

Jikalau membunuh di bangun
jikalau meluka di pampas

if there is killing the *bangun* is to be paid
if there is wounding the *pampas* is to be paid

Immediately following these eleven rules there is a second list containing six rules. This list has two names "adat hamba di tanahtuan", the customs of slaves (or servants?) in the land of masters or "lawan raja segala undang", that which is opposed to "the prince of all laws". The first two of these six rules are as follows:

Jika membunuh tidak membangun
jika meluka tidak mempampas

if there is killing then the *bangun* is not paid
if there is wounding then the *pampas* is not paid

Though this opposition between the eleven rules and the six rules seem to evoke the Minangkabau compensation versus retaliation opposition, the rest of the fasal indicates otherwise. There one finds the procedure for applying the rules. The "raja segala undang" are to be used only when certain formal criteria are met regarding evidence and the testimony of witnesses. If this is not the case then the "lawan raja segala undang" are applied. In other words, the opposition is between paying compensation and dismissing the case because there is insufficient evidence or testimony to identify the guilty party. Thus we have an opposition between compensation and the lack of compensation.

One question that inevitably arises concerning these two sets of rules is why one list has eleven elements and the other only six. Or more simply, what happened to the other five rules? The answer, I believe, is to be found in Fasal 5 which is entitled “kata adat lembaga perkara di bunoh tidak terbangun” (the words of usage and custom in cases of killing when the *bangun* is not to be paid for the killed person). Briefly, the *five* conditions of this fasal are as follows: 1) death (execution?) resulting from the violation of the orders of the “Company” or those agreed upon by “Company” and prince; 2) death resulting from a state of war; 3) killing of paramour of wife by husband, having caught the paramour and wife *in flagrante* (may also apply to killing of wife in similar circumstances); 4) killing in the dark; and 5) execution as punishment for sexual crimes. The opposition of these five rules with the six rules of Fasal 2 is based on the fact that the rules of Fasal 5 apply when the cause of death (i.e., the killer) is known while the six rules of Fasal 2 apply when the killer is unknown, even though in both compensation is not to be paid.

Thus the evidence to be found in the legal manuscript Cod. Or. 12.268 indicates very clearly that the Minangkabau opposition between compensation and retaliation has been modified in such a way that the compensation element remains more or less the same while the retaliation category has been expanded to include all categories in which compensation for killing need not be paid, i.e., retaliation (= killing in war), dismissal of the case through lack of evidence, execution by authorities, killing by accident (in the dark) and the *crime passionel*. In other words, the opposition has been changed from one of the Hegelian type to one of the marked-unmarked type as it is transferred from the Minangkabau to South Sumatra. When one recalls that the same opposition was neutralized as it was transferred from the Minangkabau to the Malay Peninsula, it is possible to conclude that the attitude towards compensation, which is one of the key aspects of the Minangkabau opposition between *adat Katumanggungan* and *adat Parapatih*, is the least stable when it is transferred to other cultural settings.

Returning to Table 1 on page 79, one notes that while there is a strong association between *adat Katumanggungan* and patri-stress on the one hand and between *adat Parapatih* and matri-

stress on the other, there is also an apparent association between compensation and the practice of commoners, and another association between the lack of compensation and the practice of aristocrats, both for the Minangkabau and the people of South Sumatra. Though this second association is well established for the Minangkabau, the situation is somewhat more ambiguous in South Sumatra. In the first place the only direct and explicit evidence from South Sumatra relating the aristocratic/commoner opposition to other oppositions derives from a statement made by one of Jaspán's informants which associates *adat Parapatih* with the behaviour of kings. However, there is some evidence dealing with the matter to be found in the previously discussed legal manuscript UB Cod. Or. 12.268. There, in the five rules dealing with cases of killing in which the *bangun* need not be paid, one finds mention of the right of high authority to kill without paying the *bangun*. Perhaps even more relevant is the fact that the list which includes this prerogative is set aside from another list also indicating when compensation need not be paid but which occurs in a *fasal* bearing the heading "*adat Katumanggungan*". Similarly, the classic situation of legitimized retaliation, i.e. killing in war, is also separated from the list of rules bearing the heading "*adat Katumanggungan*".

This pattern is indicative of a general trend in South Sumatra, i.e., that severe punishment (especially the death penalty) for murder is often associated with high authority in general and the colonial authority in particular (cf. Moyer 1975: 75-77). However, as the manuscript indicates such authority is excused from paying compensation even when the authority in question is not retaliating for a previous crime. Thus in general in South Sumatra it appears that the practices of high authority are contrasted with those of lower ranking individuals by an opposition between punishment and compensation. Thus while in vaguest terms the compensation/lack of compensation opposition is associated with the aristocratic/commoner opposition, in this context the no compensation element takes on a punitive dimension.

Curiously, there is an inversion of this pattern inside that part of manuscript UB Cod. Or. 12.268 labelled "*adat Katumanggungan*". There one finds the word "*raja*", i.e. prince, used in association with situations in which compensation must be paid

and the word “hamba”, i.e. slave or servant, used in association with situations in which compensation need not be paid. Though difficult to explain it must be noted that here we have a total rearrangement of the oppositional pattern that we have been working with. First, with respect to *only one* side of the *adat Katumanggungan/adat Parapatih* opposition we find two oppositions (compensation/lack of compensation and aristocratic/commoner) that are usually employed to distinguish the elements of the main opposition from each other. And secondly, the association between these two secondary oppositions is the reverse of that occurring in other contexts.

On the Malay Peninsula it is possible to discern an association between the compensation/lack of compensation opposition and the aristocratic/commoner opposition. In spite of the fact that the compensation/no compensation opposition is neutralized in relation to the *adat Katumanggungan/adat Parapatih* opposition the contrast is to be found in some law texts. Take, for example, the *Undang Undang Melaka* which may be described as an aristocratic code (or at least a relatively aristocratic code). In Fasal 4 one finds the following: “the law declares that people involved in killing one another, murder, or stabbing or slashing or beating people, or robbing or stealing others’ property.... are all culpable and shall be sentenced to death according to *kanun* law” (Liaw, 1976, pp. 68-69). By way of contrast the less aristocratic laws of Sungai Ujong (Winstedt & P. E. de Josselin de Jong, 1954) in Negri Sembilan present the traditional compensation statements.

Salah chinchang memberi pampas

Salah bunoh memberi diat (Winstedt & De Josselin de Jong,
p. 45)

Whoever is guilty of wounding gives the *pampas*

Whoever is guilty of killing gives the diat

[blood money]

Thus while on the Malay Peninsula there is no apparent association between the *adat Parapatih* and *adat Katumanggungan* opposition and the compensation/lack of compensation opposition there appears to be some association, though perhaps tenuous, between the aristocratic/commoner opposition and the com-

pensation/lack of compensation opposition. If one accepts at least the possibility of these associations, then an interesting, though perhaps hypothetical, hierarchy of oppositions can be generated that applies to the Minangkabau, South Sumatra, and the Malay Peninsula. Of the four oppositions listed in Table 1 there appears to be a relatively strong association between *adat Katumanggungan* and patri-stress and between *adat Parapatih* and matri-stress on the one hand, and between compensation and the practice of commoners and between the lack of compensation and aristocratic practice on the other hand. Or in tabular form one gets the following pairs:

adat Katumanggungan/adat Parapatih	aristocratic/commoner
patri-stress/matri-stress	lack of compensation/compensation

In Minangkabau these pairs articulate in one fashion. In South Sumatra the articulation pattern is inverted. On the Malay Peninsula the articulation occurs in the same way as in the Minangkabau but the fact of articulation apparently neutralizes the opposition between compensation and the lack of compensation.

Though this formulation is still hypothetical it does have the advantage of providing a conceptual framework for analysing and comparing legal variation and differentials in patri- and matri-stress in the Malay speaking world. With the exception of the opposition between *adat Katumanggungan* and *adat Parapatih*, the oppositions that make up this analytical framework are best seen as opposed trends and not as hard and fast categories.

Furthermore, this model is useful in that it suggests certain directions for structural analysis in general. The initial phases of the analysis suggested that one was dealing with a simple list of four oppositions in three distinct areas. However, as the analysis progressed it became apparent that there was a hierarchy of oppositions in which the original set of four oppositions was divided up into two groups of two oppositions. Furthermore, this hierarchal dimension only became apparent when a comparison between several related but nonetheless distinct groups was undertaken. I suspect, therefore, that many structural analyses that have presented neat, elegant, and tidy lists of oppositions that are arranged in two columns, may in fact conceal or obscure an elaborate hierarchy of internal relations among the component oppositions.

Though it may be possible to work out the details of the hierarchy within the confines of a given culture, I feel that the chances of success would be greatly enhanced if comparative material were to be used. However, if the net is cast too widely one risks the possibility of trying to work out the pattern in an excessively diverse range of data. Thus the results of the above research suggest that the comparison should not be conducted on a grand scale initially but within a small group of related but distinct groups.

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This paper is a somewhat revised version of part of an internal publication of the Instituut voor Culturele Anthropologie en Sociologie der Niet-Westerse Volken of the University of Leiden. The author wishes to thank the Netherlands Organization for the Advancement of Pure Research for their support of the research on which this paper is based.

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