

REVIEW ESSAY:
VILLAGE JUSTICE IN THE NETHERLANDS (*)

A review of G.C.J.J. van den Bergh and others, Staphorst en zijn Gerichten (Staphorst and its Popular Tribunals). Amsterdam: Boom Meppel, 1980.

John Griffiths

Staphorst is a farming village in the Netherlands which has a national (and even international) reputation deriving from several well-publicised incidents in which the norms of village law have been enforced by a volksgericht, a form of indigenous popular justice. The village is associated with a particularly strict splinter of the Dutch Reformed Church and is known for its conservatism on matters of social and religious behavior (many Staphorst women still wear "traditional" dress, for example, and some villagers have refused to participate in social insurance programs, have rejected inoculation against polio, etc.). (1) While the norms and practices for which Staphorst is almost a household word in the Netherlands are also to be found in many other villages and are known to have been very widespread in rural areas of Western Europe until quite recently, there does seem to be something peculiar about their tenacity in Staphorst.

This book is the report of an historical, anthropological and legal research project concerning Staphorst and its volksgerichten. The following questions are central: What is special about Staphorst, how did it get that way, and how does it maintain itself? Under what circumstances do volksgerichten take place, what exactly is entailed, and what is their "function" in village life? The relationship between Staphorster norms and institutions and those of the "official" legal system also receives prominent attention.

(*) A Dutch version of this review, in general shorter, but with a slightly greater emphasis on its relevance for legal historians, appeared in Tijdschrift voor Rechtsgeschiedenis, 52:87 (1983).

The book is the product of a curious and interesting history which deserves mention for its own sake and which helps to explain some of the book's weaknesses. In 1967 a group of law professors, lawyers and law students came together for a conference on the future of legal scholarship, under the influence of a general sense of unease with the dogmatic, formalistic conservatism characteristic of Dutch academic law. While the larger part of the group turned out to be primarily interested in legal analysis and philosophy, there were others who wanted to engage in empirical research in order to see what a social-scientific approach to matters legal had to offer. The primary author of the book, van den Bergh, had earlier collaborated in a small report on the relationships between volksgerichten and the criminal law (van den Bergh & van Binsbergen, 1966) in which among other things a large number of modern examples of volksgerichten in the Netherlands were collected from the popular press and systematically examined. When he suggested to a number of colleagues that a research project in Staphorst focussing on the interaction between volksgerichten and the criminal law might be interesting, the suggestion was quickly accepted and van den Bergh was made the coordinator of the project. With the help of a grant from the Dutch Foundation for Pure Scientific Research (ZWO), an anthropologist and a lawyer were hired to do participant-observation and historical and archival research. Two students analyzed the reporting of three Staphorst volksgerichten in nine national newspapers. Van den Bergh and two other lawyers from the original group were also responsible for some of the research and for writing parts of the book. Overall editing, the introduction and conclusions, and part of the legal-historical material are from van den Bergh's pen, and while this was a collective effort he is plainly the one who was "more equal than the others". He is a professor of law, specializing in legal history and in Roman law.

The project ultimately took more than twelve years from start to finish. The field research took a little more than a year (1969), and all of the data-collection was completed within the first two-and-a-half years, that is, by the end of 1970. At this point the research grant expired and the participants in the project were confronted with a number of unpleasant and more or less typical circumstances: while the data-collection had gone according to plan very little had been done on the analysis and presentation of the assembled material. The researchers found that they lacked the descriptive and explanatory theory needed to deal with their data. No time or resources had been reserved for this part of the enterprise. They themselves were heavily involved in other matters. That the project was "interdisciplinary" - with the problems of co-ordination and integration thereby

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entailed - only made matters worse. It ultimately took ten more years to see the project to completion, which in itself is not surprising. What is surprising - and admirable - is that despite their original misjudgments the participants had the stamina to finish what they had begun. Their all-too-common faults of planning - so common that one has to regard them as structural in character (2) - did not lead to the all-to-common result: unpublishable masses of undigested data. I recount this history here not because there is anything unique about it but precisely because the sense of déjà-vu is so painful that I think we should be able to generalize about these experiences. The epistemological confusions and resulting disillusionments which commonly follow upon such a beginning are by now well-known. They deserve wider and closer attention than they generally receive. Neither naive optimism at the outset of a "law and social science" or "interdisciplinary" venture (3), nor naive despair at the ensuing difficulties and disappointments, are really excusable any longer.

The centerpiece of the book, in the authors' opinion, is a description of 23 cases of volksgerichten between 1885 and 1971, followed by analyses of these cases, of the nature of the volksgericht as sanction and its place in the social control system of Staphorst, of the "legal" character of the volksgericht, and of its historical background. The presentation and analysis of the cases is preceded by two chapters which describe the history and socio-economic circumstances of the village and its social system in some detail. Local conditions which facilitate non-"legal" social control receive special attention. Following the cases and their analysis are chapters - based on official archives and police statistics - concerning criminality in Staphorst (low) and the reaction of the local criminal officials to volksgerichten (sporadic and formal/repressive (4)); on the inconsistency of the ideas and practices involved in volksgerichten with those of the official legal order and the extent to which the degree of conflict could be kept to a minimum (through better mutual understanding); and on the reporting in the national press of volksgerichten in Staphorst (on the whole, reasonably accurate and not overly sensational). Because these latter chapters are, in my opinion, not very interesting, and in any event are poorly integrated with the rest of the book, I shall not discuss them further in this review.

The social organization of Staphorst

Staphorst is a village with a population (1970) of about 5000, of whom about 1200 live in an urbanized village center and are re-

garded by the authors as "allochtones". The latter figure only marginally and incidentally in the book, and in this review when I refer to Staphorst, the village, etc., I have only the "autochtone" Staphorsters in mind. Staphorst lies in the north-west corner of the province Overijssel, somewhat to the north of the town of Zwolle. It is one of the most rural villages in the Netherlands, with over 50% of its male labor force employed in agriculture on about 1000 farms (about a third of these, however, represent secondary activities of Staphorsters who have had to give up farming as a primary source of income). Dairy farming and cattle raising predominate. The farmers are on the whole progressive and keen. Staphorst is a relatively prosperous village.

While there are many more or less similar villages in the Netherlands - including a number where *volksgerichten* are known to have taken place (see e.g. van den Bergh and van Binsbergen, 1966) - Staphorst does seem unique in the extent of its closedness and the strength and stability of its indigenous social control. (5) While the physical isolation which characterized the village until well into this century no longer obstructs contacts with the outside world, these are in fact very limited even so far as other villages in the immediate vicinity are concerned. The villagers' rejection of TV, and of sport, clubs, café-life (except for unmarried men), and other modern forms of social contact (6), means that Staphorsters are cut off from many of the normal channels of communication to which others in Dutch society have daily access. Social isolation is reflected in a very high rate of endogamous marriage (over 70%) and promoted by differences in religion, dialect, morals and dress. Despite all the pressures for social change deriving from economic changes (such as the availability of new sources of income), the presence of the urbanized village center, the intervention in village life by various agencies of the state (law, local government, police, education, etc.), and the like, Staphorst seems to have a remarkably resistant social system. How is this possible?

The specific history of the village is probably important. Staphorst was most likely settled sometime in the 12th or 13th centuries as a land-reclamation village, in which free colonists brought in from elsewhere obtained rights to the land which they reclaimed. From the beginning, then, the Staphorsters probably lived in a somewhat tense and isolated relationship to the inhabitants of the surrounding areas. The entire area of the village was marshy to begin with and became more so as a result of removal of the peat which had held the water as a sponge. This had two important results: In the first place, Staphorst was difficult to reach until in the 19th and 20th centuries the drainage and roads were considerably improved. In the second place, the

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village had to be moved twice, and the second move (in the 18th century) to the present location resulted in its present social-geographic structure, with farms densely packed along a single road (de diek; I shall capitalize Road throughout, to emphasize its status as a proper name).

The Road plays a central place in the social and economic life of the village. Because all farmhouses had to be built along it (for reasons of access to the different sorts of farmland on the two sides), it soon acquired a very high concentration of farms. This increased still further once there was no more space available along the Road itself and new farms had to be built behind the existing ones: there are now sometimes as many as four farms immediately behind each other, all sharing a common access to the Road. All public facilities are on the Road. All traffic to and from the village must go over it. It serves as an artery for all social intercourse: boys and girls parade along it sizing each other up, the formal procession to the church on Sunday moves along it, etc. The Staphorster's social map of the village has the Road as its fixed reference point and identifies socially-relevant distinctions in terms of location and direction along the Road.

As is typical for rural villages in this part of the Netherlands (7) the village consists of a number of "neighborhoods", both in the sense of distinct named territorial units - identified by their location on the Road - and in the sense of ego-centered networks. In the past these afforded important rights and implied important duties, especially at moments of special need. This ancient form of rural social organization seems to have remained more vital in Staphorst than in most other villages in the Netherlands.

If the territorial organization of Staphorst consists of farms, the Road and neighborhoods, the non-territorial organization consists of extended families, the church and the age-set of unmarried young men known as the padjongens. The church has successfully resisted most forms of voluntary social organization, such as clubs or associations. (8)

Virtually all adults in Staphorst marry and divorce is essentially unknown. Families are fairly small (with an average of about 2 children per family). The family is a productive unit, one in which (as is common in farming communities) the wife's position as farmer's wife in the division of agricultural labor has always been far more important for her social status than her position as housewife. In the rearing of children, great emphasis is placed on the Staphorst community as reference-group; children directly experience the central role of the community from an early age (e.g., in connection with the fulfilling of neighborhood

duties). Because three-generation families are common (at least a third of all households), grandparents have an important role in rearing children, which entails among other things that many children are heavily exposed from an early age to norms and values dating from a period two generations earlier.

Over 90% of the villagers belong to a particularly severe and fundamentalist splinter of the Dutch Reformed Church. Membership is a social, not an individual affair, and entails conformity to a number of rules concerning public behavior: Sunday is a day of rest (even bicycling is forbidden); dancing, sport, fairs and other worldly enjoyments are forbidden; most games are forbidden (exception is made - except on Sunday - for a few traditional games); theatre, film and TV are forbidden; insurance and inoculation are forbidden. (9) Apart from their ideological justification, there is no social difference between religious and other social norms (such as neighborhood duties, the traditional dress still worn by many women, etc.) - that is, the religious norms are integrated into daily social life. The orientation of religious life is almost entirely internal: the church has little contact with the Dutch Reformed Church as a whole, and gives, for example, no support to missionary or charitable activities in developing countries.

Because public behavior is concerned, adherence to church norms gives expression to the sense of community. In this regard, the weekly procession along the Road to and from church is a particularly striking manifestation of the unity of the autochtone villagers. The religious leaders have a special interest in preventing and sanctioning deviation from village norms, since the visible unity of the church community is essential to the maintenance of their status in the village. These leaders are, in particular, the deacons of the church, mostly strictly orthodox well-off farmers. Via strong positions in the local government and in the governing bodies of the local schools, and via the activities of the church itself, they can exert a powerful influence on life in the village.

The most important form of social organization in Staphorst, so far as direct involvement in volksgerichten is concerned, is the traditional age-set of the padjongens, consisting of all unmarried men between 15 and 30. This aspect of Staphorst social structure has apparently gone largely unchanged at least over the last few generations. Every young man belongs to a small group with 3 to 5 members, all of roughly the same age. These groups are organized into five territorial divisions. Each group has an informal leader, whose influence is, among other things, important whenever a number of groups must decide what to do in circumstances where traditional norms are not entirely clear. The fre-

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quency of contact within the groups is very high (3-4 times a week). A great deal of time is spent discussing other people, cars and motorbikes, and especially the opposite sex. Among themselves, the padjongens set great store by a very coarse and "masculine" sort of behavior in which a (feigned) indifference to most subjects and to each other is particularly prized. They drink a great deal of beer and race about on their motorbikes. The padjongens lack social, economic or religious status and as a consequence enjoy a much greater degree of freedom than other villagers. They also have more contact with the outside world (via clubs, TV, and secondary school in a nearby city). Marriage marks a profound divide: a married man no longer visits a café or watches TV; he will not belong to a football club (as a few of the padjongens do); his hair and clothing reflect his acquisition of a certain standing in the community.

Although their structure is very loose, the groups do engage from time to time in collective action to protect their common interest. Frequently this takes place within the context of a volksgericht, but the padjongens have also been known to come into action against the church and its leaders when their interest in maintaining the traditional occasions for contact with the opposite sex, for example, were threatened. On the whole, however, their conception of their self-interest coincides with the norms of the church and the village community.

The social control system of Staphorst

Most social control in Staphorst (leaving aside the interpersonal and intrafamilial levels of social organization) takes place through the operation of a community-wide gossip system. Gossip is, according to the authors, almost entirely an activity of women. (10) It takes place both by telephone (virtually every farmhouse has one) and by personal contact, primarily within the neighborhood or at the occasion of inter-family visits. In addition, there are three gossip centers in the village: farm-houses more or less equally distributed along the Road. The three women involved are all between 50 and 60 years old and somewhat "impartial" - not in the sense of any special integrity, but because they belong to overlapping networks with all the other women who visit them and because they know so much. Women choose a center on grounds of social relationships rather than geography, and once a choice has been made, they stick to it. The gossip-centers are to a very large extent the locations where the community consensus is reached which precedes a volksgericht.

Individuals - or families - interact with the gossip system through their social networks, that is, ego-centered sets of overlapping social relationships such as that of neighbor, friend, relative, co-member of the church council, etc. The continual flow of information to and about an individual connects with the general gossip system through his personal network, which can vary in extent and in the quality of the relationships involved. The more extensive the network and the tighter the relationships of which it consists, the stronger and stabler an individual's social position. From an extensive network one comes quickly to learn of any unfavorable gossip about one in the village, and via such a network it is possible to manipulate the gossip system to one's advantage. Thus the larger and more effective the network, the smaller the risk of suffering from unfavorable gossip. The social position of a family depends on active participation in the gossip system, in particular to the end of neutralizing unfavorable gossip with counter-information before it causes damage. Failure to do so leads to a decline in one's public reputation and ultimately to gradual loss of social contact. On the other hand, a family with many strong social relationships can permit itself somewhat more freedom than one with fewer.

The sanctions of the gossip system operate largely via personal networks: damage to reputation reflects itself in damage to one's network. At first, diminishing social contact will be felt at the periphery of the network in less important relationships where a reduction in frequency and intensity can take place without great disruption. Such loss is not necessarily or most importantly to the basic structure of the network itself - actual contacts with the same set of people may continue to take place - but to the degree of confidentiality and loyalty involved: one will hear less about developments in the gossip system which affect him, and will receive less support there than otherwise might have been expected. The process remains always reversible: an individual who is appropriately sensitive to the social judgment about him contained in the reaction of his network to the communications of the gossip system can take the indicated steps, both by reforming his offensive behavior and by manipulating his gossip system more effectively through injecting it with counter-information. In general, Staphorsters are of necessity and by training sensitive to the gossip system and know how to react appropriately - hence its effectiveness for social control. Uncorrected, however, the vicious circle of contact-loss in one's network leading to greater vulnerability and hence to yet further contact loss - a process of great complexity which can take place over many years - leads to a total social isolation. Staphorsters say of such a person: "He really does not belong to the community".

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Volksgerichten

A volksgericht is the most extreme and formalized sanction available in the social control system of Staphorst, and as such is apparently looked upon by Staphorsters themselves as the lynch-pin of their normative order - even though, in recent years at least, very few volksgerichten have actually taken place (15 in the 25 years from 1946 to 1971). (11) In general a volksgericht will have been preceded by the normal operation of the gossip system, which for some reason proves inadequate. (12) In some (presumably small) proportion of such cases a volksgericht is mobilized. (13)

It is the padjongens who carry out the activities involved in a volksgericht. A volksgericht takes place when several groups of padjongens meet and decide to impose one of a number of more or less traditional sanctions on someone whose behavior has been the subject of the attention of the gossip system. (The authors are rather vague about the number of individuals or groups usually involved, and do not discuss what determines the selection of participants. It is clear that nowhere nearly all padjongens take part in a typical volksgericht.)

The padjongens generally act on behalf of the community as a whole, or at least of its influential adult members, in organizing a volksgericht. (14) While the church and other community leaders are inclined to explain volksgerichten away, for the outside world, as the pranks of rowdy youths, thereby deflecting accountability away from the responsible members of the community, the fact is that the community and its leaders are fully in control. In many cases, this control consists simply of making it clear that the padjongens are free to act. In other cases, the involvement of adults (including deacons of the church) is more direct, and more or less specific instructions are sometimes given. There is no need for the adults of the community to pressure the padjongens into action, since a volksgericht is in itself appealing for at least two reasons which have nothing to do with maintaining community norms or protecting their own self-interest: The element of rowdy mischief is strongly emphasized in a volksgericht, which gives it a strong appeal simply as entertainment in a community where the opportunities therefor are otherwise very limited. And participation functions as a sort of initiation rite - anyone who did not take part would not really be a full member of the group.

The occasions and sanctions of a volksgericht are limited and specified by village custom. In the past, one of the most fundamental sanctions of village justice was expulsion of those who committed particularly intolerable offenses. This sanction of dak

afdekken (destroying a house by removing its roof) is apparently described as early as Tacitus, and although no longer a recognized "legal" remedy since the end of the 18th century, has in fact taken place several times in Staphorst within recent memory. In 1898 a group of adults and padjongens broke up the house of a hunter-poacher who had shot and killed a villager near the latter's duck-pen. The poacher and his family fled. In 1945 five members of a family were arrested for black market activities and collaboration during the occupation; when they returned they found one house plundered and destroyed and the other empty of their possessions and inhabited by others. In 1961, as we shall see, the objects of an especially dramatic volksgericht were threatened with dak afdekken should they complain to the police. The authors tell us no more than this about dak afdekken, so that its exact location within the social control system of Staphorst as a whole (especially at the present day) is obscure, as is its relationship to the volksgerichten with which the book is concerned. Plainly, however, the occasions, participants and processes are different from those in the volksgerichten carried out by padjongens.

By far the most important occasion for a volksgericht in this century has been when a young man has made a young woman pregnant but refuses to marry her. Premarital sexual access to an openly acknowledged and publicly recognized partner is characteristic of rural villages like Staphorst (such freedom is limited, however, to one partner: promiscuity and unfaithfulness are not accepted). A corollary of this freedom is the obligation to marry when the woman becomes pregnant (compare Overdiep, 1955). Both the padjongens and the community as a whole are greatly interested in enforcement. Having decided among themselves that something must be done in such a case, the padjongens go to the house of the young man concerned in the middle of the night, capture him (by force if necessary) and ride him on a wagon, accompanied by loud singing, to the house of the pregnant woman. There he is forced to exchange promises of marriage with her; sometimes these are accompanied by an improvised mock-ceremony of marriage. Although this sort of volksgericht has apparently not taken place since 1946, the total social control system surrounding the norm in question is extremely effective, as appears from the facts that, while at the time of marriage more than half of all women are pregnant, in only three cases in this century has a Staphorst mother been unmarried at the time of birth. In one of these, no volksgericht was held because of the mother's poor reputation - the couple married in any case later on - and in the two others because the father's identity was unknown.

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If a young couple split up after having had a steady relationship and one of them marries another person within a year, the unmarried one may be visited by the padjongens. One or both of two "sanctions" are dealt out. Wagentrekken involves removing wagons from various nearby farms (against the resistance of the owner, if necessary) and taking them apart in front of the house of the abandoned person. This apparently derives from the custom of bringing zoorholt (dead, infertile wood) as a symbol of the infertility of the abandoned person, or, at least, of the broken relationship; the zoorholt would be accompanied by poetic expressions of sympathy and hope, and sometimes by a symbolic expression such as a green twig. A scheeuw is a straw man or woman which represents the unfaithful partner; it is hung at night high in a tree in front of the abandoned person's house, usually on a partly sawn-through branch to hinder removal. These visitations take place on a Saturday evening, so that the results are visible to the entire community on its way to church along the Road the following morning.

Marriages which deviate from the normal pattern of two young and previously unmarried persons attract special attention in Staphorst, and may be accompanied by the placing of an "arch of honor" in front of the bride's house. Large groups of people come to watch the bridal couple pass under the arch on their way to the city hall for the marriage ceremony. The padjongens invest considerable energy in making avoidance of the arch difficult.

The behavior involved in a volksgericht, while accompanied by a good deal of rowdiness and even violence, is strongly institutionalized. A volksgericht is not a personal affair of the individuals involved, but a public affair of the community. Especially in the case of failure to marry a woman one has made pregnant, the conditions under which a volksgericht can take place, and the form it takes, can be precisely described in terms of a number of specific norms. Nonetheless, the volksgericht is no static phenomenon, and the authors give a number of instances of change in the Staphorst "tradition". The use of the "arch of honor", for example, while common elsewhere in the surrounding region, seems in Staphorst to date from 1942. If the "legal judgment of the community" is more or less uniform in a given case, the padjongens are little more than executors of what the community has already decided, and their discussion of the case among themselves will be limited to practical details such as the time and place of the sanction. In other cases the appropriateness of a volksgericht or the choice of a sanction can require decision-making by the padjongens, influenced, of course, by adults. Here the informal leaders play a prominent role, proposing courses of action and gathering support. In at least one case

the padjongens held an explicit vote on the choice of sanction.
(15)

The most interesting and dramatic example of innovation concerns adultery. In 1961 a volksgericht took place which had no specific precedent in Staphorst and which attracted the attention of the national and even international press. Two married persons had had a relationship with each other for several years, the man visiting the woman with increasing regularity. Both of their reputations were dubious to begin with. As their relationship became generally known their reputations suffered further and they became increasingly isolated. When rumors of adultery began to circulate they were powerless to counteract them. Talk of a possible volksgericht began as early as 1959 and the social pressure on the two increased - but without effect. Then, in 1961, the woman's husband, who had a very solid reputation, tried twice (halfheartedly) to commit suicide, and began openly to accuse his wife of unfaithfulness. A parent of one of the padjongens observed in the latter's presence that "those two ought to be put on a wagon," and the youth repeated this to others, whose parents, it then appeared, had also indicated that something should be done. A group of twenty padjongens voted (15 to 5) for the wagon as opposed to the "arch of honor": the two were to be driven around the village on a wagon and forced, at the end of the trip, to promise to end their relationship for good. The padjongens agreed to tell the adults only on the day of the volksgericht and to leave the further planning to the leaders of the four groups concerned - this in order to reduce the risks of discovery by the police. The leaders met in the house of one of them (whose father was informed of what was to take place), and planned the capture of the two "adulterers". Around midnight of the appointed day the two "adulterers" were put on a wagon, their resistance (especially the woman's) having been forcibly overcome. In the meantime, the lights were on in most of the village and floodlights had been improvised with auto headlamps. About 1000 people were out to watch the wagon, accompanied by about 100 padjongens, as it made its way elaborately the length of the entire village and back (8 km - the trip took about 2½ hours). At the suggestion of two deacons of the church, the route was altered at the last minute to go through the village center, past the house of an autochtone, married Staphorster who was suspected of a relationship with a married woman - as a warning. The minister was present and did nothing. The local doctor busied himself making photographs. Neither one "thought of" calling the police. (16) At the end of the procession the pair was asked to promise to end their relationship and, although both denied that there was any question of adultery, when threatened with a dunking in the canal on an ice-cold November night, they both agreed. Neither was pre-

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pared, later on, to make out a complaint at the request of the police (they had apparently been warned of reprisals - dak afdekken - should they do so). The volksgericht seems to have had the intended effect of putting a stop to the "adulterous" relationship and restoring the two threatened family relationships. (17)

The precedent of 1961 was to some extent followed in two cases of suspected adultery in 1966 and 1967. In the first case, the padjongens decided to sanction the pair with wagentrekken. But the police arrived on the scene and broke up the volksgericht before the wagons could be dismantled at the house of the man and the woman. In the second case, the padjongens attempted to place an "arch of honor" in front of the house of the bride of a man whose father was suspected of adultery. The padjongens knew that the whole community would understand that the real object was the father (who himself was too well-protected by forewarned police to be subjected to a volksgericht). The police got wind of the activity and put a stop to it. Nonetheless, the message was effective and the suspicious visits by the groom's father stopped. Later both families moved to a remote area outside the village proper, where their behavior is less subject to public scrutiny.

While the authors' focus is upon Staphorst itself and its volksgerichten this is not a mere ethnography. Their attention was drawn to volksgerichten in Staphorst because they consider volksgerichten as such - seen in historical and comparative perspective - to be phenomena of general theoretical interest. Staphorst is merely an available occasion for research with far more general ambitions. How, then, do the authors conceive the object of their interest? A volksgericht is a part of a continuum of group activity in village life, whose aspects are in general less differentiated than in modern, urban life. First of all, social control itself is relatively undifferentiated from other sorts of group activity (politics, education, entertainment). And secondly, volksgerichten are only partly differentiated from the rest of social control. Within the whole of village social control activity, degrees of institutionalization (non-spontaneity) of process, sanctions and occasions can be recognized, together with degrees of differentiation of the norms applied, that is, difference in the extent to which they are locally regarded as distinctively "legal". By a volksgericht the authors refer to an instance of village popular justice which is in these senses fairly highly differentiated, a state of affairs they term "para-legal". So conceived, the institution is of great interest historically, representing as it does a sort of adjudication often supposed (18) to have been more prominent - or at least to have enjoyed more official recognition - before the liberal revolutions of the 18th and 19th cen-

turies. It also remains fairly widespread in the remoter rural areas of Western Europe, as the authors have shown in this and other (van den Bergh and van Binsbergen, 1966) works. In the more northerly Netherlands, failure to marry a woman one has made pregnant is the most common occasion. In Limburg and in England, France, Belgium and Italy, it seems that remarriage of a widower or widow is far the commonest occasion. The authors are inclined to attribute the difference to the fact that the enforcement of a promise of marriage remained in theory possible in Roman-Dutch law to a far later date (1810) than in the rest of Europe, so that the enforcement of an (implicit) promise of marriage by a volksgericht can be seen as a "legal survival". (19)

Discussion

The above is a fairly full recapitulation of what is to be found in the book under review. What can one say about it, beyond applauding the authors for their interesting contribution to the body of ethnographic information on this sort of thing? At the risk of belaboring the more or less obvious - and of being considered ungrateful or unfair - I should like to comment first on a few major weaknesses of the book, so that I can finish by emphasizing some of its special strengths.

Most of the book's weaknesses are directly traceable to, and explained and perhaps excused by, the research biography with which I began this review. At the heart of the matter is a confusion - still not resolved by the time the book itself was complete - about the nature and object of the undertaking. The authors have not been able to make up their minds whether they are approaching their subject from the external or the internal perspective - whether the question being addressed is what the nature of the phenomenon is, or whether the question is rather, how that phenomenon deserves to be characterized and assessed from the point of view of the national legal system and the general legal ideas on which it (claims to) rest. The confusion begins with the motives which led to the research. Given the concrete circumstances out of which the project arose, it is hardly surprising that part of the motivation for the research lay in its supposed potential for contributing to the development of legal thought: lawyers would profit from exposure to the possibilities of "the modern research methods of the social sciences," and the research would therefore have an important didactic purpose. On the other hand, the project was also conceived as having a scientific purpose. Sociologists and anthropologists had not taken phenomena such as volksgerichten seriously; this project would be the first legal-anthropological research in the Netherlands and help contribute to the development of the sociology of law. The

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authors' adherence to an external perspective appears from their serious attention to "legal" (or at least "para-legal") phenomena which, "legally" speaking, are either of no "legal" relevance at all or positively "illegal". More generally, it underlies their rejection for empirical, scientific purposes of the ideology of legal centralism - the idea that the state has a monopoly of everything which can be regarded as "law". For the authors it is clear that, empirically speaking, Dutch society exhibits not a monolithic but a highly pluralistic legal order, and that empirical research into the legal aspect of social life must adopt the perspective of legal pluralism. (Compare Griffiths, 1981; Moore, 1973.) On the other hand, they remain continually bothered by the typically internal question: is it really "law"? or, in other words, how ought the phenomenon of volksgerichten to be regarded and handled by the official legal system? They keep coming back to this issue - as lawyers it plainly will not let them loose - and a considerable amount of their discussion of volksgerichten makes no contribution to empirical theory concerning the phenomenon but addresses itself to this problem of (internal) legal theory. (20)

A second weakness of the book is its almost complete lack of explicit attention to relevant theory and parallel research in the sociology and anthropology of law. Partly this derives from the cut-off date of 1972, though this is no excuse for the lack of any reference, for example, to Schwartz (1954), whose many points of similarity and contrast, both in approach, in findings, and in proffered explanations are striking. Nor is there any reference to Peters' (1972) study of social control via the "disorderly" conduct of groups of young men (let alone to the wider literature on age-set organization).

No apparent use is made of classic treatments of the influence of social relationships on social control processes and their outcomes such as Gluckman (1955) and Gulliver (1963). And while they cite the issue of the Law and Society Review in which Moore's (1973) discussion of social control in the "semi-autonomous social field" appeared (surely Staphorst is an example par excellence), no reference to or apparent use of that article enriches the authors' conception of their research problem or analysis of their data. Even such a central concept in the Dutch adat law tradition as rechtsgemeenschap (legal community) (see van Vollenhoven, 1901, 1982; Griffiths, 1983b) is nowhere to be found - nor any of the theoretically and empirically rich literature on legal pluralism in which it figured. The authors, in short, have analyzed and presented their data as if no one had ever thought about the various aspects of this kind of situation before. I think this is a shame. It impoverishes their contribution to the literature, deprives them of a number of useful concepts and strategies of

analysis, and excludes the possibility of insight through comparison. While their findings are, I think, of great general importance, they themselves have little or nothing general to say about them. (21)

So much for the book's weaknesses. (22) Its strengths (which to an unfortunate extent lie latent and unadvertised precisely because of its theoretical weaknesses) are many. A number are obvious and need no comment here - the book is, for instance, an essential source for anyone interested in volksgerichten in the broad sense. One of the nicest features of the book is the authors' repeated insistence that the particular features of Staphorst in recent years must not be taken for granted. They note, for example, that there is reason to suppose that Staphorst is considerably more rigid and deviant in its social rules now than in the previous century, and they show that the occasions and the sanctions of volksgerichten have changed considerably over the last few decades. The social isolation of Staphorst today is set in a context of 500 years of village history and of continuous interaction with outside forces (especially the state, and national public opinion as created by and reflected in the press). I am not competent to assess their account of this history (and in any event they appropriately note the tentativeness of much of what they assert), but how the village got to be the way it is, is obviously essential both to a general understanding of social control processes in Staphorst today, and more particularly to the explanation of critical details such as the geographic distribution of the farmhouses in relation to the Road and to each other. The authors are in my opinion right that research in the sociology and anthropology of law has tended to be historically shallow, and the contribution which the historical richness and depth of their approach makes to an adequate understanding of its subject justifies their standpoint that history deserves far more attention from these disciplines than it has received.

If the authors see their subject in an appropriately deep and dynamic historical context, they also make plain that social control cannot be understood without attention to the micro-processes and interpersonal networks in which the vast bulk of it, in any society, takes place. This is a methodological truism of which anthropologists and sociologists of law (see e.g. Macaulay, 1963; Moore, 1973) have long been aware. One nevertheless regularly encounters an apparent unawareness of the superficiality and unrepresentativeness of the data (particularly written data) commonly used in studying legal phenomena. Only after proper attention has been given to micro-processes can one assess the social significance of the "cases" which appear in a volksgericht, in a court, or the like, and thereby leave an historical "record" behind. To compare such "cases" from two peri-

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ods or two social settings, without taking account of the informal social control systems they selectively arise out of, is to commit the cardinal sin of drawing "false comparisons" (Van Velsen, 1969) - that is, of comparing things which there is no reason to suppose are comparable. To generalize from "cases" to the operation of the social control system as a whole is to make the preposterous supposition that a few "cases" which are the product of extensive and systematic selection in less formal social control processes are representative of the total population of trouble-cases. To draw inferences about "conflict" - or, worse still, about social life generally - from the records of "cases", is thus to ignore the most fundamental methodological lesson which the sociology and anthropology of law have to offer. (See also Lempert, 1978.)

The authors' treatment of Staphorst's gossip system is a particularly interesting contribution to our understanding of micro-processes of social control, and one for which there are few parallels in the literature of sociology and anthropology of law. This is the level of human interaction at which most social control - including the "dispute processing" to which the recent literature pays so much attention - takes place. If law is a "language of human interaction" in Fuller's words (1969), here is one of the most important places where that language is spoken. And yet the scientific attention devoted to the analysis of this level of social control has been minimal. Apart from Gluckman's classic discussion (1963), little serious theoretical advance has been accomplished. If we restrict ourselves to the sociology and anthropology of law (leaving aside, thus, a few interesting writers like Erving Goffman), the list of relevant writers dwindles to a handful: Ehrlich (1936), perhaps, for the crucial distinction between rules for decision and rules of conduct, and for his insistence upon the importance of the latter; Boissevain (1974) on the importance of networks for the functioning of informal social control; and Schwartz (1954), Moore (1973) and Todd (1978) for empirical accounts. Only Schwartz really analyzes the situation at all, dividing micro-processes of informal social control into problems of information, communication, implementation, sensitivity to sanction and vicarious learning. The concept of a gossip system, introduced by Todd (1978) and by the authors of the book under review, adds to Schwartz' analysis the important insight that the process of communication is not a simple given but a matter of active participation and manipulation. Todd (1978) and Black (1973; 1976) add the further essential element of differential vulnerability to the picture. Taking this all together, we are almost in a position to make a major breakthrough in our understanding of this level of social control, or so it seems to me.

As I hinted at the beginning of the review, I am not sure that I share the authors' opinion that description of their 23 cases of volksgerichten is the most important part of the book. I am inclined to think that, sketchy and theoretically thin as it is, their account of the gossip system and of the role of personal networks in social control is ultimately of more general interest. But whether we focus on volksgerichten or on gossip, one point the authors make is essential: the empirical study of law and social control in western societies has got to free itself from the grip of the ideology of legal centralism (Griffiths, 1981; Galanter, 1981) - the idea that the state and its agencies have a monopoly on matters "legal". The beginning of insight into the actual working of norms in social life is the recognition that the normative order of society is fundamentally pluralistic, that besides the state the social order consists of a myriad of "semi-autonomous social fields", in Moore's (1973) expression, each with its own internal order. Staphorst has heuristic value because its contours are so vivid. But more mundane and far more important social fields are all around us: at the workplace, in neighborhoods, in politics, religious, and social associations, in shopping centers and markets, etc. Whether our focus is on the effectiveness of the laws of the state as mediated through the normative order of the semi-autonomous social fields in which regulated behavior takes place (see, e.g. Moore, 1973), or on the various institutional processes available to persons involved in litigation (see e.g., Todd, 1978; Greenhouse, 1982; Griffiths, 1983a), or on some other aspect of legal order, research into legal phenomena must nowadays self-consciously conceive of the nature of the social reality to be studied in terms of legal pluralism, or it will be sterile and one-sided.

Another general point concerning the study of legal phenomena is this: We do violence to the nature of "law" and of "social control" if we suppose them to be limited to - or adequately studied in - situations of "conflict", if we take "cases" (even "extended cases") or "dispute processing" or "litigation" as the object of study. These latter reflect an important aspect of law, of course, but by no means the only one. Since volksgerichten act proactively, there is rarely the clash of claim and defence characteristic of a "dispute". In many case (e.g., those of deviant marriages) there is no opposing party at all and in other cases a volksgericht apparently is not called into action by anything we could recognize as a "complaint". While the complexity of the gossip system guarantees that there will be an infinite gradation of degrees of involvement by "victimized" individuals (one might, for example, read the two half-hearted suicide attempts of the "adulterous" woman's husband as a "complaint"), the behavior of the gossip system and of volksgerichten seems better described as a collective expression of disapproval than as a peculiar type

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of "dispute settlement". Holleman (1973) has cautioned us against giving "trouble cases" too exclusive a place in our analysis of law, and it would seem that even when studying "trouble cases" we would do well to avoid putting concepts like "dispute" or "conflict" in too central a position. (See further Griffiths, 1983a; Engel, 1980.) And it is good to bear in mind that while the more formal sorts of social control are generally reactive in character (Black, 1973), at the informal end of the spectrum proactive control may well predominate. One important subject for future research concerning informal social control processes is the question for what sorts of misbehavior and in what circumstances the community as a whole registers its disapproval, and when the matter is left to the aggrieved victim; and, if both sorts of remedial action are sometimes available, what determines the choice between them. It is not clear whether Staphorst itself has any distinctively "dispute settling" institutions, or whether an individual with a "dispute" would have to turn for redress to the outside world. What is abundantly clear is that the idiom of "dispute settlement" is far too limiting.

Notes

1. The positive side of Staphorst community solidarity is perhaps not adequately presented in the book. Staphorst has, for instance, successfully resisted the attempts of large milk companies to force all farmers to install bulk milk tanks, and because it set up its own milk-processing plant is one of the few farming areas in the Netherlands in which milk is still collected from cans (a matter of great importance to small farmers who cannot afford the investment in a bulk tank). Despite their opposition to insurance, Staphorst farmers maintain an informal mutual insurance system in which neighboring farmers help share the loss suffered by one of them, thereby expanding the scope of the traditional rights and duties of neighbors. (I am grateful to Els and Emile van Rouveroy van Nieuwaal for this information, as well as for that reflected in notes 6, 8, 10 and 11.)
2. Among other things the unreal expectations of Dutch grant-giving organizations with respect to the time involved in serious social-scientific research and to the possibilities of advance planning, lead to systematically over-optimistic research proposals and the constantly-repeated spectacle of very detailed and careful time-planning which turns out to have hardly any relationship at all (except that of non-congruity) to what actually takes place. The idea that fundamental research involves learning, and adjusting as one goes along has not filtered up to the "research planners" of the national and university bureaucracies.

3. See generally pages 19-25. The qualification "naive" is the authors' own retrospective judgment (see p. 276). The original question to be studied was formulated as follows: "What is the influence of a volksgericht ... on official law enforcement and vice versa? What is the relationship between social control activities of a group and those of the state? To what extent is the institution a legitimate, if rudimentary, form of legal control?" (page 20) To answer these questions both anthropological research in Staphorst itself and the collection of data concerning the activity of governmental and law enforcement agencies was considered necessary. The necessary analysis was described in four sentences, of which the first reads in part: the lawyers in the research team "can attack the problem formulated above on the basis of the collected facts, with as the point of departure the material collected by the anthropologist" (page 23).
4. On the whole, the police, prosecutors and judges seem to react to volksgerichten in a rather positive, or at least understanding, way - despite the fact that the ideology of legal centralism (the "rule of law") implies a very negative stance. (See page 191. For a contrasting example, however, see Overdiep, 1955.)
5. The authors raise the interesting question, to what extent this apparent uniqueness is (partly) the result of stereotyping by the outside world - both in the sense that the appearance may be misleading and also in the sense that the stereotype, via feedback reactions in Staphorst itself, may help to call a sort of uniqueness into being.
6. It would be wrong to think of Staphorst as a gloomy place: the traditional forms of social contact (such as the annual Staphorst Market, marriage ceremonies, work parties, etc.) are lively and gay affairs. The socio-cultural situation in Staphorst has, furthermore, undergone considerable change in the last 10 years.
7. The literature - largely in the form of unpublished reports of student research projects carried out in the context of the anthropology program at Leiden University - is collected and discussed in Kappers, 1978.
8. At the present time, the Staphorst Historical Association has about 1500 members. Its quarterly, 't Olde Stapperst, contains much information on Staphorst customs and their evolution. There is also an Orange (that is, royalist) Association and a youth club.
9. Staphorst was apparently less strict on a number of these matters in the past. Unlike other similar villages, for example, there was no religious objection to vaccination in Stap-

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horst in the middle of the last century. Staphorst is also in the process of relaxing somewhat: the radio is generally accepted, more and more Staphorsters are taking out insurance, and the opposition to polio inoculation seems to be becoming a minority position restricted to the most orthodox group.

10. They are surely wrong here (compare Todd, 1978, for the same viricentric error): Internal evidence in the book itself makes plain that men as well as women exchange "critical talk about third parties", to invoke Gilmore's (1978) definition. (Emile van Rouveroy van Nieuwaal assures me, for example, that the weekly cattle markets which he frequently visits are intensively used by the men for exchanging gossip.) That only women "gossip" (whereas men talk "politics" or the like) reflects a deep-rooted folk ideology but not ethnographic fact. As Gilmore observes (1978: 92-93), "There is a widely held belief (in the town he studied) that it is only women who gossip...but this breaks down immediately on scrutiny."
11. There is nowadays considerable internal objection to volksgerichten in Staphorst. This must, among other factors, account for the success of the police in frustrating the efforts of the padjongens in recent years.
12. Outsiders, for example, are never the subject of volksgerichten (page 196). Presumably, social control problems with them are dealt with, if at all, via the external social control system of police, courts, etc., although the authors do not deal with this question. Compare Todd, 1978.
13. The authors do not deal with the circumstances in which the gossip system is unsuccessful (compare Schwartz, 1954) nor the selection of such failures for treatment by a volksgericht. These are obviously important issues for further research concerning social processes such as these. The factor which is important for in Black's analysis of mobilization - norms in the community which deviate from those of the official legal system - is central to the interaction between the Staphorst and the external social control system. It seems unlikely, however, that it could account for much of the variation in mobilization within Staphorst itself, although the possibility of pockets of normative deviance even within such an apparently homogeneous community should not be ignored.
14. The authors answer the question, why is it the padjongens (young, unmarried males) who are socially delegated the task of carrying out this kind of social control, in a way reminiscent of Peters (1972), and one which is pregnant with implications for a general theory of the selection of specialized

social control agents. The padjongens are socially, economically and normatively marginal. They have few social relationships which stand in the way of, or could be damaged by, their behavior during a volksgericht. The social system as a whole suffers the least possible damage from a sanctioning apparatus which is marginal to it. See also note 16 below.

15. The role of a diffuse but tenacious folk memory concerning volksgerichten and associated phenomena which functions as a kind of precedent and intra-village communication system lurks at several places just beneath the surface of the authors' analysis. Their approach to the question of continuity and change in volksgerichten would, it seems to me, have been a subtler and more satisfactory one if they had treated the question, "What is Staphorst customary law on this point?" in a less "positivistic" way, and had paid more attention to the processes of informal legal reasoning which lie behind the decision-making involved. The approach of Pospisil (1971: 214 et seq.) to legal change in terms of "legislation" is similar to that of the authors here, but seems to me in general far less likely to prove enlightening than an approach in terms of "legal reasoning". The latter tends to be overlooked as an approach to legal change because of the erroneous more-or-less mechanical notions of what is involved in legal reasoning which both lawyers and social scientists often hold. On the analysis of legal reasoning from an external perspective see Griffiths, 1978.
16. When this volksgericht became a topical item in the press, the minister expressed his disapproval of it and blamed the affair on "riotous" youth. The doctor also claimed to disapprove, but found the emotions involved understandable and thought that nothing should be done about the matter as it was an internal Staphorst affair and all members of the community approved of what had been done.
17. The authors note that the idea that a volksgericht is in this way effective - that the persons concerned learn their lesson and live happily ever after - is central to the local ideology concerning volksgerichten. Their field research tended to support the idea, at least in the sense that very little stigma seems to attach to a person who has undergone a volksgericht. Here, again (see note 14 above), the negative consequences for the social system as a whole of a volksgericht are limited: it is in that sense a "functional" form of social control. (See pages 185-186.)
18. The authors are properly cautious on this and note that we have no concrete evidence of any such thing in Staphorst earlier than the middle of the last century (pages 201-202).

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19. Quite apart from the cautions which the authors attach to the idea that in this sense volksgerichten are a continuation of the older law with other means (page 202), there is the objection that it seems on general grounds most unlikely that isolated villagers ever would have made much use of the theoretical (and expensive) possibilities offered by the official law. Continuity, if it exists, is more likely to obtain with (unprovable - see note 18 above) pre-19th century volksgerichten and with diffuse, general legal ideas, than with the concrete rules and procedures of the official law. (Archival research by the authors did, however, reveal twelve cases from Staphorst involving explicit or implicit promises of marriage, brought in the nearest court in the 17th and 18th centuries (see pages 202-210). But too little is known about the origins and features of these cases to be able to conclude that the court, in those days, was readily accessible and amounted to the functional equivalent of latter-day volksgerichten.)
20. My reconstruction of the authors' discussion of the concept of a volksgericht, for example, does not reflect the profound ambivalence which characterizes it. On the one hand, the authors recognize that empirically-considered the dimensions of differentiation concerned are continua. On the other hand, they feel the need to label a given point on such a continuum, the volksgericht, as possessing a distinctly "legal" character - that is, as meeting the requirements of a particular taxonomic conception of "law" (see Griffiths, 1984). Why do they feel that need? Apparently for the archypically internal reason that they want to argue that the official law ought to have special respect for local social control activity if and only if it is "legal".
21. After the cut-off date of 1972 but prior to the book's publication, a number of important theoretical contributions appeared whose relevance to the analysis of the phenomenon of volksgerichten is obvious - for example Abel (1973) and Black (1973, 1976).
22. Two points should be made on method. First, as the authors themselves note, their cases are very thin. In most of them almost nothing is known about the people involved and their relationships with each other nor about the processes which led to a volksgericht. Nothing at all seems to be known about (similar) cases which did not lead to a volksgericht. Secondly, while the authors devoted great effort to ensuring the reliability of the case-accounts they collected, they seem to have quite overlooked the question of representativeness (except in the sense that they sought to collect every case they could lay their hands on).

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