

THE IMPLEMENTATION OF STATE LAW THROUGH FOLK LAW:
KARO BATAK VILLAGE ELECTIONS⁽¹⁾

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Introduction

In introducing the idea of 'semi-autonomous social fields' within a society, fields "that have rule making capacities and the means to induce or coerce compliance," Moore argued that these fields account for the fact that "... innovative legislation or other attempts to direct change often fail to achieve their intended purposes; and even when they succeed wholly or partially they frequently carry with them unplanned and unexpected consequences" (1978:57-58). The examples she uses to illustrate this thesis, especially that concerning the Chagga of Mount Kilimanjaro, fall within the sphere of 'public law'. Her argument implies that, even in the field of public law - usually considered the exclusive domain of the state - innovative legislation may fail to achieve its intended purposes because of the presence of competing, non-state bodies of 'public law'.

Moore's analysis deals largely with the situation in which a local semi-autonomous social field frustrates national legislation in the sense that the required behavior does not take place. In this paper we would like to draw attention to another way in which indigenous 'public law' can affect the practical working of legislation. In this case the actual behavior covered is in outward compliance with the provisions of state legislation but the practical results accomplished are determined by local law and procedures and so produce effects which were not foreseen by the legislator.

In many recently independent states, where high priority is given to the formation of a national unity out of a diversity of regional and local cultural forms, legislation is often used as one of the instruments to achieve such uniformity, especially in the field of public administration.⁽²⁾ This legislation is intended to be operative in social and political life at the lowest administrative level: village societies in which an indigenous administration

of some kind and possessing some degree of effectiveness is already operative. In this paper we concentrate on a very common example of such legislative intervention in local public life: state law regulations with regard to the election and authority of a village head (3) and their impact on the structure and pursuit of autochthonous public authority. Since people in the village tend to use organizations and institutions that are familiar to them in order to establish a recognizable relationship between the new and the old (4), one of the questions that can be raised concerning the implementation of such national legislation is the extent to which it is deflected from its objectives due to the continuing force of autochthonous public law. This paper draws no definite, general conclusions. It merely tries to put into perspective a number of constitutional features of the local level semi-autonomous social field of the village, on the one hand, and some characteristics of state law on the other, factors that have to be taken into account in the analysis of the practice of public authority and autochthonous administration in small-scale societies such as Karo Batak village society of North Sumatra, from where the examples are taken.

We first present an outline of Karo Batak social structure and the kinship system on which it is based. We then analyze the indigenous constitutional system and the procedures of formal deliberation and decision-making which it provides as mechanisms for putting political/administrative authority into practice. Next we describe the governmental regulations of colonial and post-war, independent Indonesia which bear on village public life. The impact of this legislation at the village level will be examined in two cases of elections of a village headman. In both cases the elections were preceded by an indigenous procedure which resulted in the nomination of a single candidate. Not only the election of a village head, but also his functioning as a public authority, are shown to be determined to a large extent by indigenous structural and normative properties of the semi autonomous social field concerned, that is, its indigenous constitutional system and its procedures of formal deliberation and decision-making.

It is our contention that one cannot conclude that state law has been effective merely because local behavior apparently conforms to its provisions. In the cases discussed it will be shown that the aims envisaged by state legislation were realized only in form, and that the outcomes of the processes concerned were in fact determined by the operation of indigenous institutions and procedures.

Karo Batak social structure

The Karo are the most northern linguistic group of the more inclusive Batak population which is situated in the upper half of the island of Sumatra between the southern border of Aceh and the northern border of the Minangkabau area. The Karo Batak population (approx. 400,000) is in almost equal numbers dispersed over two areas: the highlands, a plateau of approx. 2000 km² rising up at a distance of about 60 km. south of Medan, and the lowlands between the plateau and Medan. This paper deals only with the Karo of the plateau.

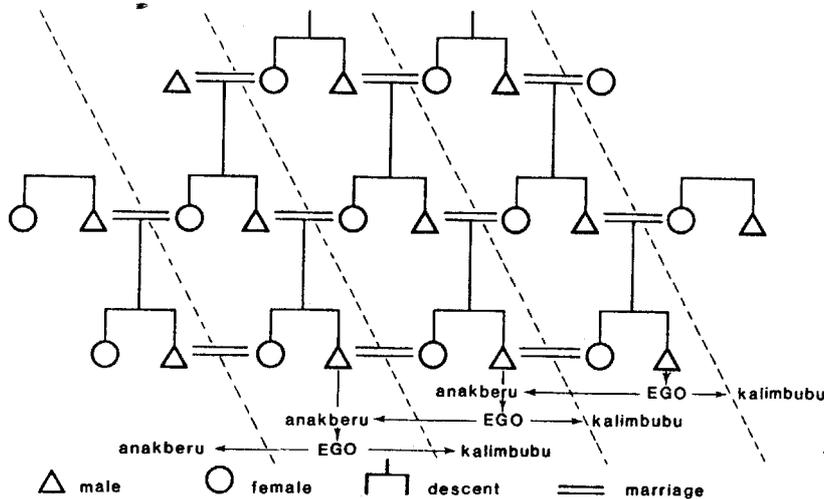
The Karo are sedentary agriculturists and horticulturists who live primarily on subsistence crops (rice, vegetables); they also produce some cash crops (e.g., tomatoes, peanuts and, during the last five years, cloves).

Karo society is structured along the lines of (real and putative) descent and alliance, of which only the basic outlines will be sketched here. (5) The Karo are organized in five non-corporate patrilineal entities called merga (clan), each of which is subdivided into about sixteen (non-corporate) subclans (also called merga). Each of these clans and subclans has its own specific name, and by this name each Karo can be identified as a Karo and as a member of one of the (sub)clans. There is exogamy at the subclan level, with the exception of two of the five clans in each of which there are two clusters/groups of subclans that may intermarry. Marriages are asymmetrical, i.e. if men of a certain (sub)clan traditionally marry women from a specific other (sub)clan, no marriages in the opposite direction may be concluded. Although there are no prescriptive rules for partner-choice, a marriage between a man and his (classificatory) matrilineal cross-cousin is considered especially desirable.

There is a network of relationships by marriage which connects not only individuals but, since kinship relations are extended classificatorily, also groups of patrilineal kin and, ultimately, all Karo. This network of relationships is further structured by the following indigenous categorization:

- the category of patrilineal kin (senina) including, at the most inclusive level, all members of the same clan;
- the category of 'wifetakers' (6) (anakberu): those men (and their patrilineal kin) who are married to female members of one's patrilineal group,
- the category of 'wifegivers' (kalimbubu): the patrilineal kin of the wives to whom one and one's patrilineal kin is married.

The most simple form of these relationships may be represented here schematically as follows:(7)



anakberu = 'wifetakers'
kalimbubu = 'wifegivers'

In reality, the network of relationships is much more complex than this simplified diagram suggests, as it is extended by classificatory relations to include ultimately all Karo. Many relationships cannot be expressed in traceable lines of actual descent and alliance, but only by classificatory extension.

The system enables every Karo to express his relationship to every other Karo in terms of the three categories. Soon after two Karo meet, they will start questioning each other about their respective (sub)clans, their mother's (sub)clan, etc. They thus establish their mutual relationship in terms of being a patrilineal kinsman (member of the same (sub)clan), a 'wifegiver' or a 'wifetaker'. This relationship will from then on be the basis for their social behavior towards each other.

Each of the three categories carries distinct emotional connotations. Clanmates (senina) are regarded as 'equals' in the sense that they are of the same line of descent, as opposed to their 'wifegivers' and 'wifetakers'. One of the concrete expressions of this equality can be found in the relationship between brothers regarding their parents' inheritance, to which they are (unlike their sisters) equally entitled. (8)

THE IMPLEMENTATION OF STATE LAW THROUGH FOLK LAW
Herman Slaats / Karen Portier

The central characteristic of 'wifetakers' is reflected in the term 'si latih' (the workers) which is sometimes used to refer to them. They 'work' for their 'wifegivers', that is, they organize ceremonial celebrations (marriage, burial, etc), they lead the formal deliberations that are invariably held at these occasions, they take care that all participants are properly seated according to their status, they prepare and serve the meals (at a typical marriage or burial ceremony a few hundred people are served within half an hour), they lead the several ceremonies, dig the grave, carry the corpse, etc. But they also have responsibilities in contexts other than those of a traditional, ceremonial character, for the relationship can be invoked to meet more modern needs such as financial support in case of illness, the lodging of children who attend school in town, assistance in getting a job, etc. These are just a few examples of the sort of activities which fall within the scope of the responsibilities of the 'wifetakers'. They are, in short, in certain respects responsible for the well-being of their 'wifegivers', who can order them to see to certain tasks on certain occasions.

The 'wifegivers', on the other hand, are often referred to as 'dibata ni idah', which means: the visible god/deity. They are to be respected by their 'wifetakers', who owe the continuation of their patriline to their 'wifegivers'. On ceremonial occasions the 'wifegivers' "just sit" at the place of honor and wait to be served by their 'wifetakers' or to be invited to present their opinion in the case of formal deliberations and decision-making.

The structure of the relational complex is thus tripartite: apart from one's patrilineal kin, there are those to whom women are given in marriage ('wifetakers') and on the other side one finds those whose women one marries ('wifegivers'). These three categories are considered to form a unity known as 'the three complete' (sangkep si telu) or as 'the three tightly knit together' (rakut si telu). This trinity represents the indigenous model of the societal universe. In daily practice the trinity and the categories of which it is composed take the shape of varying groups of different inclusiveness.

One of the conclusions that can be drawn from this sketch of Karo social organization is that it is fundamentally egalitarian in character - not hierarchically stratified - since everyone has all three qualities at the same time. One's position at a particular occasion is dependent on one's relationships with the other persons concerned.

The three categories and the unity they constitute are essential to an understanding of Karo society, not only in its structural/organizational aspects but also on the level of individual

behavior in daily life and in the dynamic of social processes such as formal deliberation and decision-making and the pursuit of public authority.

The traditional constitutional system

Since the Karo kinship system is the basis of societal structure, the basic elements of the indigenous Karo constitutional system have already been given.

The Karo Batak live in villages (kuta) of which there are 274 dispersed over the district. In its external relations the village is an autonomous unit. The term kuta is not only a territorial concept, denoting a cluster of houses, it also refers to a genealogical and a political unit. These further aspects of the concept can be explained by presenting the main lines of the history of the foundation of a kuta and its further growth and development as related by the Karo. Most of these stories should not be taken as historically accurate. They all contain roughly the same basic elements, which illustrate the underlying conception that the cooperation of (members of) three different clans is a prerequisite for the existence of human society and the foundation of a village.

Reduced to their minimum, these stories tell us that once upon a time many years ago a man met two other men (9) of different clans and the three decided to stay together and to found a village by building a house. (10) One of the latter two related himself to the first one as his 'wifetaker', the other as his 'wifegiver'. The first man and his patrilineal descendants are referred to as the anak taneh (literally, children of the land). We will refer to them as the 'village founders' or 'founding subclan' (11). The second man's descendants become the 'village wifetakers' (anakberu kuta), the third one's descendants the 'village wifegivers' (kalimbubu kuta). Increase of population and/or the occurrence of conflicts caused fissions in the group of the founder's patrilineal descendants. This expressed itself genealogically in the coming into being of different lineages, and territorially in the founding of wards within the original village, or new villages. (12) All these lineages thus belong to the same founding subclan, but the lineage of the alleged founder of the original ward is considered to be the senior one amongst them.

The members of the groups of 'village wifegivers' and 'village wifetakers' do not form lineages in the village where they live. For lineage membership they refer to lineage relationships in their village of origin, where they belong to the 'founding subclan'.

Most subclans are in this way associated with a certain territory.(13) In practice when reference is made to "the land of subclan X," the land of a particular village or cluster of villages (urung) founded by the same subclan is meant.(14) It should be noted that by contrast to the 'founding subclan' the groups of 'village wifetakers' and 'village wifegivers' may in the course of village history come to include a great number of people who do not belong to the founding 'wifegiving' and 'wifetaking' subclans.

At the village level we thus find the genealogical pattern of the patrilineal ego category (founding subclan), its 'wifetakers' and its 'wifegivers'. Just as they constitute a unity at the individual, genealogical level, so do they in the territorial dimension, forming the structural core of village society. In practice, however, village society is extended to comprise also those villagers who do not belong to the group of village founders, the village 'wifetakers' or the village 'wifegivers', but who are related by individual (classificatorily extended) marriage bonds or clan membership.

Just as Karo societal structure can be characterized as 'egalitarian', so can the structure of political authority be characterized as 'not hierarchically stratified' and as lacking well-defined positions of political authority and subordination. It may be the case that one of the members of the founding subclan more or less clearly takes the position of a leader in the ward or the village. However, he has to share his public authority with the other members of the founding subclan and the village 'wifetakers' and village 'wifegivers'. These limitations on political authority manifest themselves in the dynamic process of political decision-making, as will be shown below.

The indigenous process of formal decision-making

In the Karo social structure of multiple overlapping tripartite relations, decision-making is in almost all respects not a matter of merely individual concern. It necessarily implies the involvement of others in the quality of their specific kin relationship to the person or persons/group concerned. This involvement receives more or less formal recognition in the process itself. The same holds true for matters of public concern: policy-making and the execution of authority in the village society.

There is an institutionalized process of formal deliberation and decision-making, operative at different levels of social organization, in which matters of the most diverse character are discussed and decided upon. Some of the main characteristics of this process, called runggun, are as follows: the deliberations

aim at the discussion and solution of common problems (not necessarily conflicts); decisions are taken by consensus (no voting); the forum is composed of the trinity of those whose problems are under discussion (and their patrilineal group), their 'wifetakers' and their 'wifegivers'. The forum thus structured may be of varying inclusiveness, depending on a number of factors such as the the matter under discussion, its social ramifications, the number of persons whose problems are being discussed (an individual, a group of patrilineal kin, a lineage, a ward or the village).

In matters of general concern at the ward or village level, the founding subclan functions as the focal point to whom the other participants are related as their clanmates (all those belonging to the same clan, but not members of the founding subclan), their 'wifetakers' and 'wifegivers'. This relationship is decisive for the role and the behavior of each of the participants in the process of deliberation.

The three groups fulfill different functions in the deliberations. In the case of a village meeting, for instance, it is the members of the founding subclan who through their spokesman (a clanmate) give an initial formulation of the problem to be discussed (e.g., in the case of election of a village head: who is to be nominated?). The 'wifetakers' are primarily responsible for an orderly process and the formulation of generally acceptable conclusions, which are then put to the group of 'wifegivers' whose responsibility it is to test the proposed solutions for their effectiveness and their acceptability in the larger community (see further: van den Steenhoven, 1973; Slaats and Portier, 1981a, 1985).

A decision is reached - more accurately, consensus is created - in an ongoing process of sometimes painstaking discussion of all possible aspects of the problem, and of phrasing and rephrasing propositions and approaches until unanimity is reached. In this process, in which (pursuant to specific rules) all participants may contribute opinions, the problems are approached and re-approached and solutions are continuously formulated and reformulated until as a result of much give-and-take a collective decision is reached to which all participants agree. Even when no explicit decision is formulated there still may be a positive implicit consensus as the result of the deliberations.

The impact of this process of decision-making, especially in matters of general concern to the ward or village community, is twofold: first, responsibility for the decisions taken is carried by all participants. This to some degree implies a guarantee of the effectuation of the decision in practice. Second, even in

THE IMPLEMENTATION OF STATE LAW THROUGH FOLK LAW
Herman Slaats / Karen Portier

cases where no decision can be reached because of irreconcilably conflicting opinions, the process of deliberation may cause changes in opinions and standpoints leading to changes in actual behavior.

Constitutional arrangements of the Indonesian state regarding local public administration

It is beyond the scope of this article to give a full account of the complete body of state legal regulations which bear on the traditional constitutional system just described. We will restrict ourselves here to a concise presentation of the most relevant provisions.(15)

In the nineteen-sixties a number of laws were passed by the Indonesian legislature concerning the organization of local public administration.(16) These laws were designed to establish uniformity throughout Indonesia and to repeal all previous regulations, which for the most part consisted of the colonial law of the Netherlands-Indies, and to a lesser degree of regulations of various Indonesian legislative and administrative organs.

As far as Karoland is concerned, the traditional administrative organization had already been influenced by colonial regulations.(17) Although the 'Ethical Policy'(18), implying the recognition, the preservation and development of indigenous cultures, had had its impact on the establishment of colonial rule in Karoland in the beginning of the 20th century, some major changes in indigenous leadership and decision-making structure were nevertheless introduced. At the time the Netherlands-Indies government penetrated the Plateau, there were about 250 villages, most of them consisting of two or more wards. These wards were considered by the colonial government to be the administratively and politically independent units of the Karo.(19) Since the colonial government found some 500 wards an unmanageable number, larger administrative units were looked for. These were found in the village unions (urung) of which there were 15, each consisting of a number of adjoining villages. Although these were actually genealogical units, the colonial government turned them into what they had never been: administrative units, links between the colonial administration and the many villages, which thereby lost their indigenous autonomy. To reduce the number of local officials with whom the government would have to deal still further, a centuries-old Acenese institution was called into use. In former times Aceh had appointed four tetrarchs in Karoland, as it had done elsewhere (Gayo, Alas, Timur and Tobaland). These were the so-called raja berempat (four kings), a title which was given to four influential

Karo leaders. As the four 'kings' did not cover the whole of the territory, a fifth was created by the colonial administration. The Government then entered into a treaty, the so-called 'Short Declaration' (of subjection), with the five rulers whom it had appointed.

The existing structure of political leadership at the village level was in principle recognized despite all these changes at higher levels but it was nevertheless affected by (partly unintended) changes:

- Familiar as it was with hierarchically-structured public authority, the colonial government, mistakingly interpreting the indigenous system as one of hereditary leadership, imposed a one-headman system.
- The importance of the traditional kinship categories was in principle recognized, but sometimes they were misunderstood. Thus senina and anakberu were misconceived as one concept, so that a man (senina) and his anakberu (who was thought to carry full responsibility for the senina's social behavior) were represented as a single social unit referred to by the single term "anakberu-senina". (20) Middendorp (1929:56) concluded that the co-administration of the anakberu and the senina was becoming of less and less importance once the administration was regulated from above from one central point, that the old adat institutions were generally losing power, whereas on the other hand, the heads no longer needed to pay much attention to the interests of their dependents, as they no longer acquired their authority from their followers but from the support of the central power which gave them authority through the intermediary of its military, financial, administrative and judicial systems. The authority of the 'old' traditional institutions had in this view diminished in favor of the 'new' traditional institutions. (21) This may have been true at a certain level, viz. that of the pursuit of formal political authority in the state administrative system, but it does not apply at lower levels where, as could still be observed in the 1980s, the 'old' traditional institutions and procedures remain effective.

During the Indonesian revolution the colonial administrative structure was abandoned. Its functionaries were expelled from their administrative and socially advantageous positions and many of them were killed. Administrative authority was taken over by prominent revolutionary leaders and activists, generally without proper legal basis. The ensuing period of social and political instability offered ambitious individuals the opportunity to develop their political skills and acquire positions of authority. Thus a new spontaneously-grown structure of authority de-

THE IMPLEMENTATION OF STATE LAW THROUGH FOLK LAW
Herman Slaats / Karen Portier

veloped, with many local variations to which a legal basis was given, often in a piecemeal way, in the years thereafter.

Before they took effect, the new laws for the organization of public administration, promulgated in the 1960s, were suspended by decision of the Provisional Parliament in the context of a nation-wide political and ideological re-orientation. A subsequent Ministerial instruction provided that, although the Acts concerned were officially in force, their operation would be deferred until further notice. It thus remained obscure which rules could be considered to be operative in the field of public administration until new laws were enacted in 1974 and 1979.

The Act of 1974 (22), regulating the main subjects of regional administration, is of more or less the same tenor as the legislation it was supposed to replace. It defines the various administrative units and indicates their structure, their autonomy, and their rights and responsibilities. The highest and most inclusive administrative units are the provinces (propinsi) (23), each of them subdivided into a number of districts (kabupaten). A district is divided again into a number of subdistricts (kecamatan) each of which comprises a number of villages. There are 274 villages dispersed over 11 subdistricts in the district 'Kabupaten Karo'.

At the provincial and district levels there are 'Regional Representative Boards', a part of whose members are periodically elected, the other part being appointed by the central government. The heads of the provincial and district administration are appointed by central government on nomination of these Boards. The subdistrict is merely an administrative division of the district: it is not an autonomous unit, has no representative body, and its head is an appointed official.

The Act of 1974 contains only one paragraph on village administration. This states that a special Act will deal with the subject. This was finally effected in 1979 by the Village Administration Act.(24) This Act defines the village as the lowest unit in the administrative hierarchy (art.1)(25), and vests the primary responsibility for public administration (art.10) in the village head. This figure is to be elected for an eight-year term (art.7) in general, free and secret elections, open to all those villagers of Indonesian nationality who are at least 17 years old, or married, or previously married (art.5). The Act refers to Regional Regulations which will regulate the election of the village head in greater detail. No reference is made to any traditional institutions or procedures.

The election of a village head

The following general information applies to the election of village heads in the cases to be discussed below.

A committee of villagers was installed to make preparations for the election. Posters were distributed showing the names and a symbol indicating each of the candidates (e.g., a stalk of rice, a maize-ear, a buffalo head). In a public location in the village a sort of ballot booth was set up. Almost without exception, the villagers responded to the appeal not to go to the fields or to leave the village on the day of the elections before having cast their vote. The elections themselves were supervised by subdistrict officials. Generally, one was not over-scrupulous about the secrecy of the ballot: those who did not know how to complete the voting procedure (e.g., older women who could not read and write) were spontaneously assisted by bystanders or officials. There were not many problems in this regard, as the ballot paper contained the symbol of each of the candidates as well as his name. Voting consisted of punching a hole in the symbol of one's candidate. In most villages (with an average population of 1000, of which approx. 35% is eligible to vote) the elections, including the counting of votes, took only a few hours. The candidate with the most votes may consider himself elected, although his election must be confirmed by the authorities at the district level before he can officially take office.

Against the background of the above general information there are a few phenomena that call for special attention.

- There is usually only one candidate, who has been nominated in a process of formal deliberation and decision-making at the village level which precedes the official election procedure.
- In almost all villages in the district the elected village head is a member of the founding subclan. The frequency with which this occurs is too high to be accidental.
- Although there are no formal legal restrictions in this respect, nowhere in the area have women been elected village head; nor have women been candidates. The possibility seems in practice not even to be considered: This accords with the more general pattern of division of labor between men and women in public affairs, as reflected in the process of formal deliberation and decision-making (runggun): public roles are performed by men, women play a role in the background. The input of women in the process of consensus-building is, however, considerable and often decisive.

THE IMPLEMENTATION OF STATE LAW THROUGH FOLK LAW
Herman Slaats / Karen Portier

Two village elections

To illustrate the points made so far we now present two cases of village-head elections. It should be noted that we did not actually observe these elections. The information presented is second-hand and sometimes not as detailed as one would have wished. We nevertheless think that the cases contain enough information to afford some general insight into the effectiveness of state law at the village level of social and political life.

The first case concerns the village of Benteng (about 900 inhabitants). Benteng lies, somewhat isolated, at the foot of one of the mountains rising from the plateau. It consists of four wards, each associated with one of the four lineages of the same founding subclan. One of these lineages is considered to be the senior one as it was the original founder of the first ward.

Since the second world war Pandai had had a leading position in the village because of his personal qualities, first as a traditional leader, later as an officially-elected head. He had developed into a charismatic leader, a man with great influence in village society and a good reputation in governmental circles, and he was reckoned as an expert in the field of traditional culture (adat) and eloquence. It was ascribed to his political ability that the village had emerged from the war and the consequent struggle for national independence without considerable losses and that the village community had not otherwise suffered from overt internal controversies. His position exemplified a shift in political leadership within the village. Already in the colonial period, village authority had moved from the senior lineage of the village to the second in seniority of which Pandai was a member. The special position of the senior lineage was still reflected, however, on ceremonial occasions.

Early in the 1970s there were to be new village elections. Pandai (then about 55) would have been elected again as a matter of course after 25 years of uninterrupted leadership if he had not withdrawn his candidacy in favor of his eldest son Sulas (then about 35), whom he pushed to the fore by way of compensation, since all his other sons had been able to enjoy some form of higher education. Sulas, although a man of good will, was in almost all respects the opposite of his father: neither intelligent and tactful nor experienced or interested in political influence and power. A second candidate, Nunggu (about 40), was very strong. He was a member of the third lineage in the village. In terms of intelligence and education he was considerably more suitable than Sulas. As a former government official, he had practical experience and contacts in the field of public administration. The situation contained all the requirements for a real ballot race between the two candidates, a competition that might

have developed into an overt fission of the village community into different political camps.

A few weeks before the official elections were held a village meeting was organized to discuss the elections. Pandai, Sulas and Nunggu were there in person, all three of them partaking in the deliberations as members of the several lineages of village founders. (26) Within the tripartite forum of the village founders and their 'wifetakers' and 'wifegivers', the questions of candidacy and elections were discussed from an 'objective' point of view. That is: as a matter of concern to the society as a whole, involving the unity and coherence of the village, not in terms of a political competition between the individual candidates. As a result of the deliberations it was decided, with the full consent of Pandai, Sulas and Nunggu, that Sulas would be the only person nominated and that Nunggu, who withdrew his candidacy, would be appointed as the village head's assistant and deputy.

The second case is from the village of Samping (about 1200 inhabitants), situated on the main road between Medan and Kuta Cane (Aceh). It consists of two wards originating from different wards of another village nearby. The larger ward is considered to be senior for reasons of prior settlement. The founding lineage of this ward is divided into a number of sublineages, ranked according to seniority in descent (such ranking does not, however, imply hierarchical subordination). The members of the other ward's founding lineage are still considered 'newcomers' in the village and in some respects relatively insignificant. These characteristics were also reflected in the position of the kinship groups surrounding the founding lineages. The 'wifetakers' and 'wifegivers' of the senior ward's founding lineage were considered - and often actually behaved - as the 'wifetakers' and 'wifegivers' of the village, whereas those of the second ward remained in the background. Although this does not carry over onto the level of personal relations, at the institutional level (between the lineages as such) there is a kind of latent controversy between the two wards in public affairs. In the colonial period, as well as during the period after World War II, headmanship had been assumed by the two wards in turn, though more frequently by the senior ward.

A few weeks before the official elections, a village meeting involving the founding lineages and their 'wifetakers' and 'wifegivers' was organized to discuss the measures to be taken. Till then no one had publicly shown an interest in candidacy. It was up to the meeting to decide whom to nominate. As the deliberations went on the attention became more and more focussed on two individuals who were thought to be suitable. They were half brothers (same father) and members of the founding lineage of

THE IMPLEMENTATION OF STATE LAW THROUGH FOLK LAW
Herman Slaats / Karen Portier

the senior ward. They were both of about the same age (35), they both had some high school education and a good reputation in the village, they both had a reasonable understanding of traditional culture and values and seemed able to combine that with modernizing developments in educational, administrative and other fields. As a result of the deliberations, and with full participation and agreement of both brothers, it was decided to nominate the younger one. Here, too, the other candidate was nominated as an assistant and deputy.

These two examples illustrate a process of deliberation at the village level concerning the election of a village head which is completely different from an election campaign with opposing candidates competing for the favor of the electorate. The discussions were led by the senior village 'wifetakers' and proceeded in a quiet and orderly way. The main discussants were the spokesmen of the several lineages and sub-lineages. The candidates stayed in the background during the deliberations; if they had something to add to the deliberations they did so by way of one of their patrilineal kin.

The villages ten years later

Only a few months after new village elections had been held in 1984 we revisited both villages for a short follow-up study, more than ten years after we had first entered the field for research. This recent research produced a number of data regarding socio-cultural change that require a more detailed analysis than can be made in this paper. We restrict ourselves to some observations that are relevant for public authority and administration at the village level.

We were told that the most recent elections had differed in almost all respects from the practice that had been followed in previous elections. In both villages several candidates had presented themselves publicly and had striven for the voters' favor during the weeks previous to the elections. The rivalry between the candidates had sometimes had the character of hostility towards each other. This rivalry was not restricted to the candidates themselves, but also involved groups of sympathizing villagers. This had led to the formation of politically-based factions within the two villages. There had been no traditional meeting to build a consensus regarding the candidacy and the elections. The decision as to who would be the head for the next few years emerged as a result of the official voting procedure.

In both villages, the change in election procedure was part of a wider pattern of changes in several fields of social life, which

taken together led to serious disruption of the social coherence of the village community. The most obvious changes were in the fields of economic relations and of religion.

In the village of Benteng it had been possible - until the mid-1970s - to handle situations of conflict at an individual level, preventing them from causing structural disruption of the kinship-based loyalty patterns. But in the relatively short period of the last five years the accumulation of different sorts of socio-economic change had cut across the traditional bonds of loyalty and re-grouped people on the basis of new interests. These changes in the economic field were not wholly new, but merely an acceleration of a process of economic adaptation that had already been going on for decades. One of the main factors that speeded up the process of change was the introduction of clove culture as a replacement for tangerines which had gradually died due to a devastating disease. At the time some of the villagers first planted clove trees (about 1978), cloves were very valuable (approx. US\$25 per kilogram). By the time most other villagers had planted cloves too (1984), the price had gone down drastically (US\$5 per kilogram), but still provided a considerable income at the village level.

It is not only the resulting increase in cash that had reinforced the tendency towards a market and money economy. Some people had planted cloves in fields where until then they had grown rice or other subsistence crops which they now had to buy. The education of children was another way in which increased cash incomes were invested. The schooling of children had long been one of the long-term investments giving the best chance of an improvement of social and financial status, but it began now to be taken more seriously. More people could afford to send their children to high school and university in Medan and even Java. This in itself caused people to direct their attention to a wider world and started to open their minds to other ways of life and values. But it caused changes in other respects too. It diminished the reserve of labor potential, the need for which (e.g., in harvesting time) had usually been met by adolescent youths. Increasingly, wage-workers (most Javanese) were hired to do the labor-intensive picking of cloves.

Religious changes in Benteng were even more explosive. In the relatively short period of about three years most villagers had adopted one or another of the officially-recognized religions.(27) Until then most people had consciously and explicitly rejected these religions and adhered to the 'original religion' (Agama Pemea). Now the situation was the other way around and almost all the villagers had registered as members of one of the official religions.(28) The Protestants had built a church, the Muslims

THE IMPLEMENTATION OF STATE LAW THROUGH FOLK LAW
Herman Slaats / Karen Portier

had purchased land to build a mosque, the Catholics had plans for their own church. People gathered several nights a week for Bible or Koran instruction, for praying and singing in their respective religious groups. Membership of these groups did not coincide with the traditional kinship-based loyalty patterns. In some cases it even cross-cut the relations within a nuclear family, so that the children adhered to another religion from that of their parents. The significance of kinship relations and the resulting network of loyalties was being undercut. Activation of one's kin relations was in certain circumstances giving way to a tendency to call on co-religionists.

A crisis had occurred in the pursuit of public authority in the village. This was partly an effect of the general crisis in social coherence, partly it was due to activities of the village head and his father. Although he formally held the office, the head himself had never had substantial authority in the village society. He had always leaned on his father's considerable authority, but that had declined over the last few years. The father's somewhat dictatorial behavior and his sometimes quite open partiality had met increasing resistance. Several incidents, such as a case in which his son was suspected of financial malversations with public funds (subsidies) and in which he backed the son up, finally discredited him completely. He isolated himself from normal social intercourse with many of the villagers and evaded participation in ceremonies and meetings for deliberation and decision-making. Thus the village had reached a state of diminished social coherence due to a vacuum in public authority and an overt split of the population into several factions on the basis of new values and interests. These are a few of the reasons why in 1984 no traditional meeting could be held in preparation for the official elections.

In the elections there were three candidates (all of them members of the founding subclan in the village), one of whom was elected by a large majority. He was a recently retired military man, aged 50, who had not lived in the village for many years and who was expected to be able to settle the village's problems as a more or less unbiased outsider. Unlike the other two, he had not been interested in becoming a headman, but had been pushed by the district administration into standing for office.

In the village of Samping there were other problems with similar effects: a paralysis of the traditional procedures of decision-making. A series of conflicts had occurred over the years that not only affected personal relations but also the relations between groups at a higher institutional level. These conflicts made up a complicated network of social dissension in which the following important arenas can be identified:

- some of the village 'wifetakers' vs. members of lineages of the founding subclan,
- several members of different subclans belonging to the village 'wifetakers' against each other,
- several members of one of the lineages of the founding subclan against each other.

These conflicts had come to a head a few years ago when one of the village 'wifetakers', a wealthy and influential man who had been a member of the regional House of Representatives, accused one of the members of the founding subclan of the theft of some wild buffaloes which were looked after by the latter but which belonged to the village community. He even used his influence to have the herdsman imprisoned (contrary to the law, as later appeared) in anticipation of a court procedure, and to have a number of privately-owned buffaloes which were also herded by him seized.

The conflict was reflected in the relations between two of the most important village 'wifetakers': one took sides with the founding lineage to oppose the other, aggravating the latent controversy between them so that they refused to appear and to operate together in their capacity as 'wifetakers'. This repeatedly led to practical problems on occasions of ceremonies or instances of decision-making at the personal level, because an adequate representative for one of the two had to be found every time. At the village level it made it impossible to get the institutional 'trinity' together in its proper constellation and thus caused a deadlock in formal decision-making at that level. This was one of the reasons why no traditional meeting was held in preparation of the election.

The conflict also caused one of the founding lineages to disintegrate into factions with different aspirations which were strongly connected with the several conflicting interests in the village dispute. These factions took clear shape on the occasion of the village elections. Two persons ran for the position, both members of the same lineage of the founding subclan.⁽²⁹⁾ They associated themselves more or less clearly with the opposing parties in the buffalo dispute. When it seemed that a majority of the voters was in favor of one of the two, the other one manipulated the quorum of the electorate with the effect that the elections were annulled and had to be held again. In order to assure himself of a majority in the second elections he bought votes by promising a number of voters (mostly Javanese laborers who lived near the village) to pay them a small amount of money. He won the election, but three months thereafter his victory was not yet recognized by the authorities of the district administration as required by the regulations. It was doubted in the

THE IMPLEMENTATION OF STATE LAW THROUGH FOLK LAW
Herman Slaats / Karen Portier

village whether he would ever be recognized and the opposing faction was trying hard to prevent this from happening.

Conclusions

About ten years after we had initially been inclined to conclude that the traditional decision-making process was determining the results in village elections, new elections took place in which the traditional process was completely absent and the elections were carried out straightforwardly according to state law. It is tempting to conclude that the election legislation has reached its aims after all. But that would overlook the fact that apparent success occurred after several decades in which the state had failed to make its election procedures effective (other than in a purely formal sense). This suggests that other factors than the election law itself must be decisive. Our analysis indicates that it is the decrease of social coherence at the village level as such, induced by the accumulation of multiple, potentially-disorienting changes in several fields of social life, which led to the (temporary?) abandonment of indigenous procedures. The presence of a body of state law served as an escape from a threatening impasse and political immobility.

Another final point should be made with regard to the potential effectiveness of local authority. The candidate elected as a village head in the 'old fashioned' way on the basis of a preceding, traditional decision-making procedure functioned in two qualities simultaneously: he combined the hierarchical status of a (state law) head and its various instruments of power with his indigenous legal position in village social life, a position embedded in, i.e. empowered and at the same time restricted by, the intricate fabric of multi-layered tripartite relationships. The village head who owes his position exclusively to an election pursuant to national election law, lacks this indigenous basis of authority. He owes his position not to a decision of the village community as such, but only to the votes of part of it, albeit a majority. This implies that his authority will not be acknowledged by the community as such. In other words, in the pursuit of his tasks he will not be able to rely on the loyalty of the villagers which flows from their consensual decision in the traditional procedure to elect him as a head. This notion was very much alive in the villages concerned, and was expressed in almost the same terms used here. The villagers added that in the present circumstances the elected head would probably not be very successful in carrying out his tasks.

Notes

1. Most of the data for this article were obtained in a three-stage field research project of almost three years' total duration between 1973 and 1978. This has been supplemented with data from a short follow-up study in 1984.
2. For Indonesia see, e.g., Lev, 1962, 1965; Legge, 1961, 1977; Liddle, 1970.
3. A distinction must be made between those who exert authority in the framework of indigenous constitutional provisions (penghulu) and those who do so on the basis of (state) legal regulations. We will refer to the latter as 'village head(men)' or simply 'heads', which is an adequate translation of their Indonesian title (kepala kampung or kepala desa) (Pospisil, 1979:139 ff. uses the term 'chief'). It is more difficult to find a term for the former which adequately represents the specific properties of their position in the not hierarchically-stratified indigenous system. For want of a better term we will refer to them as 'indigenous leaders' or 'village leaders', or simply 'leaders'.
4. Cf. Liddle, 1970:110, for the Simalungen Batak.
5. For more detailed discussion of Karo kinship see Singarimbun, 1975, and Slaats and Portier, 1981.
6. The terms 'wifetakers' and 'wifegivers' do not adequately represent the concepts of anakberu and kalimbubu as they represent only one of the properties of these concepts (cf. Singarimbun, 1975). We nevertheless use the terms here for reasons of convenience.
7. For the sake of convenience we here represent a woman as taking on her husband's relationships. In fact the situation is more complicated. At her marriage, her own patrilineally derived relationships and those of her husband accumulate. Towards some people (e.g., her parents) her original relationships prevail. Some of her relationships are officially changed at her marriage to match her husband's. In many other cases she has double relationships. To a lesser extent the same goes for men, too.
8. For an analysis of the system of rights in land and inheritance in Karo society, see Slaats and Portier, 1981b, 1985.
9. None of the village histories we know refer, as far as the first stage of its founding is concerned, to women or children.
10. These 'adathouses' were large wooden constructions, capable of housing eight nuclear families, each of them occupying its

own (not physically separated) section. The inhabitants were related to each other in terms of the three categories: which section of the house one occupied was dependent on one's relation to the 'head of the house', a member of the founding subclan, who lived in the 'basic section'.

11. In the literature the category of village founders has often been referred to as the 'ruling lineage' (e.g. Singarimbun, 1975). We find this a confusing term as it suggests an authoritative hierarchy between lineages. We prefer 'founding subclan' and 'founding lineage' as more accurate terms.
12. The general term for ward (= part of the village) is kesain, but in the name of a ward the term rumah (= house) is used (e.g. Rumah Jahe). These ward-names, including the term rumah, are also used in the names of the lineages.
13. There are a few subclans that have not founded any villages and thus have no territorial basis.
14. The villages of one cluster are arranged in order of seniority as are the various wards within one village. This seniority is reflected, for example, in the order of appearance at ceremonial performances, but there is no relation of hierarchical subordination between them.
15. For a recent study of the development of legislation pertaining to regional/local public administration see Solly Lubis, 1983.
16. Undang-undang Republik Indonesia, no. 18, 1965 tentang Pokok-pokok Pemerintahan Daerah, L.N. no. 83, 1965; Undang-undang Republik Indonesia, no. 19, 1965 tentang Desa-pradja, L.N. no. 84, 1965.
17. See Middendorp, 1929.
18. See Holleman, 1981:XXIX ff.
19. See also Liddle, 1970, for colonial and post colonial administrative regulations in the Simalungen Batak region.
20. See Middendorp, 1929; Westenberg, 1914. For reasons on which we can only speculate, the kalimbubu was not included in the colonial conception.
21. Cf. Pospisil, 1979 with regard to the differentiation of 'old' and 'new' traditional institutions.
22. Undang-undang Republik Indonesia, no. 5, 1974 tentang Pokok-pokok Pemerintahan di Daerah, L.N. no. 38, 1974
23. The so called Extraordinary Territories such as Aceh and Yogyakarta, which have a higher degree of autonomy than the 'normal' regions, are not discussed here.

24. Undang-undang Republik Indonesia, no. 5, 1979 tentang Pemerintahan Desa, L.N. no. 56, 1979.
25. The numbers refer to the articles of Act no. 5, 1979.
26. It was reported to us that this was a runggun involving the founding lineages of all four wards and their 'wifetakers' and 'wifegivers', thus comprising the whole village community (although not all villagers actually partook).
27. In Indonesia the five world religions are officially recognized by the state: Islam, Protestantism, Catholicism, Buddhism and Hinduism. The 'original', autochthonous religions, such as Agama Pemena of Karo culture, do not figure among the recognized religions.
28. Benteng's relatively small population of about 900 were members of the following religions (in descending order of size): Protestants, Catholics, Seventh-Day Adventists, Muslims and a few Buddhists.
29. No members of clans or subclans other than the founding subclan had been entered as a candidate, although there are no restrictions in this respect in state law. Probably this is an effect of the notion that traditionally the village head should be a member of the founding subclan.

References

HOLLEMAN, J.F. (ed.)

- 1981 Van Vollenhoven on Indonesian Adat Law, Selections from Het Adatrecht van Nederlandsch-Indië, Koninklijk Instituut voor Taal-, Land- en Volkenkunde, Translations Series no. 20, Martinus Nijhoff, The Hague.

LEGGE, J.D.

- 1961 Central Authority and Regional Autonomy in Indonesia: a Study in Local Administration 1950-1960, Cornell University Press, New York.

- 1977 Indonesia, 2nd ed., Prentice-Hall of Australia, Sydney.

LEV, D.S.

- 1962 "The Supreme Court and adat inheritance law in Indonesia", in: American Journal of Comparative Law, vol. 11, p. 205-224.

THE IMPLEMENTATION OF STATE LAW THROUGH FOLK LAW
Herman Slaats / Karen Portier

- 1965 "The lady and the banyan tree: civil law change in Indonesia", in: American Journal of Comparative Law, vol. 14, p. 282-307.
- LIDDLE, R.W.
1970 Ethnicity, Party, and National Integration: An Indonesian Case Study, Yale University Press, New Haven.
- MIDDENDORP, W.
1929 "The administration of the outer provinces of the Netherlands Indies", in: B. Schrieke, ed., The Effect of Western Influence, Koninklijk Bataviaasch Genootschap van Kunsten en Wetenschappen, Batavia.
- MOORE, S.F.
1978 Law as Process, an Anthropological Approach, Routledge & Kegan Paul, London.
- POSPISIL, L.
1974 Anthropology of Law, a Comparative Theory, Yale University Press, New Haven.
1979 "Legally induced culture change in New Guinea", in: S.B. Burman and B.E. Harrell-Bond, eds., The Imposition of Law, Academic Press, New York, p. 127-147.
- SINGARIMBUN, M.
1975 Kinship, Descent and Alliance among the Karo Batak, University of California Press, Berkeley.
- SLAATS, H. and PORTIER, K.
1981a "Verwerkelijking van adatrecht in de Karo Batakse samenleving", in: Sociologische Gids, nr. 4, August 1981, p. 347-364.
1981b Grondenrecht en zijn verwerkelijking in de Karo Batakse dorpsamenleving, Publicaties over Volksrecht, vol. IX (2 parts), Instituut voor Volksrecht, Katholieke Universiteit, Nijmegen.
1985 "Transformation of normative concepts in the litigation proces in Karo Batak society", in: K. von Benda-Beckmann and F. Strijbosch, eds., Anthropology of Law in The Netherlands, Essays in Legal Pluralism: Verhandelingen van het Koninklijk Instituut voor Taal-, Land- en Volkenkunde. Foris, Dordrecht (in print).

SOLLY LUBIS, M.

1983 Perkembangan Garis Politik dan Perundang-Undangan
Pemerintahan Daerah, Penerbit Alumni, Bandung.

STEENHOVEN, G. van den

1973 "Musjawarah in Karo-land", in: Law and Society Re-
view, vol.7, no.4, p. 693-718.

WESTENBERG, C.J.

1914 "Adatrechtspraak en adatrechtspleging der
Karo-Bataks", in: Bijdragen tot de Taal-, Land- en
Volkenkunde van Nederlandsch-Indië, LXIX, p.
455-600.