

## CHAPTER IV

### THE INSTITUTION OF NATIVE CHIEFS

There are three stages of being a native chief in Sabah.

There are

- (1) the Ketua Kampung or headman,
- (2) the Native Chief or Ketua Anak Negeri,
- (3) the District Chief or Ketua Daerah.

The smallest administrative unit is a kampung. A Ketua Kampung is responsible for the welfare of a kampung, which usually comprise of about two hundred to one thousand inhabitants. Above the kampungs, the next unit is a mukim which consist of about twenty to fifty kampungs. A mukim comes under the control of a Penghulu who is known as a Ketua Anak Negeri or Native Chief. He is a salaried government servant with a limited jurisdictional power. Among the Ketua Anak Negeri is chosen a leader known as Ketua Daerah or more commonly known as Orang Kaya-Kaya.

During the colonial era, a Ketua Kampung was known as Orang Tua Kampung. He was the leader of the local inhabitants and was appointed by the Government. The appointment was based on the advice of the Ketua Anak Negeri and the candidate chosen will have to be first approved by the District Officer concerned. The person normally appointed was a village elder who was noted and respected.

After independence in 1963, there were no major changes in the method of appointment even though in certain cases the inhabitants have requested that Ketua Kampung be elected. The main change after independence is the change in the system of administration in that a new administrative unit is set up. The inhabitants of a kampung are encouraged to set up a Kampung Development Committee which is usually chaired by the Ketua Kampung with ten other village leaders as members of the committee. Every Ketua Kampung who is appointed is given a Surat Kuasa which is awarded by the Chief Minister's Department.

A close study of the functions of a Ketua Kampung shows that it covers a wide field. Among other things he is required:-

- (1) to inform the Ketua Anak Negeri or the District Officer the problems faced by the Kampung folks,
- (2) to advise the inhabitants regarding rules and regulations of the Government that are related to the system of living in the kampung,
- (3) to advise the people in the kampung so as to pay their rent for land on the dates stipulated,
- (4) to inform the District Officer or the Police of sudden deaths, criminal occurrences, the presence of a contagious disease that has invaded the kampung,
- (5) to advise and encourage the kampung people to send their children to school,
- (6) to advise people to plant useful crops in their land,
- (7) to advise inhabitants of the kampung to take care of the cleanliness of the area and to encourage them to

- go to the clinic for treatment,
- (8) to help government officers when visiting the kampung to carry out their duty,
  - (9) to keep the peace in the kampung and to settle petty disputes regarding kampung customs and
  - (10) to perform all orders from the District Officer or Ketua Anak Negeri.<sup>1</sup>

It should be noted that a Ketua Kampung is not a salaried government officer. As Ketua Kampung are not salaried government officers, the Public Service Commission have no authority to appoint a Ketua Kampung. They are given allowances which is not fixed. The District Officer will determine the amount to be paid.

A Wakil Ketua Kampung can be appointed to aid the Ketua Kampung in carrying out his manifold duties. He is usually selected by the Ketua Kampung. However, the Resident in cases of vacancies caused by death or other unexpected occurrence may also appoint a Wakil Ketua Kampung. Such Wakil Ketua Kampung will not be issued with a Surat Kuasa.

With the setting up of the Jawatan Kemajuan Kampung or Village Development Committee the Ketua Kampung does not have to shoulder all the responsibility of the affairs of the Kampung. His

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<sup>1</sup> Condensed from Section 42 of the Rural Administration Ordinance 1951 and from an article entitled "Hubungan Ketua Kampung dan Jawatankuasa Kemajuan Kampung" by Pengiran Osman Rauf. The article appeared in Chermin Masyarakat, Volume 2, Issues 6 and 7 on 16 September 1974 and 16 December 1974, on pages 10, 13, 14 and page 10 respectively.

functions can be delegated to members of the Village Development Committee.

Before independence, rural development projects were limited and the main duty of the Ketua Kampung is to see that no laws are breached. The people viewed the Ketua Kampung as a Government agent with powers of enforcing the law and to punish those who go against them. As such the relation between a Ketua Kampung and the kampung inhabitants is that of awe and sometimes of fear. However, this fear is now almost gone as the Ketua Kampung mingle more and more with the people and his functions are shared with other members of the village.

It cannot be denied that a Ketua Kampung has a definite role to play in rural development. He is also an agent of change and so he must have a certain standard of ability. He is the traditional leader of a Kampung and is respected by the people around him. The role of the Ketua Kampung has changed to such an extent that the present day Ketua Kampung is expected to give recommendations to the Government. In the colonial era, the type of Ketua Kampung that was looked for were the type who would carry out any directions without question.

Native Chiefs are appointed on scale K - \$150 x 10 - 170 x 15 - 320 x 20 - 400. District Chiefs are appointed on scale J - \$275 x 15 - 410 x 20 - 570.

District and Native Chiefs are being called upon to play an increasingly important function in Native Administration. They are

expected not only to carry out the relevant policies of the Government but also to provide leadership among the Native population. They have in addition important functions as presidents or members of Native courts. Native Chiefs are therefore adequately remunerated and the level of their remuneration should be sufficient to maintain their dignity and prestige as Native community leaders. Although District and Native Chiefs are not by virtue of their special position subject to General Orders, they are eligible for certain additional benefits available to other members of the civil service, including child, supplementary and house allowance although house allowance is payable only to District Chiefs. They are also eligible for Entertainment Allowance at the rate of \$60 a month for District Chiefs and \$40 a month for Native Chiefs. The posts are pensionable. The Public Service Commission is the competent authority to appoint Native Chiefs. The State Public Service Commission has delegated this power to appoint Native Chiefs to the Rural Administration Committee of the Chief Minister's Department. All recommendations for the appointment of Native Chiefs are dealt with by the Committee. However, the District Officers, since they are the officers who ought to know the rural people and their potential leaders in the kampungs or in the districts, play a major role in the appointment of Ketua Kampungs, Native Chiefs and District Chiefs. Their appointments depend to a greater extent upon the recommendation of the District Officer.<sup>2</sup> Normally at the request of the Resident,

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<sup>2</sup> Interview with Enock Benjamin Mokuwed on 23 April 1976, at the District Office in Keningau.

the District Officer will submit a list of names and the Resident will make special recommendations for one of them.

Part V of the Rural Administration Ordinance 1951 sets out the powers and duties of a Native Chief and Headman. "It shall be the duty of every native when thereto required by any Native Chief or Headman having jurisdiction over him to assist in carrying out the duties imposed upon such Native Chiefs or Headmen by this or any other written law or native custom for the time being in force; and every native so required by the Native Chief or Headman shall be deemed to be empowered to do all that may be reasonably necessary to give effect to any lawful order given by such Native Chief or Headman."<sup>3</sup> Under Section 38(1) it shall be the duty of every native when so directed by a Native Chief or Headman having jurisdiction over him to attend before such Native Chief or Headman or before a Government Officer. Failure of this can lead to the arrest of the native by the order of the Native Chief or Headman.

Every Native Chief or Headman is empowered (1) to search for, arrest and investigate the case of any person accused of any offence and to send him in custody to the District Officer together with any property concerned which may have been recovered;

(2) to call upon any person who ordinarily resides within the area

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<sup>3</sup>Section 37 of the Rural Administration Ordinance.

of his jurisdiction to assist him in the execution of his duties, due payment for the same being thereafter made.<sup>4</sup>

If any person shall come to stay in a village in which he is not a resident, he and the person in whose premises or boat he is living, shall immediately on his so coming report to the Native Chief or Headman his arrival, name and occupation and the name of the place where he last resided and the departure of such person whose arrival shall have been so reported shall also be reported, issued upon such departure, to the Native Chief or Headman by the person in whose house or boat he has been dwelling. No person who is not a resident of the village could build a dwelling place in a village without the permission of the Native Chief or Headman.<sup>5</sup>

The Orang Kaya-Kaya is a Native Chief appointed to Grade I scale and the appointment is based on merit, seniority and capability. The District Officer will make the recommendation, which will be seconded by the Resident and finally sent for approval to the Rural Administration Committee.

When questioned on the main problems caused by the administration of justice by the Native Chiefs, the general opinion is that the lack of formal education on the part of the Native Chiefs can lead to inefficiency of administration. It is felt that members

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<sup>4</sup>Section 39 of the Rural Administration Ordinance.

<sup>5</sup>Section 41(1) and (2) of the Rural Administration Ordinance.



of the Native Courts should be given some sort of training in presiding over the courts, taking of evidence and statements and passing of judgement. Proper Native Court clerks should be appointed also to assist them.

The policy of the Government now is to replace old, illiterate chiefs with new ones who must have reasonable formal education. It is found that the new policy is very effective. The older uneducated chiefs are so far quite happy to retire when advised to do so. They are aware of their shortcomings and also the increased level of literacy in the village and the people under their control.

The chiefs are also required to be of good character and generally acceptable in the area. The replacement of Native Chiefs is a slow and careful process. For example, in Keningan, the District Chief, Datuk Anthony Undan died on 1st April 1975 and up to the time of writing, no one has been appointed to the post. A Wakil or representative is now doing his job.

In some quarters it is felt that it would be better to have younger and energetic chiefs.<sup>7</sup> However, the difficulty here would be the attitude of the rural folks who believed strongly that only the elders know the best. As such a younger chief might not have the respect and thus the control of the whole kampung.

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<sup>7</sup>Encik Yassin Burrow, Community Development Officer at the Community Development Centre, Kota Kinabalu.



At the moment, native chiefs are appointed on the grounds of competency. However, there is a tendency of hereditary rights taking place in the appointments. During the colonial era, chiefs were also appointed. However, even then, the appointment was based on merit and not because his father is a chief. That factor was considered to be purely accidental.<sup>8</sup> There has been opinions expressed to have elections of native chiefs. This was discussed as early as in the 1958, Annual Conference of Native Chiefs. However at that meeting it was agreed that the residents in the country were generally opposed to the imposing on the Native people a system of electing chiefs. There are a lot of problems faced by the election of chiefs. For a start emotions are less easy to control among the villagers. A closely contended election will split the village into two or more factions which will threaten the peace in a village. An election based on party politics would lead to similar results. Besides, for the time being the Native Chief is a government servant subject to all Government Standing Orders. If a system of election is set up, it would go against the very concept of a government servant.

The Government, before appointing a native chief will always consult local opinion so that the hereditary factor will not be allowed to override other factors. The main objection against hereditary succession was on the ground that men of high intelligence

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<sup>8</sup> Extract from the minutes of the 8th Annual Conference of Native Chiefs held at then Jesselton on 20 October - 22 October 1958.

and efficiency who might well aspire to be leaders are thereby disbarred from advancement, not only to their own advantage but also to that of the people.

To my mind, it is in the best interest of all that the present practise should continue whereby the District Officers consult local opinions and the other chiefs in the district before any appointment. Too many elections might confuse the rural people especially if we bear in mind that elections to the State Legislative Assembly and to the Parliament are held at different times in Sabah. Perhaps in the future, when illiteracy is to a very great extent w...ed out from the villages, the system of elections can be carried out and smoothly without disturbing the peaceful atmosphere of the villages. Before such time, the present system should continue.