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Courtrooms of conflict. Criminal law, local elites and legal pluralities in colonial Java

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PART I — ANCHORING COLONIAL RULE

By the early nineteenth century, the sultanates of Cirebon and Banten in West Java and the outer regions of the central Javanese Mataram empire, reaching from west to east Java, had become 'the government lands' of the Dutch colonial state. In the centre of Mataram, the princely lands, the local rulers remained in place, indirectly ruled by Dutch administration. In the government lands the pre-colonial regional elites, the priyayi, who had been local representatives of the Javanese king or sultan, continued exercising power in service of the Dutch ruler. The era of the VOC and the period of the nineteenth-century colonial state are often viewed as two separate time frames with their own characteristics. However, in addition to contributions to historical research on the transitional era from company-state to colonial state, I aim to focus on continuity rather than change.[1] The origins of the colonial pluralistic courts in Java go back to the eighteenth century, when the first landraden were introduced in the countryside, within an existing dynamic environment of precolonial law courts. Pluralistic courts were important to the long historical process of anchoring colonial rule.

Formally, from 1621 onwards, according to the principle of concordance (*concordantiebeginsel*), Roman Dutch law was followed in Dutch governed areas of Java, but with the additional principle that this would be the case insofar as possible and practical. This provided space for

[1] Schrikker, "Restoration in Java", 132–144. Van Niel, *Java's northeast coast 1740-1840*.; Van Goor, "Continuity and Change."; Atsushi, *Changes of regime and social dynamics in West Java*.; For an overview of the state organisation of Mataram and its continuities in the nineteenth-century princely lands, see: Moertono, *State and Statecraft in Old Java*.

the application of Javanese customary and Islamic laws.[2] These were used outside of Batavia in particular, because in the countryside local laws were largely retained. Therefore, concentrating too much on the formal VOC policy in Batavia, the centre of Dutch colonialism, where all population groups were subject to the same courts and laws, provides an incomplete legal history. But also in Batavia the emphasis on racial division was already evident in early modern times, as can be seen from the separate quarters where ethnic groups lived and were policed by their own chiefs.[3] Cribb accurately defines the "universal" Statutes of Batavia (*Statuten van Batavia*) of 1642 as the only exception to an otherwise dominant tradition of separate jurisdictions.[4]

I will argue that there was a continuity of pluralistic courts from the VOC era to the nineteenth-century state, and subsequently ask how and why these pluralities continued, and investigate what this tells us about colonial state formation in Java. In the eighteenth century, in most regions in Java, the Dutch intervened in criminal law practice and simultaneously attempted to more or less adjust to the local legal traditions. This policy followed more general patterns of allowing local legal systems and laws, which was common in early-modern states in general.[5] Therefore, I do not observe the pluralities as odd singularities of a centralising state, but as phenomenon that were part of the state processes, as Halliday has argued: "For the early modern state was not simply a site of pluralities. It was made by them."[6] Legal pluralities and regional differences were familiar in the Dutch Republic itself. In 1813, there were no less than 128 criminal law courts in the province of Holland. This number quickly decreased during the nineteenth century when uniformity was introduced through the nationwide implementation of French legislation.[7] However, whereas a uniform legal system was introduced in all provinces in the Netherlands, in Java the pluralistic courts continued to exist and it was codified that the Javanese were tried according to their "own" laws and customs.

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[2] Van Wamelen, *Family life onder de VOC*, 76.
[3] Raben, *Batavia and Colombo*, 214 and 265.
[4] Cribb, "Legal Pluralism and Criminal Law in the Dutch Colonial Order," 47-66.
[5] Benton, *Law and Colonial Cultures*, 127.
[6] Halliday, "Laws' histories," 268.
[7] Bosch, "Het Openbaar Ministerie in de periode van 1811–1838", Ch.1, Paragraph 2.

At the same time, the process did move in the direction of more state control over jurisdictions, and consequently local authorities and laws were identified and written down, with alterations and codification as result.[8] Chapter 2 offers an institutional genealogy of the pluralistic courts and traces the developments of the pluralistic character of the landraden and circuit courts. Thereafter, I turn from the courts to the codes. Western colonial powers in general, the British displayed a similar behaviour in British India, aimed at an unequivocal answer to their question of what Islamic law *was*. Their persistent codification fever, however, was in contrast with the Islamic legal traditions, in which multiple legal authorities could be consulted and various outcomes were possible.[9] Yet, whereas the British incorporated Islamic law into their colonial law, the Dutch remained indecisive about whether the laws of Java were Islamic at all. Chapter 3 focusses on the colonial codification of Javanese, Islamic, and Dutch-colonial laws by the Dutch. In particular, the focus is on the informants they consulted and how they affected the compilation of colonial criminal codes. Altogether, this part's attention lies on the legal pluralities from an institutional and legislation perspective. The next two parts are more actor-focussed, on the jaksa and penghulu, and the priyayi and Dutch court members.

[8] Benton, *Law and Colonial Cultures*, 127.
[9] Yahaya, *Courting Jurisdictions*, 75-76.