



Universiteit
Leiden
The Netherlands

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

Ravensbergen, S.

Citation

Ravensbergen, S. (2018, February 27). *Courtrooms of conflict. Criminal law, local elites and legal pluralities in colonial Java*. Retrieved from <https://hdl.handle.net/1887/61039>

Version: Not Applicable (or Unknown)

License: [Licence agreement concerning inclusion of doctoral thesis in the Institutional Repository of the University of Leiden](#)

Downloaded from: <https://hdl.handle.net/1887/61039>

Note: To cite this publication please use the final published version (if applicable).

Cover Page



Universiteit Leiden



The handle <http://hdl.handle.net/1887/61039> holds various files of this Leiden University dissertation.

Author: Ravensbergen, S.

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

Issue Date: 2018-02-27

PART III — ROOM TO MANOEUVRE

The pluralistic courts were not only part of the effort to secure the legitimacy of the colonial state in its earliest stages, they were also an active part of the mechanism to maintain colonial power. Although the colonial state initially legitimized law, as discussed above, through including jaksas and penghulus in court, soon the exercise of colonial law was mainly found in the collaboration of the Dutch resident and Javanese priyayi, functioning as collegiate judges—with an equal vote—in the pluralistic courts.

The coming chapters scrutinize the dynamics between the Javanese priyayi and the colonial Dutch judges. What did the Javanese and Dutch judges of the pluralistic courts discuss behind closed doors when deciding their verdicts, and what do these deliberations tell us about the workings of dual rule in colonial Java? First, I discuss the period until 1869, when the residents were presiding the landraden and the cultivation system was central to the colonial state's aims. Thereafter, I turn to the period after 1869 when jurists replaced the residents as landraad presidents, to find out what changed in the dynamics between Javanese and Dutch judges, and between priyayi and residents, with the arrival of the judicial presidents in the pluralistic courts.

Zooming in on the priyayi-Dutch dynamics in the nineteenth-century colonial courtrooms and on the moment of change to jurist-led landraden in 1869, provides a new window to the debate on the supposed “strength” or “weakness” of the colonial state in Java. Historian Marieke Bloembergen researched the police in the Dutch East Indies during the early twentieth century and she describes how a lack of knowledge on the side of the

colonial administration increased the vulnerability of the colonial state. Bloembergen imputes this lack of knowledge to fragmented power structures, language difficulties and the relations between the Javanese and European officials.¹ The historian Onghokham was also concerned with the fragile character of dual rule, but he stated that during the nineteenth century the colonial state was rather strong by applying its dual rule tactics successfully, at the expense of the population at large. For example, it was certainly not the case that the people simply accepted the oppression of the cultivation system, but the oppression both by the priyayi and by the Dutch was so effective that the Javanese were simply caught in a stranglehold.² Indonesianist Henk Scholte Nordholt has even designated the situation in colonial Java as a “state of violence”, although he explains this by the weakness of the colonial state. Power and violence were linked together, he argues, because the colonial government was not capable of maintaining order in a different manner than through allowing violence by criminal gangs “in cooperation with and protected by local officials”.³

The claim of a “state of violence” was countered by historian Cees Fasseur, who did not find proof in the colonial archives of regular violence under the cultivation system, although he suggested that the Dutch might not have noticed disturbances due to their lack of knowledge of what was going on in the Javanese “mysterious and secretative world of complainants and victims, of indigenous powerbrokers and their allies, of competing families and their helpers, of profiteers and their dupes.” Fasseur also argued that Schulte Nordholt underestimated the positive influence of the introduction of an impartial judiciary, at least after 1914 when the police magistracy was abolished: “that was fostered by a corps of highly trained Dutch officials even though they functioned within a colonial setting and framework”⁴ Historian Jan Breman disagreed with Fasseur’s reasoning, by stating that there is proof of violent acts in the archives. His research on the coffee plantations of the governmental Priangan system shows that, for example,

¹ Bloembergen, *De Geschiedenis Van De Politie*, 361.

² Onghokham, *The residency of Madiun*, 214.; Onghokham, “Social Change in Madiun”, 638. Although Onghokham refers in particular to peasants’ revolts by a small group of landowning farmers, because they were obliged to pay taxes.

³ Schulte Nordholt, *A Genealogy of Violence*, 11.; Schulte Nordholt, “De jago in de schaduw,” 664.

⁴ Fasseur, “Violence and Dutch rule in mid-19th century Java,” 10-11.

village chiefs were whipped when not meeting the requirements, or not following orders, given by priyayi or Dutch officials.⁵

I aim at contributing to this ongoing debate on the character of the colonial state in two ways. First of all, rather than focussing on the strong, weak or violent character of the colonial state, I am interested in the courtrooms as a more contested and conflicted space within the state, mirroring the broader dual rule dynamics in Java. I seek answers in the character and daily practice of dual rule and the central role of the criminal investigations and the *landraad* sessions within this system. The *landraden* were rooms where manoeuvring was possible and where the regional precarious balance between the priyayi and Dutch branches of power was strengthened, undermined, maintained or redefined—depending on the context of the case and the interests of the judges involved. Also, the consequences of the limited supervision over courts, and the absence of private attorneys to defend local suspects, leads to questions about the manoeuvring space for the judges and officials of the pluralistic courts. The absence of local legal professionals in the nineteenth century is important, and different from for example British India, where an educated local elite came up during the 1840s and 1850s, taking up positions within the colonial legal system.⁶

The second debate the coming chapters touch upon is the impact of liberalism, in particular liberal jurists, on the space to manoeuvre in the colonial courts. Fasseur rather uncritically described colonial jurists as the ones who introduced enlightened ideas about law to the colony. This argument is repeated by other historians, but never critically assessed.⁷ We see indeed that from 1860 until the end of the nineteenth century, liberal jurists got things done, foremost of all the introduction of trained jurists as *landraad* presidents in 1869. Liberal Dutch lawyers and judges in Java depicted themselves as “bearers of civilization”, but the question is, what exactly did change after 1869? How exactly did the liberal colonial jurists

⁵ Breman, *Koloniaal profijt van onvrije arbeid*, 336-337.

⁶ Although the history of legal professionals is also for the British Empire not extensively researched: Sharafi, “A New History of Colonial Lawyering,” 1061.

⁷ This in contrast to the extensive debate regarding colonial liberalism in the British Empire, as mentioned before in Chapter 1. See for example: Lake, “Equality and Exclusion.”; Mehta, “Liberal Strategies of Exclusion”.; Metcalf, *Ideologies of the Raj*, 28-65.; Pitts, *A turn to empire*.

think they were bringing the rule of law to Java? Did they actually do this in practice? Which form of colonial liberalism did these jurists represent?⁸

Van den Doel researched the Dutch branch of the colonial administration in Java and he describes how liberal thinking was often combined with “paternalistic acting”.⁹ Bloembergen has argued, how, over the course of the nineteenth and early twentieth centuries, most officials and jurists supported the segregated legal system either from a conservative, a liberal, or an ethical perspective. Or—and this was often the case—from a pragmatic policy perspective that never chose between the ideal of unification or dualism.¹⁰ A debate about the character and implications of colonial liberalism in the Netherlands Indies is lacking though, in contrast to the rich literature on this subject for the context of the British Empire as already addressed in Chapter 1. In the coming chapters, I will use the actor-focussed approach to demonstrate that both Dutch and Javanese administrative officials found space to manoeuvre within the colonial criminal law system, at the expense of the Javanese suspects, and that colonial jurists safeguarded their own sphere of influence and further confirmed colonial rule by breaking with liberal legal traditions they had advocated at first.

⁸ For an overview of the development of liberalism in the Netherlands: Stuurman, *Wacht op onze daden*. Liberalism in itself is already a problematic concept. Conflicts of generations changed political liberalism over time so that for example social liberals at the end of the nineteenth century couldn’t identify themselves with the radical liberals of a generation before. Besides, even at one moment in time liberalism was not one coherent ideology. The liberal economic ideas on free trade were interesting for entrepreneurs, but reforms such as an extension of suffrage were much less attractive to them. Therefore, there was a gap between political liberals—who were mainly intellectuals and officials—and people who identified themselves with economic liberalism.

⁹ Van den Doel, *De Stille Macht*, 103.

¹⁰ Bloembergen, *Koloniale vertoning*, 58.