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

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10 — Protecting Priyayi

Succesful dual rule relied on the effective control of the priyayi over their regencies. As a consequence, the Dutch were hesitant in reprimanding and punishing the abuse of power by priyayi, since it could disturb the precariously balanced colonial state power, but this raised the question of what to do with aristocratic officials who committed serious crimes. In this chapter I investigate how the priyayi were protected from being tried at the pluralistic courts, by the privilegium fori. I ask the question how priyayi were prosecuted before and after the introduction of this privilegium, in conjunction with the Java War and the Cultivation System. Thereafter, the focus is on the 1860s when the distrust towards the priyayi was rising and they were accused of being extorters of the people. I investigate how the criticism eventually led to an extortion ordinance.

10.1 Before the Privilegium Fori of 1829: The Borwater Case

To comprehend the prosecution of priyayi before a privilegium fori was introduced, I will closely assess an extensive dossier from 1825. It was a case of the utmost gravity from the perspective of the colonial government: the attempted assassination of an assistant resident.

During the early evening of 16 October 1824, Assistant Resident Borwater of Rajekwesi (East Java) and his wife were sitting at the front porch of their house when they were attacked by a man with a knife. At the moment of the attack, they were chatting with the patih of Rajekwesi Raden Tjitro Prodjo, who was visiting them. Suddenly, an unknown Javanese man approached requesting medicine for his sick brother. Borwater thought it an odd request because the *kliwon* was responsible for supplying medicines, and he summoned the man, who ran towards him and stabbed him in the back below his left shoulder. Borwater defended himself and his wife with his chair and they both survived the assassination attempt. The culprit, Bowo Troena, was caught immediately by several servants of the patih, but died of his injuries the following night. Soon, however, suspicions were pointed towards the regent of Rajakwesi, Tumenggung Poerwo Negoro, who had been on bad terms with Borwater. A dilemma arose: how to prosecute the highest Javanese official of the region?

It was not the first conflict with priyayi in this region. Several Javanese priyayi from the Rembang residency, of which the Radjekwesi regency was part, had previously been suspected of *knevelarij* and abuses of power. They had been prosecuted, but the circuit court judge himself had written that he doubted the practicality of many Javanese priyayi from Rembang being prosecuted at his court.[1] The government agreed, and decided to dismiss two regents in the residency. The regents were succeeded by their sons. The resident also pressed for the dismissal of the regent of Rajekwesi, but this was not approved on. The government emphasized the importance of "proceeding with the utmost prudence when appointing or dismissing those officials." They also reiterated that regarding the succession of dismissed regents "the members of their families should never be bypassed".[2] The correspondence shows that the position of regents in Java was hereditary, and that both judicial and administrative colonial officials considered it unwise to prosecute too many Javanese priyayi.

The assassination attempt on the twenty-six-year-old Assistant Resident Borwater of Rajekwesi occurred a few months later. Archival documents show that interrogations into the crime were done by the patih of Rembang and—remarkably—by the penghulu of the landraad.[3] However, when the resident expressed his suspicions about the possible involvement of the regent, the investigations were transferred to a special European committee consisting of the circuit court judge of Surabaya, Willem Hendrik baron van Heerdt, a Council of Justice member from Semarang, Christiaan de Haan, and the assistant resident of Tuban, Steven Lodewijk George van Schuppen.[4] Within two months of the start of the committee's investigation, they submitted a thirty-five-page report and a few hundred pages of

[1] Van Deventer, "Geschiedkundig overzicht van het inlandsch bestuur," 201. Letter from the circuit court judge to the governor general. Rembang, June 26, 1823.

[2] Van Deventer, "Geschiedkundig overzicht van het inlandsch bestuur," 201. Resolution governor general. R. May 17, 1823, no.18. "*bij de aanstelling en afzetting van die ambtenaren, met de meeste omzigtigheid behoort te worden te werk gegaan, en in geen geval, dan om dringende en kenbare redenen, moet besloten worden, de leden hunner familiën voorbij te gaan.*"

[3] Remarkably is here that the interrogations were done by the penghulu, and not by the jaksa or wedono . This might point at the regional differences in Java at the beginning of the nineteenth century, as discussed before in Chapter 2.

[4] It is not mentioned in the official regulations when and why a investigation committee exectuted criminal investigations. It is clear though, that this was a practice that occurred more often in cases where a European was the victim, as will become apparent in some of the cases discussed below.

attachments consisting of witness accounts, confrontations between witnesses, and autopsy reports. The committee concluded that the fifty-five-year-old regent of Rajekwesi, Tumenggung Poerwo Negoro, had commissioned the murder attempt. Investigating the case must have been complicated, because the committee was dependent on local witnesses and local experts whose relationships to either the regent or the adversaries of the regent were not entirely known to them.

Two witness accounts proved the involvement of Tumenggung Poerwo Negoro. Two men testified that they themselves had been asked by the regent to commit the murder, but that they had refused. The Javanese Sokodjo stated that one night, when he "was massaging (*pijit*) the limbs" of the regent, the regent had been complaining, because he had to "endure the most offensive voicings of dissatisfaction during each meeting with the assistant resident." Thereafter, the regent proposed asking the coolie Pa Gambrang whether he would dare to "put away" Borwater for 300 Spanish dollars. Pa Gambrang refused. Then, according to Sokodjo's statement, the regent argued that it was "just a human from the other side of the ocean." The regent also promised them that they would not have to do any more unpaid services (*herendiensten*). However, Pa Gambrang and Sokodjo had still refused. The two testified that a few days later Bowo Troeno—a *magang* of the regent—committed the attempted murder in the exact way that the regent had proposed to them.[5]

The regent himself denied that he knew Bowo Troeno, but the former jaksa of Bowarno, Mang-an-astro, testified that about six years before, he had imposed thirty rattan strokes on Bowo Troeno for theft, and he had kept him in custody after that on the order of the regent. On the same day, however, the regent released Bowo Troeno and he had returned to his house. Not long after this event, the jaksa ran into Bowo Troeno, who had told him that he was now working in for the regent as a *magang*. Besides, one and a half years before, the regent had told him that he had received a wooden *kris* cover from his *magang,* Bowo Troeno. There were other witnesses who said that they had known Bowo Troeno for years and that he

[5] ANRI, AS, R. May 17, 1825, no.18. Report by the special investigations committee, undated [approximately April 1825]. "*…de ledematen moest wrijven / pidjit." (..) "..telkens bij ontmoeting van den Assistant-Resident, hij de grievendste betuigingen van ontevredenheid moest ondervinden*)." (…) "*..slechts (..) een mensch van de overzijde van de zee." "..iemand van "t geslacht dat zich niet reinigt."*

worked for the regent. However, other *magangs* of the regent had claimed not to know Bowo Troeno, although they noted that they did not know all the regent's *magangs*. The committee concluded that the regent must have known who Bowo Troeno was, especially because Bowo Troeno had lately been suspected of the murder of his own brother-in-law.[6]

The committee found no sign that Bowo Troeno had been temporarily "deprived of his senses" or that he himself could have been motivated by hatred of the assistant resident. Moreover, several witnesses—among whom the son of the regent—had declared that Bowo Troeno had exclaimed on his death bed: "Ah, I only have been sent." One witness had even heard him saying, "I just have followed the order of my lord, *Guste Kulor*." And the term *Guste Kulor* could only refer to someone of the rank of regent. The regent himself opposed this by arguing that the reference was also used by people dying, to refer to God or Muhammad the Prophet. However, former penghulu Achmat Dono Rodjo declared that this was not true.[7]

An interesting aspect of this and similar cases discussed in the next chapter is that if a European was the target of a crime committed by, or on the order of, a Javanese priyayi, the European was held accountable for not being capable of handling his "younger brother" well. The committee report described how Borwater had tactlessly reprimanded the regent and other Javanese chiefs during a landraad session. According to the assistant resident, the regent had been "slow and negligent" in landraad cases, eventually functioning so poorly that he had decided to sideline him altogether and to communicate directly with the patih instead. The regent declared that he did not feel any hatred or resentment towards the assistant resident, but that the assistant resident had taken away his authority and that he had never visited him, except when summoned, for fear of being rejected. He had written a letter to Borwater to explain that he felt excluded from administration issues, and that the patih did not listen to him anymore and refused to perform the *sembah*, the formal greeting to a higher-ranked

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[6] ANRI, AS, R. May 17, 1825, no.18. Report by the special investigations committee, undated [approximately April 1825].

[7] ANRI, AS, R. May 17, 1825, no.18. Report by the special investigations committee, undated [approximately April 1825] "*Ik heb immers alleen opgevolgd de last van mijnen opperHeer / Guste Kulor*."

person.[8] Thus, the twenty-six-year-old Borwater had sidelined the fifty-five-year-old regent by only communicating with the patih, who had not paid his respect to the regent; and two penghulus had given incriminating testimonies against the regent. Altogether, the assistant resident had clearly been mingling in priyayi affairs, and possibly intrigues, and this was not recommended among the Europeans in Java. By sidelining the regent he had upset a precarious balance. The principle of dual rule was marked by prudence and it required a constant effort to strike the right balance between non-interference—leaving the exercise of rule to the priyayi—and interference—to exert sufficient pre-eminence as colonial ruler. The precarious balance was easily disturbed in the landraad, and during criminal case procedures generally, because there it was impossible to avoid direct communication and actual collaboration had to take place.

The regent raised the possibility of a conspiracy against him organized by the Patih Tjitro Prodyo, who wanted to show him in a bad light. However, the committee did not suspect the patih because he had prevented Bowo Troeno from being beaten to death so that he could be interrogated before he died. Besides, the reputation of the regent was not very positive, *mantris* had already complained about him and he had been interested primarily in appointing his own family members. There were also some vague suspicions of intoxication and attempted assassinations of his enemies. Altogether, the committee concluded that the murder attempt had taken place on the orders of Regent Tumenggung Poerwo Negoro.

Attorney General Esser read the entire dossier and the attachments but was not convinced of the guilt of the regent. He dismissed the witness accounts of Pa Gambrang and Sokodjo as unreliable, especially because of the remarkable circumstances in which the statement of Sokodjo had taken place. At first, he had been unwilling to say anything either to the penghulu of the landraad during the interrogations or to the resident. The story went that he had sworn to God that he knew nothing about the case. When, a few days later, he was unable to move his legs anymore, he had explained this as a punishment of God, and told the truth after all during a fourth interrogation

[8] A discussion followed on whether the patih had indeed been obligated to perform the sembah and whether he had washed his feet in the presence of the Regent. The patih thought he had not been obligated to perform the sembah, because the Regent had adressed him with Kaka (older brother). The Penghulu Kyai Soeratman, however, stated that it had not been obligatory for the patih to perform the sembah.

by the committee.[9]

It was also quite implausible that the regent would have given his orders directly to Pa Gambrang during a massage, or that he had shared with him so much information about his troubles with the regent. Esser thought it likely that this was a conspiracy against the regent by a number of Javanese chiefs. Moreover, Borwater had been so suspicious of the regent that he had accused of at least negligence almost immediately. In his two statements during interrogations, Borwater declared that the regent had arrived within fifteen minutes, only partially dressed, and to his question of what had happened, Borwater had responded with the counter-question: "How will you be able to justify yourself regarding this?" The regent had responded: "Guards were at their positions, the *mantris* were present and the *patih* was with you, so the police have not been negligent." Thereafter, he had also acted well by sending his son to Rembang for help, providing Borwater with a weapon, guarding the house himself, and giving orders to start the police investigation. "Let the Regent be called for the Circuit Court," Esser concluded, "where he can defend himself for his equals, and will be convicted or acquitted by them."[10] He thought the circuit court was the competent judge, although no ruling regent had been adjudicated there before.[11] According to Esser, the first priority was to prevent a legal error: "the native should also from that side, getting to know and value the respectability of our institutions. Or shall the Dutch East Indies' Government act violently out of fear of a Judicial verdict? Certainly not. It is preferable to release twenty assassins than to adjudicate one innocent man on illegitimate grounds." In a letter to the governor general, Esser argued that he foresaw an acquittal when the criminal case was brought to court, and he did not think that a political measure was correct in this instance: "Would a removal by political disposition be a better option?" he asked rhetorically. "No, Your

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[9] ANRI, AS, R. May 17, 1825, no.18. Letter from Attorney-General Esser to Governor General Van der Capellen. Batavia, April 30, 1825.

[10] ANRI, AS, R. May 17, 1825, no.18. Letter from Attorney-General Esser to Governor General Van der Capellen. Batavia, April 30, 1825. `*Hoe zult gij u hierop kunnen verantwoorden*?" (…) "*Wachts waren op hunne posten, de Mantries waren aanwezig en de Pattie was juist bij u, zoodat de policie niet nalatig is geweest." (...)* "*Laate dan de Regent voor de regtbank van ommegang geroepen worden, alwaar hij voor zijne gelijken zich kan verdedigen en door den zelven zal worden veroordeeld of vrijgesproken."*

[11] ANRI, AS, R. May 17, 1825, no.18. Letter from Attorney-General Esser to Governor General Van der Capellen. Batavia, April 30, 1825. Esser wondered about this in his letter. In the margins of the letter someone wrote: "Up to no, no regent." (*tot hiertoe nog geen Regent).*

Excellency! And this, because there is no sufficient grounds for conviction."[12]

The governor general partly concurred with the attorney general. There would not be a court session, because there was not enough evidence to prosecute the regent. The prosecution of priyayi might lead to an acquittal, and this would possibly lower Dutch prestige in the colony, so this was to be avoided in any case. Nor was official political measure applied, since the necessity for this was lacking. The regent was dismissed and he was no longer allowed to reside in the Rajekwesi Regency, so this was a sort of a political measure. His son Djoijo Negoro was appointed as his successor.[13]

Other sources show how lower-ranked priyayi were convicted by pluralistic courts, but often their status was taken into consideration. In 1825, for example, in Cirebon a wedono was convicted by the circuit courts and sentenced to twelve years' banishment in chains for extortion and abuse of power. Wiera Negara had taken rice fields belonging to the inhabitants of the village Kawali, and received the accompanying land rent of sixty guilders. He had also "completely looted" the wife and children of a deceased man who still owed him money. Also, he had taken the buffalos of seven men, and twenty-four people were farming his rice fields and peanut farms, and working in his oil mill, without pay. If the village chiefs were slow, he would put them in the "block." However, because of his "prominent family," no degrading punishment was imposed by the judge. A pardon request, submitted by the regent and some other chiefs, was turned down.[14]

In other cases, the governor general even decided to avoid a criminal trial altogether. In 1823, the resident of Japara had requested that several wedonos suspected of severe extortion be referred to a circuit court, organising its the court sessions in residencies different from the ones where the accused originated from. This, because seated in the landraad were members "who were most likely, directly or indirectly, related to the cases or

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[12] ANRI, AS, R. May 17, 1825, no.18. Letter from Attorney-General Esser to Governor General Van der Capellen. Batavia, April 30, 1825. "*....de inlander moet ook van die zijde, het achtbare van onze instellingen leren kennen en waarderen. Of zoude het Nederlandsch Indsiche Gouvernement gewelddadig handelen om de vrees voor een Regterlijke uitspraak? Gewis Neen. Liever twintig sluipmoordenaars op vrije voeten dan een onschuldige op lossen grond onwettig behandeld." (...) "Ware dus eene verwijdering bij politieke dispositie niet beter? Neen Uwe Excellentie! En wel omdat er geen genoegzame overtuiging aanwezig is."*

[13] ANRI, AS, R. May 17, 1825, no.18.

[14] ANRI, AS, R. October 7, 1825, no.5. Advice of the attorney general regarding the pardon request of Wiera Negara, former wedono of Kawali.

persons." The government decided to appoint a committee, presided over by the prosecutor of the Council of Justice of Semarang, to investigate the case. Taking into consideration the number of influential suspects involved, the committee advised against bringing the case to a court of law. Instead, it recommended replacing or retiring the regent and dismissing several wedonos and village chiefs.[15]

10.2 Introduction of a Privilegium Fori

The murder attempt on Borwater, and in particular the suspicions about Tumenggung Poerwo Negoro, was a vexed issue to the colonial government, but it did not lead directly to changes in the regulations. Yet, in response to another case in 1829, in which the assistant resident of Grisee sued a regent for not paying his debts after an auction, it was decided to formalize the adjudication of priyayi. In reaction to this event, which was considered an insult to the regent and potentially damaging to his (and indirectly the colonial government's) prestige, the governor general asked for more information on the prosecution of Javanese nobles. All residents were asked to send information on the prosecution of Javanese nobles in civil cases to the Supreme Court. Almost all residents reported that they could find no such cases. Only in Surabaya did this appear to be quite common. The resident of Surabaya sent a table that displayed several civil cases in which nobles were sued for their debts. He also included an overview of no less than twelve criminal cases in which Javanese nobles—"highest elites and their relatives"—had been prosecuted by the landraad or circuit court from 1819 to 1828.[16]

What stands out immediately is the public character of the punishments. On 6 March 1826, a chief *mantri* in Sidayu named Raden Demang Soeno di Poero had been convicted of murder. His punishment was severe: he was whipped while being exposed under the gallows, and after this, he was branded and banned for twenty years. Second, the convicts were often close relatives of Javanese regents and sultans. The chief *mantri* mentioned was not a very high official, but he *was* a relative and brother-in-

[15] Van Deventer, "Geschiedkundig overzicht van het inlandsch bestuur," 205. "*…die waarschijnlijk, direct of indirect, tot de zaken of personen in betrekking stonden.*"

[16] ANRI, R. March 24, 1829, no.19. Letter from vice-president of the Supreme Court G. Buijskes to Governor General Du Bus de Gisignies, who asked for information on the prosecution of Javanese nobles.

law of the regent of Sidayu. Another prosecuted priyayi, also a chief *mantri*, was a full cousin of the regent ("prince") of Pamekasan. He was hanged in 1820. A year before, in 1819, two cousins of the *Susuhunan* ("emperor") of Surakarta were whipped, chained, and banned.

The table includes notes on the verdict's impact on the population. The resident of Surabaya had not just compiled a list; he also asked the regents for comments on the trials. The regent of Surabaya commented on a case from 1826 in which his relative, Koeda Nawarsa—ruler of the island Kangean—had been dismissed and banned. The regent had never been informed of this verdict, and he noted that informing him would have been according to custom, and also appropriate given the rank and status of the convict. In the case of the chief *mantri* of Pamekasan, the consequences of a verdict handed down in 1820 were even more obvious. The regent reported that the verdict had brought so much shame and sadness to his family and other nobles that someone had suggested poisoning the convict to avoid the humiliation of a public hanging.[17]

Altogether, there were various reasons to reconsider the prosecution of Javanese nobles in the pluralistic courts: it could damage the relationship between the colonial administration and the nobles, and it could damage the prestige of the nobles among the Javanese. And even though the request of the governor general mainly addressed the issue of priyayi as litigants in civil cases, the prosecution of priyayi in criminal cases was reconsidered as well. On 24 March 1829, the Council of the Indies proposed establishing a so-called Big Landraad (*Grote Landraad*) for priyayi cases.

On 19 September 1829, the governor general issued a resolution saying that, from then on, local rulers and regents (*vorsten en regenten*) would be prosecuted by the judicial courts for Europeans, the councils of justice. Civil cases could be appealed to the Supreme Court, and in criminal cases court proceedings would be held behind closed doors. In all cases, a jaksa and a penghulu offered advice in order to keep the verdict in line with the Javanese customs and morals—"as far as somewhat possible regarding the principles of the General Law." The decision to administer priyayi cases at the European courts was to be temporary measure while a committee

[17] ANRI, GS Surabaya, no.1486. The in the AS mentioned overview by the resident of Surabaya has been preserved in the GS archive of Surabaya.

investigated how to organize special courts for the Javanese elite.[18] However, these special courts were never introduced, and it remained common practice for justice over priyayi to be administered by the European courts until the end of the colonial era. Remarkably, despite the overview of the resident of Surabaya, discussed above, which included mainly lower-ranked priyayi, the regulations of 1829 were only meant for ruling regents and kings, not their relatives. Even priyayi of quite a high rank, such as the wedonos, were still tried by the pluralistic courts.

10.3 Priyayi and the Java War

The privilegium fori was implemented in 1829, when the Java War was at its height, but there does not seem to have been a direct link between the events. Surely, the Dutch felt that a good relationship with the Javanese regents was essential to maintaining colonial domination. Chiefs accused of extortion could count on lenient treatment during the Java War, for example in Kedu, where the yearly reports of the resident from the years 1827 to 1833 mention how chiefs' criminal behaviour towards the people was tolerated as long as the chiefs remained loyal to the Dutch. In 1828, the resident of Kedu wrote that "in general, it is my principle that—for as long as the revolts continue—one should turn a blind eye to many actions done by native chiefs who are useful. Once peace is restored, one can safely handle the situations, without being afraid that the loss or the dissatisfaction of a brave chief will have consequences, which are worse than the evil that one aimed to fight by prosecuting him."[19]

The Dutch were prepared to go to great lengths to assemble loyal chiefs around them during the Java War. Sometimes, these chiefs were outright thugs who profited from the war to expand their power. A telling example Yoedo Negoro, who had been a *gunung* (a priyayi position) when Kedu was still subject to Javanese rulers, and he had been influential in

[18] S 1829, no.98.; ANRI, AS B. September 19, 1829, no.10. The committee would consist of three residents. Advice would be asked of the president of the Supreme Court, the president of the Councils of Justice and the judge of the Circuit Court of Batavia.

[19] ANRI GS Kedu, no.2. Algemeen Verslag 1828. "*Het is mijn principe over het algemeen dat men zoo lange de onlusten blijven heerschen zeer veel bij de Inlandsche hoofden die nuttig zijn, door de vingeren te zien. Is de rust eenmaal hersteld, dan kan men met gerustheid naar omstandigheden handelen, zonder bevreesd te zijn, dat het verlies of de ontevredenheid van een moedig Hoofd gevolgen kan na zich slepen, die erger zijn als het kwaad welk men door hem te vervolgen heeft willen tegengaan.*"

Probolinggo in particular.[20] During the British era, after Kedu came under colonial authority, Yoedo Negoro (then called Raden Ingebeij Prawiro di Medjo) was appointed chief *demang* of Probolinggo. He retained this title when the Dutch returned, but in 1817 he was sentenced to death for ordering a murder. The influential Yoedo Negoro escaped from prison before the execution could be carried out and he disappeared. When the situation in Kedu was turning against the Dutch during the Java War, Yoedo Negoro suddenly appeared again and offered to restore the peace in the region. Resident Valck gratefully accepted this offer—with the approval of the governor general—and noted in his general report of 1827:

> This chief [Yoedo Negoro] had hardly accepted the authority over Probolinggo or the people would already defer to him; with help of military powers he expelled all mutineers from the district and when he thereafter—in collaboration with the Chief Demang Mangoon de Wirio—attacked the *pinembahan* [ruler] of Bagor and deprived him of his life, the district was fully cleared of mutineers, before the end of the year 1827. And the peace was restored, with the exception of some small poaches ... every now and then.[21]

In the report of 1828, the resident was still unabashedly enthusiastic about Yoedo Negoro, who had been promoted to regent of Probolinggo in the meantime, and elevated to the rank of *temenggung*. The resident did note, though, that there were some remarks to make on the regent's "behaviour in the moral sphere"; but he was nonetheless qualified as the "most brave, capable and feared chief." The years following, the enthusiasm in the resident's yearly reports gradually decreased. In the report of 1831, the new Resident Halewijn says only that Yoedo Negoro "can be useful and has a lot

[20] Probolinggo in Central Java, not to be confused with Probolinggo in East Java.

[21] ANRI GS Kedu, no.2. Algemeen Verslag 1827. *"Naauwelijks had dit hoofd het gezag in het Probolingosche aanvaard of al het volk onderwierp zich aan hem; met behulp van de militaire magt verdreef hij alle de muitelingen uit dat district en toen hij het daarop vergezeld van den Hoofd Demang Mangoon de Wirio den Pinembahan Bagor overvallen en hem van het leven beroofd had, was zijn district voor het einde van het jaar 1827 geheel van de muitelingen gezuiverd en de rust, met uitzondering van eenige kleine stroperijen die in het minoresche nu en dan gepleegd wierden, in de gehele Residentie weder hersteld."*

of power."[22] In 1832, the atmosphere had changed completely. Then, Yoedo Negoro was described as being "of an extorting and greedy character." It was still noted that he had a lot of power, but this time it seemed to have a negative connotation.[23]

What to do with loyal Javanese chiefs who extorted their own people was a major dilemma for the Dutch during the Java War, which is why Yoedo Negoro was protected for years, even though he was known for his illegal and continued to commit crimes while in office as regent. When complaints were made about this, the resident even announced an official pardon for all extortion committed before 1831. However, on 30 March 1833, Yoedoe Negoro went too far. The lower-ranked priyayi Merto Dipo and his son were murdered after filing complaints against the regent to Resident Valck. The Chinese Tankie testified in the case and was himself killed shortly after. The circuit court judge sentenced five Javanese to death, but it turned out that they were innocent and they were saved from the gallows just in time, when the three actual assassins were caught. They declared that they had committed the murders on the orders of Regent Yoedo Negoro. Then, Assistant Resident Tak started a secret investigation, allowing only the chief jaksa to be present during the interrogations. It appeared that some village chiefs had died under suspicious circumstances, even though the regent had listed them as having died from cholera.[24] The report of 1833 even mentions that Yoedo Negoro was planning a new revolt: "The discovery of a number of firearms, live cartridges, recently manufactured new pikes and buried treasures in one of the villages, serves as proof of the regent's bad intentions, which, if executed, could have been detrimental to the internal peace."[25]

Resident Hartmann feared that retiring the regent would be too much of a risk since he would be able to foment trouble again. Therefore, he requested a judicial adjudication and, in case of an acquittal, that the regent

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[22] ANRI GS Kedu, no.2. Algemeen Verslag 1831.

[23] ANRI GS Kedu, no.2. Algemeen Verslag 1832. "*..van knevelachtigen en geldzuchtigen aard.*"

[24] ANRI AS, R. February 4, 1834, no.1. Letter Resident Hartman to the governor general. Magelang, December 1, 1833.

[25] ANRI GS Kedu, no.2. Algemeen Verslag 1833. *"dat het vinden van een aantal vuurwapens en scherpe patronen en pas vervaardigde nieuwe pieken te zijnen, en van de door denzelve in een der dorpen begraven schatten ten bewijze strekken dat den Regent kwade oogmerken moet hebben gehad hetwelk ten uitvoer gebragt zijnde, voor de inwendige rust nadeelig had kunnen uitloopen."*

be removed from Java in any case. Hartmann received approval to arrest the regent. He summoned all Javanese chiefs to a meeting where he informed the regent and disarmed him. Yoedo Negoro responded emotionally, but Hartmann reported having heard second hand that Yoedo Negoro said "that the government had forgiven him so much, that he did not doubt this would happen again this time."[26] The idea that Javanese, and also the regent, were less developed and less civilized than the Dutch, led to an underestimation not only of their administrative capacities, but also of their ability to mislead the colonial administration and to pursue their own interests illegally.

Attorney General Spiering advised imposing a political measure, because Yoedo Negoro came from a respectable family and a dishonourable punishment might lead to a deterioration in relations between his family members and the Dutch administration; because it would be nearly impossible to prove the crimes in court; and because Yoede Negoro was a flight risk and an escape would have "serious consequences" for "peace in Java."[27] The government decided that due to his rank, exiling him to Timor for life by political measure was preferable to bringing him to trial. Even so, he received twenty-five guilders per month to cover his living expenses. The Probolinggo regency was merged with Magelang.[28]

The three Javanese who actually murdered Merto Dipo and his son were sentenced to death by the circuit court judge on 21 June 1834, but they were pardoned. They declared in their pardon request, that had they not obeyed the regent's order to commit the murder, he would have "certainly ordered them to be put down secretly."[29] The Supreme Court wrote in their advice that they did not believe that the lives of the three convicts had been in real danger, because they could have placed themselves "under the protection of the administration." Apparently, the Supreme Court was convinced that the Dutch administration could and would have protected Javanese men against an influential regent. They sought the motive of the

[26] ANRI AS, R. February 4, 1834, no.1. Letter Resident Hartman to the governor general. Magelang, December 1, 1833. "*..dat het Gouvernement hem reeds zoo veel vergeven had, hij echter niet twijfelde of hetzelve ook hem deze keer zou verschoonen."*

[27] ANRI AS, R. February 4, 1834, no.1. Advice by attorney general Spiering on the Yoedo Negoro case. Batavia, January 7, 1834.

[28] Van Deventer, "Verhaal van de knevelarij en het misbruik van gezag van den Regent van Probolinggo Joedo Negoro", 477.

[29] ANRI, AS, Bt. September 23, 1834, no.1. Pardon request Troeno Sonno, Sodronno and So Kromo. Magelang, July 19, 1834. "*..voorzeker heimelijk uit den weg zouden hebben doen ruimen."*

murder in the character of the Javanese, because the "average, foolish, and fearful Javanese, when he is ordered by a mighty headman to commit a crime, will merely carry out this assignment out of slavish subjection." This was thus a reason for granting a pardon. Moreover, they had spoken the truth after their arrest, thereby saving five innocent convicts from the gallows. The punishment was reduced to ten years of (unchained) forced labour in Padang. The Supreme Court also believed that banishing Yoedo Negoro would provide a clear signal to other Javanese chiefs that they should not abuse their people anymore "as instruments of their acts of revenge."[30] They did not mention—or perhaps did not even grasp—that the exile happened after a regime of terror of six years by a convicted murderer, consciously appointed by the colonial government itself.

The appointment of criminals as local chiefs when the current Javanese elite was no longer trusted was not something that happened only during the Java War. In 1819, for example, the bandit leader Sahab, an influential commoner, had been appointed as sub-district chief of Gunung Kencana (Lebak), a politically unstable region in Banten at the time.[31] After the Java War, Johannes van den Bosch argued that one of the causes of the war had been the colonial authorities' excessive punishment of chiefs accused of extortion: "One thought to win over the population by protecting them against their chiefs, by lashing out against the so-called extortion, and inspiring them with a spirit of independence towards their chiefs." In cases of the abuse of power by the Javanese chiefs, treating the Javanese headmen carefully was considered to be of the utmost importance. Due to the cultural differences, the regents should be handled with great care: "A fatherly reprimand, given with an appropriate weightiness, has more impact on their minds, than rigor; public affront, ranting and raving, is unbearable to them."[32]

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[30] ANRI, AS, Bt. September 23, 1834, no.1. Advice Supreme Court regarding pardon request Troeno Sonno, Sodronno and So Kromo. Batavia, August 20, 1834. "….*de gemeene, domme en vreesachtige Javaan, wanneer hij door zoodanig veel vermogend Hoofd tot eene misdaad wordt gelast grootendeels uit slaafsche onderwerping dien last uitvoert." (...)* "…*als werktuigen van hunne wraakoefeningen*."

[31] Ota, *Changes of Regime and Social dynamics in West Java*, 147.

[32] Van den Bosch, "Hoe men met de Javaan moet omgaan (I)", 53-56; S 1837, no.20. *"... men heeft geloofd de bevolking als het ware te kunnen winnen door die in bescherming te nemen tegen hare Hoofden, door het zoogenaamd knevelen van deze te keer te gaan en door aan haar een geest van onafhankelijkheid van hare Hoofden in te boezemen." (...)(Een vaderlijke*

Van den Bosch admitted that in the case of very serious criminal offences or misconduct by prestigious Javanese chiefs, the colonial administration should intervene. However, the legal system had to be bypassed. Instead, forced retirement or banishment to another island by a political measure was more appropriate. Even in the case of banishment, Van den Bosch emphasized the importance of maintaining the regents' inheritance rights and of appointing their sons as successors (or temporary surrogates if the son was yet not of age). Van den Bosch expected the regents to become more loyal to the colonial rulers if they increased their power and assured their family interests, privileges not offered by their former Javanese rulers.[33]

The basis of Van den Bosch's claim that the regents were punished more severely before the Java War is not clear. There are no known examples of regents being adjudicated in a court of law. In 1865, Van Deventer presented a list of cases in which regents were suspected of having committed a criminal offence. He had limited his research to the period before the Java War to prove that the colonial government had not become careful in handling the regent only after the war.[34] His argument is in accordance with the cases studied for this dissertation. Van den Bosch's recommendation on inheritance was not new, either. Also before the Java War, even in extreme cases that threatened high colonial officials, such as the murder attempt on Borwater, no prosecutions followed, only dismissal—and even then, only after several years had passed. Moreover, the dismissed regent suspected of ordering the assassination had been succeeded by his son.

It is clear though, that Van den Bosch clearly had little interest in interfering in priyayi affairs, since this could disturb the peace and disturb the cultivation system, which he had introduced. Therefore, the prosecution of lower priyayi in particular would continue to be a subject of debate.

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vermaning, met gepasten ernst gegeven, heeft op hun gemoed meer invloed, dan gestrengheid; openlijke krenking, schelden en razen, is hun onverdragelijk.

[33] Van den Bosch, "Hoe men met de Javaan moet omgaan (I)", 53-56; S 1837, no.20.

[34] Van Deventer, "Geschiedkundig overzicht van het inlandsch bestuur op Java 1819–1830," 193-215.

10.4 Cultivation System and Extortion

The colonial government and the Javanese priyayi had an ambivalent relationship. On the one hand, Javanese regents were seen as traditional elites whose power over the population was based on inheritance and regional traditions, even though the position of regent was not hereditary according to the Javanese traditions. On the other hand, the colonial government preferred to treat the Javanese regents as officials who derived their power from the colonial government and who were accountable to and controlled by the colonial power structures and rules. In the words of Van Hoëvell:

> On the one hand, the government desired to encourage and defend a system of rule through the native headmen—leaning on their influence and power over the people that they had received by birth or any other means—by confirming and increasing their power, their prestige, and their independence. On the other hand, one [the government] thought of the native headmen—the village chiefs excluded—as to be seen simply, and treated as, native civil servants, who derived all their authority from the Government that appointed them.[35]

Therefore, the punishment of Javanese chiefs, even of the lowest ranks—the village chiefs—was a sensitive issue. It was possible for a resident to rebuke a Javanese village chief without the interference of a criminal court using one of four different measures: a "confidential reprimand"; a public reprimand; the *paseban* arrest (in the courtyard of the regent or wedono)

[35] Van Hoëvell, "De Inlandsche hoofden en de bevolking op Java," 258-266. "*Aan den eenen kant verlangde de regering het stelsel, om door middel der inlandsche hoofden te regeren, om op hunnen invloed en het gezag dat zij door geboorte of op eenige andere wijze, over de bevolking weten te verkrijgen, te steunen en te leunen, om hunne magt, hunne aanzien, hunne zelfstandigheid te bevestigen en te verhoogen, met kracht voor te staan en te verdedigen. Aan den anderen kant meende men, dat de inlandsche hoofden, alleen het dessa-bestuur uitgezonderd, eenvoudig als inlandsche ambtenaren moesten beschouwd en behandeld worden, die al hun gezag aan "t Gouvernement ontleenen…"*

with a maximum sentence of one month; and dismissal, if necessary preceded by a suspension.[36]

The Dutch official introduced the *paseban* arrest in 1854, in response to a question by a resident who wondered if it was legitimate to impose a *paseban* arrest on low-ranking Javanese officials for "light offences concerning their duties." It was decided that this was allowed to punish those who did not perform their duties properly, as a complementary measure to both confidential and public reprimand. However, *paseban* arrests were not to be imposed by the police magistrate (resident), which concerned offences within the jurisdiction of a criminal court judge.[37] I have found no sources that prove the existence of the *paseban* arrest before 1854, but it is conceivable that it was executed among the priyayi themselves before it was formalized by the colonial administration.

The Javanese regents were expected to be loyal to the Dutch administration and to maintain peace and order in their regencies, but the Dutch were unaware whether they did this legally or illegally. Certainly, there was always some coercion of the people, but, as discussed before in Part 3, under the cultivation system especially the door was wide-open for extortion and abuses of power. This was the case not only for Javanese chiefs, but also for European officials, as is evident from a regulation of 6 November 1834 issued by J.C. Baud, which prohibited European officials from abusing Javanese people. Baud stated that European officials were guilty of "haphazard appropriation of Native persons, goods, and labour." Apparently there had been instances in which the Javanese people had to take care of the transportation of people and goods on the orders of European officials, but this was not allowed without formal permission by the high government. European officials were also inclined to make villages deliver household supplies such as poultry, firewood, and oil "indifferent to whether their payment was proportionate to the value of the goods delivered." From then on, this was all defined as "abuses of power."[38]

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[36] KV 1854, Chapter F "Regtswezen en politie", Paragraph 3 "Magt van den gouverneur-generaal in zaken van justitie en politie".

[37] Bijblad, no.137. "*…ligte overtredingen betreffende hunne dienspligten.*"

[38] S 1834, no.52. "*…willekeurige beschikkingen over de Inlanders personen, goederen en arbeid*" (…) "*..onverschillig of de betaling al of niet evenredig zij aan de waarde van het geleverde.*"

Extortion by Javanese headmen was also prohibited. In 1819, it was decided to adjudicate extortion cases at the circuit courts.[39] However, it was hard to define exactly what *knevelarij* was in the case of Javanese chiefs. Firstly, most Javanese officials (village chiefs and lower priyayi) were significantly underpaid and, therefore, had to rely on the cultivation percentages to maintain their lifestyles. Even then, their income was often inadequate, so "illicit activities" were common. In 1834, Baud admitted in an inspection tour report that illicit actions by district heads were tacitly admitted: "that it is a well-known, but in the current circumstances a tacitly allowed reality, that all indulge in illicit actions, to complement their earnings." The cultivation system increased the power of the village chiefs and priyayi, but without the financial means. The village chiefs were not paid at all, and the priyayi often received a relatively low salary with no reimbursement for police work or other expenses. Their (almost unlimited) power combined with a low salary was a ultimately a recipe for extorting Javanese commoners.[40]

It was also hard to define the difference between expressions of *adat* and abuses of power. Officially, one of the governor general's most important duties—as enshrined in the Colonial Constitution—was to protect the Javanese population from extortion.[41] Other Dutch civil servants were also urged to protect the Javanese population. When an assistant resident arrived in a new residency, he took an oath especially drafted to emphasize his responsibility to protect the Javanese population against abuses of power, extortion, and maltreatment. However, the explanatory memorandum attached to the Colonial Constitution mentioned that it was hard to define which actions of the local elites were based on old customs (*adat)* and which were actual abuses and injustices.[42]

Furthermore, most people caught for extortion were "little fish." A

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[39] S 1819, no.20, art.99. *"De landraden zullen kennis nemen van alle misdaden door Inlanders, Chinezen en andere personen behoorende tot de Indische volkeren, in de Residentie gepleegd, met uitzondering: ... 2. Van knevelarijen en misbruik van gezag door inlandsche ambtenaren gepleegd."*

[40] Cited in: Fasseur, *Kultuurstelsel*, 32. "*..dat het een bekende maar in de gegeven omstandigheden stilzwijgend geoorloofde daadzaak is, dat allen zich overgeven aan ongeoorloofde handelingen, om het ongenoegzame hunner inkomsten aan te vullen*."

[41] RR 1854, art.55-57.

[42] Kamerstuk Tweede Kamer, "Vaststelling van het Reglement op het beleid der regering van Nederlandsch-Indië. Memorie van toelichting," no. XXXVIII/3379, 379. www.statengeneraaldigitaal.nl (last accessed: 13-9-2017)

village chief was simply easier to dismiss than a high-ranked priyayi. Besides, often extortions and minor offences by local chiefs were condoned, except if the colonial government was disadvantaged, in cases of fraud, for example. In 1858, Soera Troena, the village chief of Karangan, was accused of embezzling 150 guilders of land rent, which he had received from the villagers but not handed over to the colonial administration. The assistant resident and resident did not believe his explanation that he had lost the money because he could not provide any proof or witnesses. The governor general approved the prosecution of the village chief at the landraad of Surabaya—presided over by the resident—and the village chief was convicted to three years of forced labour on Java. The conviction made by the landraad was confirmed by the Supreme Court in revision.[43]

In other cases—particularly when the colonial administration was not directly disadvantaged—the protection of the priyayi against prosecutions for extortion seems to have been more important than the protection of the Javanese people. From 1841 onwards, the governor general's formal approval to prosecute (*verlof tot vervolging*) was obligatory in extortion cases regarding lower priyayi and village chiefs.[44] This decision was intended to offer a more careful approach to the prosecution of priyayi and village chiefs. There had been indications that in some residencies village chiefs were punished with rattan strokes, so the same ordinance emphasized that rattan strokes, detention in the "block," forced labour, and (other) humiliating punishments were not to be imposed on local priyayi or village chiefs: "When ... [before 1841] the number of prosecutions—regarding land theft [*landdieverij*], extortion, and abuses of power—had increased considerably, the presumption arose ... that the Residents ... delegated the judicial adjudication to their subordinate officers, who often pronounced harsh verdicts, out of incorrect diligence and not being sufficiently familiar with the typical native institutions and customs."[45] In

[43] ANRI GS Surabaya, no.1436. Landraad case Soera Troena. Surabaya, June 28, 1858.
[44] IB, June 24, 1841, no.2. In Bijblad, no.1181.
[45] ANRI, AS B. January 26, 1863, no.26. Appendix written on 14 January 1863 (most likely by the Attorney General or the Council of the Indies) on the correct way of handling criminal prosecution of local nobles (*hoofden en grooten*). *"Toen (..) [before 1841] dat het aantal vervolgingen wegens landdieverij, knevelarij en misbruik van gezag opvallend was toegenomen, zoodat het vermoeden bestond dat de ... regterlijke vervolging door de Residenten ... werd overgelaten aan hunne ondergeschikten ambtenaren die uit verkeerden*

1850, control over the adjudication in extortion cases was further intensified. From then on, the recommendation of the director of cultivation had to be taken into account before a decision was made about whether to accuse a chief or not.[46] In 1857, the Council of Indies was added to the list of advisors in all criminal accusations regarding priyayi.[47] Much was done to prevent priyayi cases to end up in a court of law.

In 1847, the number of priyayi positions to whom the privilegium fori was applicable was extended substantially in article 4 of the new Court Regulations. Then, relatives of Javanese kings and regents as well as district chiefs and "other respectable Javanese chiefs" were included.[48] Before prosecution could take place (and not only in extortion cases), approval had to be given by the governor general. All these priyayi were sent to the Council of Justice. When a priyayi was adjudicated by the Council of Justice, the penghulu and two Javanese chiefs appointed by the resident were present as advisors.[49]

Baud had made a case for the expansion of the privilegium fori on the grounds that the headmen had to be protected because only they could

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ijver en niet genoegzaam bekend met de eigenaardigen inlandsche instellingen en gebruiken daardoor dikwijls met eene te groote stelligheid te werk gingen."

[46] ANRI, AS B. January 26, 1863, no.26. Appendix written on 14 January 1863 (most likely by the Attorney General or the Council of the Indies) on the correct way of handling criminal prosecution of local nobles (*hoofden en grooten).* Reference to IB, August 17, 1850, no.11. Director of Cultivation (*Cultures*) also had to be heard in his advice on the prosecution.

[47] ANRI, AS B. January 26, 1863, no.26. Appendix written on 14 January 1863 (most likely by the Attorney General or the Council of the Indies) on the correct way of handling criminal prosecution of local nobles (*hoofden en grooten).* Reference to IB, February 17, 1857, no.12. The Council of the Indies also had to be heard in case of a criminal accusation.

[48] RO, 1847, art. 4. *"Onverminderd de bestaande of later door den Gouverneur Generaal te geven voorschriften, betrekkelijk het vragen van verlof tot vervolging in regten van mindere Inlandsche hoofden, kunnen geene burgerlijke regtsvorderingen, noch vervolgingen tot straf, worden ingesteld tegen Vorsten, Regenten of andere Inlandsche grooten en derzelver nabestaanden, noch ook tegen districtshoofden en andere Inlandsche hoofden van aazien, zonder daartoe voorag, op Java en Madura van den Gouverneur Generaal, en in de bezittingen buiten Java en Madura van den hoogsten gezaghebber, verlof te hebben gekregen. In geval de laatstgemelde het verlof mogt weigeren, zal hij van zijn Besluit onmiddellijk kennis geven aan den Gouverneur Generaal, ten einde hetzelve bekrachtigd, of de gevraagd vergunning alsnog verleend worde. De teregtzittingen over zaken, waarin de genoemde personen, hetzij alleen, hetzij met anderen, betrokken zijn, worden met gesloten deuren gehouden."*

[49] RO, 1847, art.131 in relation to art.4. See for example: ANRI, B. June 29, 1856, no.1. Former wedono of Anjer, Mas Wangsa Pattie, was tried for the Council of Justice of Batavia. The Resident appointed the commander of the first district Mohamad Soeid Abdul Ganie and the Commander of the seventh district Moezanief Abdul Haliek as the two advisors.

rule over the population, and without their support, intensive colonial rule in Java was near impossible. He believed that, up to that point, too few priyayi had been protected by privilegium fori. Relatives of priyayi, district chiefs, and other Javanese leaders could still be prosecuted without approval from the governor general. Baud designated the limited privilegium fori as a danger to the authority of the Javanese chiefs over the population, because of "the special nature of the colonial government, and the support it receives from the good will and the loyalty of the native aristocracy." The public trial of a member of a prestigious Javanese family would be a humiliation to all members of that family.[50]

We have seen in the preceding chapter that Baud saw no virtue in an independent colonial judicial system, and he repeated this view again with regard to the privilegium fori: "An independent justice system, from which no one—regardless of rank—can escape, exceeds their notions."[51] The banishment of respectable Javanese nobles, on the other hand, did fit within their views: "They will not consider banishment, for example, by the governor general, of a member of their family to a distant location, as being scornful, when it is supported by good reasons."[52]

The committee drafting the new Court Regulations, agreed with Baud's arguments and in article 4 the privilegium fori was extended to "district chiefs and other Native prestigious chiefs." This was not a very precise description; who were all these other prestigious chiefs exactly? In their explanatory memorandum, the committee explained that they had kept the description in the article vague on purpose, so that it was still possible to make considerations on particular cases: "One can ... not be careful enough regarding the maintenance of the peace in the Indies." They explicitly mentioned that the privilegium fori was only meant for the "greats"

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[50] Letter from J. C. Baud to the committee Scholten Oud-Haarlem, cited in: Eekhout, "Vraagpunten, mededeelingen en bemerkingen", 436. "..den bijzonderen aard van inlandsch bestuur en in den krachtigen steun dien hetzelve ontleent uit de goede gezindheid en de trouw der inheemsche aristocratie." For the firm belief of J.C. Baud in the utmost importance of protecting the priyayi, see also: Fasseur, *Kultuurstelsel*, 50-51.

[51] Letter from J. C. Baud to the committee Scholten Oud-Haarlem, cited in: Eekhout, "Vraagpunten, mededeelingen en bemerkingen", 436. "*Eene onafhankelijke justitie, aan welke niemand, hoe hoog van staat, zich kan onttrekken, gaat hunne begrippen te boven.*"

[52] Letter from J. C. Baud to the committee Scholten Oud-Haarlem, cited in: Eekhout, "Vraagpunten, mededeelingen en bemerkingen", 436. *"Het verbannen bijvoorbeeld door den Gouverneur-Generaal van eenig lid van hun geslacht naar een verwijderd oord, achten zij niet hoonende, zoo de maatregel slechts op goede gronden steunt."*

(*grooten*) and not all chiefs, in order to exclude the village chiefs.[53] Yet, in practice there must have been a considerable increase in the number of people who could not be prosecuted without the governor general's approval and who went before the Council of Justice if adjudication was approved. In case of an adjudication, the court sessions were held behind closed doors. A member of Dutch Parliament, E. H. s' Jacob (1850-1866) recalled in 1867 how, during his time as a lawyer in Batavia, he had defended a wedono of Sumadang (Priangan) at the Council of Justice, "the privilegium fori for the chiefs." The Wedono was found guilty of extortion; eighty witnesses had been interrogated.[54]

In time, some decisions would be made over who fell under article 4. It was, for example, decided that the *prajurits* (armed troops of the regent) were not included.[55] In general, however, it was unclear who held the right to be adjudicated according to the privilegium fori. Baud's main purpose had been to prevent the prosecution of priyayi altogether, and not to get them adjudicated at the Council of Justice. Like Van den Bosch, he preferred priyayi to be dismissed or banished rather than brought to trial. Most Dutch high officials were not actually willing to structurally change the way extortion was punished. They were well aware of the fact that regents who were dismissed would be succeeded by a relative and that the extended family would probably continue to enrich itself. It was only when the dissatisfaction—despair or poverty—among the Javanese became urgent that the Dutch would intervene, often by simply transferring the regent to another residency.[56]

Even though a transfer was a rather light punishment, the forced transfer of a regent during the cultivation system era could lead to a considerable decrease in income for the regent involved. In the years 1858 to 1860, the five regents of the Priangan received 36 times more

[53] Report committee Scholten Oud Haarlem, cited in: Eekhout, "Eekhout, "Vraagpunten, mededeelingen en bemerkingen", 435. "*Men kan ... voor het behoud der rust in Indië niet te voorzigtig zijn."*

[54] Handelingen Tweede Kamer, "Wijziging der begrooting over het dienstjaar 1867." June 15, 1867, 1166. http://resourcessgd.kb.nl/SGD/18661867/PDF/SGD_18661867_0000159.pdf (Last accessed: 15-5-2015)

[55] Der Kinderen, "Behooren luitenants der pradjoerits en mantrie-arissen tot de bij art.4 Reglement RO bedoelde inlandsche hoofden van aanzien?," 89-90.

[56] Fasseur, *Violence and Dutch rule in mid-nineteenth century Java,* 7-8.

cultuurprocenten than the four regents of Bantam (f90.000 versus f2500).[57] However, transfers also functioned as rewards for regents loyal to the colonial state. In Semarang in 1850, after a famine in central Java—caused by an increase in land rent, revenues, the burden of cultivation farming and extortion by priyayi—the "extorter" *(knevelaar*) Radhen Adhipati Ari Adi Negoro, regent of Demak, was dismissed.[58] He was not allowed to reside outside of Semarang and his son did not succeed him as regent. He was replaced, instead, by Ario Tjondro Negoro, at that time regent of neighbouring Kudus. Tjondro Negoro was appointed "to restore there what has been in a terrible condition for years." Tjondro Negoro agreed to the transfer, for which he was amply rewarded. In addition to the title of pangeran, and a monthly salary of two thousand guilders, he also secured the future of his two sons. One of them would succeed his replacement in Kudus, when that regent died or retired. [59] The other son, would succeed Pangeran Ario Tjondro Negoro in Demak upon his retirement or death. Thus, through the transfer, he extended the dominance of the family to another regency.[60]

10.5 Extortion Criticized

Although the priyayi were important for the maintenance of dual rule and the cultivation system, many European officials certainly saw the extortion of the people as a problem, and at the residency level there were residents who would have preferred that these chiefs adjudicated in a court of law. In 1846,

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[57] For more about the famine, see: Fasseur, *Kultuurstelsel*, 29.
[58] Fasseur, *Kultuurstelsel*, 53.
[59] NL-HaNA, 2.10.02 MvK 1850-1900. Geheim IB. October 18, 1850, no.G2. "*..om daar te herstellen, hetgeen sedert jaren in eenen jammerlijken toestand verkeert."* This would still not bring his income to the level of his income in Kudus, but the government expressed the hope that this would "soon be compensated when the welfare among the population of Damak will revive" (*weldra ruimschoots zal worden vergoed door het herleven van eene sedert jaren ongekende welvaart onder de Damaksche bevolking*). Radhen Adhipati Ari Adi Negoro was dismissed—without the addition "honorable"— and received a pension of three hundred guilders per month.
[60] NL-HaNA, 2.10.02 MvK 1850-1900. Vb. October 22, 1851, no.15. Tjondro Negoro had a difficult start when accusations against him were made in *De Indier* of 17 April 1851, writing that the Regent had said that "it would not be hard to improve the conditions of the regency, since there were no people left" (*het hem niet moeijelijk zou vallen het aan hem toevertrouwd Regentschap wedere in eenen goeden staat te brengen, om reden hetzelve geheel ontvolkt is*)." Tjondro Negoro assured the Resident in a letter that he had never said something like that, and Governor General Duymar Twist assured "that the government attached little value to what the newspapers write" (*hoe weinig de Regering waarde hecht aan Couranten artikels*).

for example, the resident of Surabaya expressed his concerns regarding article 4 of the new Court Regulations: "The number of people who, by this article, are put outside of the immediate reach of the judge, is so immense, that it will cause serious inconveniences." Yet, he observed serious inconveniences chiefly because the Javanese of the nobility class who were not working for the colonial government, were—in his nearly quarter century experience in the colony—the most criminal Javanese: "The Natives of lineage, who do not work in service of the Government constitute the worst part of Javanese society. Due to the awe and fear of the aristocracy, as it still exists among the Javanese, numerous crimes committed by this class remain hidden. How much more would this be the case, if they were—due to a prohibition—immune to judicial prosecution!"[61]

The resident even described Javanese chiefs as the "natural enemies" of the common man: "Therefore, it is in the political interest of the Government to efficaciously protect the little man against his natural enemies, the chiefs, and in particular, against the relatives of the chiefs."[62] All in all, the resident feared for his own effectiveness in prosecuting the Javanese elite when the group of Javanese for whom special approval from the governor general was needed was expanded. He guessed that in his residency, this would comprise no fewer than 5000 people, including several banned and retired regents and their families from other regions.

After 1848, there was an increase in critical pamphlets about the cultivation system[63] and the possible causes of the extortion of the Javanese people was increasingly discussed. The financial situation of the priyayi was often mentioned. Others argued how their addiction to opium led to debts to Chinese opium farmers. Liberals would refer to the cultivation system under

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[61] NL-HaNA, 2.10.47 Wetgeving van Nederlands-Indië, no.6. Letter written bij the Resident of Surabaya. June 17, 1847. In response to a request from Whichers to all Residents to inform him about their thought about the regulations introduced by Scholten Oud-Haarlem in 1846 (the Court Regulations). In this archive only the response of the Resident of Surabaya has been preserved. *"De Inlanders van geboorte, die niet in Gouvernementsbetrekking zijn, maken dan ook het slechtste gedeelte der Javaansche maatschappij uit. Ten gevolge van het ontzag en de vrees voor den adel, dat alsnog bij den Javaan bestaat, blijven thans reeds talrijke misdrijven van deze klasse verscholen, hoeveel te meer zou zulks het geval zijn, wanneer zij door een verbod voor regterlijke vervolging was gevrijwaard!"*

[62] NL-HaNA, 2.10.47 Wetgeving van Nederlands-Indië, no.6. Letter written bij the Resident of Surabaya. June 17, 1847. *"Het politiek belang van het Gouvernement vordert daarom naar mijn oordeel, dat de kleine man krachtdadig tegen zijne natuurlijke vijanden, de hoofden, en vooral de nabestaanden van de hoofden, worden beschermd…"*

[63] Fasseur, *Kultuurstelsel,* 77.

which systematic extortion had been made possible: "A Javanese chief usually does not see any harm in massively exploiting his inferiors; and where can he better do this with impunity than in the residencies where the cultivation system is operating?"[64] Arminius argued in 1854 that the existence of unpaid services was the most important cause of extortion, since it put too much power in the hands of the Javanese elites, who could easily, and intentionally, provide an incorrect accounting of people in their regency, thereby increasing the burden of labour on the people. According to Arminius, the Javanese elite had been transformed into autocrats with too much power in their hands. Complaints by the population found no response, because the Dutch civil servants were often misled by the Javanese elites who convinced them that the complainers were actually culprits. The Colonial Constitution had increased the power of the Javanese elites even more, by making the position of regent hereditary.[65] The publications and debates of the first half of the nineteenth century show that Multatuli's *Max Havelaar* was not the first to observe that the Javanese chiefs' abuses of power were causing problems in several residencies. However, Multatuli was the first to address the problem to a broader audience.

The influential minister and later member of parliament Van Hoëvell also regarded the unpaid services as the main problem. The solution he proposed was to abolish the forced services and donations from the people to the priyayi. According to Van Hoëvell, only its complete abolition would solve the problem, because it had been impossible to define how far the chiefs were allowed to go in demanding services from the population: "Nowhere is it defined which limits they are not allowed to cross," he observed. "It is impossible to define these limits. But even if the limits could be defined, they would not be acknowledged anyway. No one would be able to monitor them, no one would be able to prevent [abuses]. Thus, if we do not abolish it [the unpaid services] altogether ... the abuse that one can take from it is irreversible."[66]

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[64] T.L.R., "Iets over de misbruiken van inlandsche hoofden op Java," 35-43. "*Een Javaans hoofd ziet er gewoonlijk geen kwaad in, zijne minderen tot het merg toe uit te zuigen; en waar kan hij het meer ongestraft doen dan in die Residentien, waar het stelsel van kultures in werking is?*"
[65] Arminius, "Heerendiensten en misbruiken," 254-266.
[66] Van Hoëvell, "De Inlandsche hoofden en de bevolking op Java," 258-266. *"Nergens zijn de grenzen aangegeven, die zij niet mogen overschrijven. Die grenzen kunnen niet worden aangegeven, "t is onmogelijk. Maar al werden ze aangegeven, ze zouden toch niet worden*

The priyayi and village chiefs were not the only officials abusing their power. According to Multatuli, the residents were just as guilty. For example, convicts were obligated to maintain the courtyards of the residents' houses. And, when there were not enough convicts, the regents were ordered to send commoners to do the work. Multatuli wrote that the regent would meet this demand with pleasure: "He is very aware that it will be hard for the authoritative official abusing his power, to reprimand a native chief later for a similar wrongdoing. And this is how the offense of the first serves as a license for the second."[67] Multatuli also accused the residents of avoiding conflict. When the Javanese complained about being maltreated by the regent, the complainants were often accused of being mere troublemakers, and after being threatened by their chiefs, they often recanted. Even though the residents were aware of the real reason for the complaints being withdrawn, he would nonetheless punish the protestors for disturbing the peace and order. This was: "a nice opportunity to maintain the Regent in office and honour, and spared himself the disagreeable task of troubling the government with an unfavourable report. The rash accusers were punished by caning, the regent triumphed, and the resident returned to the to the capital with the agreeable consciousness of having again managed so nicely."[68]

Maintaining peace and order was of the utmost importance for the residents. Their yearly reports informing the governor general about the political and economic state of their respective residencies always began with a sentence emphasizing the complete tranquillity in the residency. Even in the yearly report of Besuki of 1836, when Jaksa Niti Sastro (see chapter 5) and others had conspired against the colonial government and a revolt had

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geëerbiedigd. Niemand zou "t kunnen controleren, niemand kunnen beletten. Wanneer dus niet finaal wordt verboden ... is het misbruik, dat daarvan kan gemaakt worden en gemaakt wordt, niet te keeren."

[67] Multatuli [Eduard Douwes Dekker]. *Max Havelaar,* 193. Citation as in Dutch original: *"...hij weet zeer goed dat het de gezaghebbende ambtenaar die van dat gezag misbruik maakt, later moeilijk vallen zou een inlands hoofd te bestraffen over een gelijke fout. En alzo strekt het vergrijp van de een tot vrijbrief van de ander."*

[68] Multatuli [Eduard Douwes Dekker]. *Max Havelaar,* 276. Citation as in Dutch original: "*...een schone gelegenheid om de Regent te handhaven in ambt en eer, en hemzelf was de onaangename taak bespaard de regering te bemoeielijken met een ongunstig bericht. De roekeloze aanklagers werden met rottingslagen gestraft, de Regent had gezegenpraald, en de Resident keerde naar de hoofdplaats terug, met het aangenaam bewustzijn die zaak alweer zo goed "geschipperd" te hebben."*

almost erupted, the yearly report began with the calming claim that "just as in previous years, the tranquillity in this residency has remained undisturbed."[69]

The criticism of the extorting priyayi, however, would bear fruit. In 1858, the 1841 ordinance requiring the governor general's approval for prosecuting all extortion cases was withdrawn. The direct reason for this was that it led to too much delay; but in general, the stance towards the priyayi was changing. In 1865, it was decided that extortion by local chiefs was to be handled without leniency if it damaged the situation of the Javanese population. This was a direct consequence of the publication and success of the *Max Havelaar* in the Netherlands. The regents of Bantam received an increase in pay, but the personal remuneration of the regent of Lebak, Karta Nata Negara, remained unchanged. Earlier, in 1857, after the case of Lebak (described in the *Max Havelaar*) had taken place, the regent had still received an increase in pay, even though he was suspected of "so-called extortions." At that time, this was "deemed excusable" by Governor General Rochussen because the "native chiefs do not understand the unlawfulness of this and almost all regents in Java are guilty of it."[70] Several years later, in 1865, the Minister of Colonial Affairs Fransen van de Putte opposed this: "That it should be redundant to mention that such a lenient stance on the account and the disadvantage of the native population is not to be agreed with; and one trusts that the governor general, when an undesired repetition of such a case happens, will be led by different considerations."[71] It was a reversal of the position taken in 1841. In 1865, it also became possible to prosecute Javanese officials who had already been dismissed without permission from the governor general.[72]

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[69] ANRI, GS Besuki, nos.25, 26 and 27. Algemene verslagen 1835, 1836 and 1837. *"...evenals in vorige jaren de rust in deze Residentie ongestoord is gebleven."*

[70] NL-HaNA, 2.10.02 MvK 1850-1900, IB. December 11, 1856, no.17. *"inlandsche hoofden het ongeoorloofde daarvan niet inzien en schier alle Regenten op Java zich daaraan schuldig maken."*

[71] NL-HaNA, 2.10.02 MvK 1850-1900. IB. January 2, 1865, no.9. *"Dat het wel overbodig zal zijn op te merken, dat zoodanig toegevende beoordeling, ten koste en ten nadeele der inlandsche bevolking, door hem in geene deele wordt beaamd: en dat hij meent te kunnen vertrouwen dat de GG bij onverhoopte herhaling van een dergelijk geval, zich door andere beschouwingen zal laten leiden."*

[72] KV 1865, Chapter F "Regtswezen en Justitie", 59.; Bijblad, no.1373.; NL-HaNA, 2.10.03 Koloniale Supplementen, no.24. "Overzicht van de Staatkundige toestand van NI op het tijdstip der aftreding van den Gouverneur Generaal Sloet van de Beele", 1866.

The regents—the highest priyayi—still had to be handled carefully. In 1863, when Governor General Sloet van de Beele did not doubt the guilt of the regent of Karanganyar, Radhen Adhipati Ario Djojo dhi Ningrat—who had been regent for thirty-three years and was now suspected of abuses of power, severe extortions, theft from mosque funds, and unauthorized disposal of land—he nonetheless decided only to dismiss him and not to undertake any prosecutions, because he doubted it would be possible to convict the regent: "It seems doubtful whether the performed actions, of which he is accused, are of such illicit character, that the judge will convict him. Moreover, that a prosecution would take ample time, due to the many witnesses involved in this case, and therefore might be to the disadvantage of the people. Also, it would be preferable if in this particular case a decision were taken at short notice." The regent was allowed to stay in the residency and he received a monthly stipend of two hundred guilders. [73] This was in line with the other cases studied for this dissertation; regents were only dismissed in quite old age, and no criminal prosecution followed, partly because it was extremely hard to collect enough evidence against such influential men, as we will also see in the cases described in the next chapter. Yet, at the same time, criticism of the practice of extortion among priyayi continued and led to the Extortion Ordinance of 1866.

10.6 The Extortion Ordinance of 1866

In 1866, a new regulation was issued regarding the judicial treatment of extortion.[74] As described before, the crime of extortion was closely linked to the issue of the unpaid services.[75] The complete abolition of all unpaid services would never become reality, although some reforms were introduced in 1882. The extortion ordinance of 1866 simply defined the crime more precisely.[76]

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[73] NL-HaNA, 2.10.02 MvK 1850-1900. Geheim IB. December 12, 1863, M2. *"...dat het evenwel twijfelachtig voorkomt of de aan hem ten laste gelegde en door hem gepleegde handelingen wel zulk een misdadig karakter hebben, dat de regter hem op grond daarvan zoude kunnen veroordelen. Dat bovendien een geregterlijke vervolging wegens de vele getuigen, die in deze zaak betrokken zijn, niet alleen zeer veel tijds vereischen, maar ook tot bezwaar van de bevolking strekken zoude; terwijl het daarenboven wenschelijk in in deze aangelegenheid spoedig een beslissing te nemen."*

[74] S 1867, no.124.

[75] S 1867, no.122 and 123.

[76] Fasseur, "Purse or principle: Dutch Colonial Policy in the 1860s and the Decline of the Cultivation System," 48.; De Jong, *Het Koninkrijk der Nederlanden in de Tweede*

The Extortion Ordinance resembled article 115 of the Indies' Criminal Code for Europeans (implemented the same year), which was in its turn derived from article 174 of the French Penal Code, which still applied in the Netherlands. One sentence was added in which "demanding unpaid personal services" was made a criminal offense due to the "typical circumstances of the Indies" society." This alteration to the description of extortion was made because in the Netherlands Indies, extortion often meant the demand of personal services without providing compensation. So, the crime of extortion was formally defined to mean "to demand or to receive—or ordering to demand or receive—that of which they know is not owed for land rent, estimations, revenues, cash or income, or for rewards or imbursements." Furthermore, ownership or usage of lands formerly owned by Javanese chiefs in active service (*ambtelijk land;* this privilege was abolished in 1867) fell under the definition of extortion as well, just as demanding disallowed unpaid services and deliveries. The headmen and officials found guilty of this were to be punished with chain labour of five to ten years on the island where the verdict was reached, preceded by public display. Persons subservient to them were to be punished with unchained labour for two to five years.[77]

On 8 January 1868, Minster for Colonial Affairs Hasselman, who had been appointed a year before, expressed his doubts about the Extortion Ordinance. He and the jurist F. F. L. U. Last—who around that time had been removed from his work drafting a criminal code for natives for including too many local laws (see chapter 3)—were making the case for not implementing any penalties against extortion. Hasselman wondered, in particular, whether illicit land-owning and demanding forbidden personal services and deliveries were rightfully designated as extortion. "When judging violations," he observed, "we should not omit to notice whether the morals and institutions of the people, the prevailing

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Wereldoorlog Part 11 a, 24. Until the end of the colonial era, the unpaid services (*herendiensten*) would be (partly) maintained. In 1867, 1874 and 1882 the unpaid services were limited and in 1912 the decision was made that the last four remaining unpaid services had to be abolished as well. In reality, however, this would never happen since the colonial government continued to use unpaid services executed by the local population for the construction and maintenance of roads and other public works.

[77] S 1867, no.124. *"in te vorderen of te ontvangen, of te doen invorderen of ontvangen hetgeen zij weten dat geheel of ten deele niet verschuldigd is voor landrenten, schattingen, belastingen, gelden of inkomsten, of voor belooningen of bezoldigingen."*

principles and the circumstances under which they are committed, might place the facts in a less negative light, in which neither the native chief nor the natives themselves consider these violations as an abuse of power or inexcusable extortion.[78]

The opinions of these two conservative authorities, however, could gain no traction against the prevailing liberal spirit of the time. One of those prominent liberals, the jurist T. H. der Kinderen, asserted that the Javanese population certainly thought of extortion as a criminal offence. "The Experience has taught us," he wrote, "how he [the local population]—when the cup of iniquity is full or the native official loses his power due to dismissal—turns to the ruling European officials with numerous complaints."[79] Moreover, the severity of the punishments imposed for extortion had to be comparable to those imposed on Europeans, certainly because the Javanese official had a greater inclination to extort, according to Der Kinderen. Finally, he took into consideration that the priyayi's stipends had recently been raised in an effort to reduce extortion. If, then, extortion still took place, a severe punishment was appropriate:

> Up to now, the judge would usually impose relatively light punishments for extortion. However, this was not because one considered it to be minor crime in a legal sense, but because the judge understood that most of the accused were not able to live according to the rank and office from the income they received from the government, and were therefore forced to seek more income pursuing illegal means. Therefore, in many verdicts the small income was taken into

[78] NL-HaNA, 2.10.02 MvK 1850-1900. Kabinet V. 1868, D8. Hasselman (January 8, 1868) cited in advice by Der Kinderen. Batavia, February 18, 1868. "*Bij de beschouwing van overtredingen ... moet niet worden nagelaten er op te letten of de zeden en instellingen des volks, de heerschende begrippen en de omstandigheden, waaronder zij gepleegd worden, dergelijke feiten niet in een minder afkeurenswaardig daglicht stellen, terwijl noch het inlandsch hoofd noch de inlander zelf in dergelijke overtredingen altijd misbruik van gezag of schandelijke afpersing plegen te zien.*"

[79] NL-HaNA, 2.10.02 MvK 1850-1900. Kabinet V. 1868, D8. Advice by Der Kinderen. Batavia, February 18, 1868. *"... de ondervinding leert, hoe hij, wanneer de maat der ongeregtigheid overloopt of de inlandsche ambtenaar door ontslag zijn gezag verloren heeft, zich met tal van klagten weet te wenden, tot de besturende Europese ambtenaren…"*

> consideration as a mitigating circumstance and distinctly mentioned as such.[80]

In the Dutch Parliament, C. A. Sijpestein questioned the Extortion Ordinance of 1867 after reading newspaper articles and letters he had received. Minister for Colonial Affairs de Waal agreed that the punishments for extortion seemed rather severe.[81] Therefore, the residents were asked for their practical experiences with the ordinance. It turned out that only the residents of Pekalongan and Surabaya thought the punishments too severe. In general, though, the residents were pleased with the new ordinance. Remarkably enough, some residents—Batavia, Tegal, Besuki, Banyumas, and Banyuwangi—reported that the priyayi in their regencies were well paid enough that they had no reason to extort. Therefore, these residents could not tell whether the ordinance was useful. The resident of Besuki even added that his residency was inhabited only by "freedom loving Madurese," who would not accept any extortion and certainly would have complained. Other residents' reports mentioned that the Javanese had become more assertive and tended to file complaints earlier than before. Only the residents of Japara and Probolinggo reported that the people there had not reached that "stage of civilization" and was still very attached to the "authoritative traditions of the priyayi" with "profound obedience" as a consequence.[82] Due to the rather positive evaluation of the resident, it was subsequently decided to include the Extortion Ordinance of 1867 in the Native Criminal Code of 1872.[83]

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[80] NL-HaNA, 2.10.02 MvK 1850-1900. Kabinet V. 1868, D8. Advice by Der Kinderen. Batavia, February 18, 1868. *"Tot nu toe legde de regter in den regel bij knevelarij slechts betrekkelijk ligte straffen op, maar dit geschiedde niet omdat men het misdrijf in strafregterlijken zin ligt telde, het was omdat de regter inzag dat de meesten van hun van landswege toegekend inkomen niet konden leven naar rang en ambt, en wel verpligt waren zoch op deze of gene onwettige wijze inkomsten te verschaffen, zoodat dan ook in menig vonnis dat geringe inkomen als eene zeer verligtende omstandigheid werd aangenomen en uitdrukkelijk vermeld."*

[81] NL-HaNA, 2.10.02 MvK 1850-1900. Vb. November 7, 1872, no.26.

[82] NL-HaNA, 2.10.02 MvK 1850-1900. Vb. November 19, 1872, no.1/1796. Report (and summaries of the experiences submitted by the resident) by Attorney General Coster. Batavia, June 9, 1872.

[83] Native Criminal Code, 1872, article 122: *"Alle openbare ambtenaren, zoomede de aan hen in hunne dienstbetrekking ondergeschikte personen; die zich schuldig maken aan het misdrijf van knevelarij, door in te vorderen of te ontvangen, of te doen invorderen of ontvangen*

Chief Jaksa Pangeran Ario Hadiningrat, would articulate some substantial criticism on this in a colonial journal. Article 122 was applicable to village chiefs as well and according to Hadiningrat, this was practically impossible, since the village chiefs received no compensation from the colonial government and instead were supported by the villagers in various ways. The judicial committee drafting the code, however, emphasized that extortion through unpaid services was a big problem at the village level as well: "He who abuses his power by illicitly taking away farmland from a native, or orders him to deliver bamboo for a new house, or even makes him build this house, is just as guilty as those who take more guilders than officially prescribed when receiving land rent from the native. Yes, it is even valid to ask whether the first example is much more illegitimate than the last one."[84]

Designating all kinds of benefits held by the village chiefs but not confirmed in colonial regulations as being extortion was infeasible though. Hadiningrat enumerated some of the benefits: offering a feast (*selamatan*) to the village chief during a wedding, handing over a share of a house or buffalo that had been sold, or a share of chopped firewood, caught fish, or the harvest. "If someone reports the rice in his fields is ready to be harvested, he will pay some dimes per *bouw* [farmland of one

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hetgeen zij weten dat geheel of ten deele niet verschuldigd is voor landrente, schattingen, belastingen, gelden of inkomsten of voor belooningen of bezoldigingen, worden gestraft, te weten: de openbare ambtenaren met dwangarbeid in den ketting voor den tijd van vijf tot tien jaren; en de aan hem in hunne dienstbetrekking ondergeschikte personen met dwangarbeid buiten den ketting voor den tijd van twee tot vijf jaren. Aan knevelarij maken zich ook schuldig en worden ingevolgde de vorige zinsnede gestraft: 1. Openbare ambtenaren, die, in strijd met de daartoe betrekking hebbende verordeningen, gronden, aan inlandsche gemeenten of inlanders toekomende, wederregelijk zich toeëigenen of in gebruik of bezit nemen of houden, of, onder welk voorwendsel ook, daarover ten nadeele van de regtmatige bezitters of andere daarop regthebbenden beschikken;2. Openbare ambtenaren en aan hen in hunne ambtsbetrekking ondergeschikte persoenen, die zich schuldig maken aan het vorderen van persoonlijk diensten of van leveringen ten behoeve van wien ook, welke niet uitdrukkelijk bij algemeene verordening zijn toegelaten." This article had been derived from the ordinance of September 29, 1867 (S 1867, no.124), article 115 of the European colonial Criminal Code and article 174 of the penal code as applied in the Netherlands.

[84] Der Kinderen, *Wetboek van strafregt voor inlanders in Nederlandsch-Indië, gevolgd door eene toelichtende memorie*, 180. Explanatory note art.122. "*Hij, die, misbruik makende van zijn gezag, aan den Inlander wederregelijk een akker ontneemt, of hem bamboe laat leveren tot het bouwen van een huis, of wel hem voor zich dat huis laat bouwen, is even strafbaar als hij, die bij het in ontvangst nemen der landrente van den Inlander eenige guldens meer heeft dan verschuldigd is, ja het mag gevraagd worden of de eerste niet veel strafbaarder is dan de laatste."*

family] to his chief," he explained, "and he also invites his chief's wife to cut the first rice, and to bring home herself what she has harvested." In the case of slaughtering a buffalo, the village chief could count on the head of the animal or the best piece of meat. The village chief also did not have to buy any bamboo; if his house needed repairs, he could take bamboo wherever it grew. All these sources of income were substantial to the village chief, according to Hadiningrat, not only to sustain his own livelihood, but also to pay for his duties, since he did not receive a government payment.[85]

Hadiningrat judged the ordinance to be perfectly applicable to officials who received enough payment, but not to officials whose incomes in no way corresponded to their obligations and responsibilities. Police investigations in particular were expensive, as the village chief often had to track down the suspect and travel great distances: "I know of one case," he reported, "in which someone had to travel two hundred *palen* [approximately three kilometres] back and forth to locate a stole horse. Did he receive any traveling money for this? No, he had to provide this himself, and he had to decide for himself how to arrange it." Hadiningrat argued that this responsibility made the village chief "the focal point, around which everything regarding the civil administration turns."[86] He therefore called for people to respect local customs and protect the village chief. If a village chief was adjudicated for extortion, the judge could apply the article 37 on mitigating circumstances of the Native Criminal Code.[87] Hadiningrat was also annoyed that, with the introduction of article 122, only the Dutch residents were asked for their advice although their knowledge on such matters was often "flawed":

> Legislation can only be good where light comes from the people. In countries where the intellectual

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[85] Hadiningrat, "Knevelarij van dessahoofden," 194. *"Maakt iemand rapport, dat zijn padie op het veld rijp is, zoo betaalt hij eenige dubbeltjes per bouw aan zijn hoofd, en noodigt tevens diens vrouw uit om de padie het eerst te komen snijden, en het door haar verkregene voor zich te behouden."*

[86] Hadiningrat, "Knevelarij van dessahoofden," 196. *"de spil, waarom alles ten opzichte van het binnenlandsch bestuur draait."*

[87] Hadiningrat, "Knevelarij van dessahoofden," 197. *"...ja mij is een geval bekend dat iemand ruim 200 palen heen en weer heeft moeten reizen om een gestolen paard op te sporen. Krijgt hij daarvoor reisgeld? Neen, hij moet zich daarvan zelf voorzien en hoe hij dat doet, moet hij ook zelf weten."*

> development is little, as here, the legislator is forced to rely on his own bright insights and that of his officials. When his knowledge is insufficient, which is not uncommon, then it should be completed with advice; but if this advice is insufficient itself, who then can expect legislation to meet the needs of society?[88]

As with knowledge production regarding Islamic law and the positions of the penghulu (described in chapters 2 and 3) neither the Javanese chiefs nor other Javanese officials were consulted; instead, the Dutch residents were preferred as the most appropriate informants. Even Hadiningrat, one of the most respected priyayi, trained by a western tutor and lauded as a skilful jaksa, had not been asked for his advice on a matter so directly related to his daily professional experience.

10.7 Conclusion: Limits to Dual Rule

Throughout the entire nineteenth century, caution was urged in dealing with the regents. Even if they were dismissed, this only happened if they were already older, and even then they were often dismissed "with honour." Moreover, their transgressions had to be severe before they could not be succeeded by their son. Lower priyayi, however, were adjudicated and even humiliating punishments were imposed, although there were some regional differences in the extent to which rank was taken into account. The privilegium fori of 1829 did not change this; rather it seems to have been a formalisation of the way things were already done in many parts of Java.

One reason why the privilegium fori was such a sensitive topic had to do with the issue of extortion. The crime became well-known due to Multatuli's novel *Max Havelaar*, but it was acknowledged as a problem in and for colonial society long before the novel was released. The Dutch were concerned about extortion for two reasons: it was a crime against the

[88] Hadiningrat, "Knevelarij van dessahoofden," 195. *"Dáár alleen kan wetgeving goed zijn, waar het licht uit het volk oprijst. Gebrekkig is zij meestal in landen van geringe verstandelijke ontwikkeling gelijk alhier, aangezien de wetgever genoodzaakt is zich tevreden te stellen met zijn eigen helder inzicht en dat zijner dienaren. Is zijn kennis onvolledig, wat niet zelden tot de zeldzaamheden behoort, dan moet die aangevuld worden door adviezen; maar als deze zelf gebrekkig zijn, wie durft dan te verwachten dat de wetgeving aan de behoefte van de maatschappij voldoet?"*

population, but it could also have dangerous consequences for colonial rule if excessive extortions led to a revolt or famine that disturbed peace and order. In practice, extortion was only punished if it threatened Dutch rule. In other words, both Javanese and Dutch officials knew that extorting the Javanese people was perfectly possible so long as the population did not revolt. As a result, the population had nowhere to go with their complaints.