Civil Litigation in the Nineteenth Century Landraad of the Former Dutch East-Indies (Indonesia): Simplification Aimed at Access to Justice?

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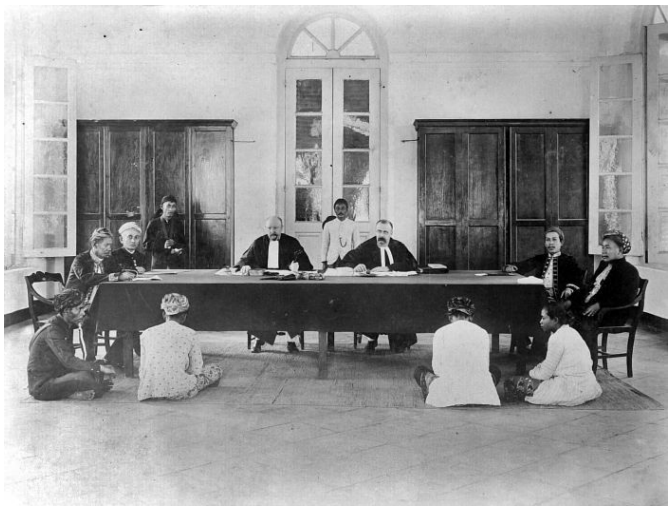

Nineteenth Century court hearing at the Landraad of Meester Cornelis (currently Jatinegara), West Java. The European President and the court clerk sit in the middle, and the native judges, the Jaksa and the Pengulu are in the left and right corners. The parties are seated on the floor. (*Wereldmuseum, Amsterdam, Netherlands*)

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INTRODUCTION

Our friend and colleague, Professor Richard Marcus, has a broad interest in comparative civil procedure, including the history of procedure. Therefore, I thought it appropriate to invite him for a short journey in time and place, travelling together to nineteenth century colonial Indonesia, at the time known as "Nederlands-Indië" or the Dutch East-Indies. We will take a closer look at a court known as "Landraad," meaning "Provincial Council" or "Provincial Court." However, before studying this Court and its procedure in civil matters, general information on Dutch colonial rule in Indonesia is needed to provide the relevant context.

DUTCH COLONIAL RULE IN INDONESIA

The origins of Dutch colonial rule in what is now the Republic of Indonesia date back to the late sixteenth and early seventeenth centuries, with the arrival of Dutch merchants in the area. The capital of the country, now Jakarta, was named Batavia and founded in 1619 by Jan Pieterszoon Coen (1587-1629).[1] Coen acted as a representative of the Dutch East India Company, known in Dutch as Vereenigde Oostindische Compagnie (VOC).[2]

The Dutch were not originally interested in establishing a colonial empire. As one of the first joint-stock companies in the world, the VOC was mainly aiming at profit for its stockholders. Force was used when profit could not be obtained in a peaceful manner (the massacre at the so-called Spice Islands in 1621 is an example), but in general it was the official policy of the VOC to obtain its profits with *soete middelen* or "sweet measures" because it was cost effective.[3] Only later, and especially in the nineteenth century, a "modern" colonial empire was established. This facilitated the exploitation of the colony and had far-reaching consequences for the way the Indonesian archipelago was ruled.

The area under control of the Dutch grew considerably in size in the nineteenth century and early twentieth century. The Dutch rule ultimately covered the territory of the present-day Republic of Indonesia, a multi-ethnic state created under Soekarno and Hatta at the end of World War II.[4]

The VOC terminated its existence in 1799 after it had been nationalized by the Batavian Republic (1795-1806), a successor state of the previous Dutch Republic (1588-1795) and vassal state of revolutionary France. Sovereign claims over Indonesia were now *de facto* exercised, not by a chartered company but by the Batavian Republic and, after 1806, its successor state, the so-called

1. *See generally* PIETER C. EMMER & JOS J.L. GOMMANS, THE DUTCH OVERSEAS EMPIRE, 1600-1800 (Marylin Hedges trans., Cambridge Univ. Press 2021).

2. *Id.*

3. *Id.*

4. WIM VAN DEN DOEL, ZO VER DE WERELD STREKT. DE GESCHIEDENIS VAN NEDERLAND OVERZEE VANAF 1800 (2011).

"Kingdom of Holland" under King Louis Napoleon Bonaparte (1778-1846), Emperor Napoleon Bonaparte's brother. At the time of the annexation of this Kingdom by France in 1811, Indonesia was occupied by Great Britain. Stamford Raffles (1781-1826) was Governor from 1811 until 1816. British rule lasted until 1816 when the colony was returned to what was then the "United Kingdom of the Netherlands" (roughly present-day Belgium and the Netherlands) under King William I (1772-1843). Indonesia continued to be part of what remained of the Kingdom of the Netherlands after the Belgian Revolt and secession of 1830 (the present Netherlands) until after World War II.[5]

During the nineteenth century, the Dutch tried to develop an efficient and centralized administration in their colonial "possessions." This also meant reforming the administration of justice, a subject that had been neglected by the VOC. After all, the VOC felt that the presence of jurists was not a good thing for overseas colonial trade. They operated under the credo that "experienced merchants of keen intelligence and vigilance will be of the best service to the company,"[6] and not jurists. In the beginning of the nineteenth century, the idea that jurists were not necessary remained persistent, but in the second half of that century, this opinion started to change.[7]

In administrative and legal matters, the colonial government distinguished the native population of the colony referred to as "inlanders" or "natives" (those who were considered to belong to the original population), from the European settlers. From a legal perspective, the inhabitants were divided into three groups: Europeans, "natives," and "foreign orientals," covering all those who did not belong to the native population and who could not be classified as "Europeans." The latter group mainly consisted of inhabitants of Chinese descent. In practice, "foreign orientals" were sometimes equaled to Europeans and sometimes to the members of the "native" population. To complicate matters, members of the "native" population could also choose to submit themselves to European law, which resulted, as with "foreign orientals," in European courts having jurisdiction to hear their cases.[8]

5. NIEK VAN SAS, DE WENTELENDE EEUW: DE GESCHIEDENIS VAN NEDERLAND, 1795-1914 (2024). On the struggle for Indonesian independence, see DAVID VAN REYBROUCK, REVOLUSI: INDONESIA AND THE BIRTH OF THE MODERN WORLD (David Colmer & David McKay trans., 2024).

6. *See* N.P. van den Berg, *Hoe de Indische Regeering in vroeger tijd dacht over het uitzenden van rechtsgeleerden*, 24 HET REGT IN NEDERLANDSCH-INDIË. REGTSKUNDIG TIJDSCHRIFT, 162, 162-163 (1875) ("G'experimenteerde coopluyden van wacker verstandt ende vigilantie, daer sal de Compagnie de beste dienst van trecken.").

7. Alexander Johannes Cornelis Everardus van Heijcop ten Ham, De Berechting van Civiele Zaken en van Misdrijven op de Terechtzitting der Landraden op Java en Madoera (July 5, 1888) (Ph.D. dissertation, Leiden: Van Doesburgh).

8. NICK EFTHYMIOU, RECHT EN RECHTSPRAAK IN NEDERLANDS-INDIË (Wolf Legal Publishers, 2013).

ADMINISTRATION OF JUSTICE FOR THE NATIVE POPULATION

In the nineteenth century, part of the administration of justice for the native inhabitants of the colony was left to the population itself.[9] In these cases, dispute resolution did not take place in the name of the sovereign of the colony, that is, the King of the Netherlands.[10] This was different where it concerned matters that had to be brought before the Landraad or Provincial Court, however. The Landraad was created by the colonial authorities to hear cases of the natives that were of consequence to the state in the name of the Dutch King. These cases included both criminal and civil matters.[11] I focus on civil matters only.

The Landraad was a court with its own procedure. The Landraad applied customary Indonesian law (known as "adat") as understood by the colonial administration.[12] There were exceptions where customary law was felt to be against "generally recognized legal principles," especially in criminal matters (certain types of corporal punishment, for example). However, the colonial authorities nevertheless appreciated that native law needed to be observed and applied when cases concerned the native population. Dutch Professor P.A. van der Lith (1844-1901) provided an explanation, focusing on what he calls "conquested colonies":

> Territories acquired by the mother country [in this case the Netherlands] through *force majeure*, where a large, self-sufficient native population has settled, possessing legal institutions alongside the generally relatively sparse colonists and their descendants, forming an independent, ultimately self-contained society, without the two elements [that is, the native population and the colonists] merging into one.[13]

P.A. van der Lith was influenced by the German Historical School. He explained:

> The legal institutions existing there [i.e., in conquested colonies] are entitled to respect by the invading rulers, insofar as they are undisputedly recognized as law among the native population and have been considered as such because, conforming to their legal beliefs, they are indeed *law* for them. Where they conflict with moral concepts [of the invaders?], or where the overriding interests of the rulers demand their abolition, they can abolish these institutions by virtue of the right of conquest, but only by lawful means, and they remain in existence until expressly abolished. However, the remaining legal institutions, even if they conflict with the rulers' legal concepts, must still be honored by them, and at most, one can attempt to introduce these legal concepts [i.e., the rulers' legal concepts] to the indigenous population through

9. REGLEMENT OP HET BELEID DER REGERING VAN NEDERLANDSCH INDIË 21 (Belinfante, 1854).

10. EFTHYMIOU, *supra* note 8.

11. Sanne Ravensbergen, *Anchors of Colonial Rule: Pluralistic Courts in Java, ca. 1803—1848*, 42 ITINERARIO 238, 238–255 (2018); *see also* Alexander Johannes Cornelis Everardus van, *supra* note 7.

12. EFTHYMIOU, *supra* note 8.

13. Pieter Antonie van der Lith, *De Koloniale Wetgever Tegenover Europeesche en Inlandsche Rechtsbegrippen*, 46 DE GIDS 193, 196—97 (1882).

> persuasion. For the power to impose one's own law on others can only arise from the necessity of self-preservation, or from those few, elementary moral concepts that are generally recognized as such. And even then, if our sense of justice did not teach this, it would be the requirement of sound policy. Indeed, only then can state institutions gain a firm foothold among a population if they are the result of its own legal convictions, keep pace with its development and, as it were, have penetrated into its marrow and blood through historical means. And this can never be the case with the legal concepts of the rulers, where differences in development, coupled with widely divergent religious concepts so characteristic of the national character, have created an almost insurmountable gulf between conquerors and conquered. This is especially true for those peoples who are removed from the drive for betterment of their own destinies, which plays such a significant role in the history of Western nations and yet, as a famous English author notes [i.e., Henry Summer Maine, Ancient law, 3rd ed., 22] constitute the overwhelming majority of humanity.[14]

Some European jurists did not like to be attached to the Landraad. Their "sense of justice" was not satisfied by this Court and they felt that it did not generate confidence in the judiciary.[15] One author even claimed that the "certainty necessary for the economic life of a society" was not achieved by this Court in the slightest.[16] The author felt that his work as a judge at the Landraad had been "one of the most unpleasant official duties" he encountered during his judicial career.[17] Unfortunately, most records of Indonesia's Landraad have not been preserved and often the only trace of their activities are published judgments in legal journals.[18] It is therefore hard to judge the quality of the administration in justice in civil matters of the Landraad.

COMPOSITION OF THE LANDRAAD

The Landraad was a collegiate court. It heard cases with at least three judges assisted by a court clerk who was responsible for the Court's paperwork. The president of the court was always a European that originally served as either the "resident" or the "assistant-resident." The "resident" was the local provincial administrator who "supervised" the indigenous "regent," a member of the native high gentry. Each province (gewest) was subdivided in departments (afdelingen), headed by the "assistant-resident" who would assist the "resident." Neither the "resident" nor the "assistant-resident" needed to be legally trained. However, in 1873, the Court established a rule requiring the president of the Landraad to be legally trained. For years non-legally trained presidents continued to serve.

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14. *Id.*

15. Murinus Cornelius Piepers, *Praedvies*, *in* HANDELINGEN DER NEDERLANDSCH-INDISCHE JURISTEN-VEREENIGING 125, 137 (1886).

16. *Id.*

17. *Id.*

18. *See* Ravensbergen, s*upra* note 11.

The requirement of legal training was not seen as an improvement by everyone. It was widely believed that when a "resident" or "assistant-resident" acted as president of the court, the native judges had so much respect for that official's opinion that it was essentially the European president giving judgment and the native judges agreeing with his opinion. It was also believed that the two native judges had less respect for a lawyer as president, someone they, unlike the "resident" or the "assistant-resident," did not meet on a daily basis. This resulted in disagreements or to the native judges overruling the president.[19]

Like other judges, the president was *not* appointed for life by the crown. Instead, the president was appointed by the Governor-General of the colony who also determined the judicial salaries and could remove judges at will. Judges at the Landraad and other colonial courts were therefore not independent. According to the colonial government, an independent judiciary would be incompatible with how matters were organized in the colony. Independence would be "contrary to that principle of unity and indivisibility of authority that must be and remain the unmistakable source of our rule [colonial rule in the Dutch East-Indies]."[20] In the second half of the nineteenth century, this situation was openly criticized in novels written in the Dutch East-Indies. An example is a novel by Paulus A. Daum (1850-1898), a journalist, novelist, and owner of the newspaper "Bataviaasch Nieuwsblad." In his novel *De Van der Lindens c.s.* (1889), Daum has a fictitious European judge at the Landraad named Fournier, state: "[W]ith all the treasures in the world, confidence in the law cannot be restored if the government does not refrain from interfering in judicial matters."[21]

Next to having a European president, the Landraad adopted the requirement of appointing at least two native judges hear each case. These judges were members of the local gentry, and it seems that according to the colonial authorities, they were not judges in the court because of their legal knowledge, but in order to instill respect for the administration of justice with the native population. Their impartiality was questioned by Dutch authors.[22]

Apart from the judges, the Landraad included an official called "Jaksa" ("Djaksa" in Dutch colonial spelling) who was mainly involved in criminal matters and will therefore not be discussed here, as well as a "Pengulu" ("Pangoeloe" in Dutch colonial spelling), who was tasked with advising the court on native law. According to Dutch authors, the Pengulu's advice was simply ignored in most courts and information about native customary law was often obtained from the native judges in the court. However, the Pengulu was needed where native litigants had to take the oath. If a litigant was Chinese, a Chinese advisor of high standing in the local community would be called instead

19. *See* Heijcop ten Ham, *supra* note 7, at 55.
20. *Id.* at 57.
21. PAULUS ADRIANUS DAUM, DE VAN DER LINDENS C.S. (Sijthoff, 1889).
22. Heijcop ten Ham, *supra* note 7, at 67.

of the Pengulu, and it seems that this advisor's guidance was usually taken seriously.[23] One Dutch author qualified the situation at the Landraad as follows:

> "It is a curious transaction between three principles . . . : European law, represented by the president; indigenous custom, which requires that the two members be Javanese nobles; Muslim law, the provisions of which are limited to being explained by the priest [Pengulu]."[24]

JURISDICTION OF THE LANDRAAD

Court hearings were held at the local provincial capital. Additional places of court hearings were determined by the Governor-General and the provincial "resident." The Landraad was the ordinary trial court for members of the native population unless there was another competent court. It would also hear cases of litigants that would be equaled to native litigants, mainly litigants of Chinese origins, although this was sometimes criticized. According to some Dutch authors, having Chinese merchants litigate before the Landraad was not a good idea since their cases were often too complicated to be submitted to the jurisdiction of "Javanese paupers."[25] In addition, claims below fifty Indonesian guilders would, with a few exceptions, be heard elsewhere.

Appeal against a judgment of the Landraad could be lodged before a European court called "Raad van Justitie," or Council of Justice. If an appeal was denied, then a fine had to be paid. At the highest level, cases would be heard by the Supreme Court ("Hooggerechtshof") in the capital Batavia (Jakarta).[26]

CIVIL PROCEDURE AT THE LANDRAAD

The procedure at the Landraad was regulated by the so-called "Inlandsch Reglement," or "Native Statute" of 1848. According to one author, this statute was drafted "with the intention that those without education could assert their rights, and that those without legal knowledge could apply the rules it contained."[27] The procedure was modeled on the civil law procedure of the Netherlands. The Statute was revised several times and became known as the "Revised Native Statute," or the "Herzien Inlands Reglement," in the twentieth century. After independence, this statute and the procedure it prescribed was

23. *Id.* at 77.

24. CHRISTIAAN PHILIP KAREL WINCKEL, ESSAI SUR LES PRINCIPES RÉGISSANT L'ADMINISTATION DE LA JUSTICE AUX INDES ORIENTALES HOLLANDAISE, SURTOUT DANS LES ÎLES DE JAVA ET DE MADOURA ET LEUR APPLICATION 301 (1880).

25. Heijcop ten Ham, *supra* note 7, at 91.

26. ADRIANUS JOHANNES IMMINK, DE REGTSPLEGING VOOR DE INLANDSCHE REGTBANKEN IN NEDERLANDSCH-INDIË 29 (1889). For more information on the Supreme Court, see Kees Briët, HET HOOGGERECHTSHOF VAN NEDERLANDS-INDIË 1819-1848: PORTRET VAN EEN VERGETEN RECHTSCOLLEGE (2015) (Ph.D. thesis, Erasmus Univ. Rotterdam).

27. Heijcop ten Ham, *supra* note 7, at 113.

maintained as the "Revised Indonesian Statute," or the "Herzien Indonesisch Reglement," and is now known as "Reglemen Indonesia Yang Diperbaharui."[28]

The Landraad resembled the Dutch small claims court ("Kantongerecht"). Parties could represent themselves and the assistance of a lawyer was not required, although parties could also choose to seek representation. The judge was more active in civil matters than in other courts.[29] One author stated that the lawmaker had "refrained from placing too much emphasis on the judge's passive role in order to eliminate the inequality between the parties resulting from an almost complete lack of representation, and granted the judge the 'right to question' in the broadest sense."[30] Judgment would be rendered within a short interval of time.

As a rule, hearings took place on a weekly basis and were oral and public. The court clerk made a written record of the hearings, and the president gave the clerk the necessary instructions to that end. Judgment was pronounced publicly and needed to contain grounds. The judges were not allowed to make their individual opinions known, but all cases were decided by majority of votes, as is still the rule in most civil law jurisdictions. One nineteenth century author claimed that it was questionable whether this rule was always observed in practice in the Dutch East-Indies.[31]

The claimant had to submit a statement of claim in writing to the president of the Landraad, either in person or by way of a representative. If a claimant could neither write nor sign his name, they could submit their claim orally to the court president. The president would then render the claim in writing.[32] The written statement would be used to determine the type of action and identify the opponent party who needed to be summoned to court. In most cases, the president would be very active in the initiation of the lawsuit. Due to the intervention of the president of the court, there was not much of a risk that the claim would be declared inadmissible, for example, because the wrong claim had been brought or the wrong defendant had been summoned.

The statement of claim mentioned the names of the claimant and the defendant, what was being claimed, and the grounds for the claim. Although the rule *ius curia novit* applied, claimants were nevertheless advised to indicate the relevant provisions of the customary law ("adat") or relevant statutory provisions. The original statement of a claim would be sent to the defendant by the court president; there was no court bailiff who was entrusted with this task. No specific rules applied regulating the service of the claim. Rules about default were relaxed. If the defendant did not make an appearance in court after service,

28. *Herzien Inlandsch Reglement (H.I.R) (S. 1941–44)*, HUKUM ONLINE https://www.hukumonline.com/pusatdata/detail/27228/herzien-inlandsch-reglement-hir-s-194144 (last visited Aug. 2025).

29. EFTHYMIOU, *supra* note 8.

30. Heijcop ten Ham, *supra* note 7, at 124.

31. *Id.* at 113.

32. Inlandsch Reglement, arts. 126–127 (1848) (Neth. Ind.).

the court could determine with discretion that the defendant had to be called into court for a second time.[33] The same was true for non-appearance at later court sessions. The consequences of default were not as strict as in Europe since parties were usually litigating without counsel.[34]

The defendant was given a term for filing his defense in writing. However, just like the claimant, the defendant could opt for introducing his defense orally. If the defendant did not make an appearance in court, the claim would usually be adjudged. If the claimant did not make an appearance at the day determined for the first hearing in court, the claim would be held for withdrawn and the claimant would be ordered to pay costs. Unlike in the Netherlands, opposition against default judgments ("verzet") resulting in the case being re-opened, was not available at the Landraad. In case of default, only appeal and cassation were available if the necessary conditions were met.

In Court, the court president tried to settle the case.[35] Settlements, which were final, were recorded in an official document having the same force as a judgment. If a settlement was not possible, the court president would read the relevant documents from the case file aloud and proceedings in court would begin. An interpreter was appointed if one of the parties did not speak the language of the documents.

In all stages of the proceedings, the defendant could claim that the court did not have subject-matter jurisdiction,[36] that is, introduce a "declinatory exception." Other "exceptions," such as procedural defenses not regarding the merits of the case, had to be introduced before the defense on the merits. They would not be decided separately, but only when the court issued its final judgment. If a party distrusted the written proofs submitted by their opponent, the party could request the court president to solicit the originals.

A hearing at the Landraad was different from a hearing before a European court. One author, the president of the Council of Justice in Padang, described the difference as follows:

> The European judge pays attention not only to what is said, but also to how something is said, and especially to how something is not said. But what would happen if the native judge [i.e., the Landraad] were to operate just as strictly and systematically? Even if the parties do not argue the case orally, but exchange written submissions, and one is therefore generally dealing with the more sophisticated [native] litigants, those submissions will still leave much to be desired in many respects. However, the hearing prescribed by the [Native Statute] serves to fill in the gaps. The judge should thereby gain a proper understanding of the claimant's claim and the nature of the defense, not so much for the benefit of the parties as for the benefit of the judge himself, who

33. *Id.* art. 133.
34. *Id.*
35. *Id.* art. 134.
36. *Id.* art. 137.

> will then only be better able to decide with knowledge of the facts and determine the precise boundaries of the dispute."[37]

Proof was regulated in some detail. Article 172 of the Native Statute stipulated that the Landraad should observe indigenous custom ("adat") regarding written evidence as well as witness evidence. Witnesses were the most prominent means of proof before the Landraad. The rule *unus testis, nullus testis* applied in civil and criminal matters.[38] Both the claimant and the defendant had to bring their respective witnesses to court. If a witness refused to come to court, they could be forced to do so. Witnesses were heard after the claim and defense had been introduced. The witnesses took an oath based on their religious beliefs. They were not allowed to communicate with each other before being heard. The president questioned the witnesses, but the parties could provide the president with questions. The court would decide whether these questions would be allowed and whether they were phrased in the right manner. The president could also ask the questions that he himself deemed necessary.

One author warned against witness evidence in Indonesia since he was of the opinion that "native society was predominated by bribery and lies."[39] Another nineteenth century author held that:

> The Javanese natives generally see no harm in lying; therefore, false testimony is very easily overlooked. For them [i.e., the natives], the oath usually represents no inner obligation, but merely a magical bond that can easily be broken. In this state of affairs, social contempt means little for false oaths; moreover, the truth is so difficult to discover that their punishment by the criminal courts is little to fear. In all respects, therefore, in that society [i.e., the native society], witness testimony is a very inadequate tool."[40]

The oath was also a means of proof. Colonial legal authors provide interesting information about the oath. They define it as "the religious act in which the one who has to declare or promise something calls upon the deity to witness the truth of what he declares, to confirm the sincerity of his promise, and to avenge it should that truth or untruth fail."[41] How this process took place differed depending on the local customs in different parts of the colony. In parts of Sulawesi, known as Celebes in colonial times, it was customary in serious civil proceedings or criminal cases to bring the person having to take an oath to the grave of one of the "sacredly revered ancestors." Upon arrival, the oath taker was given an egg, which they had to smash against one of the stone posts of the grave, cursing themselves and their descendants. This type of oath was held in high regard, according to the European observer, because it happened several

37. J.W.S. VAN DER AA, HET CIVIEL PROCES VOOR DE LANDRADEN EN RAPATS OP JAVA EN MADURA EN TER SUMATRA'S WESTKUST: BESCHREVEN TEN DIENSTE VAN ADMINISTRATIEVE AMBTENAREN 33 (Batavia, 1875).

38. Inlandsch Reglement, art. 173 (1848) (Neth. Ind.).

39. Heijcop ten Ham, *supra* note 7, at 132.

40. Piepers, *supra* note 15.

41. Heijcop ten Ham, *supra* note 7, at 137.

times that the oath taker and their descendants died suddenly one after the other.[42] The oath was rarely used as a means of proof due to the presupposed prevalence of perjury in the colony.

Another means of proof was a visit to a locality, either by the court (called "descente" in Dutch civil procedure) or by experts appointed for this reason. The hearing would be postponed in case of such a visit.

Documents or "written proof" could also be used. Such proof played, according to the colonial authors, almost no role before the Landraad because documents having legal significance (documents acceptable for the colonial authorities) were practically never produced in court. Presumptions as a means of proof were also rare due to the fact that there was no written legislation of native law defining such (legal) presumptions. Furthermore, presumptions that needed to be proven indirectly by witnesses were given little or no credence due to the presupposed unreliability of the witnesses.[43]

The Landraad aimed at terminating cases in one court session. However, if a case could not be terminated in one session, it would be postponed until a later date and continued at that date. After the hearing had been terminated, the court would withdraw to deliberate about the matter *in camera*. First, the Jaksa and the Pengulu would be heard, and then the judges would discuss the case and vote about the matter. The first to give their opinion was the judge-reporter who had studied the case file in depth, and subsequently the other judges, starting with the most recently appointed judge. This order of deliberation was introduced in the civil law tradition to guarantee the individual independence of the judges. However, some authors questioned whether this was the right approach in the colony given the different cultural situation. The order of opinions of native judges was determined by their rank in society, rather than the moment of their appointment.[44] Since proceedings *in camera* were secret, little is known about how matters were actually regulated during the deliberations for judgment. As stated, the judgment was collegial in nature and did not provide the opinions of individual judges.

CONCLUSION

As appears from the above, the nineteenth century witnessed some serious attempts to improve access to justice for those inhabitants of the colonies that were qualified as "natives." The Landraad was an important vehicle in this respect. The means that were used, and the opinions that supported these improvements, are obviously not always acceptable to a modern observer and can from a modern perspective often be qualified as paternalistic, to say the least. However, within a nineteenth century context, many of the measures taken were more or less progressive. One may, for example, refer to the wish for an

42. *Id.* at 139 n.1.
43. *Id.* at 126.
44. *Id.* at 144–45.

independent judiciary, the introduction of a legally trained judiciary, and the division of tasks between the judge and the parties. As regards the latter, the approach of the Landraad was more on the inquisitorial than on the adversarial side since the judges of the court were supposed to be very active. The active judge was seen as a guarantee for fairness in cases in which the costs of representation of parties by a lawyer were not proportional to the interest at stake. Self-representation was seen as increasing access to justice. The fact that the end result of the reforms and the procedural arrangements it gave rise to were considered to be positive is most likely the reason why the "Revised Native Statute" was maintained after Indonesia's independence. Its name was however changed into "Revised Indonesian Statute" and, as we have seen, it is currently still the basis of procedural law in Indonesia under the name of *Reglemen Indonesia Yang Diperbaharui*.

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