



The founders of Perhimpunan Indonesia, from left to right, G. Mangunkusumo, Mohammad Hatta, Iwa Kusumasumantri, R. Sastromulyono. and R. M. Sartono (J. Th. Petrus Blumberger, De Nationalistische Beweging in Nederlandsch-Indië [Haarlem: Willink & Zoon, 1931], facing p. 186).

## ORIGINS OF THE INDONESIAN ADVOCACY\*

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Unlike the European advocacy, the Indonesian advocacy did not evolve from old beginnings in local history. As in other colonies, it emerged full grown from the colonial womb, not fully legitimate in the mother's regard, and with a father from halfway across the world. The offspring was doomed to be an orphan, but reasonably tough.

The model for the Indonesian advocate was, of course, the Dutch advocate. For American readers especially, it may be useful briefly to contrast civil law advocates with American lawyers, for while they share some functions in many ways they are quite different.<sup>1</sup> Unlike the American lawyer, a generalist who combines adjudicative functions with documentary responsibilities of all sorts, the civil law advocate, like the English barrister, is formally concerned almost entirely with litigation. Generally he or she is not a writer of legal documents. This function--drafting articles of incorporation, contracts, wills, and so on--is managed by the notary, who in civil law systems is an extremely important official very different from the American notary public. The tacit specialization of trial lawyers and office lawyers in the modern American legal profession is barely like that of notaries and advocates. Civil law notaries are at the heart of the formal legal system, and many transactions are impossible without their services.<sup>2</sup> The existence of a specialized notariat reduces the need for private attorneys, not only because advocates may devote themselves purely to court work, but also because ideally careful documentary preparation tends to reduce the incidence of litigation. Civil law notaries are regulated, examined, and licensed by the state, often with greater care than advocates. While notaries are not so much in the public eye, on the whole they tend to be a more secure lot than advocates. Their number is usually limited by the government, and their services are constantly required. The advocacy is much more clearly a private affair, however, and the number of advocates is not normally determined by the

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\* This article is a slightly revised chapter from a book I am writing about Indonesian advocates. I am deeply grateful to George Kahin and Benedict Anderson for very helpful criticisms of it. Sumarno P. Wiryanto read an earlier draft of the manuscript, and I want to thank him for his comments. Throughout the article there are explanations of matters Indonesian with which most readers of this journal will be entirely familiar. I am leaving them in, with apologies, to avoid having to draft many transitional sentences.

1. See generally Rudolph B. Schlesinger, Comparative Law (2nd ed.; Brooklyn: Foundation Press, 1959); and Dietrich Rueschemeyer, Lawyers and Their Society: A Comparative Study of the Legal Profession in Germany and in the United States (Cambridge: Harvard University Press, 1973).
2. On notaries see Schlesinger, Comparative Law, pp. 11ff.; and Mauro Cappelletti, John Merryman, and Joseph Perillo, The Italian Legal System (Stanford: Stanford University Press, 1967), pp. 100ff.

state, though local bar organizations may have a say in the matter. How much work they have depends in part upon how useful and common litigation is.

In addition, unlike the situation in England and the United States, in civil law countries private lawyers do not form the core of the legal vocation. The center of gravity of the common law legal profession is the practicing bar. Legal training is oriented to private legal practice, not to government service, and the bar associations are controlled by private lawyers. In the civil law tradition, however, private lawyers are much less the concern of law faculties and in no way control or inspire the character of all legal professions. Specialized career patterns in the judiciary, prosecution, administration, notariat, and advocacy, beginning almost from the time of graduation from a law faculty, tend to fragment the legal professions in civil law countries.

In the Netherlands Indies, until the mid-1920s, all advocates and notaries were Dutch. Neither native Indonesians nor ethnic Chinese had yet joined these professions. The small size and influence of the Indonesian advocacy just after independence was due at least in part to its late beginning. This was not true of all colonies. In most English colonies and the American-controlled Philippines, indigenous lawyers were numerous.<sup>3</sup> It is tempting to attribute the differences simply to divergent Anglo-American and Continental legal traditions: English and American colonial officials would see many private lawyers as a basically good thing, while the French, Dutch, and Belgians would not. In reality, however, colonial officials nearly everywhere were reluctant to encourage indigenous private lawyers, and this was equally true on the colonial right and left. Hard-liners regarded native lawyers as a likely source of corruption, litigiousness, misuse of the law, and general trouble-making.<sup>4</sup> Europeans with more sympathy for the societies they dominated perceived private lawyers as a symptom of the breakdown of traditional social intimacy in favor of a less kindly impersonal rule of law, which must spread social and cultural disruption.<sup>5</sup>

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3. While accurate comparative statistics on indigenous advocacies in the colonies are not now available, and other factors have since influenced the growth of private practice in the successor states, one can nevertheless get a glimmer of the original differences from modern data. Marc Galanter has collected statistics on "lawyers" (often including government officials as well as private advocates) in selected states during the late 1950s and early 1960s. At that time India had 75,000 lawyers (189 per million people), Pakistan 15,000 (149 per million), Malaysia and Singapore about 270 (35 per million), the Philippines 27,500 (1,018 per million!) and, by contrast, Indonesia 1,620 (17 per million). Galanter, "Introduction: The Study of the Indian Legal Profession," in *III Law and Society Review*, 2-3 (November 1968-February 1969), at pp. 204-5. One has to keep in mind, however, that common law systems generally require more private lawyers than civil law systems, and other local social and legal institutional factors influence the size of the bar. Thus in the same years, according to Galanter's data, the United States had 1,595 lawyers (including those retired, in law schools, in the government, and so on) per million population, the United Kingdom 507, France 165, Italy 602, and Norway 1,428.
  4. See for example J. W. B. Money, *Java; or, How to Manage a Colony* (2 vols.; London: Hurst and Blackett, 1861), II, pp. 72-73, 85-86. Money, from British India, was full of admiration for the Dutch in Java and wished English administrators would take a lesson from them.
  5. J. S. Furnivall, *Colonial Policy and Practice: A Comparative Study of Burma and Netherlands India* (New York: New York University Press, 1948) for a deeply con-

Each view had its own peculiar validity, though probably for reasons different from those usually argued. In any event, indigenous private lawyers did emerge earlier and in greater numbers in some colonies than in others, depending on a combination of colonial administrative ideology and economic policy. The English and the Americans tended to view the rule of law as an essential ingredient of colonial policy and part of their mission. Encouraging native lawyers therefore had some logic to it, despite European misgivings. But, at the same time, the English and the Americans were also more inclined to encourage local political participation and some entrepreneurial development, from which local private lawyers would tend to sprout if allowed to do so. In French and Dutch colonies, however, ideological conceptions of the imperial mission were quite different, and so were economic policies. A more pervasive administrative conception of colonial governance emphasized the role of European executive will, not law per se. Combined with a rather exclusive European (and minority middle-man) monopoly over commerce, this neither encouraged nor left much room for indigenous private lawyers.

But things are never all that simple, and the setting in which Indonesian advocates finally did emerge needs more detailed analysis. The Netherlands Indies legal order is more helpful than most in trying to understand this setting, because of the remarkable congruence between Dutch colonial legal institutions and the social and economic structure of the colony. What in other colonies was accomplished through social and political pressure, which legal forms hypocritically denied, the Dutch often made institutionally explicit.<sup>6</sup>

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cerned and sophisticated argument of this case. There is probably no better or subtler description than Furnivall's of the differences between English and Dutch colonial styles and their consequences. In a speech he delivered to a Dutch audience during the 1930s, and which he excerpted in his book, Furnivall contrasted British administration in Burma with that of the Dutch in Indonesia thus: ". . . Our officers are magistrates; yours are policemen and welfare officers. Our methods are repressive, yours are preventive. Our procedure is formal and legal; yours, informal and personal. Our civil service is an administrative machine; yours is an instrument of Government. Our aim is negative--to suppress disorder; yours is positive--to maintain order. Order--it is a word we both use frequently, but with a significant difference of context. We talk of 'law and order' and you of 'rust en orde'; but in the absence of a social conscience it is difficult to distinguish between law and the letter of the law, and between rust [rest, tranquillity] and the placidity of a good baby in its perambulator. The caricature which depicts your system as a baboe, a nursemaid, and ours as a babu, a clerk, does emphasize a difference in vital principle. You try to keep a man from going wrong; we make it unpleasant for him if he does go wrong. You believe in protection and welfare; we believe in law--and liberty" (pp. 272-73). But the irony of the colonial condition, as Furnivall probably understood, was that neither welfare nor liberty was achieved in any real sense for Indonesians or Burmans.

6. On the formal legal system of the colony see J. H. Carpentier Alting, Grondslagen der Rechtsbedeeling in Nederlandsch-Indië (2nd ed. rev.; The Hague: Nijhoff, 1926), and A. D. A. de Kat Angelino, Staatkundig Beleid en Bestuurszorg in Nederlandsch-Indië (2 vols.; The Hague: Nijhoff, 1930), II; in Indonesian, see R. Supomo, Sistim Hukum di Indonesia sebelum Perang Dunia II (3rd ed.; Jakarta: Noordhoff-Kolff, 1957), and E. Utrecht, Pengantar dalam Hukum Indonesia (7th ed. rev.; Jakarta: Ichtiar, 1962), pp. 270ff.; and, in English, see B. ter Haar, Adat Law in Indonesia (New York: Institute of Pacific Relations, 1948), especially the introduction by Hoebel and Schiller, pp. 1-43, and Amry Vandenbosch, The Dutch

There is no room here for a full description of the colonial social-legal order, but a brief one is worth trying. To begin with, when the Dutch government took over the Indonesian heartland of Java as a colony following the Napoleonic wars, the administration they established was one of indirect rule, built on a political alliance between the Dutch and the Javanese *priyayi* elite. The alliance was mutually advantageous in that the Javanese elite retained a semblance of authority, the Dutch were enabled to exploit the island under conditions of relative stability, and both were able to avoid any growth of Islamic power. Java was governed like a huge plantation by the colonial administration itself until the last quarter of the nineteenth century, when under the "liberal" system Dutch private companies were allowed to buy up much of the productive capacity of the island.<sup>7</sup> Liberal ideology had begun to make itself felt earlier, however, in changing concepts of colonial administration. As Furnivall once described it, Dutch administration in Java was originally predicated on a highly authoritarian assumption of executive prerogative.<sup>8</sup> No doubt this suited the Dutch concern for efficient exploitation of Java's agricultural wealth, and at the same time fitted well with the patrimonial traditions of Javanese social and political organization. But by the middle of the nineteenth century colonial policy began to shift in favor of principles of legality.<sup>9</sup> From the late 1840s on, new codes were promulgated, judicial organization and policy were developed and refined, and general administration was rationalized by appropriate rules and regulations.<sup>10</sup> These reorganizations significantly prepared the way for the period of private capital development that began in the 1870s.

The *rechtsstaat* was thus introduced to the colony at this time. What is usually missed in this history, however, is that the colonial *rechtsstaat* essentially governed the affairs of the Dutch community and those related closely to it. Between the Dutch, on the one hand, and Indonesians, on the other, relationships were based not on commonly accepted legal norms in a consensual structure of authority, but on commonly understood realities of power. In the administration of the Indonesian population, older patrimonial traditions never disappeared, neither among Dutch nor Indonesian bureaucrats. Early in the twentieth century the colonial administration adopted the "Ethical" policy, aimed at indigenous welfare and social development. It was the fundamental failure

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East Indies: Its Government, Problems, and Politics (Berkeley and Los Angeles: University of California Press, 1944), chapters 11 and 12. The most important codes and statutes that will be mentioned in the text can be found in various editions of E. M. L. Engelbrecht's De Wetboeken, Wetten en Verordeningen Benevens de Voorlopige Grondwet van de Republiek Indonesië, among others the 1954 edition, published in Leiden by A. W. Sijthoff.

7. On the effects of Dutch agricultural policies in the nineteenth century, see C. Geertz, Agricultural Involution (Berkeley and Los Angeles: University of California Press, 1963).
8. J. S. Furnivall, Netherlands India: A Study of Plural Economy (Cambridge: Cambridge University Press, 1944), pp. 187ff. and 257ff.
9. By "legality" I mean the rule-oriented concepts of bureaucratic administration and political organization that Weber analyzed in his discussion of rational-legal authority. See Max Rheinstein, trans., ed., and annotator, Max Weber on Law in Economy and Society (Cambridge: Harvard University Press, 1954). The legal system that evolved in Indonesia under Dutch direction was naturally informed by Continental *rechtsstaat* principles, which have a strong administrative bias.
10. Ibid., and Carpentier Alting, Grondslagen.

of this policy, as Furnivall argued, that the "protective" colonial administration encouraged placidity rather than self-reliance. Nor did it produce much welfare.<sup>11</sup>

Dutch power did not expand fully to the rest of the Indonesian archipelago until the late nineteenth and early twentieth centuries. On Sumatra, Sulawesi, Kalimantan, and the many smaller islands there were numerous distinct ethnic groups, each with its own culture, political system, social organization, and history. Some the Dutch conquered; with others they negotiated agreements. In developing the administration of these areas the Javanese experience was not always relevant or useful. In some places local authority and traditional institutions were left much as they were, though Dutch administrative officials assumed influence over them. In other places new colonial institutions were imposed upon local populations, often on the Javanese pattern but regulated by different codes. The distinction generally made was between directly governed territories and self-governing lands, but for our discussion it is not important.<sup>12</sup>

Several basic principles evolved in the management of this social, political, and cultural mélange. First, the population of the colony was classified according to a racial criterion, which had obvious but unstated economic significance. Population groups included the Dutch, Indonesians, Chinese, and other foreign orientals--for example, Arabs and Indians. Apart from cultural differences, which alone might justify different legal treatment, the reality of the matter was that the Dutch exercised political and economic control over the colony, Indonesians were primary producers, and Chinese, Arabs, and Indians were economic middlemen. Legal rules and patterns of institutional traffic reflected not only the cultural characteristics and needs of the distinct population groups, but also their different economic roles.<sup>13</sup>

A second related principle concerned the complicated problem of changes in cultural identity, which also had social and political significance. As in other colonies, being European meant having a lion's share of social and economic advantages. Consequently the colonial administration had to determine by what means and in what measure people could assimilate legally to European status. Indo-Europeans, for example, were normally accorded European status, assuming that the father was Dutch and, in case of illegitimacy, that the child had been formally recognized by the father. Converts to Christianity were for certain purposes assumed to be assimilated to European status, though a good deal of doubt and change in policy clouded this issue between

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11. See J. H. Boeke, The Structure of the Netherlands Indian Economy (New York: Institute of Pacific Relations, 1942).

12. Carpentier Alting, Grondslagen, pp. 72ff., 211ff., 305ff.

13. To manage relationships between the various racial and ethnic groups, a body of conflicts rules evolved that were refined and given theoretical order by a number of Dutch and, later, Indonesian scholars. The outstanding seminal work was done by R. D. Kolllewyn, collected in his Intergentiel Recht (The Hague and Bandung: van Hoeve, 1955). See also Gouw Giok Siong, Hukum Antargolongan (2nd ed. rev.; Jakarta: Ichtiar, 1960) and his Segi-Segi Hukum Peraturan Perkawinan Tjampuran (Jakarta: Djambatan, 1958). It is a mark of the colonial condition that while Kolllewyn and other conflicts scholars argued sincerely for as assumption of legal equality between all groups in the colony--that adat law, for example, was no lower than European law--nothing could have been further from social realities.

the middle of the nineteenth century and the first two decades of the twentieth. Moreover, a law of 1917 made it possible for individuals to assimilate voluntarily, in part or in whole, to European legal status. But few people chose to become legally "European."<sup>14</sup>

A third principle governed the administration of the highly diverse Indonesian population itself. From the beginning of colonial history the Dutch took the view that Indonesians should normally live by their own customary rules--*adat* law--except where these violated "general principles of justice and morality." There is no simple way to deal with all the significant nuances of colonial *adat* law policy, which Dutch and Indonesian scholars argued about for decades.<sup>15</sup> In part it was a policy of convenience and even fairness to allow people to live by local *adat*. Yet Dutch support of *adat* was also a means of reinforcing traditional local authority against the rise of Islamic power, which for centuries had challenged the legitimacy of customary elites rooted in *adat* symbols.<sup>16</sup> Moreover, it was a matter of fierce debate whether colonial *adat* law policy, as it evolved from the 1910s under the influence of Dutch *adat* law scholars and their Indonesian students, was a help or hindrance to the "development" or "modernization" of Indonesian society. C. van Vollenhoven in Leiden and B. ter Haar in the colony, both enormously respected by their Indonesian students, successfully opposed legal unification in the Netherlands Indies. With support from Indonesian legal scholars, such as the late Professor R. Supomo, they went on to encourage *adat* research, new judicial policy with respect to local *adat*, and even restoration of old customary judicial institutions that had decayed.<sup>17</sup> While many Indonesian leaders favored colonial *adat* law policy because of its anti-Islamic bias or because it did, after all, maintain something that belonged unequivocally to Indonesian cultures, others perceived it mainly as colonial divide and rule strategy.

These brief comments are inadequate to the subject of Netherlands Indies social-legal policy, but they provide at least a superficial backdrop for describing the institutional structure in which Indonesian advocates eventually emerged.

Because advocates are oriented primarily to courts, we will focus on this part of the legal system. It was the judiciary that most accurately manifested the meanings of colonial pluralism. Plural judicial systems were not unusual in the colonies, where European courts often existed alongside religious and customary courts. In the Netherlands Indies, however, there were no fewer than four distinct kinds of courts: government courts of Europeans, government courts for non-

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14. A. C. Tobi, De Vrijwillige Onderwerping aan het Europeesch Privaatrecht (Leiden: van Doesburgh, 1927).
  15. See C. van Vollenhoven, De Ontdekking van het Adatrecht (Leiden: Brill, 1928), and R. Supomo and R. Djokosutono, Sedjarah Politik Hukum Adat (2 vols.; Jakarta: Djambatan, 1950-54).
  16. See J. Prins, Adat en Islamietische Plichtenleer in Indonesie (The Hague and Bandung: van Hoeve, 1954); Harry J. Benda, The Crescent and the Rising Sun (The Hague and Bandung: van Hoeve, 1958); and Daniel S. Lev, Islamic Courts in Indonesia (Berkeley and Los Angeles: University of California Press, 1962).
  17. See, inter alia, B. ter Haar, Verzameldde Geschriften and Naschriften (Jakarta: Noordhoff-Kolff, 1950), in three volumes, compiled by R. Supomo.

Europeans, Islamic courts, and adat courts.<sup>18</sup> The traffic between and among them reflected and subtly symbolized distinctions of function, power, prestige, and status of population groups in the colony.

The foremost system of courts, standing above and dominating all others, was the one for Europeans. It included a first instance *residentiegerecht*, in the jurisdiction of the Dutch resident; an appellate *raad van justitie* in the colonial capital of Batavia, Semarang, Surabaya, Padang, Medan, and Makasar; and the highest court of the Netherlands Indies, the Hooggerechtshof. Judges of the *raden van justitie* and the "Hof," as lawyers familiarly called it, were trained jurists, the law elite of the colony, who were accorded great prestige and honor. Prosecution before these courts was managed by fully trained *officieren van justitie*, the staff of a Continental-style *parquet*. The codes applied followed closely the codes used at home in the Netherlands: the civil code (*burgerlijk wetboek*), the commercial code (*wetboek van koophandel*), the code of civil procedure (*reglement op de rechtsvordering*), and the code of criminal procedure (*reglement op de strafvordering*). In 1915, the criminal code (*wetboek van strafrecht voor Indonesië*) was unified for all population groups, but not criminal procedure.

The primary community served by these institutions and codes was Dutch, and all judges and prosecutors (with one or two exceptions among the latter in the 1930s) were Dutch government lawyers trained in Dutch law faculties. By the nature of colonial pluralism, however, certain non-Dutch groups were also accorded the special consideration of Dutch law and judicial institutions. In part the criteria were racial: all Europeans automatically came under the jurisdiction of Dutch civil, commercial, family, and criminal law and merited the rigor and safeguards of the European procedural codes. But in 1899, after considerable diplomatic pressure and a new treaty of commerce and navigation (1896), the Japanese also were accorded a status equivalent to the Europeans'; international economic and political power overrode the contradiction.

In part, too, the criteria were functional. All commercial transactions that made use of instruments (for example, contracts) common to European practice were subject to the commercial code and to the jurisdiction of European courts. Any use of such commercial instruments automatically implied submission to the European commercial code for the purpose of the given transaction, whether or not those involved were aware of it. Here racial distinctions did not matter.

It has already been mentioned that non-European individuals could voluntarily submit in whole or in part to European law. An Indonesian, for example, could explicitly accept an obligation according to European

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18. Actually the categories of judicial institutions were further refined in the colony. Formally, there were government courts in directly governed and self-governing territories, native courts in directly governed territories, native courts in self-governing lands, Islamic courts, and village courts, by which was usually meant informal village conciliation proceedings. Native courts in directly governed territories existed entirely outside of Java and Madura: in the Sumatran areas of Aceh, Tapanuli, West Sumatra, Jambi, Palembang, Bengkulu and Riau, and in Kalimantan, Sulawesi, the Maluku islands, and the island of Lombok, east of Bali. In addition, there was another court for all population groups, the *landgerecht*, which will be mentioned again shortly. On judicial structure in the colony, see Supomo, *Sistim Hukum*, Carpentier Alting, *Grondslagen*, and R. Tresna, *Peradilan di Indonesia dari Abad ke Abad* (Jakarta and Amsterdam: Versluys, 1957).



law, or he might avoid this in favor of adat rules; or, by engaging in certain transactions, he might automatically fall under given rules of the European code. With respect to one non-European group, however, there was no question of permitting a choice in the matter. Overseas Chinese in Indonesia were the most important middle-level commercial class in the colony. Until the twentieth century, when overseas Chinese nationalism began to produce organizations and demands, the social condition of Indonesian Chinese was not especially pleasant. Distrusted by both indigenous Indonesians and the Dutch, much of the Chinese population was confined to ghettos, encumbered with travel restrictions, and paid little attention by administrators in charge of welfare and education.<sup>19</sup> The Constitutional Regulation of 1854 had given Chinese the same legal status as Indonesians. But in 1855 the colonial administration, having authority to make exceptions to the legal classification of population groups, made Chinese and other "foreign orientals" subject to the commercial code, thus providing Europeans with protection and ultimate economic control. Yet, for the rest, Chinese remained assimilated to the legal status of "natives." Chinese family affairs, for example, were governed by Chinese custom. In criminal litigation Chinese were under the jurisdiction of the law and courts for Indonesians. Apart from other palpable disadvantages--for example, criminal sentences were sometimes harsher in courts for Indonesians than in those for Europeans--socially and politically conscious Chinese resented their classification as "natives," for whom they had little more regard than had the Dutch. After the turn of the century, particularly once the Japanese had won a change in their legal status, overseas Chinese organizations pressed for similar changes. In the 1920s, when Kuomintang China had adopted legal reforms on the European model, the Indonesian Chinese civil law status was altered and, except for family law rules of adoption, they were brought under the European civil code and removed almost completely from the civil jurisdiction of the courts for Indonesians. But the Chinese were never fully assimilated to European status and remained under the criminal jurisdiction of courts for Indonesians.<sup>20</sup>

Finally, the criteria that determined European court jurisdiction were partly political. For Indonesians of royal title, *bupati* and other politically significant local administrators, judges and clerks in Indonesian courts, military officers, and certain high Indonesian officials in the central administration of the colony, a "privileged forum" was reserved in the *raden van justitie*. The privileged forum was a symbol of the special relationship that existed between colonial administration and Indonesian elite, and at the same time emphasized the gulf between the latter and the majority of Indonesians.

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19. Lea E. Williams, Overseas Chinese Nationalism: The Genesis of the Pan-Chinese Movement in Indonesia, 1900-1916 (Glencoe: Free Press, 1960). Also Furnivall, Netherlands-India, on the Indonesian Chinese.

20. During the twentieth century a growing number of Chinese students went to Dutch schools, the Chinese elite became culturally "Westernized," and Chinese commerce became increasingly corporate. On the issue of the "native" criminal law status of overseas Chinese, not all Chinese leaders agreed that a change would be advantageous. In the late 1920s and 1930s a few ethnic Chinese lawyers argued within the Chinese community that while it might be socially gratifying to be assimilated to European status, the H.I.R. made it easier sometimes to win acquittals, and moreover (this only half facetiously) that prison rules for Indonesians were in some ways easier to live with than rules for Europeans.

Government courts for Indonesians were a different matter. There were also three instances: *districtsgerecht*, *regentschapsgerecht*, and *landraad*. The *landraad* was the ancestor of the modern Indonesian *pengadilan negeri*, the first-instance court of the independent state. In the Netherlands Indies a *landraad* sat in each of the eighty *kabupaten* of the islands of Java and Madura, and in several cities outside Java. Most *landraad* judges were Dutch, though by the 1920s and 1930s several trained Indonesian lawyers were appointed to the bench. These Indonesian courts had jurisdiction over Indonesians and those assimilated to the status of Indonesians, including Chinese in criminal prosecutions. Much of their civil work was governed by local adat law --for example, inheritance, land transactions, disputes over pawning, sale, and purchase of village produce, and so on. Significant commercial disputes did not come before *landraden* unless a question arose as to whether adat law or the commercial code applied and the defendant was an Indonesian. Family disputes of Indonesian Christians also came before Indonesian courts; after wavering a bit the colonial administration concluded that indigenous Christians remained "natives."

In criminal jurisdiction, courts for Indonesians applied the unified criminal code, but procedure was governed by a special code, the *Inlandse Reglement* (Native Regulation) later revised as the *Herziene Inlandse* (Indonesisch) *Reglement* (Revised Native--Indonesian--Regulation). (Outside Java a different regulation, the *Rechtsreglement Buitengewesten*, was in force, though much of it was similar to the H.I.R.) The H.I.R. remains the basic procedural code of independent Indonesia. Compared with the European *strafvordering* (code of criminal procedure) the H.I.R. was (is) a simpler code, less demanding of judges and prosecutors, and also less rigorous in protecting accused persons. The prosecutor in the *landraad*, the *jaksa*, was a very lowly official compared with the European *officier van justitie*. He had little legal training, and was not deemed to need much. In session he sat behind the bench alongside the judge. The *landraad* chairman himself was responsible for drafting proper and correct indictments. While advocates might appear in *landraden* trials, this was not encouraged. The H.I.R. permitted litigants to represent themselves in court, obtaining whatever help they needed from judges or court clerks. If someone chose to hire counsel, it did not have to be anyone with legal training. Indonesian litigants often engaged a *pokrol bambu*, a kind of bush-lawyer, to represent them in court.

Decisions of *landraden* in Java and Madura could be appealed to *raden van justitie*. In 1938, a third chamber was created in the *raad van justitie* of Batavia to hear appeals from all *landraden* in Java and Madura, in order to ensure jurisprudential unity among Indonesian courts. The same was done in the *raad van justitie* of Padang, with jurisdiction over West Sumatra, Bengkulu, and Tapanuli, but too late to go into effect before the Japanese occupation.

The last two court systems require less attention, not because they were insignificant or uninteresting, but because they were less relevant to private lawyers. One was the Islamic judiciary, which existed throughout Java and Madura, and here and there in Sumatra, Kalimantan, Sulawesi and other islands. Although Islamic courts were treated with contempt by both Dutch and Indonesian elites, they were influential enough as a political-religious symbol to assure their survival. Their limits were evident, however, in a complete dependence on local *landraden* for executory authority.<sup>21</sup>

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21. Lev, Islamic Courts in Indonesia.

The other courts, hardly a system, were local adat institutions. In Java they existed only in the royal houses of Surakarta and Yogyakarta. Outside of Java they were much more common. Presided over by local authorities, these courts of "native justice" (*inheemse recht-spraak*) theoretically represented the autonomy of local adat communities. In fact, however, local colonial administrators observed, took part in, and influenced their proceedings.<sup>22</sup> As the new *adatrecht* *politiek* developed in the 1920s and 1930s, adat courts were reorganized in several areas of the colony. In some cases where traditional courts had already disappeared, or begun to, they were created anew. Far from being slavishly traditionalist, however, the administration also established new adat appellate instances, for example in Tapanuli, West Sumatra, and South Sumatra. Government judges usually chaired these adat appeals courts. Actually, then, the autonomy of adat courts was limited, in the same way that the political autonomy of provincial societies was limited, by the colonial administration. In civil cases, by European definition, the substantive rules applied by adat courts came from local adat law. In criminal affairs adat rules also applied, but with less leeway; the colonial criminal code was obligatory with respect to some issues, and in others its rules and concepts were influential in adat court proceedings as a result of pressure from local administrative officials.

There were still other courts, most of which need not concern us here. The only court for all population groups was the *landgerecht*, created in Java and Madura in 1914 and in several cities in Sumatra, Sulawesi, and New Guinea in 1919. The *landgerecht* handled only relatively minor criminal matters. It represented the only successful attempt to overcome legal pluralism in the colony, but it was a shallow success. Although the *landgerecht* could try persons from all population groups, the investigation of Europeans followed the stringent rules of the *strafvordering* while that of Indonesians (and others with equivalent legal status) followed the simpler H.I.R.

If we drew a map of the distribution of judicial authority and litigational traffic in the Netherlands Indies, and superimposed it upon an analogous map of political power, economic interests, and social-political alliances, the fit would be extraordinarily close. The most impressive lines of authority, social and political status, and, above all, commercial traffic would lead directly to the European courts. Traveling these heavy lines as on modern freeways were Dutch advocates and notaries.

The colonial administration never encouraged Indonesians to take up private legal practice. Fundamental assumptions of colonial pluralism in the Netherlands Indies excluded such a notion from the imagination. The highest levels of commerce were in European hands, and businessmen would naturally rely upon Dutch advocates and notaries. Nor would Chinese entrepreneurs choose an Indonesian over a Dutch lawyer. Social status considerations alone would have made this unlikely, and besides, as the legal system was dominated by Dutch officials, it obviously made sense to use Dutch counsel. (There were no ethnic Chinese private lawyers either until after Indonesians had begun practice in the mid-1920s.) Moreover, the common myths of colonial paternalism

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22. See the superb study of Toba Batak adat law and institutions by J. C. Vergouwen, first published in 1933 as *Het Rechtsleven der Toba-Bataks*, translated as *The Social Organisation and Customary Law of the Toba-Batak of Northern Sumatra* (The Hague: Nijhoff, 1964).

no doubt made the idea of Indonesian advocates, if anyone thought of it, seem outlandish. European administrators usually assumed that the colonial bureaucracy was sufficient for the "simple" legal problems of village life. This same view that native legal problems were uncomplicated, along with other considerations, undoubtedly helped to inspire the simpler procedural requirements of the H.I.R., by which it was assumed that Indonesian litigants did not require assistance by counsel. I do not mean to argue that the simpler procedures were without virtue, but that the policy grew out of a colonial world-view that had other institutional consequences. One of them was that Indonesian advocates seemed out of the question.

Indonesian society was not much more receptive than the Dutch to the possibility of Indonesian advocates. Or at least Javanese society was not, and at first it was only Javanese who took up legal studies. When legal training was finally made available to Indonesians, it was confined to Javanese priyayi. Since legal training was seen as preparatory to government service, only the sons of high priyayi--often from bupati families--were encouraged to study law; the traditional elite was to be modernized, not expanded. Once the opportunity for legal education became available, however, some lower priyayi families also took advantage of it. But among both higher and lower strata of this Javanese elite, social status was attached to bureaucratic position. Private occupations of nearly any kind, and certainly occupations related to commerce, were regarded unfavorably as low status and unworthy. Few sons of the priyayi were likely, therefore, to receive much family encouragement to become private lawyers.

Consequently, two kinds of change had to take place in the colony in order for Indonesian private lawyers to appear. One was institutional and obvious: legal education had to be made available to Indonesians. The other was cultural and attitudinal: a few Indonesians with legal training had to become comfortable with the possibility of private practice.

Legal education, like other kinds of education, developed late in the Netherlands Indies.<sup>23</sup> During the second half of the nineteenth century, provision was made for training administrators, teachers, and medical assistants, but there were no universities. Dutch students returned to Holland for higher education; by the turn of the century a few Indonesians of high birth followed. During the Ethical period, education for Indonesians received much more attention. This was due partly to the views of sympathetic and liberal Dutch officials who sought to give Indonesians, particularly Javanese at first, the technical wherewithal to be self-reliant. It was also due to a growing need for trained personnel to fill the expanded services of colonial administration in Java and those other parts of the archipelago recently brought under colonial control. In the first decade of this century advanced schools were established to train agricultural technicians, veterinarians, and teachers.

When the government in Batavia announced that it would create a law school for Indonesians, Dutch lawyers opposed the idea on grounds that "natives" were not up to the rigorous demands of legal training

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23. On educational policy development in the colony, see the compilation of materials by S. L. van der Wal, Het Onderwijsbeleid in Nederlands-Indië 1900-1940 (Groningen: Wolters, 1963), and I. J. Brugmans, Geschiedenis van het onderwijs in Nederlandsch-Indië (Groningen: Wolters, 1938).

and work.<sup>24</sup> Many of them may have feared that the prestige of the law would be contaminated by a "native" presence, but it also seems likely that they realized, or at least sensed, that the availability of Indonesian lawyers might well reduce the demand for Dutch lawyers in the colony. The government disregarded the protest and in 1909 opened the Rechtsschool in Batavia.

It was actually a secondary law school, which students entered in their mid-teens for six years of study. Instruction was in Dutch, which meant that only the sons of elite families were admitted--after graduating from Dutch-language primary and middle schools and, frequently, being boarded with a Dutch family to improve their command of the language. The Rechtsschool offered a truncated program emphasizing criminal law and procedure. Training was rigorous; only about a third of those who matriculated passed the final examinations to become *rechtskundigen*, as Rechtsschool graduates were called. The Rechts-school was open only to Indonesian students until 1922, when other groups were allowed to apply (no more than three or four Europeans and Chinese were accepted). It lasted until 1928, when the first *meester in de rechten* degree was conferred by a fully accredited law faculty in Batavia. Between 1915, when its first class finished, and 1928 the Rechtsschool graduated approximately 150 *rechtskundigen*.<sup>25</sup> In later years *rechtskundigen* who had not taken advanced degrees in Holland or Batavia were looked down upon by non-rechtsschool graduates who had. After independence two law associations were formed, one of which (PAHI) accepted *rechtskundigen* as members while the other (ISHI) restricted membership to those holding full law degrees. It was generally agreed nevertheless that *rechtskundigen* were well trained in law. Several became judges, and the first chief public prosecutor of the independent state, the highly respected Suprpto, was a graduate only of the Rechtsschool.

But the sole purpose of the Rechtsschool was to furnish Indonesian clerks, *jaksa*, and eventually judges for *landraden* and *landgerechten*. Its graduates could not have become notaries or advocates, for they had little training in civil law and procedure. Yet it did provide the original educational base from which Indonesian law students could be introduced to the possibility of private practice.

In the late 1910s *rechtskundigen* were given an opportunity to study for *meester in de rechten* degrees in Holland. Several left for Leiden as soon as they could, to be followed by other *rechtskundigen* and, later, by those who went directly to Leiden without attending the Rechtsschool first. The government sponsored many students at Leiden,

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24. Furnivall, *Netherlands-India*, pp. 246-47. Furnivall wrote that a Dutch newspaper at the time argued that natives lacked the quality of independent judgment and opinions, which its editors presumably supposed that lawyers need. Similarly, in reaction against a new medical school in 1913 the Medical Association of the colony said that ". . . the moral virtues of a doctor were, by nature, foreign to the East, and that men trained in the new school would make a pastime of seduction and a living from abortion" (p. 247). With respect to Dutch lawyers, many of whom opposed the new law school, it is also true that several leading lights of the Ethical movement were successful advocates: for example, van Dedem, Fock, and van Deventer, who in 1899 wrote the article, "A Debt of Honor" (*Een Eereschuld*), that crystallized the ideas of the Ethical policy.

25. This figure was calculated from the annual colonial statistical abstracts, *Indisch Verslag*, 1922-27.

but some went on their own with support from family or friends. Those paid for by the government were obliged to return to civil service positions. By 1928 forty-five Indonesians had law degrees from Leiden. In the meantime, in 1924 a new law faculty was established in Batavia: the Rechtshogeschool. By 1927, there were 131 law students in Batavia, of whom 36 were Dutch, 25 Chinese, and 70 ethnic Indonesian.<sup>26</sup> Beginning in 1928 the Rechtshogeschool graduated a small but steady stream of Indonesian lawyers, yet those who could afford to still went to Holland. Leiden had incomparably greater prestige, and the experience of having been to Holland, of having studied with van Vollenhoven and other well-known professors, and of having traveled in Europe, gave those who had Leiden degrees an edge of status in the professional law community. During the first few years of independence, the highest positions in the national judiciary and Ministry of Justice consistently fell to those with degrees from Leiden, though they were a minority of graduated lawyers.

By 1940 there were nearly three hundred ethnic Indonesian lawyers, not including rechtskundigen, and a growing number of ethnic Chinese counterparts. During the Japanese occupation a list of ethnic Indonesian lawyers was compiled for the military administration. While the list may lack a few names and provides no information on ethnic Chinese, it does offer a limited profile of the developing class of Indonesian lawyers.<sup>27</sup> Through 1939, according to this list, 274 ethnic Indonesians had taken law degrees. Of these no less than 108 studied in Leiden, 9 in Utrecht,<sup>28</sup> and at least 146 of the remainder at the Rechtshogeschool in Batavia. Judging from ethnic names (which ensures some margin of error), 175 of the 274 law graduates were Javanese. About 20 or more were Sundanese. Among the rest were perhaps 15 Minangkabau, 10 Batak, 20 from other areas of Sumatra, 10 or 15 from various parts of Sulawesi, 2 or 3 from Kalimantan, and the remainder from Bali, Ambon and elsewhere. Javanese were overrepresented--less than 50 percent of the population in the 1930 census but 64 percent of all ethnic Indonesian lawyers--but this is not surprising given their earlier start in legal education. What is striking is the speed with which Sumatrans (13 percent of the population, 12.7 percent of lawyers) took up law, while Sundanese (18 percent of the population, 7 percent of lawyers) lagged behind despite their apparent geographic advantage.

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26. Indisch Verslag II (1927), p. 76. That the emancipation of middle and upper class women of all population groups had made headway, and that legal work seemed promising to them, is indicated by the enrollment of ten women in the law faculty in 1927: six were Dutch, two ethnic Chinese, and two Indonesian. By 1940, according to the "Indonesian Jurists" list (see below, n. 27), nine Indonesian women had law degrees, four from Leiden and five from the Rechtshogeschool.
  27. Entitled simply "Indonesian Jurists," the list indicates the university and date of each lawyer's degree and the position held during the occupation period. It is in English, indicating that it was put together for Japanese officials, but there is no date on it. The document was found among the papers of the late Professor Supomo in the Ministry of Justice in Jakarta. I am grateful to the ministry for permitting me to go through his papers.
  28. A Faculty of Indology (Indonesian studies) was established at the University of Utrecht in the 1920s. Supported largely by conservative Dutch business interests, it was intended to counter the liberal and pro-Indonesian views of the Leiden faculty. While it never overshadowed Leiden, Utrecht did attract a few Indonesian students.

The extent to which law was an aristocratic preserve is indicated by the rank titles of names on the list. Of the 175 Javanese lawyers, 30 used the low title of *mas* and 135 had royal ranks of *raden*, *raden mas*, or higher. Aristocratic titles among lawyers from Sumatra and other islands were no less common. The colonial government, after all, had originally intended to provide legal education only to the uppermost part of the Javanese (and later Indonesian) elite. Its purpose was not to encourage social mobility, which would have threatened the old aristocracy, and cost more, but to equip this elite with the modern means by which to maintain its place in the civil service. For an aristocracy interested in maintaining its political and bureaucratic status, law became an obvious place to go.

With legal education available, the second factor of change that was necessary to produce an Indonesian advocacy had to do with attitudes towards government service. By the time the first rechtskundigen left for Leiden, during the late 1910s and early 1920s, social, political, and intellectual change in the colony was beginning to create a moral environment reasonably hospitable to young men who might choose to work outside the government. New educational policies were creating a more diverse Indonesian elite. There were doctors, teachers, technicians, intellectuals, and new civil servants--though not many in all--as well as the traditional bureaucratic class. A stratum of middle and lower priyayi professionals began gradually to take shape.<sup>29</sup> Liberal ideas were abundant, and some young Javanese students and intellectuals were in touch with sympathetic Dutch teachers and officials. While the conviction that priyayi sons should follow their fathers into the bureaucracy generally remained very strong, it undoubtedly became slightly less compelling as new opportunities arose. What may have been most important, however, was the emergence of the nationalist movement. In 1908 Boedi Oetomo (High Endeavor) was organized and attracted thousands of educated Javanese civil servants and young students to its politically conservative but culturally appealing program. Several early Indonesian advocates were once members. Its influence lasted briefly, but within the next two decades all the prototypes were formed of the major political parties that dominated Indonesian politics through independence until the mid-1960s. The Islamic party Sarekat Islam was first in 1912, the Communist party (PKI) followed in 1920, and Sukarno and others formed the Nationalist party (PNI, Partai Nasional Indonesia) in 1927. Before 1920 Indonesian independence was already an issue.<sup>30</sup>

Nationalism and anti-colonialism made it more than acceptable in some circles to refuse to work for the colonial government. Indonesian political organizations, educational foundations, social movements, student groups, and writers began in these years to promote symbols of self-awareness, of noncooperation with the colonial government, and of the capacity of Indonesians to run their own affairs.<sup>31</sup> Young nationalists were deeply aware of colonial stratification, by which most Indonesians inevitably occupied the lowest rungs of social and economic

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29. See Robert Van Niel, The Emergence of the Modern Indonesian Elite (The Hague and Bandung: van Hoeve, 1960), pp. 31-72.

30. On the development of the nationalist movement in Indonesia, see George McT. Kahin, Nationalism and Revolution in Indonesia (Ithaca: Cornell University Press, 1952).

31. See, for example, Ruth T. McVey, "Taman Siswa and the Indonesian National Awakening," Indonesia, 4 (October 1967), pp. 128-50.

ladders, behind the Dutch, Indo-Europeans, Chinese, and nearly everyone else. Even among those who did not join nationalist organizations, but who resented the humiliating status of "natives," working for the colonial administration began to seem morally irritating. Nevertheless, about 80 to 90 percent of Indonesian graduate lawyers did accept government positions, some but not all out of prior obligation. For most this was the reason for studying law in the first place. But the alternative of private practice was no longer unimaginable.

The first Indonesian lawyers to take the chance made, or started to make, their decisions in Holland. Their experience there gave them a view of new career models divorced from the colonial context and, at the same time, perhaps a new perspective on themselves that did not occur readily in the social environment at home in Java. According to one early advocate, Mr. Iskaq Cokrohadisuryo:

He left Java for Holland with every intention of returning to become a judge. But Holland was a new experience, and one that made a deep impact on him. He discovered in Holland a new sense of self-appreciation. In Java itself Javanese were considered lowly, all the more so in the eyes of the Dutch. In Holland Javanese were appreciated as people. He learned to value himself, and began to understand that he would never be able to work for the government again. (September 3, 1971)<sup>32</sup>

In the comparatively liberating atmosphere of Holland there was a minor explosion of interest in private practice among the earliest Indonesian law students. This at least is what available statistics indicate. Among the first forty-five students who took their degrees at the law faculty in Leiden, no fewer than sixteen or seventeen became advocates after returning to Indonesia.<sup>33</sup> At no time since then has the proportion of lawyers entering private practice been anywhere near as large.

In part, this was due to the apparent accessibility of the advocacy to Indonesian lawyers once the first office was opened. But more important were political and ideological factors. Students who left Java for Leiden around 1920 did so at a time of considerable nationalist activity and political conflict in the colony, which spread to Indonesian students in Holland. Soon after arriving in Leiden several law students immersed themselves in politics and were among the founding members of the Perhimpunan Indonesia (PI, Indonesian Association), a nationalist association organized in 1922 out of the remains of more innocuous Indonesian student organizations in Holland. Those involved --among them R. M. Sartono, Iwa Kusumasumantri, Ali Sastroamijoyo, and R. Sastromulyono, all of whom became advocates--may have burned their

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32. All indented material is directly from my interview notes. I have made grammatical changes and occasionally rearranged sentences to put them in better order. The date of the interview is indicated in parentheses.

33. This figure was reconstructed from the "Indonesian Jurists" document and other biographical information collected from various sources. Among the earliest to go into private practice after Leiden were M. Besar Martokusumo, M. Sumardi, R. Sastromulyono, R. Panji Singgih, M. Said Suwono, R. Suyudi, A. A. Maramis, R. Gatot Tarunamiharja, R. M. Sartono, R. Budiarto, R. Wiryono Kusumo, R. P. Iskaq Cokrohadisuryo, R. Iwa Kusumasumantri, M. Sunaryo, J. Latuharhary, R. Ali Sastroamijoyo, M. A. Yusuf. Not all remained advocates for very long, but most did until the Japanese occupation. I have used the number of forty-five lawyers and 1928 as cutoff points because thereafter Rechtshogeschool graduates enter the picture and because by then the Indonesian advocacy was already established.



bridges so far as government employment was concerned. Even if this had not been the case, however, their own ideological temper by this time would have made it difficult to return home to quiet jobs in landraden. Some of the tension of student politics in Holland comes through in an interview with the late R. M. Sartono, a descendant of the Mangkunegaran royal house, who graduated from the Rechtsschool and went to Leiden in 1922:

He fooled around a lot in Leiden, and seldom went to lectures; he borrowed class notes from [Abdulgafar] Pringgodigdo. And he traveled a bit. Some of his teachers excited him. Professor Krabbe, for one, got to him with the analysis that law is above everything and that the ultimate source of law is whoever rules. But it was van Vollenhoven whom he respected most and whom he still regards as the greatest of law professors. Van Vollenhoven was an honorary member of the Perhimpunan Indonesia. He sat in on PI meetings and even paid for his own subscription to the PI journal. But in 1923, when the PI met to decide upon noncooperation with the colonial government, van Vollenhoven, who sat courteously through the meeting, left at the end and never returned. Perhaps van Vollenhoven worried that conservative professors in Holland would have attacked Leiden, but also he probably did not agree with noncooperation. The decision caused much argument within the organization, though it was not fully an open dispute, because there were not many Indonesian students who dared to oppose the movement for independence. But many of the law students were already civil servants, and their way to Leiden was being paid by the government. For them it was difficult. Moreover, families back in the colony were sometimes threatened. Sartono's own father, who worked in the government, was asked why his son was behaving badly in Holland. Fortunately nothing came of it, and his family continued to pay his way. (October 27, 1964)

Still, any young Javanese willing to become an advocate then had to be unusual. The difficulties were for the most part professional and social, rather than financial. None of the new advocates was hopelessly poor. Most came from reasonably well-off and well-connected priyayi families. But professionally a new Indonesian advocate had to take his chances in a field dominated by Dutch lawyers linked comfortably with Dutch commerce in a system of legal institutions fully controlled by Dutch officials. The derision of Dutch advocates alone might have put off a less determined candidate. Often he had to be committed enough to put up also with his family's opposition, more or less outspoken, to working outside the bureaucracy. Despite the nationalist movement, it was still government, not private practice or commerce, where the old elite found social status and security.

The first Indonesian advocate was Mr. Besar Martokusumo (a model for some of these attributes), who was also instrumental in helping other Indonesian advocates to get started. The following biographical excerpts are largely in his words, from interviews and conversations, though my notes have been rearranged here and there for the sake of clarity and relevance.

Mr. Besar was born in 1893 in Brebes, north coast Central Java. His father was a jaksa, who earned about 150 guilders a month. The two children were sent to live with an elderly Dutch woman in Pekalongan, where they could learn to use Dutch well; this was the only way to assure them a Dutch education. Mr. Besar is deeply grateful to this woman, a *totok* (not born in the Indies). During the Japanese occupation, when he was mayor of Pekalongan, she was arrested and he

was able to help her. She died in Bogor during the occupation. After the war he went to Bogor to look for her; he found her grave, moved it, and fixed it up nicely.

After MULO [Dutch-language junior high school] Besar was admitted to the Rechtsschool in 1909. As he thinks back on it, he is impressed with the Rechtsschool education and its products. Nearly all the students had to live in a dormitory, with a Dutch woman caring for the house, which was presided over by one of the Rechtsschool teachers, a judge from the "Hof," or some similarly high official. The schedule was strict. They awoke early to bathe, eat, and off to lectures. Then back to the dormitory for study in the early afternoon, food, a nap, a walk in the Koninginsplein, back to study. He laughed as he recounted how they were taught to eat with Dutch manners, taught to dance. . . . Rechtsschool lasted six years, all of it like that. The main emphasis of study was in criminal law. It was supposed then that Indonesian judges would be used only for criminal cases.

He mentioned the differences between the Rechtsschool and the medical school for Indonesian students. Rechtsschool students got twenty-five guilders a month, private rooms in the dormitory, good food, and a good introduction to Dutch culture. Medical students got fifteen guilders a month, slept many to the room, dressed sloppily, and got poor food and care. His younger brother was in medical school and was quite poorly off. The reason for the difference was that law students were the cream of the crop. Many were regents' sons and the sons of very well-to-do priyayi. They had to represent the government eventually.

After Rechtsschool, Besar was an Official Seconded [ATB, *Ambtenaar Ter Beschikking*] to the landraad in Pekalongan. He worked mainly as a sessions clerk. The chairman was Dutch, of course, but a very good fellow who was something of a bon vivant and thought highly of Besar. . . . The training at the landraad was excellent. But at the time there were no Indonesian court chairmen. The highest an Indonesian could go was vice-chairman. Most members of the court, other than the chairman, were Indonesian or Dutch pensioners. He earned about a hundred guilders a month at the landraad.

Having worked a few years as ATB in the landraad, Besar [and eleven others] decided to go to Holland for a law degree. This was unheard of at the time, and before he went one Dutchman said that an Indonesian couldn't take a law degree in a hundred years. [This was in 1920.] But there was encouragement too, particularly from Professor Hazeu, then advisor for native affairs; he was a very sympathetic man, who sometimes went to the kampung to talk with parents of hopeful students. . . . There were already a few Indonesians studying in Holland, all of them sons of regents. And all of them had too much money and lived too royally to get through.<sup>34</sup> Maybe it was for this reason that no one expected Indonesians to be able to complete their degrees, even apart from general Dutch contempt for Indonesians. . . . But it was different with the twelve students who now decided to go, Besar among them, and also Gondokusumo, Kusumatmaja [Indonesia's first Supreme Court chairman] and others. . . . No one helped them, according to Mrs. Besar, such was the Dutch

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34. Actually, one Javanese law student did finish his degree at Leiden before any of the Rechtsschool graduates arrived there. He was Raden Mas Gondowinoto, who took a degree in Netherlands law science in 1918 and later worked in the Mangkunegaran. "Indonesian Jurists."

opposition to this kind of thing. No one told Besar that it would be cold, or where to stay. He arrived in Holland in shirtsleeves with one big wooden box, not knowing where to go or what to do. Besar paid his own way at Leiden. He got help from his family, especially from his younger brother, by this time a doctor, and from a friend. He later helped his younger brother and friend to continue their educations in Holland.<sup>35</sup>

Anyway, the twelve Indonesian students who arrived in Holland impressed everyone. They were all Rechtsschool graduates and knew their law. They were permitted to take their exams whenever they felt ready. Gondokusumo finished in six months, much to everybody's surprise.<sup>36</sup> Another student finished in a year or two. Besar completed his degree in three years.

Leiden was a new experience. Indonesians were rare there at the time and little children used to follow them around inquiring who they were, Negroes or what? Gondokusumo worked very hard . . . and spent all his time reading. But Besar apparently lived it up much more. He saw movies and went dancing. . . . He knew van Vollenhoven and thought very highly of him. . . . But he refused to take the Indology course, his view being that he naturally knew about Indonesian adat law, so why study it.<sup>37</sup> Moreover, he was already thinking

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35. As mentioned earlier, the government paid for many Indonesian students to go to Holland as civil servants with an obligation to return to the civil service. But some paid their own way, either because the government would not support them or because they chose to be independent. While I have no direct evidence on the matter, and not all students who paid their own way became advocates, it seems almost certain that most students who later became advocates were privately financed. They had no legal or moral obligation to work in the civil service. It was not unusual for a student to go to Holland with financial help from a friend, and on his return to help the friend follow in his footsteps.
  36. This was not Jody Gondokusumo, an advocate and later minister of justice in the independent state. This Gondokusumo was van Vollenhoven's first Indonesian student to complete a doctorate in Netherlands Indies law (as well as Netherlands law), in 1922. Van Vollenhoven was evidently deeply touched by the conferral of the degree; see the biography of van Vollenhoven by Henriette, L.T. de Beaufort, Cornelis van Vollenhoven: 1874-1933 (Haarlem: Tjeenk Willink, 1955), pp. 189-90.
  37. At Leiden law students could take degrees in Netherlands law, Netherlands Indies law, or both. The Netherlands Indies law course included work in adat law, one of van Vollenhoven's principal interests (along with international law, for which he was best known in Europe), ethnology, and the like. Until 1927, most Indonesian students took degrees in both Netherlands and Netherlands Indies law; afterwards nearly all did their degree work only in Netherlands Indies law. By my count a total of fourteen Indonesian students, until 1940, took degrees only in Netherlands law. It is no coincidence, I think, that nine of these (and possibly ten or eleven) turned out to be advocates, and most were in Leiden at the same time. They evidently agreed that studying adat law would be a waste of their time. This may indicate that some of them were already thinking about careers outside of government. It may also reflect a nationalist turning away from colonially inspired conceptions of adat law--which is one implication of Mr. Besar's comment. It is worth pointing out that many Indonesian law students (both in Holland and Batavia) were uninterested in adat law, even when they were required to study it. Their view of it was ambivalent: on the one hand it was Indonesian, but, on the other, it was backward, unmodern, primitive. The same attitudes are prevalent today. Some colonial officials worried about this, for it seemed to them, correctly, that law students (like engineers, but not doctors)

vaguely of becoming an advocate and wisely decided to spend his time studying Dutch law. He passed his exams in 1923. Professor Meier in civil law was the toughest, but he has nothing but respect for Meier, who always had time for his students. Criminal law was the easiest, because of his six years in Rechtsschool. . . .

The turning point in Besar's career came after he had finished his studies at Leiden. Gondokusumo, who had finished so quickly, took a government job back in the colony, and he was so good that the government agreed to give him rank and salary equal to Dutch officials in the same capacity. . . . When he heard this, Besar requested an audience with Minister of Colonies de Graaf . . . and asked that he too be "equalized" with Dutch officials. De Graaff replied that he would have to think about it first and Besar, who no longer had a place to stay in Leiden, went off to Germany where it cost less to live. After waiting a month for word from the minister, Besar cabled de Graaff that he had decided to go off on his own, that he would not work for the government, and that he would pay his own way home. So the die was cast for him as an advocate. He was bitter against the government because of the whole question of rank and salary distinctions between Dutch and Indonesian officials.

On returning home [1923] Besar told his family that he intended to open private practice in Tegal. [He probably chose Tegal because family and friends were there, and perhaps because few Dutch lawyers were already established in the area.] His family always disliked the idea of his becoming a *pokrol*,<sup>38</sup> rather than working for the "gubernemen." They could not understand or approve of such an occupation for a man with his background. It was sinking to a low level indeed not to go into the government but rather to work as an advocate. The government was proper--the *pamong praja*--but certainly not an occupation that was like becoming a merchant. But he opened an office anyway, and eventually the family came to accept this, though a bit grudgingly at first.

In time Besar's law office became highly successful, and he opened a branch in Semarang. He took in more Indonesian lawyers, including Sastrumulyono, Suyudi, and others. For a time all members of the new firm shared alike; each received a salary of about six hundred guilders a month plus a share of the profits. He put a great deal of emphasis on Indonesian advocates working together. . . . During the depression work became scarce and the office had to split up, the Tegal and Semarang branches going their own ways. . . . (April 1960, October 1964).

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were moving away from the "spiritual center" of their own community and thus becoming receptive to "negative" ideological appeals--for example, no doubt, nationalism, independence, and so forth. See the report of Director of Education P. J. A. Idenburg to Governor-General Tjarda van Starkenborgh Stachouwer, September 24, 1938, in van der Wal, *Het Onderwijsbeleid*, pp. 631-44, esp. at p. 637. The report dealt with the question of establishing a new faculty of letters in Java.

38. The Indonesian term "pokrol" derives from the Dutch word *procureur*, a lawyer prepared to undertake civil law work but not yet criminal law advocacy. (The distinction between *procureur* and *advocaat* was nominally maintained in the colonial profession, but dropped in the independent state.) In any event, "pokrol" is derisory, usually used in "pokrol bambu," bush-lawyer, but sometimes also refers to a shady or sloppy lawyer, a slick manipulator, or a pettifogger.

Mr. Besar broke the ice, and though the water was cold at first he was, by all accounts, able to develop a successful practice. Had he not done so, many who followed him might have been discouraged from becoming advocates. It has been mentioned that law students in Perhimpunan Indonesia, by the fact of their political activity, probably had committed themselves to private practice while still in Leiden. Among these, Sartono, Sastromulyono, Suyudi, and Ali Sastroamijoyo returned to become advocates soon after Mr. Besar. Sastromulyono, Suyudi, and Sumardi joined Besar's office. Sartono joined an office opened by Iskaq Cokrohadisuryo in Batavia, the first Indonesian office in the colonial capital. Iskaq had returned to Java in 1926. During the next few years, as he moved from place to place for professional, political, and personal reasons, he established some of the earliest Indonesian law offices outside of Java.

Iskaq was born in 1896 in Surabaya, East Java. He entered the Rechtsschool in 1911 and graduated in 1917; he still remembers his Rechtsschool teachers. After graduating he worked as a clerk in various landraden in Java, and then in 1922 went to Leiden. While there he was not politically active. He did not join Perhimpunan Indonesia because he worked at the stock market and feared he might lose his job. But he was deeply interested in politics and had close friends in the PI. During his three years in Leiden Iskaq decided that he could not work for the colonial government. He knew that he had to join the nationalist movement and work for Indonesian independence, and the best way to do this was to be his own man, free of government service. So he decided to become an advocate.

When he came back to Java in 1926, Mr. Besar had already set up offices in Tegal and Semarang. Iskaq opened an office in Batavia. Sartono joined him along with at least two others, one of whom was Wiryono Kusumo [later a judge on the Indonesian supreme court]. Iskaq was married to a Dutch woman at the time and felt that she would be better off living in Bandung. Leaving Sartono in charge, he moved to Bandung, establishing a new law office there. [This office cooperated closely with Mr. Besar's offices in Tegal and Semarang.] In 1929 he was arrested along with Sukarno and others as a result of their PNI activities. He was detained for a time and then freed on condition he did not return to Bandung-Batavia. Moving to Surabaya, he opened the first Indonesian law office in that city. Within a year he left for Makasar on a case and found promising work there and the prospect of more income. In Makasar he brought Sunaryo [later foreign minister and Indonesian ambassador to England] into his office, which he then left to Sunaryo and went to Manado, in north Sulawesi, where there were even more cases. So he opened another office, into which he brought Mr. Sujono. In 1933 he returned to Surabaya, reestablished his old office, and brought some recent Indonesian law graduates into it. (November 13, 1964)

None of the early Indonesian law offices was very large. Mr. Besar's in Tegal and Semarang, and Mr. Iskaq's in Batavia were the most substantial, but it is unlikely that any single office employed more than six or seven advocates at one time. They did not have the large corporate clienteles that would have allowed them to grow much further, and by the late 1920s and early 1930s the depression had evidently reduced the volume of smaller casework on which they depended, or rather reduced the likelihood that people would pay for advocates to manage their cases.

Nearly all of the Indonesian advocates, at first mainly Javanese, knew one another well and cooperated professionally and politically.

They had to, for professionally they were not embraced by the community of Dutch advocates and politically they were of course at odds with the government. Indonesian advocates frequently sent work to one another in different cities. From Tegal and Semarang Mr. Besar's offices sent cases that had to be tried in the Batavia raad van justitie or the Hooggerechtshof to the Iskaq-Sartono office. They also lent help to colleagues and friends in trouble. When Mr. Gatot Tarunamiharja, a maverick in both Holland and Java, was suspended from practice as an advocate by the Hooggerechtshof because of his political and other activities, one of Mr. Besar's offices took him on as a legal assistant over the objections of colonial judicial officials. Iskaq's office in Batavia, a PNI bastion, was the most politically involved. Besar joined no party, devoting himself almost entirely to professional advocacy, but others in his offices were active. (The politics of Indonesian advocates will be taken up again shortly.)

Javanese advocates were the first, and before long they were working in the commercial cities of the outer islands too, but by the late 1920s and 1930s lawyers from Sumatra (and possibly elsewhere) had also begun private practice. Not all of these advocates were necessarily committed professionally to the advocacy. It may be that by the depression years there were actually more law graduates, few as they were, than the government was willing or able to absorb. Like law faculties later on in the independent state, the Rechtshogeschool, or Leiden for those who could afford it, undoubtedly attracted many students who had no taste for the technical faculties and sought to prepare themselves broadly for government jobs.<sup>39</sup> Consequently, some lawyers everywhere in the colony took up private practice now and then if they could not find or keep government positions. Not all of them were successful as advocates, and when government work became available they took it. Holding these points in mind, it is nevertheless striking, if I have used the data well, that Sumatrans moved disproportionately into private law practice. It has already been mentioned that for some reason, perhaps the same as applied in Java, Sumatrans took to law rather quickly. By 1940, while Sumatrans made up nearly 13 percent of all lawyers, approximating their proportion of the total population of Indonesia, they constituted nearly 30 percent of the ethnic Indonesian advocates. The data is uncertain, but there may have then been at least seven advocates of Minangkabau origin, four Batak (Toba, Simelungun, and Mandailing), three Acehnese, and two from South Sumatra, for a total of sixteen or so, while Javanese advocates numbered more than thirty but less than forty.<sup>40</sup>

Several factors may account for this. One is that the colonial bureaucracy was not so highly developed in Sumatra as in Java and therefore provided fewer opportunities for lawyers. In addition, however, for Sumatrans, including the high-born who studied law, status probably did not attach to bureaucratic position per se to the same extent as it did for Javanese. Moreover, in West Sumatra particularly but also elsewhere, market crops and trading had become the foundation of a rising middle class that may well have begun to provide stimulus, encouragement, status, and even some work for private lawyers.<sup>41</sup> The

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39. I am indebted to Benedict Anderson for calling my attention to this point and several others.

40. Estimated, emphatically, from "Indonesian Jurists" and other biographical information.

41. See W. F. Wertheim, Indonesian Society in Transition (2nd ed. rev.; The Hague and Bandung: van Hoeve, 1959), pp. 141ff.

social atmosphere of Sumatra's commercial cities would not have discouraged the sons of either the old aristocracy or the new middle class from becoming advocates. Finally, all of the Sumatrans and other non-Javanese who decided to study law had to go to Batavia or Holland. In either case they would normally have spent considerable time in Java, studying in suitable schools, before applying to the *Rechtshogeschool* or Leiden. Living in Java for years implied a break with their own clan-organized societies (especially the Batak and Minangkabau) that Javanese students seldom experienced so intensely. Some, like Muhammad Yamin, later a prominent nationalist scholar and ideologue, stayed permanently in Java, along with many other Minangkabau students, professionals, businessmen and political leaders. They were obvious examples, even models, of the process of Sumatran (particularly Minangkabau) "individuation" that Dutch scholars made much of in the 1930s. For those who returned to Sumatra as lawyers, with the cosmopolitanizing experience of Java behind them, not only would private practice have more appeal, but for some it was the only apparent option.

Ethnic Chinese advocates also began to appear by the late 1920s. Nearly all were from *peranakan* families, born in Indonesia rather than China. Educational facilities for Indonesian Chinese had improved greatly since the nineteenth century, and many young Chinese men and women now attended Dutch-language schools. As ethnic Chinese commerce developed, moreover, the traditional middleman role produced a dynamic and growing middle class, socially and culturally much closer to the Dutch than to Indonesians. Nevertheless, ethnic Chinese came late to the private legal profession. Unlike Javanese *priyayi*, they received no government encouragement to go into law, and the near monopoly of non-Dutch government service by ethnic Indonesians gave young ethnic Chinese little reason to study law in the first place. But for the same reason, when ethnic Chinese students did take an interest in law, the advocacy was an obvious goal. While a few did eventually take positions in the colonial courts and central administration, most found as advocates that they had a natural economic base in Chinese commerce, which provided them with business contacts, support, and a reasonably permanent clientele.

For both ethnic Indonesian and ethnic Chinese advocates, starting practice was hard. While occasionally they got useful advice from a sympathetic Dutch advocate, by and large they were shunned. Many Dutch advocates evidently perceived them as a competitive threat. It was nearly impossible for the newcomers to find places in established Dutch law firms. An ethnic Chinese advocate from Surabaya commented on this problem:

Having finished his degree at Leiden, he returned to Surabaya in about 1938, and tried to get a position with several Dutch law firms. All of them politely but firmly turned him down. When the Japanese came, and all Dutch lawyers had either left the country or been interned, he moved into an old Dutch law office. In the archives of this office he found documents indicating clearly that Dutch law firms had decided not to allow Chinese or Indonesian advocates to get started nor to give them any help at all. All of this was evident in office letters and minutes of meetings in which Dutch advocates discussed the problem. They knew that once Chinese and Indonesian advocates established themselves, Dutch law firms would suffer badly. Thus, in East Java his own family owned one or two large companies that were clients of a Dutch law firm. The same law firm handled the legal business of other large Chinese companies. A family that owned one of these companies tried to persuade the law

firm to take on a young relation who had finished law school; they offered to pay his salary so that he could get experience. But the law firm rejected the boy. They were obviously afraid that Chinese advocates would soon take over all the legal business of these companies. (November 29, 1971)

The experience was not unusual. It meant that new advocates, unless they could join an Indonesian firm, had to start from scratch without experience or clients. There were also slights. Most Indonesian (and ethnic Chinese) advocates who began practice in the colony can recount instances of real or imagined discrimination. Where there were local advocates' associations, they could not join or found it difficult to do so. Some were burdened with an extraordinary number of pro-deo (pro-bono) indigent cases, often, they suspected, because Dutch advocates refused to take them and advised the local raad van justitie to appoint Indonesian advocates. In the memories of older Indonesian advocates today personal humiliations experienced while getting started are mixed with a more precisely nationalistic animus against colonial treatment of Indonesians. In the following typical interview one can see this and, in addition, the kind of personal commitment that advocates often developed to their private vocation.

Sudarno was born to a high priyayi family in Solo. His parents worked in the palace of the Kasunanan. Of course they wanted him to follow suit, and he was taught that he must grow up to be a good priyayi. But even when fairly young, he really didn't like the idea. He disliked the subordination of government service. At an early age [late 1920s] he was also inclined to nationalism and anticolonialism. In any event, he had an excellent primary and secondary education in Dutch schools, and applied to the faculties of medicine and law. But he came from a family many of whose members went into law. He was related to Susanto Tirtoprojo [minister of justice during the revolution] and his brother Wiryono Projodikoro [second chairman of the supreme court in the independent state] and his uncle was Professor Jokusutono [dean of the law faculty of the University of Indonesia, now deceased]. They convinced him to go to the Rechts-hogeschool; this was in 1933, during the *malaise* of depression and unrest.

He considered the advocacy even before graduating. He saw Dutch advocates making a good living, and if they could, why couldn't he in his own land. Also, by this time a few Indonesian advocates were already doing well, or at least working: Iskaq, Sujono, and others. So he went to Surabaya, where Iskaq formally introduced him to the raad van justitie. The practice then was for a new advocate to go around to pay respects to established advocates in the city. Sudarno's feelings were badly hurt by one advocate, an Indo-European, who said, "So, you are brave enough to start now when conditions are so bad." The implication, he thought, was that no native could make it. But, after all, there were hotels where an Indonesian landraad chairman could not get in. And while high Indonesians might sit on the ground at a meeting, the lowest Dutchman would sit on a chair.<sup>42</sup>

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42. It was not only ethnic Indonesians who experienced colonial discrimination. One of Jakarta's best known and most effective advocates, of Chinese descent, spoke of his youth thus: "As a child in Kebumen [in Central Java] I became aware of the discrimination of colonialism. In the bupati's office, for example, and in other offices, where everyone else had to be so polite and proper, Dutch officials--including advocates--acted as they pleased, with their feet on the tables and so on. This greatly angered me. When I went to the ELS [Europeesche Lagere School, Dutch-language primary school] in Bandung, the teacher once called me to



During the Japanese occupation he remained an advocate. There was no work, but at least he didn't have to become a *pegawai* (civil servant). Indeed, he refused the opportunity to become one. To become a *pegawai* at that time was to associate with brutality against one's own people; it was just another form of colonialism. (November 30, 1971)

Once established in practice, many of the new advocates were able to survive professionally, though it has to be kept in mind that most of them had family support to fall back on in hard times. None broke into very large-scale corporate work during the colonial period. But ethnic Chinese advocates were able increasingly to draw a commercial clientele from the Chinese community. And ethnic Indonesian advocates, while less securely based in any entrepreneurial group, nevertheless found ample work in criminal litigation, private business claims, land disputes, inheritance, and other family issues among Indonesians and, for that matter, Europeans and ethnic Chinese. Clienteles were not rigidly defined in ethnic terms by any means, and still are not. A few advocates--among them Mr. Besar and Mr. Iskaq--developed lucrative practices and strong professional reputations. Some specialized; Ali Sastroamijoyo, a future PNI prime minister, for one, concentrated on land law issues in East Java. Most ranged further.

One external reason for their moderate success was the integrity of the colonial judicial system. While Indonesian advocates received little help from Dutch advocates, in the courts themselves they were apparently accorded all the courtesies due to full-fledged participants in the judicial process. Whatever personal prejudices Dutch judges may have had, these seem to have been overridden in their institutional work. On this point older Indonesian advocates almost universally agree, though they may overstate the matter by contrast with judicial problems after independence. Even as they became fervent nationalists Indonesian advocates developed a strong sense of commitment to the legal system that gave form to their careers. A typical comment was by Mr. Besar:

When in private practice, he was respected by Dutch judges. With a note of pride, he said that in the *raad van justitie* he attacked the *officieren van justitie* and won his points too. It was his duty to defend his clients and he did so. He was not afraid to challenge the arguments of an *officier van justitie*. . . . In the *landraden*, of course, he didn't have to bother much with the *jaksa*. . . . The pre-war courts paid honest and important attention to advocates, and it was understood that the advocate was also an agent in the search for justice. The judge accepted the advocate as a necessary and beneficial functionary in the judicial system. Advocates--he himself, other Indonesian advocates, and Dutch advocates--all fought their cases to find justice, to protect their clients. The advocate, including the Indonesian advocate in his own community in time, was respected and held a place of honor. (April 12, 1960)<sup>43</sup>

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the front with the words 'Come here you little Chinese,' and referred to me as 'little descendant of the middle Kingdom' and sometimes more invidious things. And back in Kebumen Dutch officials and Dutch people called me 'Chinese' in insulting ways" (November 17, 1971).

43. Mr. Besar's comment here has to be understood against the background of what happened to the advocacy in the independent state. To be brief, it declined precipitately. One mark of the decline was that advocates began to lose status

This was true particularly of the courts for Europeans. It was from their association with these courts that advocates drew prestige and professional standing. They often appeared too in the landraden, but there was no great professional challenge there: advocates were not required in the landraden, as they were in the raad van justitie. Moreover, landraden were frequently associated, in advocates' minds, with humiliating treatment of Indonesians. Mr. Besar described it thus:

In pro-deo cases before the raad van justitie advocates were appointed by the court, but in the landraden an official (*ambtenaar ter beschikking*) of the court itself would normally act as defense counsel for indigent defendants. Besar often helped Indonesians in these cases. The landraad judge spoke Dutch, and the jaksa translated for him.<sup>44</sup> The indictment was in Dutch, for the judge wrote it himself, and it was translated for the accused. Police officers spoke in Indonesian [or Javanese] which the jaksa translated for the judge. Mr. Besar laughed as he mentioned that when the Dutch judge was angry, the jaksa also had to look angry while interpreting. He agreed that it was hard for Indonesians to regard such courts as their own. After all, the judge was a foreigner, used a foreign language, and so on. In criminal cases before the landraad, the accused Indonesian from a village sat on the floor, bowed low, and was very afraid.<sup>45</sup> [Mr. Besar said all this with evident distaste for the way Indonesians had to grovel before the court.] Other Indonesian officials on the court called the judge *kanjeng tuan* [on the order of "noble sire"]--not only the jaksa but also the Indonesian pensioners who served as member judges in the collegial court. (November 20, 1964)

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in court, where judges often treated them antagonistically as not quite legitimate members of the judicial system. Conflict between public and private legal roles became much sharper than it ever was in the colonial legal system.

44. During the late 1920s and 1930s, however, a number of Indonesian lawyers became landraad judges all over the colony, and they used either Indonesian or a local language in court sessions. Moreover, there were Dutch judges who were excellently trained in Leiden and were fluent in Indonesian, Javanese, and other regional languages. B. ter Haar, for example, the famous adat scholar, served as a landraad judge in Purwokerto. There were also Dutch judges who could not use any Indonesian languages well enough to proceed with them in sessions.
45. In an illustrated popular history of Surabaya, published in 1931 for the silver jubilee of the city, there is a photograph of a landraad sitting, probably from the 1890s or early 1900s. Behind the bench sits a Dutch judge, on his left a Dutch clerk and on his right an Indonesian jaksa. On the left and right of the bench, which is a long table, sit seven Indonesian officials and an Islamic *penghulu*, who was always present at landraad sessions. Behind one of the Indonesian officials stands a bearer of the umbrella that marks high rank, and beside him a policeman. Before the bench, on the floor, are the accused and six witnesses. G. H. von Faber, *Oud Soerabaia* (Surabaya: By the city administration, 1931), p. 94. In later years many of the officials disappeared, but otherwise landraden sessions remained the same. Symbolically, the landraad combined the authority of both Dutch and Indonesian elites, and it must have had a very imposing effect on Indonesian defendants. The original reason for having litigants sit on the floor may have had to do with the rule of propriety in Java that one's head must never be above that of a superior, and the presence of Javanese officials on the court. It may have continued as a custom of the courts because it clearly reinforced the Dutch judges' status.

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At this point a fuller professional, social, and political profile of pre-war Indonesian advocates may be useful in order to try to understand them as an item of change in modern Indonesian history. As a group, given how few of them there were, they were remarkably influential later on in the revolution and especially during the parliamentary period of the independent state. The parliamentary system (1950-57) was in some ways peculiarly theirs, in the sense that they wanted it, helped to make it, were politically prominent in it, and, when it failed, disappeared politically with it. (Under Guided Democracy advocates were barely in evidence politically, and professionally they were seriously depressed. In the New Order they returned professionally with the economic boom, and politically too, in a minor way, though no longer as government leaders.) The parliamentary system carried over into independence the institutions with which they were most comfortable, and seemed for a time to emphasize the kinds of economic and social change to which, by their professional skills and character, they were most obviously oriented. By and large, advocates were not a comfortable part of the old priyayi (or other aristocratic) order. They grew out of that order socially, and were not rabidly hostile to it, but their career choices went against its grain and their professional role was basically a new one in Indonesian economic and political organization. The early advocates were an unintended consequence of the economic and political as well as educational changes imposed upon Indonesia by the Dutch. This was not true in quite the same way of other Indonesian lawyers who became judges, administrators, and legal scholars. The difference between public and private vocation was crucial. Those who worked for the government were in one sense merely "modernizing" traditional bureaucratic roles, and they could be and were called by old titles that eased any transitional discomfort. Not so with advocates, who were outside the old patrimonial tradition and did not fit its institutional style. Advocates undoubtedly accommodated to this style, and were somehow accommodated by it, but professionally they did not speak the language of informal compromise and prerogatives of authority, but that of legal rights, procedural formality, and institutional controls. They were (and still are) among Indonesia's most articulate spokesmen for transforming Indonesian patrimonialism into an Indonesian version of the liberal state. There is no point in exaggerating their conscious commitments to a bourgeois revolution or anything of the sort. Professional and political differences aside, they were not bourgeois, but more or less aristocratic professionals, in the process perhaps, with others, of a mild metamorphosis into an upper middle-class professional stratum. And they were not in any real sense social revolutionaries, but rather gradualists who did nonetheless have a fairly exact sense of the changes they wanted to promote in Indonesian social, political, and economic organization.

The original class of Indonesian advocates was small, in part because the structure of the colonial economy would not support that many and also because few young Indonesians with the wherewithal to study law were prepared to take the leap from government employment to a private career. The total population of trained Indonesian (including ethnic Chinese) lawyers was miniscule. In 1940, when Indonesia had about seventy million people, there were probably about 350 (non-Dutch) trained lawyers, including at least 274 ethnic Indonesians and (an estimate only) 50 to 75 ethnic Chinese: approximately one lawyer per two hundred thousand people. The majority of these lawyers worked in the judicial service or general administration of the colony. At a guess, there were about 50 ethnic Indonesians and 20 ethnic Chinese who

practiced as advocates at some time during the 1920s and 1930s. Not all remained private lawyers. Some entered the government bureaucracy after a short time. Others devoted themselves to politics. Yet as many as twenty-two ethnic Indonesians remained advocates even during the emaciatingly lean years of the Japanese occupation.<sup>46</sup>

The new advocates shared significant characteristics that adhered to or derived from their professional role. In terms of Indonesian culture, they were relatively independent, even individualistic. Like European attorneys, moreover, their work was rooted in urban economic and social activity. Much grew from these roots. Though to a lesser extent than their Dutch and ethnic Chinese colleagues, ethnic Indonesian advocates participated in the world of colonial commerce and civil relations. More than any other single group of Indonesian professionals, advocates (and, later, Indonesian notaries) understood the workings of capitalist business and finance, and were involved in it. They might still receive payment in kind, but this was nearly as likely to include corporate shares as rice, fruit, and chickens. Many owned land, but they also became investors and a few joined the boards of insurance companies and the like, in which they retained some participation after the revolution. Information of this kind is difficult to come by, but in his trial on charges of malfeasance while minister of economic affairs in the early 1950s, Iskaq Cokrohadisuryo made his financial situation public. Among other sources of income he reported his services as president (*presiden komisaris*) of the board of a pharmaceutical corporation in Surabaya, dividends from a bank and various commercial firms, and a substantial holding of shares in an insurance company in the Netherlands.<sup>47</sup> A general interest in corporate finance and investment was not at all rare among Indonesian advocates, several of whom, particularly in the PNI, actively engaged in banking operations during the parliamentary period. From interview data there is some evidence that many advocates were risk-takers in the economy, which supports a few assumptions I have made about the personalities of men who, in the colony and independent state, decided to become private lawyers. One should not overrate their influence in the world of private commerce, but they moved familiarly and comfortably in it; and when it began to collapse in independent Indonesia, so did they.

Advocates were also politically committed and engaged. Like journalists and literary figures, some of whom also had legal training, private lawyers in the colony were a highly mobilized group. Their political prominence was out of proportion to their numbers. Here they stood in marked contrast with all legal officials. Indonesian judges, central administrators and so on were not deeply or consistently involved in the nationalist movement, partly for the obvious reason that government employment made them vulnerable. It is striking, however, that during the revolution many--not all, by any means--who had been judges and bureaucratic lawyers before the war chose to work in the returning Dutch administration, while ethnic Indonesian advocates, almost to a man, remained with the revolutionary Republic of Indonesia. Within

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46. From "Indonesian Jurists." A few ethnic Chinese advocates also kept their offices open, but I have no figures. There was very little for advocates to do during the occupation. It was at this time, while the Japanese military administered Indonesia from 1942 through mid-1945, that the courts for Europeans were eliminated and the judicial system unified for all population groups.

47. Iskaq Tjokrohadisuryo, Rasa Keadilan Berbitjara (Jakarta: Partai Nasional Indonesia, 1960), pp. 66-69.

the professional law community of the independent state, this divergent political history of advocates and government lawyers caused quiet but real tension for a time, often to the detriment of the advocates.

Part of the reason for the political prominence of advocates, as Weber pointed out with respect to private lawyers generally, was that they could apportion their time much more freely and flexibly than government lawyers.<sup>48</sup> They were their own men, with independent incomes, and often office incomes to support them in extraoffice activities. It is probably also true that men with any substantial interest in politics chose the advocacy, because government appointments were unlikely for nationalists and because, as advocates, they would be free to engage in politics. In addition, however, advocates were more likely than other lawyers to develop a refined sense of colonial injustice, as it affected both their own careers and the interests of private Indonesians whose cases they represented. While they appreciated the quality of colonial legal institutions, they had no particular stake in the colonial government. Nor were they prone to accepting the usual run of colonial myths about native incapacities, for they themselves had made it on their own, and few of them seem to have doubted their own abilities eventually to run a government. Finally, their training in the law, combined with the breadth of their concern with it, appears in some way to have given advocates an extraordinary comprehension of the idea of the state itself, not simply of administration or, more widely, of government, but of the nation-state. This point does not merit a great deal of elaboration, because the evidence is too obscure, but it is probably worth suggesting anyway.

The nationalist politics of pre-war Indonesian advocates took various forms. Not all joined parties, but even those who did not usually made their nationalist commitments clear, and they seem not to have been seriously questioned. Mr. Besar, for example, never joined a political party, but as a symbolic gesture he refused to wear the conventional headgear of an advocate in court, using instead a Javanese cap (*blangkon*). Moreover, advocates in his offices were politically active. Suyudi, for example, was head of the PNI in Central Java. It was in Suyudi's house in Yogyakarta that Sukarno and Gatot Mangkupraja, another PNI leader, were arrested in December 1929 for disturbing public tranquillity with their speech-making tours across Java.<sup>49</sup> Sukarno's defense counsel at his famous trial before the Bandung landraad in 1930 consisted of Sartono, from the former Iskaq-Sartono office in Batavia, and Sastromulyono and Suyudi, both from Mr. Besar's offices.<sup>50</sup>

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48. Weber's view of private lawyers as "the prototype of modern professional politician" is briefly summarized by R. Bendix, Max Weber: An Intellectual Portrait (New York: Doubleday, 1960), p. 436.

49. J. D. Legge, Sukarno: A Political Biography (New York and Washington: Praeger, 1972), pp. 107-8. There were mass arrests of PNI leaders at this time. Iskaq also was arrested but, like many others, was soon released. Only Sukarno and three others were brought to trial.

50. One other advocate, Idi Prawiradiputera, was on the defense team, but he was evidently less involved than the others. Sukarno used the trial as a forum for analyzing the nationalist struggle, while Sartono and others developed the legal arguments. On appeal the Jakarta raad van justitie upheld the landraad decision against the accused, though it was specious in several respects. The trial is discussed in Bernhard Dahm, Sukarno and the Struggle for Indonesian Independence (Ithaca: Cornell University Press, 1969), pp. 119-26; and Legge, Sukarno, pp. 109-19.

During the trial Besar's office supported the staff of Sartono's office. When Sukarno and three other PNI leaders were convicted and imprisoned, Sartono took charge of the PNI and organized its successor, the Partindo (Partai Indonesia). Sartono (unlike Iskaq) was not arrested, nor was he bothered much afterwards, because his royal rank placed him, by right of privileged forum, under the protection of the code of criminal procedure for Europeans.<sup>51</sup> Lower-born PNI leaders were subject to the H.I.R., which made arrest, detention, interrogation, and conviction easier matters.

It is possible, though a guess, that 75 percent of all ethnic Indonesian advocates were in some way organizationally involved in the pre-war nationalist movement. The primary beneficiary was the PNI, the essentially priyayi-led Nationalist party formed in 1927. As most advocates were from priyayi or analogous non-Javanese backgrounds, this is not surprising. The alternatives among the major political currents were Islamic organizations and the Communist party, neither of which--on grounds of religious orientation and social class--could have much appeal to those who became lawyers, though there were exceptions in both cases. But for the advocacy's mainstream the attraction of the PNI included more than its priyayi roots. It was not simply a priyayi party, fitting neatly into the historical picture of class structure and religious conflict in Java. The PNI was also significantly a product of the Ethical policy, which produced the beginnings of a new professional stratum out of the old priyayi class. The founding members of the party were typically new urban professionals. Sukarno was a recently graduated engineer from the technical faculty in Bandung, though he never really pursued the career. Of eight other leading founders one more was an engineer (Anwari), two were doctors (Cipto Mangunkusumo and Samsi Sastrowidagdo), and five were advocates (Iskaq, Sartono, Budiarto, Ali Sastroamijoyo, and Sunaryo).<sup>52</sup> No other political party before or after independence had such a concentration of private lawyers. Only two other parties in independent Indonesia drew at all upon the advocacy for leadership. One was the modernist Islamic party Masyumi, the other the small intellectual-led Socialist party (PSI, Partai Sosialis Indonesia). In the colony a few lawyers who were advocates then or later--Mohammad Rum, for example--were active in Islamic organizations in Java and Sumatra. After 1945 they joined Masyumi, as did some post-1950 advocates. If one shifts perspectives on Indonesian party politics from religious to class cleavage, the PNI and Masyumi were the primary representatives of urban middle-class, professional, and commercial interests, along with much else. Advocates found reasonably comfortable political homes in both. The post-revolutionary PSI was not devoid of commercial connections and interests by any means, but among advocates its chief appeal was to those whose secular

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51. Sartono, for example, could not have been tried in the landraad but would have had to be brought before the raad van justitie. As Sartono himself pointed out, prosecuting officials had to be very careful in questioning him, all the more so because he was an advocate who understood his rights. He was in fact questioned frequently, but he told his interrogators that he had forgotten everything about PNI meetings, and there was little they could do short of trying to develop a case before the raad van justitie (December 4, 1960). The raad van justitie might have taken a quite different view of the legal issues from the landraad in Bandung.

52. There were other organizers of the party, but I have taken only the names mentioned by Kahin in Nationalism and Revolution, p. 90. All the advocates had been to Leiden together and most had been active in Perhimpunan Indonesia. In a personal communication, Benedict Anderson emphasized the point that they were a classmate clique, which may have been as important as the fact that they were advocates.

intellectual and professional orientations made them uncomfortable with some of the radical-populist or radical-nationalist overtones of PNI ideology as well as the religious directions of Islamic parties.<sup>53</sup>

As most advocates were nationalists of one sort or another, they were also nationally oriented. Like other new Indonesian professionals, they tended to graduate from local attachments and perspectives to basically national ones. They participated easily in what Hildred Geertz has called the Indonesian metropolitan superculture.<sup>54</sup> In their professional and political lives they used the languages of the national elite--Dutch and, increasingly, Indonesian--rather than Javanese, Sundanese, Batak, Minangkabau, or other regional languages. Even at home, Dutch was used more often than not. Many, if not most, ethnic Chinese advocates spoke little or no Chinese; Dutch was their first language. The professional, political, and personal relationships of advocates transcended regional, religious, and ethnic affiliations. Even the antagonism between ethnic Indonesians and ethnic Chinese was overcome in their work. They seem to have remained no less prejudiced against one another's groups than the population at large, but professionally they mixed with ease and still do; a few ethnic Indonesian and ethnic Chinese advocates organized law offices together and developed professionally and personally intimate friendships. Advocates also moved about the country a great deal, for business or pleasure, and the network of commercial cities across the archipelago was familiar to them. Their private lives were in many ways typically urban upper middle-class. While many of them still attended and enjoyed traditional regional arts, they were also theatergoers and partygoers. They read widely in Dutch and often in German, French, and English. Seldom did they leave the religious circle of their birth; devout Muslims remained Muslims, nominally Islamic *abangan* remained basically contemptuous of Islam and inclined to Javanese mysticism, Christians remained Christians. But with few exceptions their religious views tended to be moderate and a bit skeptical, and their religious devotions not very time-consuming.

Oriented to the nation, to nationalism, and to urban life and commerce, advocates were also generally oriented to national political, economic, and social change. So were many others, but with advocates the objectives were frequently precise and well articulated; or perhaps they were more institutionally focused than most. In contrast with locally and patrimonially oriented *pamong praja* (territorial administration) officials, and even with Indonesian judges, advocates tended to see local institutions, authority, and culture as outmoded barriers to modernity. There were nationalist leaders, like Sukarno, who saw something almost romantically appealing in the old traditions, which were at least *Indonesian* traditions. Advocates by and large would have none of this: structure and *volksgeist* both had to be transformed, gradually, to be sure, but irrevocably. The models of change they had in mind were informed by European precedents of urban growth,

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53. Several advocates, or former advocates, who identified with PSI views were not actually members of the party, but there is no question that that is where their sympathies and friends lay. A very few advocates--two or three--were connected with the Communist party (PKI). One, for example, was R. M. Abdulmajid Joyoadiningrat, from Central Java, who studied in Leiden and was a PI leader. For a time during the 1930s he was a member of the Dutch Communist party executive committee.

54. Hildred Geertz, "Indonesian Cultures and Communities," in Ruth T. McVey, *Indonesia* (New Haven: Human Relations Area File, 1963), p. 35.

commercial spirit and expansion, institutional specialization and elaboration, and development of a general "rights-consciousness" among the people--rights understood not in collective but individual terms. All this constituted the advocate's medium, and it would not be served by the preservation of local institutions and authority. The old patrimonialism was largely unacceptable to them because it assumed a universe of authoritative institutions, procedures, and values that placed no particular premium on lawyerly skills, and in fact fundamentally disvalued such skills as constraining and disruptive.

Advocates' views were especially clear with respect to legal institutions. They were among the first to condemn adat courts, an explicit symbol of traditional local authority, which private lawyers had nothing to do with and which contrasted starkly with the formal urban courts where advocates made their careers. As practicing lawyers, moreover, who took for granted the value and necessity of rule consistency, uniformity, and regularity, advocates were understandably committed to unifying institutions throughout the territory of Indonesia, even before the revolutionary mobilization made national unity a commonplace appeal. After 1945, wherever former advocates were in positions of authority in the Republic of Indonesia, they actively worked to abolish old adat institutions and to establish new national institutions. Early in the revolution, for example, Iskaq Cokrohadi-suryo, as resident in the Central Javanese area of Banyumas, initiated the elimination of traditional "free villages" (*desa perdikan*) that had been relieved of taxation and labor obligations in exchange for perpetual religious and other services.<sup>55</sup> Advocates in Sumatra, some of whom became republican administrative and judicial officials, took the revolutionary opportunity to get rid of adat courts wherever they still existed. And Mr. Besar, as secretary-general of the Ministry of Justice from 1946 to 1959, literally presided over the abolition of adat courts and the establishment of national courts in most of Indonesia.<sup>56</sup>

In no way does this deny the essential conservatism of Indonesian advocates, like most private lawyers everywhere perhaps, but their conservatism was related primarily to the institutional values that had given them extraordinary status and had become part of the entire professional, intellectual, and ideological baggage of the advocacy. In general the political, social, and economic attitudes of Indonesian advocates can be characterized as instrumentally conservative but substantially "progressive," in contrast with the bulk of the civil service, which was instrumentally and substantially conservative, and some

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55. Undang-undang (Law) no. 13, 1946, in Koesnodiprodjo, ed., Himpunan Undang2, Peraturan2, Penetapan2, Pemerintah Republik Indonesia (Jakarta: Seno, 1951), volume for 1946, p. 54. The reason given for abolishing the *desa perdikan*, of which there were about two hundred throughout Central and East Java and Madura, was that there needed to be just one kind of village structure in order to develop a strong Indonesia. On the *desa perdikan*, which were not subject to local *pamong praja* control, see C. Snouck Hurgronje, "Vrije Desa's," in Gobée and Adriaanse, Ambtelijke Adviezen van C. Snouck Hurgronje 1889-1936 (The Hague: Nijhoff, 1957), pp. 722ff.; and Sutarjo Kartohadikusumo, Desa (Yogyakarta: n.p., 1953), pp. 52ff.

56. See my article on "Judicial Unification in Post-Colonial Indonesia," Indonesia, 16 (October 1973), pp. 1-39.



political leaders who were instrumentally and substantially radical or, in a few cases, instrumentally radical but substantially conservative. This formula lacks precision, but it will serve our purposes.

Given their prominence in the nationalist movement, advocates might have been expected to do rather well in the independent state. On the contrary, however, in Indonesia as in many other former colonies private lawyers declined both politically and professionally not long after the transfer of sovereignty. Political and professional deterioration were broadly related through the failure of political and economic liberalism, such as it was, in the post-independence era. Here I will deal with political more briefly than with professional decline, because the latter returns us to the advocates' origins.

For a time advocates seemed to be very influential in politics. It had already been mentioned that the parliamentary system was most agreeable to them. Ethnic Indonesian advocates were so heavily involved then in government and party work that the professional advocacy itself was somewhat depleted. Sartono was speaker of Parliament, Iskaq a minister of finance, Ali Sastroamijoyo twice prime minister, Besar secretary-general of the Ministry of Justice--two of whose ministers, Lukman Wiradinata (PSI) and Jody Gondokusumo (PRN, Partai Rakyat Nasional), were advocates--Sunaryo a foreign minister, and so on.<sup>57</sup> But in general advocates were a very small part of the political elite, and, what is more important, the political arena itself was not greatly expanded by the participation of new groups and forces that were little attracted by the advocates' gradualist and institutionally oriented conceptions of change. Mr. Besar, Indonesia's first advocate, was ironically also one of the first to feel the impact of the entry of new social groups with different political styles and visions. In October 1945, while Resident of Pekalongan Residency on the northern coast of Central Java, he was abruptly forced from his position by the action of local revolutionary youth groups, beginning a wave of popular insurrections in Pekalongan and adjoining areas.<sup>58</sup> Soon thereafter he joined the republican Ministry of Justice as its permanent secretary-general, a position he held until 1959, but had little to do with the volatile politics of independence. Other prominent pre-war advocates, some of whom continued to practice when they were not in office, were politically active, but few, if any, took very well to the mass politics of the 1950s. In office, like lawyers anywhere, they varied in character. Some, like Sartono, remained always concerned with such matters as financial control and institutional probity; others wheeled and dealt with the best of them. But symbolic leadership rested with others, who spoke to huge national audiences in the language of popular mobilization that advocates, by and large, did not master and usually found distasteful. With the onset of Guided Democracy, advocates lost whatever institutional and ideological footing that parliamentary ideas had tentatively provided. The patrimonialism of Guided Democracy could not accommodate advocates; most of them were in fact liberals of one kind or another and they would not attach themselves unequivocally to Sukarno, who ignored them. In the governments of Guided Democracy no practicing advocate held office, and only two or three of the old

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57. Several of these men--Iskaq, Lukman, and Jody, for example--maintained their private practices and returned to them when out of office. So did Muhammad Rum and others in and out of Jakarta.

58. See Benedict R. O'G. Anderson, Java in a Time of Revolution (Ithaca: Cornell University Press, 1972), pp. 337ff. for a discussion of the Three Regions Affair.

pre-war advocates--Sartono peripherally, Ali Sastroamijoyo as PNI chairman, and Iwa Kusumasumantri--were more or less involved.

The professional decline of advocates after 1950 was in some ways more complex. Advocates themselves often attributed it to immediate legal and political causes or, more vaguely, to cultural factors: the inadequacies of the judicial system, for example, or political leaders' lack of respect for legal process, or the absence of a rights-conscious public. While these were all undoubtedly contributing causes, they shift the perspective away from the advocacy's own peculiar place in the picture. It was not the courts, or political leaders, or cultural values that were deviant, but the advocacy itself that was out of phase with its economic, political, and social environments. For it to have been otherwise, advocates would have to have made these environments over--something a few of them have always been aware of and tried to accomplish--but this, by themselves, they had no power to achieve.

The deeper roots of the advocates' problem are least obscured in the colonial context of their origins. First of all, in economic terms ethnic Indonesian advocates were rather anomalous. Unlike Dutch and eventually ethnic Chinese advocates, they did not emerge out of a well-developed indigenous economy. Many of them could and did prosper but on the periphery of an economy controlled by other major ethnic groups. When the colonial political economy broke down, and political power moved into Indonesian hands, it was nearly inevitable that the private economy and its processes would be drastically revised. This could not be accomplished, however, so long as old legal institutions and processes maintained anything like their former influence. It was done informally, partly by way of corruption, and politically, by way of the takeover and nationalizations of 1957-58, which transformed much of Dutch corporate into Indonesian state property. Indonesian advocates were thus denied any of the advantages of economic base and procedural centrality that Dutch advocates in the colony had once enjoyed. Ethnic Chinese advocates retained a commercial base of sorts, but this base did not now require legal services in much more than a pro forma way.

Second, Indonesian advocates did not develop a firm foothold in the indigenous economy or society of colonial Indonesia, nor is it likely that they could have. They were politically involved and often known as political leaders. They enjoyed high social status, both from their class origins and from their membership in the educated elite of the colony. But professionally they had very little to do with much of Indonesian society. Few people with legal problems or disputes that ended up in litigation went to private lawyers, whether Dutch, ethnic Indonesian, or ethnic Chinese. Only a small minority of well-to-do Indonesians did. For most, however, the urban advocacy was beyond their reach--financially, socially, and culturally. It was not that a need did not exist. It did. But long before Indonesian advocates appeared, another institution developed around this need: the *pokrol bambu*, or bush-lawyer, who typically managed the legal problems of villagers and lower-class city-dwellers. Operating in the *landraden*, *pokrol bambu* needed little or no formal legal education, no professional recognition, and no *besluit* (decree) from the Hooggerechts-hof in order to practice. Occasionally an Indonesian law student made his way as a *pokrol bambu*. Mr. Mohammad Rum was one. Usually, *pokrol bambu* were neither well-born nor well-educated. What they had, and most Indonesians did not, was some ability to use Dutch in Dutch-controlled institutions, some social assertiveness, and some mastery of the rudiments of procedure. So active were *pokrol bambu*, especially in Java, that, soon after Indonesian advocates began to practice, a

group of pokrol bambu organized their own professional association in 1927. In many ways pokrol bambu made a better go of it in independent Indonesia than trained advocates did.<sup>59</sup>

Third, Indonesian advocates were tied institutionally to the European part of the colonial administrative structure. The peculiarity of their role in Indonesian legal history vastly complicated their problems of professional adaptation in the independent state. The advocacy was not a link between modern and traditional legal systems, and never pretended to be. Pokrol bambu operated more or less as such a link. Advocates belonged to the most sophisticated and powerful part of the plural legal system, and had little contact with the rest. With independence, it was as if the institutional center of gravity, guided by the impetus of political power, shifted from the European part of colonial administration towards the Indonesian part, while at the same time economic and political processes began to change as well. In the judicial system, for example, it was the *landraad*, now the *pengadilan negeri*, that survived, not the *raad van justitie*, and it was the H.I.R., not the rigorous European formal codes, that governed procedure. Advocates lost purchase throughout, not only in the courts, but more generally in the economy, for economic process no longer depended upon enforceable legal process. They found themselves trying to swim in a dwindling supply of water, at least until the late 1960s, when the New Order's revival of the private economy and foreign investment, along with its early emphasis on *rechtsstaat* symbols, spilled more water into the lake.

In general advocates responded to the change around them by conservatively, sometimes rigidly, and often courageously reasserting the original tenets of their professional role. This does not mean that a solid phalanx of advocates suicidally refused to have anything to do with the realities of independent Indonesia. On the contrary, a number of advocates who kept working, even during the Guided Democracy period when advocates were least in demand, and who did well financially, unquestioningly and sometimes unhesitatingly adapted to the procedural and economic realities of the times. There were also those who refused to do so, who insisted upon utterly upright professional behavior, who defended unpopular causes in court, and who made little money. Most advocates, especially under Guided Democracy, merely survived, with luck, on a few well-paying cases that offered little professional satisfaction, went into semi-retirement, or supplemented meager professional incomes from family wealth and other jobs. (Almost no new advocates entered the profession during the years of Guided Democracy. The first substantial new cohort of private lawyers in independent Indonesia began work only in the early New Order period.) But on the whole, whatever they did in practice, advocates would not--perhaps could not--relinquish the original conceptions of their function. Partly because the profession was for years dominated by men who first became advocates in the colony, there was great reluctance to recognize or admit any fundamental change in professional style or responsibilities from those of the colony. Explicit changes in procedure were (often rightly) seen as threats; implicit changes were dismissed as necessary but temporary deviations. Nor would advocates give up the old symbols of their profession, even when these seemed disadvantageously bound up with the colonial past or European referents.

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59. On the pokrol bambu, see my *Bush-Lawyers in Indonesia: Stratification, Representation, and Brokerage* (Berkeley: University of California, Center for the Study of Law and Society, Working Paper no. 1, 1973).

During the early 1960s, when the Ministry of Justice changed emblems from the European goddess of justice to the banyan tree, inscribed with the word *pengayoman* (shelter), advocates stubbornly refused to join judges, prosecutors, and others who altered their crests. They held on to a set of scales underneath crossed swords, inscribed with the words *fiat justitia ruat coelum*. Nearly alone among organized groups of any kind, the advocates' association refused to ask Sukarno's blessing of its activities; Peradin leaders insisted that theirs was a private profession in no way beholden to the government.

Judges, prosecutors, notaries, bureaucrats, and other legal functionaries, who also suffered role strain in the independent state, nevertheless adapted more easily than advocates to new conditions. For one thing, they at least kept working, while many advocates began to run out of meaningful work within a few years of the revolution. Moreover, public lawyers could shift into patrimonial gear when this seemed appropriate, but advocates had no way of doing so. The specificity of the private lawyering role, a new one introduced by colonial rule and derived from European economic and political concepts, tended to make advocates institutionally conservative, but so did their institutional circumstances in the independent state. Especially during the years of Guided Democracy, they remained a small liberal pocket in a patrimonial camp. Their fate depended upon developments over which, for better or worse, they had almost no influence.

Yet, to end on a slightly romantic note, the advocacy survived with a good deal of integrity. By this I do not mean that all advocates were brave, honest, and pure. As elsewhere a majority of advocates pursued their profession in order to make a living, and if their role as intermediaries called for corrupt procedures, many used them. But the profession, by surviving, also kept alive some ideals that are peculiarly attached to the advocacy. They have to do with private rights, procedural fairness, and protection against government power. One can argue about the validity and efficacy of the liberal vision which incorporates these concerns, but there is no point to doing so here. My point is simply that a small handful of Indonesian advocates, proportionately probably no more nor less than in other countries, but often at greater professional and personal cost, have consistently devoted attention to such issues, and the profession at large has given them some support.

