

# LEGAL SELF-FASHIONING IN COLONIAL INDONESIA: HUMAN RIGHTS IN THE LETTERS OF KARTINI

Paul Bijl

This article shows how Kartini (1879–1904)—a Javanese writer, legal thinker, and educator—used her writings to engage with conceptions of human rights that were circulating globally in the early twentieth century.<sup>1</sup> Innovating contemporary senses of fairness, she critiqued and further developed existing rights, laws, and norms, and imagined and promoted new understandings of social justice. The central concept of this article is that of “legal self-fashioning,” which I develop in order to discuss how Kartini engaged proactively with contemporary ideas about individual rights through constructing an empathetic, willful inner life that made her part of what was at the time considered “humanity” (i.e., one who acts autonomously and exhibits empathy), and therefore “ready” for individual rights.<sup>2</sup>

This article on Kartini’s legal thought is part of a larger project about Indonesian colonial engagements with and rewritings of notions of human and citizen rights. The current article essentially makes three points. First, it argues against widespread conceptions that human rights are a Western invention. As will become clear, Kartini did not merely adopt the rights discourse she encountered in European writings, but

---

Paul Bijl is a postdoctoral researcher at KITLV and the University of Amsterdam, where he is also an assistant professor of modern literature in the Dutch department.

<sup>1</sup> This article was made possible through a Veni-grant from NWO/Netherlands Organization for Scientific Research. The Faculty of Humanities at Universitas Indonesia (FIB-UI) in Depok was my host from January to June 2016, during which time I completed this paper. I thank Joost Coté, Gerry van Klinken, Martin Ramstedt, Jan Rock, Henk Schulte Nordholt, Joseph Slaughter, and an anonymous peer reviewer for their comments.

<sup>2</sup> This part of my argument will build on Lynn Hunt, *Inventing Human Rights: A History* (New York: Norton, 2007).

imaginatively rewrote it, particularly by further extending it so as to include people of color. Moreover, in reimagining rights she was inspired by both Asian and African writings on this subject. Second, this article argues for the importance of studying Indonesian legal thought, specifically when it comes to individual rights, to balance the scholarly work on colonial Indonesia's legal history (1816–1945), which is strongly focused on the various legal projects—European, indigenous, and Islamic—and on Europeans' rights struggles, but less on Indonesians' legal perceptions.<sup>3</sup> Third, this paper deconstructs the binary opposition between “national liberation” and “human rights” as created by Samuel Moyn in the chapter “Why Anticolonialism Wasn't a Human Rights Movement,” in his book *The Last Utopia*.<sup>4</sup> According to Moyn, anticolonialists “place popular liberation first, not individual human rights.”<sup>5</sup> The case of Kartini, however, who in her attacks on the racist foundations of the Dutch colonial empire was an anticolonial thinker and whose work Joost Coté discusses in terms of “cultural nationalism,” defies this binary opposition, showing that popular liberation and a concern for individual rights are not necessarily mutually exclusive.<sup>6</sup> In fact, she and other Indonesians, such as Sutan Sjahrir, the independent nation's first prime minister, precisely argued for rights on the basis of conceptions of human equality and the inalienable rights all human beings have because of their humanity.<sup>7</sup> This is not to claim, however, that everything Kartini wrote can be read in terms of human rights. I agree with Moyn when he argues that a ubiquitous and ahistorical usage of the concept of human rights can have a homogenizing effect. Toward the end of this article I will therefore discuss Kartini's latter work, as it shows her moving away from European conceptions of selfhood and human rights and instead embracing specifically Javanese ideas of what we can call “unself-fashioning.” Although her self- and unself-fashioning served the same goal—receiving a higher education—Kartini's

<sup>3</sup> I use “legal project” instead of “legal system” to emphasize that law is a process without an essence, that is, it is not fixed. Studies addressing the colonial legal system or European rights struggles in colonial Indonesia include: Mirjam Maters, “Persvrijheid en persbreidel in Nederlands-Indië 1906–1942: een onontkoombaar dilemma?” in *Geschiedenis van de mensenrechten: Bouwstenen voor een interdisciplinaire benadering*, ed. M. Kuitenbrouwer and M. Leenders (Hilversum: Verloren, 1996), 202–26; Cees Fasseur, “Cornerstone and Stumbling Block: Racial Classification and the Late Colonial State in Indonesia,” in *Racial Classification and History*, ed. E. Nathaniel Gates (New York: Garland, 1997), 37–56; Elsbeth Locher-Scholten, “The Colonial Heritage of Human Rights in Indonesia: The Case of the Vote for Women, 1916–41,” *Journal of Southeast Asian Studies* 30, 1 (1999): 54–73; Cees Fasseur, “Colonial Dilemma: Van Vollenhoven and the Struggle between Adat Law and Western Law in Indonesia,” in *The Revival of Tradition in Indonesian Politics: The Deployment of Adat from Colonialism to Indigenism*, ed. J. Davidson and D. Henley (London: Routledge, 2007), 50–67; Franz and Keebet von Benda-Beckmann, “Myths and Stereotypes about Adat Law: A Reassessment of Van Vollenhoven in the Light of Current Struggles over Adat Law in Indonesia,” *Bijdragen tot de taal-, land- en volkenkunde* 167, 2–3 (2011): 167–95; Franz and Keebet von Benda-Beckmann, “Islamic Law in a Plural Context: The Struggle over Inheritance Law in Colonial West Sumatra,” *Journal of the Economic and Social History of the Orient* 55 (2012): 771–93; N. S. Efthymiou, *Recht en rechtspraak in Nederlands-Indië* (Nijmegen: Wolf, 2013); and Upik Djalins, “Becoming Indonesian Citizens: Subjects, Citizens, and Land Ownership in the Netherlands Indies, 1930–37,” *Journal of Southeast Asian Studies* 46, 2 (2015): 227–45.

<sup>4</sup> Samuel Moyn, *The Last Utopia: Human Rights in History* (Cambridge: Harvard University Press, 2010), 84–119.

<sup>5</sup> *Ibid.*, 84.

<sup>6</sup> Joost Coté, Introduction, in *Kartini: The Complete Writings 1898–1904*, ed. and tran. Joost Coté (Clayton: Monash University Press, 2014), 40–42.

<sup>7</sup> See also Paul Bijl, “Human Rights and Anticolonial Nationalism in Sjahrir's *Indonesian Contemplations*,” *Law & Literature*, online, January 18, 2017, <http://www.tandfonline.com/doi/full/10.1080/1535685X.2016.1268769>, accessed February 28, 2017.

embrace of a Javanese “selfless self” can be read as a critique of the project of legal self-fashioning and therefore as an implicit rejection of human rights. Justice, Kartini seemed to suggest at the end of her too-short life, does not come from human rights, but from the relation between the believer and Allah.<sup>8</sup>

Most crucially for our thinking about human rights history, Kartini’s case belies the dominant view these days that human rights are Western inventions to be exported to African and Asian countries.<sup>9</sup> When reviewing recent Dutch news about Indonesia and human rights, it seems as if the Dutch—by virtue of belonging to Europe—are the inventors and natural protectors of these rights, while Indonesians need to learn from them what basic human values are. In 2015, the Dutch minister of foreign affairs was one of many global figures who lectured the Indonesians on their violations of human rights when they planned to execute a number of people for drug-related convictions. When Indonesian army officials visited the Netherlands in 2012 to inspect a number of tanks the Dutch had for sale, Dutch members of parliament voiced fears that the tanks could be used to violate human rights in Indonesia. Ten years earlier, in 1992, Indonesia refused all developmental aid from the Netherlands because the Dutch minister demanded that Indonesia needed to respect human rights in exchange for such aid. Indonesian officials accused the Dutch of using developmental aid for intimidation.<sup>10</sup> At the same time, the Dutch have not been open to being lectured about human rights themselves, as Barbara Oomen has shown: “Whilst human rights [are] a cornerstone of Dutch foreign policies, they [are] deemed less suitable as yardstick for domestic affairs.”<sup>11</sup> The Netherlands, Oomen holds, “historically considered human rights as an export product.”<sup>12</sup> Moreover, as the Dutch are reluctant to remember their own histories of colonial and slavery injustice in Asia (particularly in Indonesia) and the Caribbean, in the Netherlands it sometimes seems as if the Dutch believe that Indonesians have a lot to learn from lessons the Dutch already grasped from the French Revolution about the rights of man and from the 1948 Universal Declaration on Human Rights.<sup>13</sup> The point is not that there are no violations of human or citizen rights in Indonesia (or, for that matter, in the Netherlands), but rather that the Dutch seem to forget that, about a century ago, several Indonesian authors engaged critically with the Dutch and other legal projects in colonial Indonesia in ways that the Dutch would now, according to their own standards, need to characterize as more in line with current thought on rights and justice than their own colonial legal project was back then.

<sup>8</sup> My analysis of a Javanese “selfless self” builds here on Ward Keeler, *Javanese Shadow Plays, Javanese Selves* (Princeton: Princeton University Press, 1987).

<sup>9</sup> See, for example, Gurminder K. Bhambra and Robbie Shilliam, “Introduction: ‘Silence’ in Human Rights,” *Silencing Human Rights: Critical Engagements with a Contested Project*, ed. Gurminder K. Bhambra and Robbie Shilliam (Basingstoke: Palgrave Macmillan, 2009), 1–15.

<sup>10</sup> See: Mark Kranenburg and Melle Garschagen, “Broze relatie Indonesië onder druk,” *NRC Handelsblad*, January 19, 2015: 3; Teun Lagas, “Het zal een onderdrukkingsmiddel worden,” *Trouw*, June 21, 2012: 4; and “Indonesië weigert alle hulp vanuit Nederland,” *Trouw*, March 26, 1992: 1.

<sup>11</sup> Barbara Oomen, *Rights for Others: The Slow Home-Coming of Human Rights in the Netherlands* (Cambridge: Cambridge University Press, 2012), 1–2.

<sup>12</sup> *Ibid.*, 2.

<sup>13</sup> See: Paul Bijl, “Colonial Memory and Forgetting in the Netherlands and Indonesia,” *Journal of Genocide Research* 14, 3–4 (2012): 441–61; and Paul Bijl, *Emerging Memory: Photographs of Colonial Atrocity in Dutch Cultural Remembrance* (Amsterdam: Amsterdam University Press, 2015).

Contrary to widespread perception, therefore, I argue that the global rights discourse in the colonial period and beyond should be seen as the product of relational histories in which indigenous colonial subjects played an active role.<sup>14</sup> Modern concepts of human rights emerged in the eighteenth century, but changed over the course of time: they are, like all legal norms, historical. According to human rights historian Stefan-Ludwig Hoffmann, they almost disappeared from political and legal discourse in the nineteenth century, only to resurface after World War II when they were conceived of as inalienable rights accorded to every human being and often opposed to the abuses of particular states. This made their position different from eighteenth- and nineteenth-century rights struggles, Hoffmann holds, which were about citizen and not universal rights.<sup>15</sup> Kartini's story, however, problematizes this account, as the calls for rights by this early twentieth-century imperial subject who was not a citizen of any nation-state are based precisely on explicit and implicit arguments of sharing in the quality of humanity. Because of this focus on the relationship between humanity and rights, Kartini's writings point out how the conceptions provided by the post-1940s human rights discourse are, in fact, one answer to an older problem with which she and other imperial subjects (such as Qasim Amin (1863–1908) from Egypt and Pandita Ramabai (1858–1922) from British India, both of whom Kartini mentions in her letters) also struggled—namely the problem of human equality before the law. Also within colonial Indonesia, other authors in the first half of the twentieth century appropriated and rewrote rights talk. These included several writers in the various nationalist movements, such as Soewardi Soerjaningrat, Mohammed Hatta, and Sutan Sjahrir, and also novelists such as Haji Mukti, whose feuilleton novel *Hikayat Siti Mariah* (1910–12) can be read as a reflection on property and social rights, and Soewarsi Djojopoespito, whose *Buiten het gareel* (1939) also forms a reflection on fundamental rights, primarily freedom of education. Ideas on human equality do not figure in all colonial Indonesian writings on rights, and sometimes these documents are, indeed, addressing citizen, not human rights. Nevertheless, as Herbert Feith and Lance Castles write, in 1948, “when Indonesian leaders, who in their younger days had been fighting as pioneers, heard the declaration in article I [of the Universal Declaration of Human Rights] that ‘all human beings are born free and equal in dignity and rights,’ it was as if they heard themselves speaking.”<sup>16</sup> Although this article focuses on Kartini, there is a much broader history of thinking and writing about human rights to be explored in the case of the Dutch empire in Asia, and also regarding Indonesian anticolonialism.<sup>17</sup>

<sup>14</sup> For a related argument, see Steven Jensen, *The Making of International Human Rights Law: The 1960s, Decolonization, and the Reconstruction of Global Values* (Cambridge: Cambridge University Press, 2016).

<sup>15</sup> Stefan-Ludwig Hoffmann, “Introduction: Genealogies in Human Rights,” in *Human Rights in the Twentieth Century*, ed. Stefan-Ludwig Hoffmann (Cambridge: Cambridge University Press, 2011), 1–26.

<sup>16</sup> Herbert Feith and Lance Castles, eds., *Indonesian Political Thinking: 1945–1965* (Ithaca: Cornell University Press, 1970), 35.

<sup>17</sup> One question often asked about Kartini is, “what about the other women?” It is a rather problematic question. (“What about the other men?” is a question that does not exist.) However, to answer it briefly: no doubt most Indonesians in the nineteenth and early twentieth centuries at some point thought about their relations with the Dutch, and often so in (partly) legal terms. It is therefore important to not only investigate Kartini's writings, but also writings by other women and those by men as well. There is a growing number of valuable analyses of the history of women in late-colonial Indonesia, which includes several analyses of Indonesian women's writings, but, to my knowledge, no specific analysis yet of their ideas on legal matters. Kartini, in any case, was aware of the wider world of feminist internationalism,

Through analyzing Kartini's and other Indonesians' colonial writings, we can challenge the conclusion of Hoffmann and especially Moyn that we cannot effectively conceptualize colonial reformist and anticolonial movements as human rights movements.<sup>18</sup> Instead we can ask how imperial subjects interacted with European citizen rights movements in the course of the late nineteenth and early twentieth centuries, particularly with the women's and workers' movements, and how these interactions revolved around questions about humanity and human equality. It was as a part of these global rights movements that Kartini rethought the European, Javanese, and Islamic legal projects in colonial Indonesia, and wrote a self through which she could reach her goals: becoming educated and, equally important and related, not ending up in an arranged, polygamous marriage. Just as anthropologists have started to trace the "social life of rights" in contemporary societies, I argue that historians need to start digging up the experiences of indigenous imperial subjects, often recorded in their own writings, to make visible the roles of Asian and African authors in the international history of rights discourses.<sup>19</sup> An important source of inspiration for me has been Leila Gandhi's *The Common Cause*, in which she writes that a "miscellany of opinions from the vanguard of Euro-American life has surreptitiously fostered the view that democracy is a uniquely Western property and inheritance ... This book asserts a global provenance for democracy."<sup>20</sup> Just like democracy, human rights and rights discourse have a global history, and we need to devote to Indonesian and other writings by people of color the serious attention these novels, letters, articles, and pamphlets deserve.

### Learning to Talk European Rights

On November 20, 1901, twenty-two year old Kartini—today a national hero of Indonesia, known to most of the 250 million Indonesians—wrote in a letter to the Dutch woman Rosa Abendanon-Mandri:

I learned three things from the Europeans. Love, pity, and the concept of right—I want to live according to them.<sup>21</sup>

---

though in the letters we have of hers we do not find her connecting with other Indonesian women on legal matters. See: Laurie Sears, ed., *Fantasizing the Feminine in Indonesia* (Durham: Duke University Press, 1996); Elsbeth Lochter-Scholten, *Women and the Colonial State: Essays on Gender and Modernity in the Netherlands Indies 1900–1942* (Amsterdam: Amsterdam University Press, 2000); Susan Blackburn, *Women and the State in Modern Indonesia* (Cambridge: Cambridge University Press, 2004); Kardinah et al., *Realizing the Dream of R. A. Kartini: Her Sisters' Letters from Colonial Java*, ed. and trans. Joost Coté (Athens: Ohio University Press, 2008); Susan Blackburn, ed. and trans., *The First Indonesian Women's Congress of 1928* (Clayton: Monash University Press, 2008); Adrienne Huijzer, "Indonesian Women as Agents in a Changing Colonial Society, 1900–1942" (master's thesis, VU University Amsterdam, 2010); and Elizabeth Martyn, *The Women's Movement in Postcolonial Indonesia: Gender and Nation in a New Democracy* (London: Routledge, 2010).

<sup>18</sup> See: Hoffmann, "Introduction"; and Moyn, *The Last Utopia*, 84–119.

<sup>19</sup> R. A. Wilson, "Human Rights, Culture and Context: An Introduction," in *Human Rights, Culture and Context: Anthropological Perspectives*, ed. R. A. Wilson (London: Pluto, 1997), 1–27.

<sup>20</sup> Leila Gandhi, *The Common Cause: Postcolonial Ethics and the Practice of Democracy 1900 to 1955* (Chicago: University of Chicago Press, 2014), 1.

<sup>21</sup> See: Kartini, *Brieven aan mevrouw R. M. Adendanon-Mandri en haar echtgenoot*, ed. F. Jaquet (Dordrecht: Floris, 1987), 98; and Coté, ed. and trans., *Kartini: The Complete Writings 1898–1904*, 226. All my quotes from Kartini are based on Joost Coté's translations, but sometimes slightly altered when I want to

In isolation, this is a rather baffling statement. In the letters we have of hers, Kartini constructs three patterns of cultural and legal practices in colonial Java, which we can call European, Javanese, and Islamic (for the latter, Kartini uses the word “Mohammedan”). The implication of this statement is that the very ideas of love, pity, and rights—each in isolation, but also in relation to each other—are not to be found in the latter two, but only in the former.

Kartini’s statement to Abendanon-Mandri is unconvincing, at least in most senses we can give to it. The sentiment is easily refuted within the context of her own life. If we read the whole of her writings, which mostly consist of letters to Dutch people in colonial Indonesia and the Netherlands, we encounter many places in which she discusses events or situations of love and pity that she conceptualizes as precisely Javanese and/or Islamic—for instance, in the many declarations of love and feelings of empathy that characterize her relation with her father, Sosroningrat, who was a Javanese Muslim just like Kartini herself. In addition, Kartini’s letters offer several criticisms of European cultural and legal practices, which in her eyes sometimes led to situations in which rights were violated, both within Europe and in its colonies.

Yet if we interpret Kartini’s statement about love, pity, and rights from a colonial and European legal perspective—for instance, from the perspective of the Dutch woman who received this letter—it does start to make sense. We can read it as having a triple effect: first, of endorsing a specific set of sensibilities, namely, love and pity, which co-constitute a specific self, namely one that is characterized by emotional depth and empathy. Second, by presenting herself as having emotional depth and empathy, she is making a case for her own humanity: she wants to show that, despite Europeans’ attitudes about the Javanese, she is a human being just like Europeans and therefore she is entitled to human rights. Third, of expressing a strong, autonomous desire: “I want to live according to them [i.e., characteristics of humanity: love, pity, and the concept of right].” In the previous year, 1900, Kartini wrote this to her Amsterdam pen friend, Stella Zeehandelaar:

Do you know what my motto is? “I want!” These two little words have so often carried me across mountains of objections and difficulties. “I cannot” is being discouraged. “I want!” reaches the top of the mountains.<sup>22</sup>

In this article, I analyze these elements in Kartini’s letters: the fashioning of an emphatic and strong-willed self that asserts itself as entitled to certain rights. I therefore focus on her legal experience: the ways in which she understood and responded to the possibilities and limitations, the rights, duties, and prohibitions she had within the various legal projects that patterned the polity she lived in. The concept of legal self-fashioning is developed to discuss the ways in which Kartini, who was well-aware of the Dutch empire’s legal pluralism, in her letters, produced a self and reimagined legal systems that could match this self and bestow certain rights upon it. It is introduced here for situations in which writing is available of (imperial)

---

emphasize a different meaning in her words. Kartini’s original texts in Dutch have not yet been collected in one volume. Therefore, I sometimes refer to a 1911 collection (Kartini, *Door duisternis tot licht: Gedachten over en voor het Javaansche volk*, ed. J. H. Abendanon [Semarang: Van Dorp, 1911]) and sometimes to the 1987 collection cited earlier in this note.

<sup>22</sup> See: Kartini, *Door duisternis tot licht*, 43; and Kartini, *Complete Writings*, 95.

subjects who navigate and co-shape the different legal projects with which they engage.

In the literature on legal pluralism in imperial settings, several scholars have written about the ways in which historical actors have had changing and locally specific understandings of law and legal pluralism, though, as Lauren Benton and Richard Ross wrote recently, there is still a dearth of such analyses.<sup>23</sup> Through analyzing the around 140 letters written by Kartini between 1899 and her untimely death in 1904, in this article I investigate one specific understanding of the relationship between the self and the various legal projects that were seeking to acquire jurisdiction. Setting a research agenda for the study of the role of legal pluralism in empires, Benton and Ross do not focus on rules and norms as part of normative structures, but rather on jurisdictional conflicts to uncover disputes in which the power of legal authorities to regulate and administer sanctions over particular actions or people could be affirmed, altered, contested, or rejected. These jurisdictional conflicts could involve, among others, settlers, merchants, imperial administrators, and indigenous people (such as Kartini), and, Benton and Ross hold, often functioned as powerful engines of change as they responded to and created claims to legal authority. One of the areas in which alternative visions for the arrangement of authority were formulated was in jurisdictional conflicts over the rights of subjects, precisely one of the central topics in Kartini's writings.<sup>24</sup> This article shows how jurisdictional conflicts were not simply between legal projects and historical actors, but how in such conflicts these projects were imagined and reimagined, and these actors were fashioned and refashioned in the act of writing.

### Kartini's Liminal Social Position

One of Kartini's main wishes was to receive a Western education in Europe. Kartini's father was a Javanese administrator (*bupati*, or regent), one of the *priyayi*, a class of Indonesians who, by the end of the nineteenth century, Heather Sutherland writes, had been basically transformed into subordinate allies of the Dutch: "political and bureaucratic instruments of an alien regime."<sup>25</sup> As indigenous civil servants, the *priyayi* formed the technocratic, low level of local government. Despite their political impotence, however, *priyayi* were seen as a highly respectable, culturally refined and powerful ruling class. Bridging the gap between the Europeans and the Javanese peasantry, they were, Sutherland writes, "both clients and ruling elite," with all the ambivalence connected to this in-between position.<sup>26</sup> The Dutch around 1900 were ambivalent in their own way—on the one hand, starting up the project of "ethical policy" (comparable to the British "white man's burden" and the French *mission civilisatrice*), which had as its ultimate and paradoxical goal Indonesian self-governance under Dutch leadership; and on the other hand, blocking all political, social, and

<sup>23</sup> Lauren Benton and Richard Ross, "Empires and Legal Pluralism: Jurisdiction, Sovereignty, and Political Imagination in the Early Modern World," *Legal Pluralism and Empires, 1500–1850*, ed. Lauren Benton and Richard Ross (New York: New York University Press, 2013), 5.

<sup>24</sup> *Ibid.*, 8.

<sup>25</sup> Heather Sutherland, *The Making of a Bureaucratic Elite: The Colonial Transformation of the Javanese Priyayi* (Singapore: Heinemann, 1979), 1.

<sup>26</sup> *Ibid.*, 1.

economic change which could endanger Dutch colonial power.<sup>27</sup> This Dutch ambivalence clearly comes to the fore in the preface to Kartini's heavily edited letters, published in 1911, in which her Dutch editor praises Kartini's progressive thought, but then cautions in a barely veiled threat that "lofty thoughts" can be dangerous.<sup>28</sup>

During the later nineteenth century, Sutherland writes about the situation of upper class Indonesians in the Dutch East Indies: "new frameworks emerged as groups and individuals broke free of the constraints imposed by dependence on Dutch protectors." There was a search for new structures and ideas that could legitimize "demands for welfare and justice."<sup>29</sup> In tandem with this emergence, limited education, especially for *priyayi* children, was part of ethical policy. Most of this schooling took place in colonial Indonesia, with only some Javanese studying in Europe, all of them boys.<sup>30</sup> Since 1864, Indonesians were given entry to the European Primary School (Europeesche Lagere School, ELS), also visited and finished by Kartini, an exceptional trajectory for a girl. Before her, a Dutchman hired by Kartini's grandfather had tutored her father and his brothers. Kartini's father became an advocate for *priyayi* education, just as his daughter would become. Comparable to Dutch attitudes toward Indonesians, *priyayi* conceptions of other Indonesians, including Kartini's arguments why *priyayi* should be educated, were rife with paternalism and ideas on how the aristocracy should lead the masses toward enlightenment. Placing also her fight for rights within this context, Kartini writes that her work is for ...

... the welfare of thousands, who are burdened by unjust laws.<sup>31</sup>

Kartini's efforts, sadly, did not lead to the results she so longed for: despite her goals for herself, she ended up in an arranged, polygamous marriage with few possibilities to further her educational and teaching ambitions, and died an untimely death at the age of 25, just a few days after giving birth to her first child.

Kartini addresses the topics of rights, law, and justice more than one hundred times in her letters. One important source for Kartini's thoughts on rights were her contacts with activists and sympathizers of the Dutch women's movement and her broad reading of books, magazines, and journal articles addressing women's rights issues. Coté writes that Kartini's involvement in the Dutch women's movement—she both read and was asked to contribute to the Dutch women's movement magazine *Interest and Right* (*Belang en recht*), for instance—was part of a broader plan to undertake further education in the Netherlands.<sup>32</sup> More specifically, Kartini appropriated women's movement's rights discourse to show that she was part of humanity. In order to gain access to the European educational system, she tried to overcome at least three closely related obstacles that separated her from the white European boys

<sup>27</sup> The two important studies on Dutch ethical policy are only available in Dutch; see: Elsbeth Locher-Scholten, *Ethiek in fragmenten: vijf studies over koloniaal denken en doen van Nederlanders in de Indonesische archipel, 1877–1942* (Utrecht: HES, 1981); and Marieke Bloembergen and Remco Raben, eds., *Het koloniale beschavingsoffensief: wegen naar het nieuwe Indië, 1890–1950* (Leiden: KITLV Press, 2009).

<sup>28</sup> J. H. Abendanon, "Introduction," in Kartini, *Door duisternis tot licht*, i.

<sup>29</sup> Sutherland, *The Making of a Bureaucratic Elite*, 45.

<sup>30</sup> Harry Poeze, *In het land van de overheerser 1: Indonesiërs in Nederland 1600–1950* (Dordrecht: Floris, 1986).

<sup>31</sup> See: Kartini, *Brieven aan mevrouw*, 81; and Kartini, *Complete Writings*, 233.

<sup>32</sup> Coté, "Introduction," 3.



who were filling the classes she wished to attend. First, her legal position as a colonized subject and the ways in which she was racialized and gendered. In practical terms, writing letters to and getting the help of Dutch people like Rosa Abendanon-Mandri, the wife of Jacques Henrij Abendanon who, in 1902, was the highest Dutch civil servant in colonial Indonesia charged with educational matters, was vital in achieving this goal. Second, a more fundamental move was either the production of a self that was seen as masculine—Kartini's brother had already gained access to European higher education—or changing society's views of femininity so that those views would include entitlement to such an education, a goal Kartini shared with some of the feminist writers whom she was reading. Finally, Kartini needed to become European and human, in both a cultural and a legal sense.

### Legal Pluralism in the Dutch Empire

Like all empires in world history, European colonial empires consisted of many different polities with a wide variety of legal arrangements that often overlapped and clashed. I follow Benton and Ross in defining legal pluralism as “a formation of historically occurring patterns of jurisdictional complexity and conflict;” specifically, a notion of patterns that allows for a perspective on legal pluralism that sees it not as a set of fixed legal systems, but as multiple projects that are continuously in process.<sup>33</sup> Also the Dutch empire, both in the Netherlands and in its colonies, encompassed a variety of forms and sources of law. In colonial Indonesia, it was particularly the projects of European law, indigenous law (*adat*), and Islamic law (often called Mohammedan law) that made (legally) possible and impossible certain identities, subjectivities, and actions in a complex and sometimes tense relation to each other. The term “legal pluralism” does not imply a level playing ground for the different legal projects, certainly not in colonial Indonesia. Rather, the concept of legal pluralism is invoked here as an emancipatory concept to move beyond the conception that the only source for the legal, normative order is state law.

The concept of legal pluralism is contested. Martin Ramstedt, for instance, though endorsing the claim that “we need to extend our range of inquiry far beyond black letter law,” also proposes that “the term of ‘law’ exclusively refers to ‘state law’ ... to emphasize the hegemonic claim of the state ... in the competition between different normativities. Non-state law in the form of non-juridified customary law and religious law I propose to call ‘normativities.’”<sup>34</sup> Crucial in this particular context, however, is the fact that in Kartini's writings the three legal projects discussed above are both experienced and described by her in relation to each other and as sources of law, rights, and (in)justice. But of course we need to recognize that these projects were not homologous (they involved different actors and institutions, for instance), they partly operated in different contexts, and they should not be seen as having the same power of jurisdiction in all circumstances. Forum shopping, for instance, was not a practical option for Kartini, though it was an imaginative one.

<sup>33</sup> Benton and Ross, “Empires and Legal Pluralism,” 4.

<sup>34</sup> Martin Ramstedt, “Anthropological Perspectives on the Normative and Institutional Recognition of Religion by the Law of the State,” in *Religious Rules, State Law, and Normative Pluralism: A Comparative Overview*, ed. Rossella Bottoni, Rinaldo Cristofori, and Silvio Ferrari (Berlin: Springer, 2016), 47, 53.

According to Cees Fasseur, the main legal pattern in colonial Indonesia was dualistic: jurisdiction, legislation, and legal procedures for those legally European were based on Dutch laws and procedures; those legally “Native” were subject to what were considered their own (religious) laws, institutions, and customs.<sup>35</sup> Consequently, there were also two court systems, one for Europeans and one for non-Europeans. The years 1848 and 1866 had seen the arrival of civil, commercial, penal, and other codes for Europeans in Indonesia, while the Indonesians were left to be governed by laws unknown to the Dutch colonial government, which Dutch legal scholars from the late nineteenth century started conceptualizing as “*adat* law.” What was identified as *adat*, including by Kartini, were the unwritten legal patterns emerging from the moral, customary, and legal practices and institutions of the different communities living in the Indies.<sup>36</sup> According to the Dutch colonial jurist Cornelis van Vollenhoven (1874–1933), there was no sharp dividing line between legal and other (e.g., cultural) aspects of *adat*. Within a broad analytical concept of law, he talked about rules, institutions, procedures, and sanctions as law, dissociating “law” from the organization of the state per definition. The concept of legal pluralism precisely allows for this possibility of co-existing interdependent legal projects that have different legitimations and are organized around and by different actors and institutions.<sup>37</sup>

### The Concept of Legal Self-fashioning

The concept of legal self-fashioning can help us understand Kartini’s position in the colonial history of rights. As Benton and Ross indicate, there is a lack of scholarly literature analyzing the legal experiences of imperial subjects. Several concepts have been developed to understand the ways in which historical imperial subjects have produced and positioned themselves legally within empire. Benton has introduced the concept of “legal posturing” to describe the ways in which Europeans “far from home reenacted legal rituals as they remembered them and imperfectly reconstructed legal practices and arguments.”<sup>38</sup> In broader terms, Benton has defined legal posturing as “a tendency for subjects situated everywhere within an empire to adopt both rhetoric and strategies referencing the law of the imperial center.”<sup>39</sup> Benton discusses certain legal actions of colonial governors and garrison commanders as well as of rogues, rebels, and pirates in terms of legal posturing. “Posturing,” a word with some negative connotations, means “posing for effect.” It is a creative act to posture, and Benton uses several words hinting at the ingenuity of legal posturing, from “legal maneuvering” to the performance of “ad hoc legal rituals” to the recounting of “law stories.”<sup>40</sup>

<sup>35</sup> Fasseur, “Cornerstone and Stumbling Block.”

<sup>36</sup> von Benda-Beckmann, “Myths and Stereotypes,” 168.

<sup>37</sup> Ibid.

<sup>38</sup> Lauren Benton, *A Search for Sovereignty: Law and Geography in European Empires 1400–1900* (Cambridge: Cambridge University Press, 2010), 24.

<sup>39</sup> Lauren Benton, “Historical Perspectives on Legal Pluralism,” in *Legal Pluralism and Development: Scholars and Practitioners in Dialogue*, ed. Brian Z. Tamanaha, Caroline Sage, and Michael Woolcock (Cambridge: Cambridge University Press, 2012), 21.

<sup>40</sup> Ibid., 21, 25.

Although Kartini's writings can be described productively in terms of legal posturing, through the concept of legal self-fashioning I want to put less emphasis on imperial subjects' cunning in fabricating legal procedures that echoed those of the imperial center. Rather, I focus on their construction of selves, especially in an affective and free-will sense, which would fall under the jurisdiction of a reimagined European law. Additionally, through the fashioning of a particular self, imperial subjects like Kartini not only related themselves to the law of the imperial center but also, albeit sometimes negatively, to the other legal projects that had jurisdiction in their polity—in the case of Kartini, to *adat* and Islamic law. Finally, what distinguishes my concept of legal self-fashioning from legal posturing is that self-fashioning can point not only toward the production of a self by an individual actor, but also to its fashioning by outside forces, for instance, by the various legal projects active within a certain polity.

I developed my concept of legal self-fashioning on the basis of self-fashioning as discussed in the work of literary scholar Stephan Greenblatt. He describes the notion of a self as follows: "a sense of personal order, a characteristic mode of address to the world, a structure of bounded desires."<sup>41</sup> According to Greenblatt, the sixteenth century in England saw a heightened awareness of the possibilities of "human identity as a manipulable, artful process"; a self-consciousness that had been strongly present in antiquity, but did not fit the Christian worldview of the Middle Ages when there was a suspicion of man's power to shape identity.<sup>42</sup> It is this idea of the possibility of the shaping of a distinctive personality that gained ground at the time, Greenblatt holds. "Self-fashioning" acquires several, related meanings in Greenblatt's book, but most importantly those of the shaping of one's own self, by oneself and others, and the shaping of other's selves. What is crucial is that Greenblatt does not see self-fashioning as a sign of individual autonomy, but, in fact, sees the idea of self-fashioning as a control mechanism, a part of "a cultural system of meanings that creates specific individuals by governing the passage from abstract potential to concrete historical embodiment."<sup>43</sup> What Greenblatt seeks to apprehend are the human consequences of "a specific form of power, power at once located in particular institutions—the court, the church, the colonial administration, the patriarchal family—and diffused in ideological structures of meaning, characteristic modes of expression, recurrent narrative patterns."<sup>44</sup> Through the process of legal self-fashioning, Kartini engages with, reflects on, but is also subjected to particular legal projects that, through both enabling institutions and cultural processes, were productive in turn-of-the-century Java and through which her legal self was shaped and reshaped in the course of her writings.

<sup>41</sup> Stephen Greenblatt, *Renaissance Self-Fashioning: From More to Shakespeare* (Chicago: University of Chicago Press, 1980), 1. On the construction of an "autobiographical self" in Kartini's letters, though not in a legal sense, see C. W. Watson, *Of Self and Nation: Autobiography and the Representation of Modern Indonesia* (Honolulu: University of Hawai'i Press, 2000).

<sup>42</sup> Greenblatt, *Renaissance Self-fashioning*, 2.

<sup>43</sup> *Ibid.*, 3–4.

<sup>44</sup> *Ibid.*, 6.

### Rights in Kartini's Life and Letters

The Dutch word "*recht*," which Kartini used in the first passage I quoted from her work (i.e., in a letter to Rosa Abendanon-Mandri), and which I translated as "right," has multiple meanings—not only a particular legal or moral entitlement that gives a person a certain liberty or permits him or her to make a certain claim, but also "law," meaning the rules of conduct that are valid within a specific polity. In Dutch, sometimes a distinction is made between "subjective *recht*" and "objective *recht*" to distinguish the two from each other. Next to these meanings, both of which are used by Kartini, "*recht*," like "right," can also mean "consonant with justice," a meaning Kartini invokes primarily through use of the words "*onrecht*" and "*onrechtvaardigheid*," both meaning "injustice." In short, when Kartini uses the word "*recht*," it can mean right, law, or justice. This means that her sentence about love, pity, and the concept of right has multiple possible translations, and, indeed, Coté translates "*recht*" in that particular instance with the word "justice."

As indicated, Kartini's implicit claim that within Javanese and/or Muslim cultural and legal practices the ideas of rights, laws, and/or justice are absent, is a hard case to make. Justice is an important theme in the *Quran*, while both the *Quran* and *Hadith* are important sources of Islamic law. According to Peter Riddell, law, particularly Islamic sacred law, *sharia*, plays a primary role within Islam.<sup>45</sup> This is also true in the Malay-Indonesian world, where the regulations of *sharia*, known as *fiqh*, have been one of two principal points of reference with regard to the regulation of everyday life, the other one being *adat*, though Riddle also mentions that "much of the *fiqh* came to be seen by some Muslims as remote from their everyday lives."<sup>46</sup> At several moments in her letters, Kartini writes about "Mohammedan law" in a way that shows this distance, as she expresses her eagerness to get to know it better, particularly its regulations on the position of women. In Java, moreover, the figure of the *Ratu Adil*, or Just King, a messianic figure who would establish universal peace and justice, had been known for centuries, meaning that the concept of justice, generally speaking, was also not imported from Europe.<sup>47</sup> But also if we translate Kartini's "*recht*" in the above quote as "right," in the specific meaning of a privilege, her statement is untenable. I follow here the distinction made by the American legal scholar Wesley Newcomb Hohfeld (1879–1918), born in the same year as Kartini, who differentiated between privileges or liberties (A has a privilege to x if and only if A has no duty to x) and claims (A has a claim that B x if and only if B has a duty to A to x).<sup>48</sup> In Kartini's letters, the distribution of privileges and claims in the legal project of *adat* is characterized by gender differences: men are portrayed as having primarily claim-rights (implying women have duties), while women mostly lack privileges or liberties (and therefore, again, have all the more duties). Therefore, the idea of *recht* as "right" can be found within the other two legal projects of which Kartini was aware.

<sup>45</sup> Peter Riddell, *Islam and the Malay-Indonesian World: Transmission and Responses* (London: Hurst, 2001), 50.

<sup>46</sup> Ibid., 51, 56.

<sup>47</sup> Peter Carey, "Waiting for the 'Just King': The Agrarian World of South-Central Java from Giyanti (1755) to the Java War (1825–30)," *Modern Asian Studies* 20, 1 (1986): 59–137.

<sup>48</sup> Wesley Newcomb Hohfeld, *Fundamental Legal Conceptions as Applied in Judicial Reasoning and Other Legal Essays* (New Haven: Yale University Press, 1919).

Kartini was almost entirely negative about both *adat* and Islamic law. *Adat*, she says at various moments, prohibits girls from leaving their homes and learning languages, while Mohammedan law permits polygamous marriage. The legal project of *adat* offered Kartini some claim-rights and privileges. Marriage laws within *adat* have been elaborately described by Van Vollenhoven. His description of *adat* laws in the Dutch East Indies from 1918 indicate that the regency in which Kartini lived was incorporated in the “juridical circle” (*rechtskring*) of Central and Eastern Java and Madoera. If the laws described by Van Vollenhoven were applicable to Kartini, this meant that she had a claim-right to obtain an engagement present from a fiancé (entailing that this fiancé had a duty to Kartini not to interfere with her obtaining this present) and that she had a privilege to keep this gift in case her fiancé broke his promise of marriage (in which case he had no right against Kartini that she not keep the gift). These are not just two examples of Kartini’s rights. They were, according to Van Vollenhoven, her only rights within *adat* marriage law before marriage (she did have several other rights within the marriage itself, including a very limited possibility of ending it). Arranging marriages, writes Van Vollenhoven, was juridically the domain of the parents (*ouderrechtelijk*).<sup>49</sup>

So what kind of right was Kartini thinking about? She was thinking about the kind of rights that *adat* and Islamic law did not offer her because they lacked specific laws, and that European law did not offer her because she did not fall under its jurisdiction, but that she nevertheless considered herself entitled to because she was human.

For the stricter members of Kartini’s family, like the wives of her father (whom she both called “mother”) and for her uncles, *adat* sustained an objective moral order that should not be questioned. This was precisely what Kartini did by arguing for a number of subjective liberties. Kartini basically made two rights claims in her letters, both classifiable as positive rights, so social and cultural rights that ask for the active involvement of actors and institutions in power (e.g., the colonial government or her family as part of the *priyayi*).<sup>50</sup> In terms of marriage, she was aiming for the abolishment of the institution of polygyny in favor of monogamy, which would entail the legal right of a woman to be the only partner in a marriage and the duty of a man not to marry other women. The other positive right she argued for was education. The rights that Kartini claimed were not based on any objective moral order, but on the fact that she was human. Inspired by the French revolution, she quoted its slogan—“Liberty, equality, fraternity!”—while asserting the equality of “all people, white or brown.”<sup>51</sup> At the same time, Kartini’s situation was characterized by what Jack Donnelly has called the possession paradox: she claimed to have certain rights without actually having them.<sup>52</sup> That is, she had them in a moral sense, but not in a legal sense. As the two rights Kartini argued for concerned issues that were primarily regulated within the context of different legal projects—marriage by *adat* and higher

<sup>49</sup> C. van Vollenhoven, *Het adatrecht van Nederlandsch-Indië*, vol. 1 (Leiden: Brill, 1906–1933), 571–589.

<sup>50</sup> Anthony Langlois, “Normative and Theoretical Foundations of Human Rights,” in *Human Rights: Politics and Practice*, ed. M. Goodhart (Oxford: Oxford University Press, 2013), 19.

<sup>51</sup> See: Kartini, *Door duisternis*, 18, 20; and Kartini, *Complete Writings*, 77, 78.

<sup>52</sup> Jack Donnelly, *Universal Human Rights in Theory and Practice* (Ithaca: Cornell University Press, 1989), 11–12.

education by European law—Kartini needed to rethink the different projects with which she engaged.

Just as she was regarding *adat*, Kartini was also critical of European law. She points to situations in both the colonies and Europe itself where European law did not bring justice, but quite the opposite. In 1902, she wrote to Abendanon-Mandri with a sense of irony that is often present in her letters when she castigates Europe:

Still, how can one expect more just laws for us if in the enlightened, civilized West women are put on a par with children and idiots?<sup>53</sup>

And about her own, colonial surroundings, she wrote in 1900 to Zeehandelaar:

The most minor European official has the right to sit on a chair, while native officials below the rank of regent of whatever age, origin, or expertise, are directed to sit on the floor when Europeans are present.<sup>54</sup>

What Kartini puts forward in these remarks is that the laws of the European legal project do not produce justice, and should therefore not be laws at all: *lex iniusta non est lex*. What can also be glimpsed from these two quotes is that Kartini was fighting for a double cause: for women worldwide, and specifically for women of color in the Indies. As indicated above, next to emphasizing the importance of love and empathy (as she did in the first quote from a letter to Abendanon-Mandri), she brings home the point that women, and Javanese women in particular, are endowed with autonomous wills that make them part of humanity. On May 20, 1901, she wrote to Zeehandelaar:

Seeing that in enlightened Europe, the center of civilization, the source of Light, the struggle for the right of women is still being fought so fiercely and furiously, can we expect that the Indies, which has been in deep slumber for centuries and which is still asleep, would accept, would permit, that women, who throughout the centuries have been looked upon as inferior beings and have been treated as such, see themselves as *humans* who have the *right* to an *independent conscience*?<sup>55</sup>

In a comparable passage to a German professor of politics from Jena, Gustav Anton, she adds to this “right” to an independent conscience the rights “to freedom of thought, feeling, and action.”<sup>56</sup> It is this combination of emphasizing an autonomous will and a deep, inner life that fit so well within European conceptions of humanity at the time, particularly in relation to rights.

## Novels and the History of Human Rights

In her book on the invention of human rights, Lynn Hunt discusses the relationship between empathy, autonomy, and human rights in the eighteenth century: “To have human rights, people had to be perceived as separate individuals who were capable of exercising independent moral judgment” and as “able to

<sup>53</sup> See: Kartini, *Brieven aan mevrouw*, 154; Kartini, *Complete Writings*, 344; and Kartini, *Door duisternis*, 187.

<sup>54</sup> See: Kartini, *Complete Writings*, 134; and Kartini, *Door duisternis*, 70.

<sup>55</sup> Kartini’s emphasis; see: Kartini, *Door duisternis*, 154; and Kartini, *Complete Writings*, 196.

<sup>56</sup> See: Kartini, *Door duisternis*, 160; and Kartini, *Complete Writings*, 204.

empathize with others.”<sup>57</sup> However, as Hunt points out and Kartini’s experience shows, not everybody was deemed to have such a moral autonomy. Hunt mentions children, slaves, servants, the propertyless, and women as seen as lacking the right qualities. Ideas of autonomy and empathy, Hunt writes, were not completely new in the eighteenth century, and her description of individual autonomy as hinging on the separation of human bodies and these bodies’ self-possession strongly resembles the definition of a self given by Greenblatt in his study of the English seventeenth century. Greenblatt’s notion of self-fashioning captures how the process of individuals becoming increasingly independent agents as described by Hunt was a process in which, in the shaping of one’s own self, this self was simultaneously molded by a specific form of power.

Hunt, moreover, points to the vital role played by novels in drawing in people to identify with other people, such as Samuel Richardson’s *Pamela: or, Virtue Rewarded* (1740) and Jean-Jacques Rousseau’s *Julie ou la nouvelle Héloïse* (1761), both made up of letters written by its characters: “Through the fictional exchange of letters... epistolary novels taught their readers nothing less than a new psychology and in the process laid the foundations for a new social and political order.”<sup>58</sup> Novels, indeed, played an important part in Kartini’s thinking about rights, and no novel did more so than the late-nineteenth-century Dutch feminist bestseller *Hilda van Suylenburg*.<sup>59</sup> Kartini writes in the first letter we have of hers, written to Zeehandelaar, that she has read *Hilda van Suylenburg* three times in a row, and that every time it got better. If only the Indies were more modern, she writes,

I would not rest before H.v.S. appeared in my language for the better of the Native world, if need be for the worse.<sup>60</sup>

In the novel, the main character is Lady Hilda van Suylenburg, who lives in late-nineteenth-century The Hague. Through her, we encounter a wide variety of women, rich and poor, feminist and conservative, of whom many are bored because they are not allowed to work; who face issues related to abusive husbands and loveless marriages from which they cannot escape; and who suffer from a mass of prejudices against women and their capacities. Unjust laws and unfulfilled rights are recurrent themes throughout the book, which in many scenes stages a clash between rights and the law. At the end of the novel, Hilda decides to go to law school. The novel was reprinted six times in five years with an eighth printing appearing in 1919. It was also the subject of at least eight brochures, mostly written by men. Once Kartini picked up this 455-page novel, she could not put it down: “I locked myself up in our room, forgot everything.”<sup>61</sup>

The novel’s classist bent—the working class women in it need upper class ladies such as Hilda to save them—may have appealed to Kartini, however, there is no direct textual indication in her letters of this. The novel’s racist tendencies probably were

<sup>57</sup> Hunt, *Inventing Human Rights*, 29.

<sup>58</sup> Ibid., 38–39. Samuel Richardson, *Pamela: or, Virtue Rewarded* (London: Messrs Rivington and Osborn 1740); and Jean-Jacques Rousseau, *Julie, ou la nouvelle Héloïse* (Amsterdam: Marc-Michel Rey, 1761).

<sup>59</sup> Cécile Goekoop-de Jong van Beek en Donk, *Hilda van Suylenburg* (Amsterdam: Scheltema, 1897).

<sup>60</sup> See: Kartini, *Door duisternis*, 10; and Kartini, *Complete Writings*, 72.

<sup>61</sup> See: Kartini, *Door duisternis*, 64; and Kartini, *Complete Writings*, 109.

less attractive to her. Although the book mainly deals with white, European women, several characters are described in Orientalist terms. None of these characters are racialized as Native or Indonesian, but several are described as mixed race. These mixed-race characters, like many characters in the novel, are tragic, complex figures. Through an analysis of the use of the word “wild,” it is possible to bring out both the racism in the novel and say something about Kartini’s possible reading of its Orientalism. Many characters in the novel, men and women, white and mixed race people, have their wild moments. The Oriental characters in the novel, however, are described as “wild” in a systematic manner, and their predicament is best described as one of adding insult to injury: racial disadvantage made worse by social circumstances. One major mixed-race character named Otilie van Heemeren, for instance, is described as being caught by a “wild desire” to have a child of her own, after which she “wildly” puts on her lap one of the children she is babysitting. The situation then quickly deteriorates, with the children shouting and crying and leaving Otilie moaning in despair and described by the narrator as someone “crying in the wild tempestuousness of her soul, surrendering to her suffering, just as unbridledly as she did to her amusements.”<sup>62</sup>

Kartini does not offer any critiques of *Hilda van Suylenburg*, in fact, she seems infatuated with it. But we do have some passages in which she reflects, unfavorably, on the idea of wildness. On January 9, 1901, she writes to Zeehandelaar about Professor Anton, who visited Kartini’s family, that he “thought of us as half wild, but instead found human beings.”<sup>63</sup> And in a conversation with a missionary, A. E. Adriani, who worked on Celebes, she writes that she highly appreciated his efforts to elevate the lives of those “fellow human beings” who the (and Kartini herself puts this in quotation marks) “civilized world” calls (again quotation marks) “savages” (in Dutch, “*wilden*”).<sup>64</sup> The quotation marks at least indicate her desire to distance herself from the discourse of savageness, but, within the context of Kartini’s other letters, can also be read as markers of irony. According to Hunt, “to be autonomous, a person has to be legitimately separate and protected in his or her separation; but to have rights go along with that bodily separation a person’s selfhood must be appreciated in some more emotional fashion. Human rights depend both on self-possession and on the recognition that all others are equally self-possessed.”<sup>65</sup> In her letters, Kartini presents herself as an empathetic person, with an autonomous and rich interior life. However, and this is crucial, displays of emotions were one thing, but, to be “ready” for rights, it was also necessary to be able to control your emotions. Feelings should never run amok, like in the case of the mixed-race characters in *Hilda van Suylenburg*. With this in mind, we can read Kartini’s critique of the idea of wildness as a critique of Orientalism, including what Leila Rupp has called the “feminist orientalism” in the international women’s movement of the late-nineteenth and early twentieth century.<sup>66</sup> It is this feminist orientalism that can be found in *Hilda van Suylenburg*. It implicitly excluded women of color from the right to have rights, to borrow from Hannah

<sup>62</sup> Van Beek en Donk, *Hilda van Suylenburg*, 217.

<sup>63</sup> See: Kartini, *Door duisternis*, 140; and Kartini, *Complete Writings*, 184.

<sup>64</sup> See: Kartini, *Door duisternis*, 149; and Kartini, *Complete Writings*, 191.

<sup>65</sup> Hunt, *Inventing Human Rights*, 29.

<sup>66</sup> Leila Rupp, *Worlds of Women: The Making of an International Women’s Movement* (Princeton: Princeton University Press, 1997).



Arendt, precisely because they were not in control of their emotions.<sup>67</sup> In Kartini's writing, we not only find a critique of European law's sexism and racism, but also, by implication, of the structural racism in the European feminist rights movement. Joseph Slaughter has pointed out how human rights discourse and the *bildungsroman* are "mutually enabling fictions: each projects an image of the human persona that ratifies the other's vision of the ideal relations between individual and society."<sup>68</sup> *Hilda van Suylenburg*, as a *bildungsroman*, was in Kartini's case as much a novel of "demarginalization" as of remarginalization.<sup>69</sup>

### Writing and Unwriting the European Legal Self

In *The End of Human Rights*, Costas Douzinas writes that, in modernity, "the law translates desire into rights and turns it into a cornerstone of the social bond. Desires are posited by individual wills, rights are their formal recognition and pre-conditions of humanity: the more rights an individual has, the more human he is."<sup>70</sup> In the modern, European legal imagination, the law, the legal subject, and rights presuppose each other. In her letters, Kartini endorses and appropriates European claims to particular rights that should be translated into laws protecting them. As rights and legal subjectivity presuppose each other, the humanizing power accorded to rights by Douzinas also works the other way around: displays of humanity have the power to produce rights, meaning that the more human you are, the more rights you are entitled to. Douzinas writes that "freedom of will ... is the underlying and permanent force that constitutes the subject ... in classical metaphysical terms the (moral, legal) subject is the substratum presupposed and constituted by free will ... Rights legalize individual will and materialize individual desire."<sup>71</sup> This means that, for Kartini, it was not only vital to fashion the feeling, empathetic self as indicated above, but also a self that was characterized by desires that could show she shared in "the being of being human," which, according to Douzinas, in the modern legal imagination "is present in the willing unrestrained and solitary legal subject."<sup>72</sup> If rights are capacities to fulfill desires, showing that one has strong but, following Greenblatt, also bounded desires can be an argument for attaining rights.

Fashioning a self to which European laws would apply, however, was not the only strategy pursued by Kartini, showing that imperial subjects did not only fashion selves in relation to European cultural and legal projects. Coté remarks that "several alternative plans to arrange and fund her study in the Netherlands" can also be found in the letters.<sup>73</sup> One of these plans, involving a radically different trajectory of self-fashioning, can productively be interpreted within a Javanese cultural context and read

<sup>67</sup> Hannah Arendt, *The Origins of Totalitarianism* (San Diego: Harcourt, 1994), 296.

<sup>68</sup> Joseph Slaughter, "Enabling Fictions and Novel Subjects: The *Bildungsroman* and International Human Rights Law," *PMLA* 121, 5 (2006): 1407.

<sup>69</sup> *Ibid.*, 1411.

<sup>70</sup> Costas Douzinas, *The End of Human Rights: Critical Legal Thought at the Turn of the Century* (Oxford: Hart, 2000), 241.

<sup>71</sup> *Ibid.*, 236.

<sup>72</sup> *Ibid.*, 240.

<sup>73</sup> Coté, "Introduction," 3.

as a critique of the project of legal self-fashioning. In a letter from October 12, 1902, Kartini writes about a number of encounters her mother had with a clairvoyant in Tegal, a town about 175 kilometers (100-plus miles) from Jepara as the crow flies. Kartini's mother told her, Kartini wrote, that this man said that if Kartini went to the Netherlands, she would get tuberculosis. For Kartini, this statement was "disappointing," especially because not only her mother but she, too, was of the opinion that "other pronouncements of his were strikingly accurate and his prediction worked out exactly."<sup>74</sup> Yet when she visited this man later, together with her mother, he said a number of remarkable things that were more to Kartini's liking, especially the following about Kartini and her sisters:

The eldest children are of one heart. Their thoughts and their will are the same. Each day they think of nothing but their skill. Very remarkable is the will of these two children, they want to become sages. Their thought does not stop. Day and night they think of nothing else than wanting to go to Holland, they just wait for the permission of their parents. Great, strong is the will of these two children. She has completely subjected herself to Allah [*Dia soedah pasrah sama Allah tak Allah*].<sup>75</sup>

The views of this clairvoyant, whom Kartini describes as pious and strictly religious, she quotes in Malay, the only time she uses another language than Dutch in all of her letters. The latter part, "*pasrah sama Allah tak Allah*," addresses the subjection of Kartini to Allah, and is literally repeated by the clairvoyant to Kartini's mother just after he has said that she listens too much to people and does not put enough trust in God: "Raden Ayu [Kartini's mother] makes things difficult for herself. *Pasrah sadja sama Allah tak Allah*."<sup>76</sup> A paradox seems to be present in these words: on the one hand, Kartini is said to have subjected herself to Allah, but, on the other hand, she is described as strong-willed. It is a paradox that can be explained if we interpret these remarks by the clairvoyant within Javanese ideas about the self that would be less familiar to the Dutch recipient of Kartini's letters.

In his book *Javanese Shadow Plays, Javanese Selves*, Ward Keeler offers one notion of selfhood he encountered during his field work in Central Java in the late 1970s. His description builds on earlier scholarly work on the idea of power in Java by Benedict Anderson: "In Java, the self is defined most crucially in two ways: as placed in the social hierarchy, and as in possession of a particular concentration of power."<sup>77</sup> Implied in this formulation is that selves, in this particular Javanese conception, are not static, but are "open to further construction in encounter" and constructed in social interaction, for instance, through speech.<sup>78</sup> In this particular constellation, the concentration of power (or potency) possessed by the self (or "potent self," as Keeler coins the term) is directly related to a person's political, sexual, and material clout and strength. This potency can be enhanced through practices of asceticism, of which examples are fasting, staying awake, sexual abstinence, or, to give the particular

<sup>74</sup> See: Kartini, *Brieven aan mevrouw*, 210; and Kartini, *Complete Writings*, 483.

<sup>75</sup> See: Kartini, *Brieven aan mevrouw*, 212; and Kartini, *Complete Writings*, 485.

<sup>76</sup> See: Kartini, *Brieven aan mevrouw*, 213; and Kartini, *Complete Writings*, 487.

<sup>77</sup> Keeler, *Javanese Shadow*, 19. See also Benedict Anderson, *Language and Power: Exploring Political Cultures in Indonesia* (Ithaca: Cornell University Press, 1990), 17–77.

<sup>78</sup> Keeler, *Javanese Shadow*, 37.

example of *ngebleng*, staying awake without eating for three days in the rice-storage area of one's house. Keeler describes these steps (in Java called *laku*) in terms of a paradox: one gives up aspects of oneself in order to gain personal rewards. Or, put even more succinctly, "One resists desire in order to see one's desires fulfilled."<sup>79</sup> Through having no identity left in the world and attaining a total self-abnegation before God, one becomes worthy of God's aid. Keeler concludes that "the potent self in Java is not really what Westerners mean by a 'self' at all," precisely because of this loss of identity: "This is the idea of Javanese 'selfhood,' a power that surpasses the vulnerability of the individual in a superior sense ... It is a self thought to have surpassed all constraints of identity, and thereby to have become strong."<sup>80</sup> Coté writes that passages like these showed Kartini's Dutch reader that she was making progress on the Javanese side of her quest. Yet they also show that Kartini was fashioning other relations than selves with rights to rights to reach her goals.

Douzinias contends that:

Modern law re-defined human beings as creatures of will and desire by making rights its building blocks. There can be no positive law without the humanist legal subject, the bearer of rights and duties; there can be no conception of rights without a positive set of laws and institutions that bring the subject into existence and endow it with the patrimony of rights.<sup>81</sup>

In Kartini's letters, we see several selves being fashioned and explored that will make it possible for her to travel to Europe. One is the strong-willed, emphatic self as theorized and historicized by Hunt and Douzinias in their analyses of modern European thought on individual rights. But another self is the paradoxical, Javanese selfless self that subjects (*pasrah*) itself to Allah to become all the more potent. These various ideas of selfhood have complex, interrelated positions in Kartini's letters. Kartini, namely, not only says she values the clairvoyant, as I indicated above, but also distances herself from him when addressing Abendanon-Mandri: "You may find it ridiculous, laughable and perhaps you expected that we were above that sort of nonsense. We would gladly have this 'nonsense' explained."<sup>82</sup> A passage like this one can be connected to another from July 1902, in which Kartini describes how she and her family one evening summoned spirits, during which session her sister Kartinah, who could neither read nor write Arabic, now was able to write a whole sentence in this language that was given to her by the spirit of her mother's deceased father. The most remarkable element of this passage is its framing. First of all, Kartini distances herself from what was no doubt a part of her daily life, namely, the belief in spirits, by saying that her enthusiasm about this summoning was not so much about ...

... calling up spirits but more because of the wonderful aspects of the belief. It reconciles us with so much that superficially seems to be unjust.<sup>83</sup>

<sup>79</sup> Ibid., 47.

<sup>80</sup> Ibid., 48.

<sup>81</sup> Costas Douzinias, "A Humanities of Resistance: Fragments for a Legal History of Humanity," in *Law and the Humanities: An Introduction*, ed. Austin Sarat, Matthew Anderson, and Chathrine Frank (Cambridge: Cambridge University Press, 2010), 49–72.

<sup>82</sup> See: Kartini, *Brieven aan mevrouw*, 211; and Kartini, *Complete Writings*, 483.

<sup>83</sup> See: Kartini, *Brieven aan mevrouw*, 184; and Kartini, *Complete Writings*, 404.

Here we see her adopting an outside, functionalist perspective on spirits, not an inside, religious perspective. Second, the only place in her letters where she addresses spirits is in this particular instance, and she does so by framing them as parts of spiritualism, a practice that, she writes, has been introduced to her by a Dutch couple named Henri and Nellie van Kol. In other words, she makes it look like spirits were brought to Java from Europe, where she reflects upon them as an interesting cultural practice, not part and parcel of Javanese life. The point for now is that Kartini can only present the clairvoyant's ideas on her Javanese selfless self, which may show some movement on the Javanese side toward getting her to Europe and, therefore, possibly an extra stimulus for her European reader to put in the effort, by simultaneously distancing herself from this self. Spirits and the subjection to Allah can only be described by her anthropologically, not religiously. On the one hand, the two selves fashioned in her writings work together to reach Kartini's goals; on the other, they are incompatible.<sup>84</sup>

### Rethinking Human Rights History

The history of human rights is not confined to Europe and the United States, but is not always written as such. In his *The Last Utopia*, Moyn argues that "anticolonialism was not a human rights movement."<sup>85</sup> Anticolonialism, he writes, was about the recognition of states and collective liberation, not about individual human rights. This argument is part of a larger argument Moyn is making against much scholarly work on human rights, which he deems ahistorical and teleological. According to Moyn, "human rights" is a specific discourse that emerged in the 1940s, only to fall on deaf ears at that moment, and which had its first breakthrough in the 1970s. What crucially distinguishes human rights discourse since the 1940s for Moyn is its transnational dimension, while pre-1940s rights talk, he holds, was always tied to the nation state, which was seen as the only legitimate framework for rights—and then not of humanity, but of the citizen. It is no doubt the case, as Moyn writes, that "there is no such thing as a necessary 'logic of rights' in which they would cascade beyond the intentions of their Western founders," but in Kartini's case we do encounter an appropriation of European rights discourse and a creative rewriting of it to fit and rethink colonial society.<sup>86</sup> Moreover, Kartini's letters give rights an international dimension—be it in a different sense than Moyn identifies in the case of human rights discourse since the 1970s, in which we see the idea of a subordination of the nation state to international law—by invoking the names of writers she sees as co-activists and co-writers in the common cause for (women's) rights, most notably Qasim Amin, Pandita Ramabai, and Cécile Goekoop-De Jong van Beek en Donk. Kartini, in other words, was strongly aware of the wider world of feminist internationalism and reflected this world in her writings. Finally and most crucially, just as in the post-1970s human rights movement Moyn addresses, the rights movement that Kartini felt she was part of argued for rights on the basis of the idea that people of color shared in

<sup>84</sup> See also the epilogue of Dipesh Chakrabarty, *Provincializing Europe: Postcolonial Thought and Historical Difference* (Princeton: Princeton University Press, 2000).

<sup>85</sup> Moyn, *Last Utopia*, 84–119.

<sup>86</sup> *Ibid.*, 86.

the quality of humanity. In fact, Kartini, like Sjahrir, was arguing for citizen rights on the basis of conceptions of individual, human rights.

Writing a history of rights that includes voices from people of color will provide insight into how they and other imperial subjects engaged with European rights talk, both positively and negatively, and which selves were fashioned in their writings in relation to it. In telling this story, however, it is crucial to partly move beyond the frames in which the European history of rights are narrated to be able to include Asian and African processes of legal (un)self-fashioning. Lately, both Hoffmann and Moyn seem to have nuanced their earlier accounts, the first writing that “we should bring the long nineteenth century back into human rights history, especially the histories of social and economic rights, women’s rights, humanitarianism, and international law” and the latter that “though I am generally unrepentant in thinking that anticolonialism is not plausibly represented as a human rights movement in its glory years . . . there is certainly cause to highlight its ethical claims.”<sup>87</sup> Remarks like these, much less sure about the irrelevance for human rights history of nineteenth and early twentieth century rights talk, especially from Asia and Africa, may indicate openings for a serious rereading of legal writings by people of color in Europe’s empires as equal conversation partners in the history of human rights.

---

<sup>87</sup> See: Stefan-Ludwig Hoffmann, “Human Rights and History,” *Past and Present*, 232 (2016): 282; and Samuel Moyn, “The End of Human Rights History,” *Past and Present*, 232 (2016): 12.

