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ON THE SOVEREIGNTY OF INDONESIAN STATES: A REJOINDER

As always I have read Professor Resink's recent essay on the Indonesian states¹ with great interest. Unfortunately, perhaps even more in this latest essay than in most of his other publications, the narrowly focussed jurist, painstakingly gathering precedent, gets in the way of the more widely oriented historian, alert to the total pattern of historic forces and careful to consider the context of each utterance and action. The essay under discussion also contains (pp. 331—332, note 56) a reply to an earlier criticism,² which I had already occasion to make of Resink's work, and so I may perhaps be permitted to cast this rejoinder in terms of a more comprehensive objection to the purport of Resink's latest paper.

There are three points in Professor Resink's essay which, I think, require consideration and to which this rejoinder is addressed. First there is an interpretation of certain statements made by Margadant, Colijn, Verbeek, and others, which leads to the assertion (p. 332, note 56) that these statements question the principle of Dutch sovereignty in the Indonesian archipelago, specifically in relation to the Indonesian states. Secondly, there is the analysis of how (what Resink calls) the "myth" of a three centuries long *présence Néerlandaise* in Indonesia came into being, a process reflected in the work of Stapel and — implicit in Resink's view — further aided and abetted by that historian and others who in the 1930's, under the threat of international developments and of "communistic and nationalistic movements" (p. 341), apparently came to have a different perspective of the Indonesian past and its future than the one prevailing earlier. And thirdly, there is Resink's explication of Verbeek's analysis of the wording of Indonesian texts and of Indonesian interpretations dealing with the relationship between the Dutch and the Indonesian states as

¹ G. J. Resink, "'Inlandsche Staten in den Oosterschen Archipel' (1873—1915)," *BKI*, vol. 116 (1960), pp. 313—349.

² J. M. van der Kroef, "On the Writing of Indonesian History," *Pacific Affairs*, vol. 31 (1958), pp. 352—371.

laid down in various contracts between them, an explication which culminates in Resink's emphasis on the "legal counterweight" (p. 331) which the Indonesian version of the treaties between Dutch and Indonesian potentates provided to the latter.

It is the burden of this rejoinder that (1) Resink's obscuration of the concepts of sovereignty and of "semi-sovereignty" (pp. 330, 343) has led — especially from the point of view of the law of nations (Resink's own favorite angle of vision) — to a distortion of the formal-legal, as well as the actual, relationships prevailing in Indonesia between Indonesian rulers and the Dutch, and more particularly to a distortion of the views of Margadant and Colijn, while Resink's consideration of the latter's memoranda of 1907 and 1909 on the state of affairs in the *Buitenbezittingen* totally disjoins Colijn's actual views on the public legal structure of the Dutch colonial establishment; (2) that the "myth" of a three centuries long Dutch domination of Indonesia is no mere product of a reaction to contemporary nationalistic or other political pressures, but is instead the result of a much older public consciousness in the Netherlands and of the natural dynamics inherent in the process of colonial government in nineteenth century Indonesia itself; and (3) that the attempt to justify as "legal counterweight" the Indonesian texts and possible Indonesian interpretations of contractual relations with the Dutch is vitiated by the reality of the contractual relationship in the indigenous feudal culture pattern, and by the actual views of these texts taken by Indonesian rulers, as testified to by competent contemporary authority.

I

In analyzing the concept of sovereignty in international law since Bodin one encounters a progressive acceptance of the relativity of its function. Attenuation of the principle has gone so far in recent decades that consideration of sovereignty as being merely a matter of degree has reached a point exemplified by Starke's assertion that 'Sovereignty' is therefore a term of art rather than a legal expression capable of precise definition,"³ a view which other authorities to various degrees seem to share.⁴ Despite these caveats there is, however, an

³ J. G. Starke, *An Introduction to International Law* (4th ed., London, 1958), p. 83.

⁴ E.g. in a popular American university text one meets the assertion: "Arguments about the location and divisibility of sovereignty are unproductive." Conley H. Dillon, Carl Leiden, and Paul D. Stewart, *Introduction to Political Science* (New York, Toronto, 1958), p. 38.

international legal aspect to the sovereignty problem, which in its colonial context is especially important. This aspect is, of course, the limitation of independence imposed on a state in the conduct of its foreign relations. The limitation of the international legal personality of states, which, according to one modern commentator, results in that they "cannot be considered as sovereign states," though still subjects of international law, is most apparent in the international legal figure of the protectorates, the distinguishing feature of which usually is that the protector state "becomes responsible for the conduct of the foreign affairs of the protected state," accepting international responsibility for it so that "third states are debarred from making their claims direct against the protectorate."⁵ No student of international law has failed to stress the significance and the great variety of provisions in treaties between protector states and their protectorates, nor ignored the spheres of authority that can still be left to the protectorates. But likewise, there is none who would see the protector-protectorate relationship as preserving the complete equality of the legal personality of both parties, or who does not consider that, precisely because the protectorate's independence in foreign relationship has come to an end, the protectorate's condition of sovereignty among other sovereign powers has either vanished or else has been relegated toward a different and subordinate order.⁶

Though theoretically a distinction may be drawn between suzerain-vassal state relationships and protector-protectorate relationships, in practice this distinction has little validity, because, as Ross has indicated, there is a tendency to make the powers of responsibility of the protector state in its relationship toward the protectorate as "unlimited" (the word is that of Ross) as are the powers of the suzerain state toward

⁵ Georg Schwarzenberger, *A Manual of International Law* (New York, 1951), pp. 32–33.

⁶ Like all generalizations this one has its exception or two. The textbook illustration, which may well be grist to Professor Resink's mill, is, of course, *Duff Development Co. Ltd. versus Government of Kelantan* (see Great Britain, House of Lords, 1924 Law Reports, A.C. 797) in which the British government declared that despite the British treaty with Kelantan of October 22, 1910, by which Kelantan was enjoined from entering into any foreign relations except with the United Kingdom, Kelantan as a sovereign state in the Malay peninsula could claim certain jurisdictional immunity in the territory of another state. It is still a point of argument whether this pronouncement represented a significant variation on the protectorate pattern or not, or was in total violation of the traditional pattern of protector's rights.

its vassal state.⁷ In the pattern of Dutch power over Indonesian states suzerain-vassal and protector-protectorate relationships often occur jointly in the same contractual agreement (e.g. in the treaty of 1731 between the Dutch East India Company and the "pongoulous" of Passeriboe on Sumatra's West Coast, and in the treaty of the same year between the Company and the ruler of Boelang and Mogondo).⁸ But whatever the wording of the relationship, the international legal personality of vassal state or protectorate, though by no means necessarily wholly gone, (especially in the view of older writers), has as a result of its contractually defined dependence relationship nevertheless been seriously impaired. In the opinion of recent students, such as Kelsen, even the acknowledged area of domestic autonomy still allowed the vassal (an area not always accurately designated with the term "sovereignty") or protectorate cannot constitute a claim to sovereign standing in international law:⁹

By a treaty concluded by two states, one of them may be placed under the so-called protectorate or 'suzerainty' of the other. By

⁷ Alf Ross, *A Textbook of International Law* (London, New York, Toronto, 1947), p. 262. The similarity between suzerainty-vassal and protector-protectorate relationships is also stressed by older authorities like Oppenheim, who termed both "a kind of international guardianship." See L. Oppenheim, *International Law, A treatise* (New York, London, Bombay, Calcutta, 1912, 2nd. ed.), vol. 1, pp. 141, 145.

⁸ F. W. Stapel, ed., "*Corpus Diplomaticum Neerlandico-Indicum (1726-1752)*," *BKI*, vol. 96 (1938), 99, 127, 129. For the chiefs of Passeriboe the restrictive foreign relations clause (appropriate especially, but not exclusively, to the protectorate condition) appears in the recognition that "the Honourable Company's friends will be our friends, and the Company's enemies will be our enemies," while the suzerainty principle follows from the recognition that the Radja-Baros will be recognized as king "under the higher authority of the Honorable Company." In the Boelang treaty the ruler accepts his territory as a fief from the Company, while at the same time restricting his foreign relations to the extent of barring from his territory all "Europeans, whether Spaniards, Portugese, French, English, Danes, Swedes, Ostende Company personnel" and also "Makassarese, Buginese, Mandarese... Javanese, Achinese," etc.

Compare also George G. Wilson, *Handbook of International Law* (St. Paul, Minn., 1927, 2nd. ed.), p. 30: "The degrees of international relationship vary so much, however, that it is not always possible to agree whether a given instance is of the nature of protectorate or of a suzerainty, and sometimes characteristics of both may clearly appear."

⁹ Hans Kelsen, *Principles of International Law* (New York, 1952), pp. 111-112. My italics. Wilson, *op. cit.*, p. 29 supports this view, and holds that "even though the protected state may have control of its internal affairs," its dependence as a protectorate may be such "as to deprive it of any standing as a person in international law."

this treaty one state is in certain respects, namely, in respect to foreign affairs, placed under the national law of the other, The foreign affairs of the two states are so centralized that the organ of one state has the power to handle also the foreign affairs of the other state, under the law of the former. *Hence the state placed under protectorate loses its quality as a state in the sense of international law* because it ceases to be subjected only to international law, being subjected to the national law of the state exercising the protectorate.... Some writers distinguish the external sovereignty referring to the relation of the state to other states, from the internal sovereignty referring to the relation of the state to its subjects. But the one cannot be separate from the other; and if a state is subjected to another state with respect to its international relations, it is not 'sovereign' even if its legislative, administrative, and judicial power is not restricted otherwise.

Throughout the contractual history of the Dutch in Indonesia runs the theme of limiting the Indonesian states in their foreign relations, and the monopolistic objectives of the East India Company, as well as the national-imperial motivations of a later age, find their expression in the restrictive foreign policy clauses of treaties, so highly important for a consideration of sovereignty in the frame of the law of nations. Thus in 1611 the "koninck" of Jacatra in his contract with Jaques l'Hermite (the latter acting "*uytten namen en vanwege d'heeren Staten-Generaal der Vereenigde Nederlanden en Sijn Princelijcke Excellentie Maurits van Nassau*") promises to bar all Portuguese and Spaniards from any trade in his land, while recognising that the Dutch Estates-General will "aid, protect and assist" him against all enemies.¹⁰ The Indonesian rulers, involved in the so-called *Bongaais Tractaat* of 1667, promise (article 23) "to keep their countries closed to all other nations" and in the event that powers other than the Dutch would seek to penetrate "to resist them with all their abilities and powers,"¹¹ True, nowhere in the *Bongaais Tractaat* is there explicit recognition of the East India's Company sovereignty, as such, but the protector-protectorate relationship as understood in international law not only emerges convincingly in the limitations here imposed on the foreign relations of the Indonesian signatories, but also in the recognition

¹⁰ Pieter van Dam, *Beschryvinge van de Oost Indische Compagnie, Tweede Boek, Deel III* (Ed. F. W. Stapel, Rijks Geschiedkundige Publicatie), (The Hague, 1939), pp. 460—464.

¹¹ J. E. Heeres, ed., "*Corpus Diplomaticum Neerlandico-Indicum* (1650—1675)," *BKI*, vol. 87 (1931), p. 378.

of the Company as their "schut- en schermheer" (i.e. lord protector), also to be seen in article 23. The restrictive foreign policy clause, hallmark of the protector-protectorate relationship, may then even appear in treaties where no explicit reference to Dutch suzerainty or protector's powers exists: in the 1747 treaty with Bandjarmassin, for example, the Sultan and the Company merely affirm (article 1) their "friendship and alliance" (*vriendt- en bondgenootschap*), yet again, as a direct result of the Company's pepper interests, the Sultan promises (to his own disadvantage) to bar "all European nations" who would wish to trade in his kingdom (article 6).¹² In the nineteenth century this whole pattern becomes of course even more explicit. Thus in the 1843 treaty with Lombok, the Indonesian ruler not only acknowledges his island to be the property of the Netherlands Indies government, but agrees also not to surrender the island in part or in whole, to any "white nation" or to conclude any treaty with such a nation.¹³ The Instruction for the Governor-General of June 5, 1855, no. 65, directs (article 44, sub 3) that a clause prohibiting relations with "European peoples" should be written into the agreements with Indonesian rulers, along with the recognition of Dutch sovereignty.¹⁴ The agreements concluded with Achehnese chiefs between 1874 to 1876 contain (article 6) the solemn promise that no political relations with "foreign powers shall be entered into" by the Indonesian signatories.¹⁵

The issue that emerges from all these and other treaties is not whether the protectorate or vassal state has any political powers of its own left, but rather the interpretation to be placed on these remaining powers. There is no uniformity, and individual treaty provisions must be considered in each case. Even so we cannot properly use concepts of sovereignty in connection with the remaining powers of a vassal state or protectorate, *unless* such usage is always placed in the context of the suzerain or protector's state overcapping sovereignty over its vassal state or protectorate.¹⁶ If we, like older writers such as Oppen-

¹² Stapel, ed., "*Corpus Diplomaticum Neerlandico-Indicum (1726—1752)*," op. cit., pp. 449—450.

¹³ W. Cool, *De Lombok Expeditie* (The Hague, 1896), p. 12, nt. 1.

¹⁴ J. Kiers, *De Bevelen des Konings. De Verhouding van Koning, Minister en Landvoogd Historisch Verklaard* (Utrecht, 1938), p. 212.

¹⁵ J. M. Somer, *De Korte Verklaring* (Diss., Breda, 1934), Bijlage II, p. 355.

¹⁶ The pithy definition of "suzerain", specifically in international law, as given by *Webster's New International Dictionary* (Unabridged, 2nd. edition, 1959), p. 2542 is not wholly inappropriate here: "A state that exercises political

heim, use concepts like "not full" sovereign, or "half" sovereign, or even "part sovereign," to designate the status of vassal, protectorate, or federal state, we must be aware, as Oppenheim was, that we are dealing with an "anomaly,"¹⁷ and are proceeding upon an assumption of the divisibility of sovereignty, an issue upon which there is no agreement, not even in the closing decades of the nineteenth, and the first decade or so of the present century, the era whose international legal concepts Resink invites us to consider. For no amount of concern for the vassal's or protectorate's remaining powers may obscure the overriding issue that, in the international legal sense, the sovereign personality of the vassal or protectorate has as a result of its contractual dependence on the suzerain or protector state undergone such a decisive change as to render its sovereignty and its international legal personality in the community of nations as either null and void, or as being of a decidedly inferior, and seriously limited, order. There is still another reason for this view, which, especially in the opinion of authorities in the period 1870—1915, would be applicable to the Indonesian states at that time. Oppenheim, the second edition of whose work, published in 1912, we have purposely used here, in order to stay as much as possible within the time frame work which Resink emphasizes, is quite succinct (vol. 1, p. 146, *italics mine*) on this point:

Outside Europa there are numerous States under the protectorate of European States but *all* of them are non-Christian States of such a civilization as would not admit them to full membership of the Family of Nations, apart from the protectorate under which they are now. And it may therefore be questioned whether they have any real position within the Family of Nations at all.

Whatever international legal personality or sovereignty an Indonesian state, whether a Dutch protectorate or vassal, may possess in

control over another state in *relation to which it is sovereign*." (My *italics*). As for "sovereign" (adj.) one finds, among others, the following definitions (p. 2406): "chief or highest; supreme; paramount... *independent of, and unlimited by any other; possessing or entitled to original and independent authority or jurisdiction; as a sovereign state (that is one exercising the usual powers of self government and of declaring peace and war without outside control).*" (My *italics*).

¹⁷ Cf. Oppenheim, *op. cit.*, vol. 1, p. 110. For modern writers the "anomaly" persists. Philip C. Jessup, *A Modern Law of Nations* (New York, 1948), p. 37 has remarked that "although the terms 'semi-independent state' and even 'sovereign dependency' have had currency" in fact "only fully independent groups were considered to be states" (My *italics*).

Resink's views, leading exponents of the international law "of those days" (p. 330 of Resink's article) appear to have serious doubts about the standing of such a state, for Oppenheim's views on non-Christian States are shared by luminaries like Heffter, Bluntschli, Westlake and others. An American authority such as Wilson, in his earlier cited *Handbook of International Law* of 1927, echoes this view also when he declares that (p. 25): "Asia has furnished numerous instances of political unities which have not been recognized by the 'family of nations' as states in the full sense of international law." The contemporary student may deplore the ethnocentrism and perhaps even the religious prejudice which speaks in this kind of international legal position toward "non-Christian" states, but if Resink bids us consider the international legal thought "of those days", we are entitled to point to the serious reservations which that thought had upon the international legal standing of states of the very nature as then generally found in Indonesia, "apart," even, from the protectorate condition under which they were.

The distinction between external and internal sovereignty of a vassal state with which Resink, analyzing Heffter's explication of this matter, seems to agree (p. 325), has also little value in practice.¹⁸ Such a distinction is, particularly for modern students like Kelsen (cf. again note 9 above), little more than a confusing fiction. The distinction is also vitiated, at least in the Indonesian sphere, by the insignificant value of a vassal's "extreme sovereignty", an insignificance which

¹⁸ According to Resink (p. 325 and note 34) Heffter refers to the "sovereignty" of the vassal which is in principle retained "internally" as well as "externally", insofar as they are not modified by the vassal's contract. But the very quotation from Heffter which Resink supplies upon closer inspection does not explicitly bear out Heffter's belief in the "sovereignty" of the vassal. Thus Heffter speaks of the "*Herrscherrechten des Vasallen*" a term best translated with "authority of the vassal", but not by "sovereignty". For Heffter, in the same passage cited by Resink, does indicate that he is familiar with the terms "*Souveränität*" and "*Souverän eines Landes*", but the passage is far from explicit in identifying these terms with either the vassal or (rather) his suzerain. If Heffter meant "sovereignty" in the case of the vassal he might have been expected to use the term "*Souveränität*" instead of the legally far from succinct "*Herrscherrechten*". If one regards this argument as contrived, it is necessary to point out that on p. 330 Resink himself uses a similar argument in asserting that in as much as the Dutch colonial government of around 1908 did not chose the term "semi-sovereign," although international law of "those days" was well familiar with it, the sovereignty of the Indonesian vassal states was thereby in fact recognized to exist! (For the dubious quality of the concept of "semi-sovereignty," and of Resink's argument in this connection, see also note 17 and below).

clearly mirrors the vassal's reduced status as an international legal personality. Grant, for a moment, the thesis that a vassal state preserves certain "external sovereignty" in relation to third powers as restricted by the treaty with its protector-suzerain. What did this amount to in the Indonesian archipelago? A few illustrations must suffice. Bandjermassin, by treaties in 1747 and 1817, bars first all European nations and then all other nations except the Dutch from its shores; Lombok, in 1843, promises not to have any treaties with white nations other than Dutch; Pontianak, in 1856, promises not to conclude any agreement with Western or Eastern powers whatsoever, except with the Dutch; the new model contracts with Timorese radjas drafted as of 1856 bar the latter from taking up any contact whatever with "foreign powers;" the treaties with Achehnese chiefs concluded between 1874—1876 prohibit them from any political relations with any "foreign powers." Can one seriously dignify the sphere of "external" contact still left after these treaty provisions — if any — with the term "sovereignty?" Even the Native ruler's right to "externalize," i.e. expel or exile, Indonesians in his own territory is progressively placed in bonds, and as of 1889 requires the foreknowledge and cooperation of the colonial government.¹⁹ I would agree that in some of the contracts concluded in the early days of the East India Company the area of external sovereignty still allotted the Indonesian state may still be considerable. Thus, the earlier mentioned treaty of 1611 between l'Hermite and Jacatra does probably not establish a clear protectorate relationship, yet even so the exclusion of Spaniards and Portuguese from Jacatra trade, as also provided by this treaty, is a major blow to Jacatra's sovereign position, considering the existing pattern of commercial power and rivalry then prevailing in Indonesian waters. It is for this reason also that treaties merely positing "friendship and alliance" between Dutch and Indonesian signatories draw their significance not from a presumed equality in sovereignty, suggested by the concept of alliance (*bondgenootschap*), which they allow both partners to have, but from the restrictive foreign policy clause, by which the Indonesian state bars some or all foreign nations from its shores, and which renders the "alliance" in fact into a suzerain-vassal relationship.²⁰

¹⁹ Cf. P. H. C. Jongmans, *De exorbitante Rechten van den Gouverneur-Generaal in de Praktijk* (Diss., Amsterdam, 1921), pp. 78—83, who well analyzes the confusions which ever firmer assertions of Dutch authority created in the dwindling area of Native self rule.

²⁰ Somer, *op. cit.*, pp. 22, 24.

Failure to keep all this in mind allows Resink to utilize certain pronouncements of Margadant and Colijn in such a way as to obscure the actual suzerain-vassal relationship into one which suggests a virtually co-equal sovereignty between Dutch and Indonesians. Yet, the very quotations from the works of Margadant and Colijn which he uses show that such "sovereignty" as they assigned to Indonesian states must always be seen in the context of a higher Dutch suzerainty. Thus the citations from Margadant appearing on p. 315 of Resink's article continuously refer to the "suzerainty" of the Queen of the Netherlands as opposed to the "sovereignty" of Indonesian chiefs and rulers, who are Her Majesty's "vassals." This phraseology does not mean that the Indonesian state has no autonomous authority ("sovereignty") left, it keeps this until the end of the Dutch colonial establishment; it is rather that the suzerainty of the Dutch Crown clearly supersedes the "sovereignty" of the Indonesian states: if it did not the concept of suzerainty would lose all meaning.²¹ But Resink repeatedly tends to utilize the domestic powers of the vassal to suggest an international equality in sovereignty with the Dutch suzerain, something which not only Margadant does not in fact do, but which is also wholly at variance with the concept of sovereignty as customarily employed in international law. Again he notes as did Margadant (pp. 315, 319), that the Dutch government may carry on a war against an Indonesian nation and this is made to appear as enhancing, or even as confirming, the independent standing of the latter in terms of sovereignty. The fact is, of course, that the suzerain making war against his vassal is a quite regular process, which does not in the slightest affect or go contrary to the subordinate relationship of vassal to suzerain embedded in their contractual relationship. The suzerain's sovereignty over the vassal can hardly be considered as having been altered by the mere fact that he feels compelled to discipline a recalcitrant vassal, unmindful of his subordinate position to his suzerain; nor can the vassal lay claim to equal sovereignty with his suzerain from the mere fact that his suzerain has gone to war against him. Such notions betray a complete lack of understanding of the principle and practice of suzerain-vassal relationship both in their actual setting and in international law.

²¹ Thus when Oppenheim, *op. cit.* vol. 1, p. 141 declares that suzerainty is by no means sovereignty, he does not do so to question the suzerain's ultimate supremacy, but in order to show that the vassal retains a "sovereign" sphere of powers.

In his concern to find pronouncements that might even remotely buttress his thesis, Resink has sometimes recourse to sources which provide him only with juridical absurdities. An illustration is Resink's citation (p. 327) of van Kol, who, with reference to colonial suzerain-vassal relationships, declares that "the vassal relationship (can) have all manner of different shades, from complete dependence to the complete freedom of the vassal." The internal contradiction of a concept of a "vassal" who at the same time has "complete freedom" apparently has escaped Resink, who instead believes that this view of van Kol's was "completely correct" and far ahead of its time, while Resink also asserts that (p. 327) "the development of legal historical knowledge would have been different if all jurists and historians after van Kol who wrote about the vassalage relationship would have taken this sentence to heart." I agree that van Kol's paradox, if taken to heart, would indeed have led to a different development of legal historical knowledge, but I am doubtful if that kind of development would necessarily have been desirable.

A more serious misinterpretation of Resink's is that which appears on pp. 327—329 of the article under discussion, and which deals with Colijn's memoranda in 1907 and 1909 on the Outer Possessions in Indonesia. Here we encounter the same approach which Resink applied to Margadant: the autonomous powers of the vassal state, dubbed sovereignty by Margadant and Colijn, are made to appear by Resink as having co-equal or virtually coequal standing with the suzerainty of the Netherlands Indies government, notwithstanding the fact that in the very citation of Colijn's used by Resink (p. 328), Colijn correctly and explicitly places the concept of the suzerain (*Opperheer*) in juxtaposition to the "recognized sovereignty" of the selfgoverning states. The dependency relationship of the vassal, especially from the point of view of international law, is in Colijn's phrasology sufficiently clear so as not to confuse the sovereignty of the suzerain with the remaining powers of the vassal, despite the usage of "sovereignty" for these powers. But Resink, again, appears to be anxious to bring the two spheres of sovereignty to a level of equality, and points out that (p. 328) "neither in the long contracts, nor in the short agreements (*Korte Verklaringen*) of those times is there mention of a transfer or loss of sovereignty to the suzerain or to the suzerainness, although, conversely, the recognition of it is also not in them". This kind of argument is only possible when the entire concept of suzerainty as laid down in the contracts of this period is ignored. Can it be seriously

argued that, when Achehnese chiefs for example, in the long contracts of the period 1876—1884 declared that their territory “belongs to the realm of Netherland India,” and that they recognize the King of the Netherlands and his representative the Governor-General of Netherlands India “as lawful Suzerain,” and when they promise to abide by all manner of regulations, from combatting the slave trade and piracy to accepting taxation and the right of the Dutch government to erect military emplacements in their territories,²² can it then be argued that there has been no loss of sovereignty on the part of the Achehnese chiefs? And if there has been such a loss, what possible purpose would have been served by mentioning it again in agreements already characterized by their “exhaustive” (as Logemann put it) enumeration of stipulations and restrictions,²³ and wholly operating within the sphere of suzerain-vassalage relationships with which the autochthonous Indonesian social world was thoroughly familiar? As for the *Korte Verklaringen* of whatever model in these first years of the present century the same principles apply: here too the recognition of the native state’s territory as part of Netherlands, that no contact may be made independently by the Indonesian ruler with foreign powers, etc. How much more complete can vassalage dependence and the suzerain’s sovereignty become, without completely destroying even the formality of suzerain-vassal relationships?

But in the case of Resink’s utilization of Colijn’s memoranda it is possible to be even further misled by Resink’s presentation. In my earlier critique of Resink’s work I had spoken of the “sovereign relations” of the Dutch with Indonesian rulers, admittedly ambiguous in practice though not in principle, and had said that one could deplore the confusion created by this practice but that “it is doubtful that we can question the principle of sovereignty itself which is what Resink seems to do.”²⁴ With reference to this last remark I made, Resink writes (p. 332, note 56), that now I know that not he, Resink, questioned the principle of sovereignty itself, but “Margadant and Minister Cremer and van Heutsz — the Indian government in 1908 — and Colijn and Verbeek have done that in and before their times without doubting.” Is Resink then seriously suggesting that Margadant and Colijn — to limit ourselves to these two for the nonce — questioned

²² Somer, *op. cit.*, pp. 357—359.

²³ J. H. A. Logemann, *College Aantekeningen over het Staatsrecht van Nederlands-Indië* (The Hague, Bandung, 1947), p. 119.

²⁴ Van de Kroef, *op. cit.*, p. 370.

the existence of the principle of Dutch sovereignty *over* the "sovereignty" of the Indonesian vassals? Has he then been so led astray by his own obscuration of the concept of sovereignty in suzerain-vassal relationships that he believes in the co-equality of the sovereignty of suzerain and vassal, although the very citations of Margadant and Colijn which he uses make the explicit acceptance by these authors of the suzerainty concept over the Indonesian vassal quite clear? Certainly in the case of Colijn Resink's citations give an incorrect, because incomplete, picture of what this statesman was thinking of Holland's position and role in Indonesia in the very years that the memoranda Resink cites appeared. Thus in 1908, sandwiched in between, so to speak, the appearance of his memoranda in 1907 and (partially Verbeek's) in 1909, Colijn published a ringing, flagwaving brochure, *Onze Politiek Tegenover De Buitenbezittingen*, in which he fulminated against "diseased ethical excesses" in colonial policy and frankly defended the benefits to the mother country of the colonial relationship.²⁵ So jingoistic is this tract, that a Cecil Rhodes or an Albert Beveridge would not have been able to improve on it, and throughout the author shows his conviction of the manifest destiny placed by history on Holland's shoulders to govern the Indonesian archipelago, a destiny the nation may not shirk. If there is any doubt about Colijn's fervent belief in the almost mystic paramountcy and sovereignty of the Dutch throughout the Indies then this brochure will quickly dispel that doubt. When one considers the citations from Colijn's memoranda of 1907 and 1909, found in Resink's article (pp. 327—329), regarding "regions which were regarded as independent" and which include "insignificant states on Flores and on a part of Sumba," or which speak of the limits imposed on Dutch suzerainty in interfering with the autonomous powers of native states by virtue of their contracts with the Dutch, it is well to bear in mind that Colijn is first of all concerned with the means of deepening Dutch imperial control over the Indonesian archipelago in these memoranda. To be sure, Colijn is aware of the suzerain-vassal and protectorate relationships and their development in the archipelago, and of the "insignificant states" once considered as independent, but what is the actual value that he places on the powers of native states, powers which presumably limit the range of interference by the suzerain in the vassal's or protectorate's domestic affairs? The answer may be

²⁵ Cf. B. J. Brouwer, *De Houding van Idenburg en Colijn tegenover de Indonésische Beweging* (Kampen, 1958), p. 62.

discerned, for example, in Colijn's attitude toward Snouck Hurgronje's proposal of November 12, 1898, which led to the formulation and introduction of the *Korte Verklaring*. Snouck at that time proposed that either the native states and territories be incorporated directly into Netherlands Indies' territory, along with the maintenance of indirect government, or else proposed introduction of the *Korte Verklaring*, allowing the native state a semblance of self government. The Dutch government chose the latter course, because it feared that the first of Snouck's solutions would in practice lead to the vanishing of "even the appearance of self government."²⁶ Colijn's *Nota Politiek Beleid en Bestuurszorg in de Buitenbezittingen*, vol. 1, p. 198, lauds this approach, and approves the *Korte Verklaring* on the grounds that thus the means had been discovered "not to proceed with the introduction of direct government and yet to create a situation which corresponds to it."²⁷ Real respect for the alleged independence and sovereignty of the Indonesian states can hardly be said to speak from this bit of reasoning. Colijn, then, fully shares his government's view to keep up the "appearance" of native self government and it is difficult to resist the conclusion that he looks on this native self government as little more than sham. And he does this in the very document used by Resink to buttress the thesis of then existing belief in the sovereignty of Indonesian states.

Again, and again, Resink seems to be concerned with placing the sovereignty of the suzerain toward the vassal state (or of the protector state toward the protectorate) on an equal plane with such powers as are left to vassal or protectorate under the stipulations of contract. This procedure repeatedly involves him in internally inconsistent conceptions (e.g. his approval of van Kol's "completely independent vassal") but also in descriptions of presumably unusual instances of recognition of vassal rights, where in fact such recognition is most natural, if one only understands the character of suzerain-vassal relationships in international law. So we encounter again, on p. 330 of Resink's article a quotation from one of Colijn's memoranda (this one written by Verbeek), describing the suzerain-vassal relationship prevailing in Indonesia, which, in terms customary in international law, provides for the suzerainty of the Netherlands Indies government ("and what naturally emanates from this"), along with the "sovereignty" of the native self government, restricted by treaty. Verbeek

²⁶ K. van der Maaten, *Snouck Hurgronje en de Atjeh Oorlog* (Rotterdam, 1948), vol. 1, p. 228.

²⁷ Cited *ibid.*, vol. 1, p. 291.

adds that the then existing colonial Indonesian government of 1908 (i.e. of van Heutsz, Resink notes with an exclamation mark — p. 330) agreed with this description. Resink, then, appears to find this remarkable. One wonders why. Verbeek's description and the power structure it refers to is as a construct of suzerain and vassal relationships (including the vassal's remaining authority, here, as in Margadant and Colijn, dubbed "sovereignty") equally applicable, for example, to the relationship between the Dutch East India Company and the ruler of Taroena in the Sanggir islands established in their treaty of 1748, as it is also applicable to the relationship between the Netherlands Indies government and the Sultan of Bandjermassin, established in the treaty of 1817, or as it is applicable to the relationship between the Netherlands Indies' government and Bima, established in the treaty of 1920. Indeed, Verbeek's description is without alteration applicable to the entire suzerain-vassal relationship pattern prevailing between the Netherlands-Indies government and the self governing native states at the outbreak of the Second World War. Why then should it be considered remarkable that van Heutsz, who like Colijn believed in preserving the "semblance" of self government of native states,²⁸ agreed to Verbeek's formulation? Again Resink regards it as significant (p. 330) that the Netherlands government refused to apply the term "semi-sovereignty" to its relationship with its Indonesian vassal states, a reluctance which then is used again by Resink to demonstrate how far the vassal's "sovereignty" really was understood to extend. One wonders why a specified formal suzerain-vassal relationship, detailed in a treaty, and generally embodying the clear intent of expressing Dutch suzerainty over the "sovereignty" of the Indonesian state,²⁹ should be obscured by the introduction of the term "semi-sovereignty," by no means very common and, moreover, by its very nature an expression of an "anomaly."

Nevertheless Resink has rendered real service in pointing to Colijn's conception of the Indonesian archipelago between 1907 and 1909 as consisting of a pattern of divers political relationships, including states in conditions of vassalage and protectorate. For the suzerain-vassal

²⁸ *Ibid.*, vol. 1, pp. 241, 291.

²⁹ It is the weakness in the application of the suzerainty principle in colonial administrative practice which, as I have said earlier (van der Kroef, *op. cit.*, pp. 368—370), creates lamentable ambiguities. E. B. Kielstra, *Indisch Nederland. Geschiedkundige Schetsen* (Haarlem, 1910), pp. 81—84 and *passim* gives some good examples.

and protector-protectorate relationships, with their ancient feudal overtones, are in fact, one of the foundations of Colijn's own later colonial philosophy of federalism. Well beyond the year 1913 — the year of publication of the second edition of the work *Neerlands Indië* edited by Colijn, in which Resink found additional indications of the "independence" of Indonesian states — Colijn carried his central concept of political and ethnic pluralism in the Indonesian archipelago forward. He did so, for example, in his famous *Schild en Pijl* article of 1917, in which he still speaks of "various nationalities" in Indonesia and in which, on the basis of local and regional development reflecting diverse institutions and experience, he plots the course for a "central Indian government," which would only have charge of the "general direction in the most important imperial affairs," while local and provincial government would carry the principal burdens of state.³⁰ The same theme is heard 11 years later in Colijn's *Koloniale Vraagstukken van Heden en Morgen*. It is then from this perspective that we should see the enumeration of vassalage and protectorate conditions in the Netherlands Indies in Colijn's memoranda, in which the "appearance" of native self government under vassalage conditions participates in the growth of a real provincial autonomy in a future federal structure, and the overcapping "autocratic" suzerainty of the Netherlands Indies government ultimately becomes confined merely to giving "general direction."

II

A substantial portion of Resink's article (pp. 336—349) is devoted to the exploration of the origins of a "myth", as Resink would have it, the "myth" being the concept of a three centuries long existence of Dutch contact with, if not domination over, Indonesia. This myth, according to Resink, is essentially the product of the period of the 1930's, when international developments (e.g. the threat posed by a rising Japan, Germany and Italy), the agitation of "Dutch socialists and neo-ethnicians in the colony" (p. 341), and other internal pressures ("from the direction of communistic and nationalistic movements"), accelerated among certain Dutch publicists not only a conviction in the centuries long historic continuity and legitimacy of Dutch control over the Indonesian archipelago ("without consideration of the question

³⁰ Cited from W. H. van Helsing, ed., *De Plaats van Nederlandsch-Indië in het Koninkrijk. Stemmen van Overzee* (Leyden, 1946), vol. 1, pp. 13—14. (Colijn's italics.)

if the Indonesian counterpart experienced this continuity also in this manner and was also convinced of this legitimacy"), but also led to assertions of the desirability of a future "*présence Néerlandaise*" in Indonesia for generations, if not for centuries.

But Resink's discovery of this "myth" is itself a myth. For the fundamental error in his argument is that he has not considered Dutch public consciousness, expressed also in policy and practice, of the special ties existing between Indonesia and the Netherlands, a consciousness older by at least a century than the conservative decade of the 1930's. This consciousness early translated itself in conduct, from an international legal point of view certainly significant: Raffles, ever malevolent to and anxious to undermine Dutch authority is a good witness here, when in a letter to Lord Minto in 1811 he speaks of the Dutch „claims to territorial right in the Eastern Isles, in which all the nations of Europe have so long and so blindly acquiesced,"³¹ claims, which, for Raffles of course, may not be substantiated. The bland assumption by the Dutch of undisputed sovereignty over Indonesia, especially in their relations toward "all the nations of Europe", strikes one again and again early in the nineteenth century. It is evident in the categorical formulation of *Indisch Staatsblad*, 1824, nos. 26, 28a, and 31a, and of 1825, no. 24, that all of Celebes is a Dutch possession;³² it can be heard in the peremptory warning (which dismayed Elout) of Jacob d'Arnaud van Boekholtz, „commissaris ter overname van het etablissement van Bandjermassin" in 1816, to John Farquhar, English resident of Malacca, "not to enter into any negotiations with any of the Chiefs of Borneo, as the whole of that immense territory had come under the Dutch supremacy;"³³ it speaks clearly from the work of Falck, who "certainly believed" during the negotiations of the treaty with England of 1824 "that Borneo was to be left to the Dutch,"³⁴ though diplomacy forbade its expression in the treaty in so many words; it can be discerned from a comparison of article 1 in the

³¹ Cited by Nicholas Terling, "British Policy in the Malay Peninsula and Archipelago 1824—1871," *Journal of the Malayan Branch of the Royal Asiatic Society*, vol. 30, part 3, no. 179 (1957), p. 127, note 575.

³² Somer *op. cit.*, p. 86.

³³ Graham Irwin, *Nineteenth Century Borneo. A Study in Diplomatic Rivalry* (Verhandelingen van het Koninklijk Instituut voor Taal-, Land- en Volkenkunde, deel XV, The Hague, 1955), p. 59.

³⁴ Nicholas Tarling, "The Relation Between British Policies and the Extent of Dutch Power in the Malay Archipelago, 1784—1871," *The Australian Journal of Politics and History*, vol. 4, (1958) p. 188.

Regeeringsreglement of 1815 and in that of 1818, the former referring merely to Dutch "possessions, fortresses, establishments and officials in Asia," the latter to "Netherlands India" and thereby to "closed country frontiers" and a "national barrier."³⁵ Daniel François van Alphen, son of the wellknown children's poet, and one of the earliest colonial *specialiteiten* in the nineteenth century Dutch parliament, merely utters a common sentiment when, while addressing his fellow deputies late in 1821, he speaks of "two centuries of glory, of peaceful and uninterrupted possession of domination in the great East," which provided "our government there" with an unrivaled splendor and "moral force."³⁶ And in view of Resink's concern for the "Indonesian counterpart" who may not have "experienced" the sense of historic Dutch continuity and legitimacy as Dutch writers of the 1930's express it, one might consider the following excerpt from van Alphen's speech:³⁷

... I may not be silent of the fact that during a fifteen year long stay there (in Indonesia-vdK), and being in the position of secretary of the government I was in the position to come to know and understand the respect which our authority(?) infused; to such a degree even, that rulers whose land was subjected to the enemy, and who were established by the enemy, did not regard themselves as lawful rulers if they were not recognized by our government; secret emissaries came to ask this of us...

Van Alphen spoke with particular reference to the effects of the English interim administration and admitted that Dutch "moral force" might have been seriously impaired in the archipelago, but he said also that "the name of Orange" had been "too deeply engraved in the hearts of the Indonesian rulers not to be always honored with religious respect." Van Alphen may have had his illusions, but it is not known to me if any of his contemporaries took him to task for fostering a "myth" of a *two* centuries long Dutch *présence* in Indonesia.

Resink's apparent unawareness of Dutch public consciousness of its *présence* in Indonesia, long before the present century, leads him not only to overlook the sense of Dutch historic continuity, but of the Indonesian sense of such continuity as well. On p. 344 Resink attacks

³⁵ D. J. P. Oranje, *Het Beleid der Commissie Generaal. De Uitwerking der Begeinselen van 1815 in het Regeeringsreglement van 1818* (Utrecht, 1936), pp. 201, 203.

³⁶ E. de Waal, *Nederlandsch Indië in de Staten-Generaal sedert de Grondwet van 1814* (The Hague, 1860), vol. 1, p. 68.

³⁷ *Ibid.*, p. 69.

Stapel's view that Speelman's importance lies in the fact that he, Speelman, in the *Bongaais Tractaat* of 1667 brought the South Celebes under the Dutch state, something which, according to Resink, Dutch contemporaries of the Southern Celebes "at the end of the previous and at the beginning of the present century" were "definitely" unaware of. Somewhat later Resink charges Stapel with a lack of "historic sensibility" for the "world beyond Java", and this it must be presumed, expressed itself in that poor regard on the part of Stapel and his contemporaries for the Indonesian view of the historic "continuity" of Dutch control in the archipelago.

Really? Before me lies a volume entitled *Celebes of Veldtocht der Nederlanders op het Eiland Celebes in de Jaren 1824 en 1825 onder aanvoering van Zijne Excellentie den Heere Luitenant-Generaal (Destijds Generaal Majoor) Baron J. J. van Geen*, published in Breda in 1840 by one J. C. van Rijneveld, "Phil. Nat. Doctor", Knight of the "Militaire Willemsorde" and captain of "mobile artillery". On page 67 of this volume, at the end of the complete text of the *Bongaais Tractaat*, one reads: "This treaty thus laid down — we may repeat it — *the foundation of the right of the Dutch government to the Moluccan and Celebes possessions*, while along with it a crown was placed on the persistent courage of our warriors and the policy that directed them." (my italics). Elsewhere this brave captain bewails the fact that "one has not as yet been able to gather those fruits from the *possession of Celebes*, which this most important area could be made to yield" (p. 33, my italics). On July, 1824 van der Capellen arrived in Makassar and in state received rulers or their designates from the principalities "belonging to the alliance" established by the *Bongaais Tractaat*. In the purple tones of Bilderdijkian Dutch van Rijneveld proceeds to describe how the aged rulers of Goa and Sedendring, "elated" over van der Capellen's sympathetic manner, "with moved hearts" (*met geroerde harten*) expressed to the "*Opperlandvoogd*" their deep desire to submit to the wishes of the Dutch government, "their burning desire", indeed, to prove their loyalty and devotion to the Dutch government, etc. (pp. 92—94).

Let us admit it: our "Phil. Nat. Doctor" may have been carried away by it all; Boni, Supa and Tanette made it quite clear what they thought of a revived treaty of alliance and learned to regret that thought. But one might ask: did van Rijneveld concoct the idea of a Dutch "possession" of the Celebes, or of the *Bongaais Tractaat* laying the foundation of that right of possession — not only to the "Southern" Celebes, as

Stapel initially and in all modesty indicated, but to the Moluccan *and* the Celebes "possessions" as well — in his own mind? Or does his view rather reveal the opinion of those "Dutch contemporaries" of his, the contemporaries who according to Professor Resink were so "definitely" unaware of what Speelman had wrought? And who, here, is lacking in a sense of historic "continuity" or historic "sensitivity"? Stapel, whose views seem to be but a continuation of nineteenth century opinion on the *Bongaais Tractaat*? The kings of Goa and Sedendring who come to pay their homage and loyalty to the successor of Speelman? Or is it perhaps Professor Resink?

Now discretely covered by sonorous phraseology or hidden by evasion as diplomatic exigency dictated, then again reasserted reluctantly, or with vigor,³⁸ now applied with lackadaisical apathy, then again rejuvenated by military campaigns — through it all the idea of Dutch sovereignty over the Indonesian archipelago is a persistent theme all during the nineteenth century and in the decades beyond, shored up, also in segments of Dutch public opinion by the conviction that "The Netherlands' claims to the sovereignty over the Indonesian territories seemed well established by the treaties concluded in former centuries between the Indonesian princes and the Dutch East India Company."³⁹ Whether we turn to a van den Bosch, a Baud, a Rochussen, a Pahud, or a Sloet van de Beele — they all known how to *reculer pour mieux sauter* in asserting these claims to sovereignty. Above all, whatever qualms may be felt at the *Plein*, colonial service *in situ* has the tendency to confirm this conviction and to justify the deepening of Dutch supremacy as but a further deployment of the idea long since embedded in Dutch public consciousness of "our" two, two-and-a-half, or three centuries long domination over the Indonesian islands. The able and gentle De Stuers, no friend to the Napoleonic techniques used by Michiels on Sumatra's West Coast, declared in a memorandum in

³⁸ The vigor always seems to revive in the degree that the pressure of third powers increases, and, therefore, the suzerainty principle from an international legal point of view becomes important. A good case is that of Colonial Minister Alting Mees urging governor-general van Lansberge to be more "forceful" in Deli where the Germans seek to open their consulates. Alting Mees thinks it would be "difficult" to maintain "toward a foreign power" that "Deli did not belong to our territory," because otherwise these foreign powers might begin dealing directly with Deli. Letter of April 12, 1877 in M. Boon, *J. W. Lansberge en de Praktijk van Art. 4 van de Geheime Instructie van 5 Juni 1855* (Utrecht, 1943), Bijlagen, p. 30.

³⁹ B. H. M. Vlekke, *Nusantara. A History of Indonesia* (Chicago, The Hague, Bandung, 1960, revised ed.), p. 317.

1843 (after, incidentally, having noted that "we have been at Padang for two centuries"⁴⁰ — both the "we" and the "two centuries" well convey again what I here want to stress), that "our expansion *in time* lies naturally in the very nature and in the spirit of our establishment in the Indies."⁴¹ De Stuers' view is like a summation of executive attitudes in the decades ahead. To be sure, the necessity, occasioned by developments in Indonesia itself, to exercise sovereignty in fact as well as in name, sometimes brings about a curious dichotomy of policy between The Hague and Buitenzorg in the middle decades of the nineteenth century: a Colonial Minister prescribes non-involvement — his governor general, meanwhile, follows an aggressive annexation policy.⁴² But the assertion of sovereignty and the implementation of such an assertion through broadened administrative control, new treaties and new military campaigns, lie in the very character of the Dutch *présence*. They are the product of the dynamics of nineteenth century colonial government itself, not merely the rationalizations of Dutch writers in the 1930's as Resink would have us believe. From an international legal point of view there is nothing unusual in this expansion, nor in the political consciousness that sustains it. The tendency of the protector state to make its sway over its protectorate "unlimited" lies in the nature of the protectorate condition itself as we have seen (cf. again note 7 above). As an international legal "anomaly" protectorates outside Europe are often "nothing else than the first step to annexation,"⁴³ either destined to reassert their independence completely or, more usually, to vanish as discernible international legal persons — as all but vanish they did in the course of Dutch dominion over Indonesia, retaining as a matter of deliberate policy only that mere "appearance" of self government which a philosophy of indirect rule deemed compatible⁴⁴ with the long nurtured, long alive idea of a Dutch supremacy, centuries old.

⁴⁰ H. J. J. L. Ridder De Stuers, *De Vestiging en Uitbreiding der Nederlanders ter Westkust van Sumatra* (Uitgegeven door P. J. Veth, Amsterdam, 1849), vol. I, p. LXIII.

⁴¹ The memorandum is cited in *Ibid.*, p. LXVIII.

⁴² Somer, *op. cit.*, pp. 115, 117. Compare also P. van Hulstijn, *Van Heutz en de Buitengewesten* (Diss., The Hague, 1926), p. 13, who notes that early in the 1840's for example, the Ministerial directive to follow a policy of non involvement was maintained "in name" only, while in fact "a principal change in course" had been embarked upon that would lead to increasing interference in the affairs of the native states.

⁴³ Oppenheim, *op. cit.*, vol. I, p. 147.

⁴⁴ The historic "continuity" of the principle of indirect rule is, around the year

On pp. 347—348 Resink predicts that the “myth of a centuries long Dutch domination over the archipelago” will disappear as a result of the work of “younger historians.” I do not share Resink’s belief. For one thing because Resink’s “myth” is not a myth. For another what “younger historians” have thus far exhibited is, except insofar as it has been inspired by Resink himself, hardly indicative of a significant new trend.⁴⁵ If we confine ourselves to Indonesian historians for a moment there is certainly little or no indication of what Resink predicts. After a survey of contemporary, including post-revolutionary, Indonesian historians and writers of history texts, one recent American observer has come to the conclusion that the view “that colonialism lasted for three or three and a half centuries is to be found again and again in contemporary Indonesian writings,” and one reason for this conclusion, apart from my view of its relative factual accuracy, is that the dominant ideology of nationalism seeks to prove in this way that Indonesia was a unity in centuries past.⁴⁶ There is, of course another reason for this Indonesian view which I would like to suggest:

1914, quite avowedly held to be applicable to the self governing areas. Wrote the Encyclopaedisch Bureau in its report for the Bureau of Administrative Affairs of the Outer Possessions in 1914: “In the exercise of government in the vast Outer Possessions careful attention has been paid to the fundamental principle of our government policy, which has been expressed in article 67 of the Government Regulation — namely, that sofar as circumstances permit, the Native population is left under the immediate leadership of its chiefs appointed or recognized by the Government, subjected to such higher supervision as has been or as will be decided by the Governor-General — and this has taken place not only in the area, which has been brought under our *direct* authority, but also there where the authority of Native *self governing* chiefs has been maintained, and where, therefore, the exercise of our administration must take place in an *indirect way*.” *De Buitenbezittingen 1904 tot 1914. Mededeelingen van het Bureau voor de Bestuurszaken der Buitenbezittingen bewerkt door het Encyclopaedisch Bureau*. Aflevering X, deel I (Semarang, Soerabaja, 1914), p. 4. (Italics in original).

⁴⁵ I name as an example of a Resink inspired, recent volume the work of L. W. Alders, *Internationale Rechtspraak tussen Indonesische Rijken en de V.O.C. tot 1700* (Nijmegen, s.l.) which manages to convince the reader that the East India Company, in the admitted interests of its trade, sought to mediate between and attempt to peaceably settle its disputes with Indonesian potentates, but that it did not necessarily do so because of high religious or moral principles, or even because of a wish to consistently apply international legal principles. The historical point of Alders’ focus has escaped me, unless it is to offer an antipode to the East India Company’s incontestable record of steadily advancing conquest and suzerainty in and subjugation of large sections of the Indonesian archipelago.

⁴⁶ Laura Woolsey Lord, *The Uses of History in Contemporary Indonesia* (Master of Arts Thesis, Southeast Asia Program, Cornell University, Ithaca, N.Y., February, 1959), pp. 8, 15.

nationalism at the moment needs the existence of a long colonialism as a *bête noire*, a sentiment which parallels that one once expressed to Du Perron by a young Indonesian intellectual: "Man soll uns den Herrgott lassen, zum fluchen und zum hassen."⁴⁷ Quite apart from the fact that the present ideological and intellectual climate in Indonesia does not lend itself to very much independent (from state censorship) and objective historiography of any kind (Sudjatmoko's noble call to his fellow publicists to foreswear a "national philosophy of history" as being incompatible with objective historiography notwithstanding)⁴⁸, the Indonesian nationalist belief in a centuries long Dutch domination of the archipelago is far closer to reality than Resink seems to think.

III

But when all is said and done the test of sovereignty is power, and as power fades vassals assert and reassert themselves, rationalizing their ambitions and forgetting fealty and obligation to suzerain — it was ever thus. The figure of the "impudent vassal" like the feudal system which nurtured him is historically intercultural: one finds them from Dordrecht and Dirk III to Madura and Trunajaya. Sometimes the impudence is encouraged by the fearful or calculating suzerain himself. An example of this is the relationship between the Dutch and the chiefs on Madura. This Madurese situation has long figured in Resink's arguments. In the essay under discussion he speaks again (p. 346, and note 92), of the fact how in the 1830's there was thought at the Dutch ministerial level — a thought quickly abandoned one might add — to inform the rulers of Madura that they and their descendants would be considered as "independent" rulers under the "immediate protection" of the Dutch government, and again of the "introduction of the vassalage pattern" in the 19th century in Soemenep and Pamekasan, showing supposedly the existence of a "law of nations sphere," along with the sphere of colonial public law on the island. But who is responsible for giving the Madurese chiefs their grand notions which Resink appears to magnify again into a condition of co-equal sovereignty? Why, the Dutch government herself, that's who. It is now almost 80 years since Massink has told us the tale: in

⁴⁷ Edgar Du Perron, *Indies Memorandum* (Amsterdam, 1946), p. 70.

⁴⁸ For this exhortation of Sudjatmoko's — who seems to have accepted some of the views of Resink — see his *An Approach to Indonesian History: Towards an Open Future* (Translation Series, Modern Indonesia Project, Cornell University, Ithaca, N.Y. 1960), p. 11.

1705 Soemenep and Pamekassan are given outright to the East India Company by Mataram, in 1743 the entire "eyland Madura met alle regt van opperheerschappij" is ceded to the Company, and the chiefs of Soemenep and Pamekassan had subsequently to abide by all manner of stipulations, including the obligation not to undertake any important matters with their subjects unless they first obtained permission of the cognizant Dutch official. "Introduction of the vassalage pattern" in the nineteenth century in Soemenep and Pamekassan? How would Resink term the situation prevailing anno 1750? An oath of fealty to the Dutch government is imposed on the chiefs of Soemenep and Pamekassan in 1804 and 1805, although no explicit mention is made in their contract that they are receiving or holding their territories as vassals. Steadily after their return to power in 1805, the Dutch embark on a policy of aggrandizing the rulers of Madura. The reason? In order "to bind them in this manner closely to Dutch authority" and so to assure the "assistance of the militant Madurese, also later a highly prized element of the Indies' army." Titles, decorations and other honorifics are thus showered upon the Madurese chiefs by the Dutch, so that, writes Massink, it "should not cause surprise" that all this caused the rulers in their own eyes and in the eyes of others "to occupy a seemingly higher position than they actually possessed." After the middle of the nineteenth century and the diminished need for Madurese auxiliaries new regulations forced the rulers and their territories again into a more overt subordinate position. But if there is any meaning in a "law of nations" sphere in Madura, as Resink again would have it, that meaning must include the preponderance in that sphere of the Dutch suzerain, who bestows titles and honors on the Madurese rulers for his own calculated reasons, and who withdraws them at his own pleasure: by 1877 Massink correctly sees them not as rulers "but as simply an anachronism."⁴⁹

The ups and downs of the Madurese rulers illustrate the vassalage pattern very well, and the process of self assertion of the subordinate, encouraged by the suzerain's premeditation or by the suzerain's laxity or military weakness. The pattern is not different in Djambi, for example, about which we have a lengthy memorandum written by Snouck Hurgronje. Snouck's views here lend some weight to Resink's contention that the Indonesian text of some contracts with the Dutch

⁴⁹ H. Massink, *Bijdrage tot de Kennis van het Vroeger en Tegenwoordig Bestuur op het Eiland Madoera* (Diss., Leiden; Arnhem, 1888), pp. 5-12.

used a terminology which deviated from the Dutch version (Resink's contention that the Indonesian text used "a totally different terminology" — p. 331 — must be dismissed as misleading), and that in view of the legal weight to be attached to the Indonesian version over the Dutch version in cases of dispute, the Indonesian rulers again, according to Resink might have felt justifiably strengthened in their "sovereignty" over against the sovereignty of the Dutch. In the first place it is well not to overemphasize the importance of the differences between Dutch and Indonesian versions of the treaties concluded between them; in the very example which Resink cites (p. 331) from Colijn's (Verbeek's) memorandum, Verbeek mentions that care was taken to change a previous Indonesian wording of the treaty in precisely such a way as *not* to convey the impression that the relationship between Dutch and Indonesian ruler was one between co-equal international legal personalities. In Snouck's memorandum, cited above, the difference in wording in article 23 of the treaty between Djambi and the Dutch, makes according to Snouck the Indonesian text stronger, to be sure, but it hardly can be said to be "a totally different terminology" compared to the one of the Dutch text. Thus the Dutch text speaks of the fact that "the Government will not concern itself with the internal affairs of the state," the Indonesian version expresses the same thought by saying that the Government „will not meddle in affairs regarding the administration of Djambi and tributaries.”⁵⁰

⁵⁰ Extract uit de Nota van Dr. C. Snouck Hurgonje over Djambische zaken, dd. 26 Januari, 1900 in K. van der Maaten, *op. cit.*, vol. 1, p. 243. In his article Resink cites (p. 331) an instance given by Verbeek, involving changing terminology for the vassal relationship in the Indonesian text of a treaty. In one version the word "pindjeman" was first used, which was changed to "keradjaan diserahkan kepada," because the native ruler objected to "pindjeman" on the grounds that it was too "rough." But "keradjaan diserahkan kepada" was abandoned because it could erroneously suggest a relationship between two, internationally legal co-equal personalities. In the end "keradjaan dikoerniakan" was used to designate the ruler's relationship to the government, "a more correct concept" according to Verbeek, since it reflects the element of the bestowal of a favor according to Indonesian belief. It seems useful to examine this terminology in detail. The term "pindjeman," for example, literally means "loan," in the sense of lending or borrowing. As such it corresponds to the Dutch verb *lenen*, to borrow, or to have something *ter leen*, i.e. borrowed. The obvious Dutch errors that suggests itself in this connection is that the Dutch word *leen* in the sense of feudal fief, came to be translated by the Indonesian word for borrowing, so that a "loan" and a "fief", both being *leen* in Dutch, came to be confused. "Pindjeman" for fief then is not only *kasar*, ("rough") it is also factually incorrect to describe the relationship.

The difference between the two versions strikes one hardly as significant and in both versions of the treaty the Dutch are acknowledged as suzerain.

But the real flaw in Resink's argument here is that he appears to have so little regard for the attitude of Indonesian rulers toward contracts of any kind. One can deplore the confusion in the wording of the Indonesian version as compared to the Dutch version of a treaty — noting also that the Dutch take care to eliminate confused wording so as to bring the subordinate position of the Indonesian vassal continuously clearer into focus — but the point to emphasize, and the point which Snouck Hurgronje makes, is that no matter how extensive or clear the wording of the contract might have been the Indonesian ruler was largely, if not exclusively, concerned with the question of how well Dutch power was in practice exerted over him. Wrote Snouck:⁵¹

One often imagines that such contracts acquire a higher value through the *detailed* and *exact* description of the requirements in them which one exacts from the Native self government. *The contrary is true.* In the making of these contracts it is only a few articles which draw the attention of the Native rulers (*zelfbestuurders*), namely those articles which determine their income, or by which the income of their territory is regulated. For the rest a contract is to them only the form by which they declare their subordination to the government; they know very

As for the term "keradjaan diserahkan kepada" (litt. "a monarchy given over to" or "entrusted to" someone), it carries within it a concept of transfer of responsibility, more specifically in a feudal context, an investiture. It cannot be separated from a power potential which the entrustor possesses as regards his entrustee, a basis for vassalage which by the very act of entrusting does not suggest sovereign equality in law. The term "keradjaan dikoerniakan," finally (litt. "a monarchy granted as favor" to someone) does not only reflect the vassal situation (more particularly a feudal appanage) in Indonesian belief, as Verbeek would have it, but is in fact a formulation as old as the days of the Dutch East India Company, if not older. For example, in the *acte obligatoir* of Pakoeboewono III who ascended the throne of Mataram in 1749, we read that this Indonesian ruler did not do so "uyt kragt van eenige vermaking, erfenisse of geboorte; maar . . . alleen uyt enkele gunst en genegenheit" ("by virtue of any bequest, inheritance or birth, but . . . solely because of the favor and sympathy") of the East Company. J. K. J. de Jonge, *De Opkomst van het Nederlandsch Gezag in Oost Indië* (The Hague, 1862–78), vol. 10, p. 160. Considered in context of feudal relationship the difference between "*keradjaan diserahkan*" and "*keradjaan dikoerniakan*" strikes me as hardly that significant, certainly not significant enough, as Resink, and before him Verbeek apparently believed, to deduce a sovereign co-equality in the international legal sense from the former term.

⁵¹ Van der Maaten, *op. cit.*, pp. 243–244. My italics.

well that the degree of that subordination *never depends* on the contents of the articles, but does depend on the manner in which the government is able to make its will respected. Both when they realize that they will have to bow to that will — as was for example, the case with the conclusion of the latest contracts with the chiefs of the Achehnese lands — or when they expect that their subordination will only have to be a seeming one — as was the case in the conclusion of the Djambi treaty with a would-be Native ruler — *in both cases they are little concerned with the letter of the treaty.*

Indeed, Snouck went on, the Native ruler profits from the ignorance of the Dutch suzerain, in order to cultivate in the latter "incorrect conceptions" about the state of affairs in the Native self government, and counting on the suzerain's misinformation or, as often, on his laxity, turns the vassal relationship into a farce. "Along with the under-estimation to which our (i.e. the Dutch) passive attitude exposes us, there is added in this way also Native ridicule of our gullibility and ignorance."⁵²

Should the Indonesian vassal's view of the ambiguities in his Dutch suzerain's practices then "be wholly left out of consideration?", Resink asks (pp. 331—332, note 56)? Certainly it should not, but one must beware of seeing the vassal's conduct as wholly or even as largely inspired by the niceties or formal legal interpretations of what is, and of what is not written in the vassal's contract with his Dutch suzerain. I do not believe that it is mere cynicism to suggest that what the "Indonesian counterpart" (p. 331) experiences is not concern for the "legal counterweight" (p. 331) of a treaty so much as a sense of challenge to lead the suzerain up the garden path, regardless of what or how explicit the contractual provisions between himself and the suzerain may be. In this respect the vassal would be following a well established tradition, certainly in Java, where vassals make it a habit of asserting their independence against the suzerain all through early history.⁵³

To see all this again with Resink as being in the neighborhood of contract between co-equal international legal personalities is a somewhat less than realistic view of what the vassalage pattern historically has been, in Indonesia as elsewhere. The vassal relationship "with all

⁵² *Ibid.*, p. 244.

⁵³ B. Schrieke, *Indonesian Sociological Studies. Part One* (The Hague, Bandung 1955), pp. 171, 173, and *ibid.*, *Part Two* (The Hague, Bandung, 1957), pp. 217—218.

its thought associations" is not that unknown a quantity in the Indonesian social and cultural experience; far from it, the very concept of the Native ruler (*zelfbestuurder*), from one end of the country to the other, reflects the historically "continuous" and intercultural pattern of appanage, patrimony, socage, and all manner of feudal obligation and tenure, that are of the very and most ancient texture of civilization in the archipelago.

IV

One cannot but share what is clearly Resink's intent: to correct a "Europe-centric" or even "Dutchified" vision of the pattern of political and cultural relationships in the Indonesian archipelago, and to let the voices of Indonesians speak more clearly in the historic dialogue between East and West. But the difficulty in Resink's methodology is that in attempting to bring out the Indonesian role more fully he has recourse to the same Europe-centric view which, in a sense, he is anxious to avoid, namely the view of the law of nations of nineteenth and early twentieth century Dutch and other jurists, statesmen and publicists. This juridical approach to the problem which Resink has set himself is difficult to admire, because it is — I would almost say "by definition" — the least likely to produce results of any solidity. The game of finding loopholes, contradictions or obscurities in Dutch colonial constitutional regulations, contracts and public laws is about the easiest and most unending one there is. Regulations drawn up by jurists always afford other jurists inexhaustable material for comment and criticism. Nowhere is this more true than in the area of colonial sovereignty and public law. A former chairman of the *Volksraad* once put the problem well, when, in an analysis of the constitutional structure of the Dutch realm, he wrote:⁵⁴

We do not want to enter into that kind of argument, nor examine what exactly can have been meant by "supreme administration" (*Oppebestuur*), side by side with the term "general administration" (*algemeen bestuur*), nor yet again with other problems which emanate from unclear wording in or alleged contradictions between the Constitution and the Indian colonial regulation (*staatsregeling*). Many a point of contention has unleashed such an extensive controversy that each point, in and of itself, could serve very well as the subject of a dissertation pointing the way in the labyrinth of opinions. There are astute jurists in abundance!

⁵⁴ W. H. van Helsdingen, "De Structuur van het Koninkrijk," p. 46 in W. H. van Helsdingen and H. Hoogenberk, eds., *Hecht Verbonden in Lief en Leed* (Amsterdam, Brussel, 1946).

The path of sovereignty which Resink has attempted to travel in his most recent essay is especially slippery, and the utilization of concepts such as "semi-sovereignty" or "internal sovereignty" in the suzerain-vassal and protectorate relationships is well suited to the "labyrinth of opinions" where one finds a plethora of astute jurists all along the way. Even today contemporary authorities such as Lauterpacht are not certain about the international legal status — if any — of the former protectorates in Asia once under European control.⁵⁵ Side by side one finds recognition of a limited, or "internal" sovereignty of such states, along with categorical assertions that the protectorates or vassal states "cannot be full, perfect and normal subjects of International Law," that "The protecting state is internationally the superior of the protected state," and that in the strict sense of the word the word "sovereignty" should *only* apply to states "supreme in authority," that is those which possess "independence all around, within and without the borders of the country."⁵⁶ International legal opinion itself invites consideration of the actual power relationship specified in particular treaties between protector and protectorate, i.e. of the actual and historically verifiable field of authority left and of the scope of public consciousness that sustains the interpretation of that authority. Most anything else quickly becomes an exercise in legal scholasticism.

Therefore, a more fruitful approach, it seems to me (and one upon which Resink himself from time to time has touched) is to determine the actual Indonesian record; the view taken of the power relationship itself; or the rationalizations of vassal "impudence" found in verifiable and contemporary Indonesian opinion. Then it may well come to pass that Resink's arguments can be buttressed far more convincingly than they are now. We have the Dutch record pretty well. One must hope that its Indonesian counterpart, shorn of the dubious legalisms with which Resink presently has sought to provide it, will more fully emerge before too long.

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⁵⁵ L. Oppenheim (H. Lauterpacht, ed.), *International Law* (8th edition, London, New York, Toronto, 1955), vol. 1, pp. 195—196.

⁵⁶ *Ibid.*, pp. 118—119, 189—192.