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Judicial processes and legal authority in pre-colonial Bali

The documentation and codification of the indigenous Balinese legal system were major concerns of the Netherlands Indies government during the initial stages of colonial administration in Bali in the late nineteenth and early twentieth centuries. Balinese pre-colonial judicial practices, so assiduously documented in this period, encapsulated the centuries-long development of a legal system strongly imbued with influence from Sanskrit legal traditions that Bali had shared with pre-Islamic Java until the early fifteenth century. With the advent of Islam, earlier Indic-influenced legal traditions in Java were integrated with Islamic elements, lost their force, and gradually disappeared. In Bali, on the other hand, this Indic-influenced legal system, underpinned by an extensive corpus of legal texts written predominantly in Old Javanese, remained in use and, importantly, continued to develop until the late nineteenth century.¹

From the 1850s onwards the advent of direct Dutch rule, initially in North Bali, transformed Balinese legal understandings and judicial practices, and rendered indigenous knowledge irrelevant, even obsolete. Nevertheless, when considered together with nineteenth-century ethnographic accounts, textual evidence drawn from the legal codes provides significant insights into indigenous legal practices in pre-colonial Bali. This hitherto untapped textual evidence is the focus of the present study.

The relatively late incorporation of Bali into the colonial state meant that the encounter between the Balinese and Western legal systems coincided with

¹ I have recently described these textual and legal traditions in detail elsewhere. Multiple readings were the norm and it is more accurate to speak of broader legal 'traditions' encapsulated in a variety of interrelated texts rather than of particular individual law codes. See Creese 2008, 2009.

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the introduction of the Ethical Policy, whose principles had a strong impact on the codification of traditional, customary law (*adat*) throughout the archipelago. Moreover, the ethnographic turn to the study of Bali meant that the first-hand experiences and observations of colonial officials in the field took priority over earlier, more Indologically-focused textual concerns. At the end of this process of codification, documented in the *Adatrechtbundels* (1910-55) and *Pandecten van het adatrecht* (1914-36), and epitomized by V.E. Korn's major study, *Het adatrecht van Bali* (1932), Dutch colonial officials had acquired a detailed knowledge of local legal precedents and practices for colonial administrative use, which then wrought far-reaching changes in concepts of law and judicial processes. Colonial legal policy recognized as Balinese 'law' both the Old Javanese legal codes, and village-level *adat* regulations, which in the Balinese case were often written rather than oral traditions. The Old Javanese legal codes, which were classified as 'Hindu' and associated with the ruling elites, were strongly influenced by Sanskrit traditions but, over a period of many centuries, had been thoroughly adapted to the local context. Nevertheless, rather than the 'state'-based legal system of the royal courts epitomized in the Old Javanese legal codes, local *adat* law came to dominate colonial administrative practice and legal reform.

The transformation of Balinese law to fit the colonial context arose from a profound shift in Dutch perceptions of the Balinese as custodians of a great Hindu civilization to be nurtured, protected and celebrated, to that of an oppressed populace ruled by arbitrary Oriental despots in need of enlightened Dutch intervention. By the early twentieth century, the dominant view, spearheaded by the work of F.A. Liefrinck (1890, 1915, 1917, 1921), was that 'authentic' Bali was located at the village level.² Colonial officials promoted the model of the 'village republic' as the locus of the Balinese social system in which autonomous local-level jurisdiction was made possible by a weak and ineffective central government whose legal instruments were merely overlaid on ancient indigenous law. From this viewpoint emanated a perceived need to distinguish between ancient indigenous village institutions and subsequently imposed royal institutions and to return Balinese indigenous administration to its authentic roots (Liefrinck 1890:147-8; Holleman 1981:51-3, 147).

The Dutch recognized in Bali a legal system that was relatively well-developed, at least in comparison with most other areas of the archipelago.

² Strong Dutch interest in the minutiae of indigenous legal practices coupled with Orientalist colonial attitudes to Balinese law and governance resulted in the reification of judicial structures that traditionally were more loosely based and later, in the twentieth century, there was some shift back to the indigenous power structures that had been removed. By that time, after Dutch rule and administration had spread over all of Bali, colonial officials came to have a far more nuanced understanding of *adat* law, especially through the minutely detailed work of Korn (1932:348-436). Consideration of these later developments, however, is beyond the scope of the present study.

They regarded as ancestral *adat* the village regulations (*awig-awig*) and those of *subak* irrigation societies (*sima*) preserved in village archives, but rejected as irrelevant the written legal codes of the ruling elites, inscribed in Kawi, the language of religion and scholarship, and accessible to only a few, and to which most Dutch administrators had limited access. In purely textual terms, however, the formulation of the regulations in the Old Javanese or village law codes showed few differences (Liefcrinck 1890; Korn 1984:354-60; Warren 1993:11-4; Stuart-Fox 2002:23-35). Instead, the matters with which particular kinds of texts were concerned reflected the separate jurisdictions to which specific categories of dispute belonged. On the one hand, the legal matters related to the Sanskrit-derived 18 grounds for litigation, the *astadasawiyawahara*, were detailed in the Indic-influenced law codes (Creese 2009), and on the other hand, local issues relating to agriculture and village administration were set out in the written (or in some cases oral) village regulations. At both state and village levels, law and religion were integrated. Written village regulations were preserved as sacred writings of divine origin and kept in the village temple or *subak* shrine. Just as in proceedings before the *kerta*, their use was attended by ritual and by supernatural consequences such as the invocation of curses should they fail to be observed (Holleman 1981:217).

Dutch intervention in Bali inevitably wrought changes in indigenous practices as local institutions encountered zealous colonial reform of what were perceived to be arbitrary decision-making practices and punishments; there were concerted efforts to replace these with Western concepts of evidence, documentation and justice. Prime targets were the authority of the legal codes, the jurisdiction of the *kerta* or council of priests and judges with the ruler as ultimate arbiter, and the intervention of divine forces in the determination of guilt or innocence. At the same time, in spite of the well-intentioned colonial agenda to preserve *adat*, the differences between judicial practice in Bali and that of Western Europe were so vast that a fundamental reshaping of indigenous law became inevitable. The Hindu law codes were closely associated with the priests, the *brahmana*, who were themselves held to be catalysts (along with the rulers) of the suppression of authentic and democratic Balinese village society. Equally problematic for colonial administrators was the close intertwining of law and religion. A central element in Balinese justice was its religious context, whereby conduct was prohibited because it was likely to provoke the wrath of the gods and spirits, but was punished by humans as well (Sonius 1981:xlili). The threat of divine retribution was a far more effective means of social control than human sanctions and was embodied in the curse formulas attested in Java and Bali from the time of the earliest inscriptions.

Dominant colonial agendas from the second half of the nineteenth century onwards, coupled with the impact of the introduction of colonial administra-

tion, created enduring misunderstandings about the authority of Balinese legal texts, misrepresented the relationship between Hindu and *adat* law, and led to the obscuration of pre-colonial judicial practices and legal procedures in colonial scholarship. The crux of the problem is that rather than seeing *adat* and state law as complementary, colonial officials in the late nineteenth century saw them as fundamentally opposed, resulting in the marginalization of 'Hindu' law in colonial discourse and the adaptation of indigenous legal practices to the colonial system. Much of this process was played out in the twentieth century.³ Here, I will focus on the late nineteenth century, when the kingdoms of South Bali were still free of colonial domination and before the encounter between indigenous and Western legal systems had created an impact that irrevocably altered indigenous systems of knowledge.

I begin by reviewing a number of nineteenth-century European accounts of the Balinese legal system at work and then contrast those reports with information preserved in Balinese manuscript traditions, in particular with the extra-textual information provided by colophons and commemorative notes or memoranda (*pangeling-eling*). The study of textual evidence from indigenous sources indicates that both '*adat*' and '*state*' law, which covered distinct areas of legal jurisdiction, were central to judicial practices in Bali.

Nineteenth-century Balinese judicial practices

Over the course of the nineteenth century, Western perceptions of Balinese legal practices evolved to reflect the shifting colonial and Orientalist views of the nature of Balinese culture and society. The earliest Western accounts date from the British interregnum of 1811-1816 and are therefore British rather than Dutch. The first of these descriptions is found in the 'Account of Bali', which appeared as an appendix in Thomas Stamford Raffles's *The history of Java* (1817:ccxxxi-ccxl, Appendix K). Raffles was an enthusiastic proponent of Javanese and Balinese Hindu civilization. He declared Bali to be 'a kind of commentary on the ancient condition of the natives of Java' (Raffles 1817:ccxxv), whereas Javanese culture itself he considered to have descended into degeneracy and corruption under the influence of Islam. Even Raffles's relatively benign view of Bali's high civilization was tempered by the perception of the village as the foundation of Balinese society and the need to emancipate ordinary Balinese from the corrupting influences of their despotic Hindu rulers (Vickers 1989:21-4).

³ There is an extensive literature on Balinese law during the late colonial period. Korn's study (1932), *Het adatrecht van Bali*, provides an exhaustive treatment. The scope of the present study precludes consideration of these later developments here.

Raffles (1817:ccxxxix) visited Bali only briefly in 1815, a period he acknowledged as 'too short to obtain very detailed information', and for much of his account relied on details 'obligingly communicated' by his colleague, the Resident of Yogyakarta, John Crawfurd. Crawfurd's own account of Bali (1820), based on his brief sojourn in Buleleng, North Bali, a year earlier than Raffles, in 1814, appeared soon after.

Commenting on the Balinese legal system, Raffles (1817:ccxxxvi-vii) notes that:

the administration of justice is generally conducted by a court composed of one Jaksa and two assistants: in addition to whom in the determination of any cause of importance, several Bramanas are called in. Their decisions are guided by written laws. The civil code is called Degama, the criminal code Agama. Before these courts three or four witnesses are required to substantiate any criminal charge. Their witnesses are examined on oath, and people of any cast are competent to take such an oath and to be so examined. The form of examining the oath requires of the person who takes it to hold a bason of water in his hand, and after repeating 'may I and my whole generation perish, if what I allege is not true' to drink the water.

The form of procedure requires the prosecutor or plaintiff to be heard first on oath: his witnesses are next examined, then the prisoner or defendant and his witnesses, after which the court decides on a general view of the whole of the evidence submitted to its consideration. The usual punishments are death, confinement, and servitude. The laws, in some instances, are severe, in others lenient. In the execution of the punishment awarded by the court there is this peculiarity, that the aggrieved party or his friends are appointed to inflict it; for though the judge steps in between the prosecutor and person whom he pursues, so as to restrain the indiscriminate animosity of the one and to determine the criminality of the other, the Balians have not advanced so far in the refinement of criminal justice, as to consider criminal offences perpetrated against the state, and punishable by its officers.

Theft and robbery are punished with death inflicted by a kris: murder and treason are punished in some cases by breaking the limbs of the convict with a hatchet, and leaving him to linger some days in agony till death ensues. Adultery is punished with death in the man and perpetual servitude to the prince in the woman. This severity restrains the crime; but in the small state of Bliling there occur sometimes several trials for it during the year.

The Raja must confirm every criminal sentence before it is executed, and every civil decision that involves servitude to the party. Confiscation of the culprit's property follows capital punishment only, the amount of which is divided between the prince and judges. In other cases there is no confiscation.

Raffles's brief sketch captures the essential features of the Balinese judicial system set out in the indigenous law codes, although these texts make no such distinction between civil and criminal offences, and, as Raffles (1817:391-2) indicates elsewhere, there were a considerable number of other legal texts,

nearly all of them linked to Sanskrit *Manavadharmasastra* (*Laws of Manu*) traditions. His depiction of the arbitrary and unpredictable nature of Balinese justice, however, was the forerunner of the dominant nineteenth-century colonial view that sought to redress despotic indigenous deficiencies by means of the introduction (by force if necessary) of enlightened Western practices.

Raffles's contemporary, Crawfurd (1820, III:87), confidently asserts that in Bali 'the rules of evidence, as among all barbarous people, are arbitrary and capricious' and makes explicit his contemptuous view of indigenous laws (Crawfurd 1820, III:78-9):

Under the name of Kuntara, for example, the Balinese have still a collection of native laws, slightly modified by Hinduism [...] All of them display a remarkable character of rudeness and barbarisms. Institutions so imperfect, indeed, have never, in all probability, been, among any other people, committed to writing. No attempt is made in them at arrangement or classification, but the most incompatible matters are blended together, and the forms of judicature, criminal and civil jurisprudence, maxims of morality, and commercial regulations, are incongruously mixed.

From the outset, indigenous legal texts and practices were, thus, held in scant regard by European colonial officials. The first detailed Dutch overview of Balinese law after the return of the Dutch to the Netherlands Indies was included in the report of Commissioner H.A. van den Broek (1834:212-8), who was sent to Bali at the end of 1817 to assess its potential contribution to the colonial project. Van den Broek had similar attitudes about indigenous legal practices as those of Raffles and Crawfurd. He too stressed the arbitrary nature of both process and penalties, describing the manner of government as 'completely despotic or arbitrary' and the administration of justice as 'very deficient'. He remarked with incredulity that even for murder, swearing an oath was sufficient to bring about acquittal. He noted further that the Balinese recognized only three categories of crimes, namely murder and arson, theft, and crimes against the sovereign, and that for all crimes the penalties – which included execution, confinement in chains, and fines – were fixed. Civil cases were considered by the village head in the first instance, although if either party was dissatisfied the case could be referred to the ruler. For criminal matters, the king decided all cases, assisted by a council of nobles and priests convened merely 'for the sake of appearances'.

Van den Broek, whose mission to Bali predated the publication of Raffles's and Crawfurd's accounts, fleshed out the picture of Balinese justice in recognizing that many legal cases were decided at the local level, but the quality and extent of his information are not entirely reliable. Like most short-term visitors, he was forced to depend on hearsay and the interpretations of his local informants. For example, he was adamant that there were no written

law books, an error later explicitly 'corrected' by his successor, the Dutch agent Pierre Dubois, who was sent to Bali to enlist recruits for the Java War and who lived at Kuta from 1828 to 1831.

In his unpublished letters, Dubois shows considerable appreciation and sympathy for many aspects of Balinese society. His long sojourn on the island allowed him something of an 'insider' view that had been denied his predecessors as they passed through the island. He states that justice was 'the branch of administration where the least confusion is found in Balinese government'. He details six ways in which justice was rendered, differentiated by social class and category of offence:⁴

1. The chief priest with several prelates has jurisdiction over matters that relate exclusively to his [*brahmana*] caste.
2. The Grand Council of State, presided over by the chief priest, has jurisdiction over disputes between a priest and a noble, between a priest and a member of the nobility, and between two princes when the supreme prince is an interested party.
3. The Grand Council, presided over by the supreme prince, deals with cases between two lesser nobles and between a noble and a commoner.
4. The supreme prince alone deals with cases between his various subjects whether within his House or in his territories, as does each minor prince.
5. Each prince in the regency has a *jaksa* [judge] who, with the assistance of a *padanda* [priest], prepares for trial civil or criminal cases involving commoners who are his own vassals. These two officers even administer punishments or settle disagreements, but the sentence is only enforced when it has been sanctioned by the prince. There are three tribunals of this kind in Badung.
6. In legal cases that involve the commoner subjects of two different princes, the two *jaksa* with their *padanda* investigate the case together and judge it; their ruling must be ratified by the prince.

Conceding that 'there cannot be tribunals if there are no laws', Dubois rebuts Van den Broek's claim that there were no law books in Bali, noting further that:

it is certain [...] that there exists in Bali an ancient written law, believed to have been proclaimed by the gods, and thus regarded as sacred, named Sastra Ilagama. It is placed in its entirety in the hands of the high priests and in part in relation to civil legal procedures, in those of the commoner Judges, who produce it, consult

⁴ Pierre Dubois, 'Idée de Balie; Brieven over Balie', [1833-1835], in: KITLV, H 281 (Letter XIV). Dubois was a Walloon who wrote in his native language, French. His letters are preserved in two versions, one comprising 6 letters in the Nationaal Archief, The Hague (Ministerie van Koloniën, 1814-1849, nummer toegang 2.10.01, inventarisnummer 3087) and the other consisting of 18 letters at KITLV, Leiden (H 281). The letters that touch on judicial procedures are found only in the KITLV manuscript. The translations included here are my own. I would like to thank Nathalie Ramière for her invaluable assistance with the finer nuances of the French translation.

it and explain it in all the assemblies whether of the supreme council, of the privy council of the princes, or of the lower council of justice.⁵

Seeking in part to correct the misunderstandings perpetuated in earlier reports on Bali, Dubois continues his own account with specific details of judicial processes. The tribunals established the mutual obligations and rights of priests, princes and subjects, and regulated ceremonies and actions, war and peace, public works, and social institutions such as marriages and funerals. The tribunals also meted out punishments and reparation for all crimes and misdemeanours perpetrated in society, even the most minor transgressions; these punishments ranged from the payment of compensation and fines, to death at *kris*-point and often banishment, according to the social class of perpetrator and victim. He notes that although the content of the law codes was difficult to ascertain because they were so closely guarded by the priests, there existed a common understanding of what was right and wrong that acted as a restraint on the misapplication of the laws. Dubois observes that the laws were applied differently in different kingdoms and notes that the supreme ruler could arbitrarily order the execution of anyone accused of a crime, including minor princes and priests, without further investigation. There was no police force, and many criminals escaped justice through the simple expedient of crossing over the border into a neighbouring principality, placing themselves beyond the jurisdiction of the ruler concerned. From relative safety, through the agency of their relatives and on payment of an appropriate fine they could then often secure a pardon.

Dubois's observation that the written law code was also used by the 'commoner judge' in civil matters stands in stark contrast to the prevailing European view that access to textual knowledge was the exclusive domain of the priestly and ruling elites. Elsewhere, too, Dubois hints at wider social distribution in the application of justice. Like Raffles, Dubois was struck by the right of individuals to take the law into their own hands, describing how, when a crime was discovered, the alarm drum would be beaten to summon residents to deliver summary justice. He concludes that 'this latitude to carry out justice oneself extends to such an extent that I have regularly witnessed justice being exercised without the participation of any official functionary at all'.

Dubois's rich observations, which provide considerable insight into the practical workings of the Balinese judicial system in Badung, South Bali, around 1830, were never published, nor apparently officially noted, and soon disappeared from colonial consideration. His departure from Bali in 1831 was followed by a marked change in the tenor of Dutch-Balinese relations as the

⁵ Pierre Dubois, 'Idée de Balie; Brieven over Balie', [1833-1835], in: KITLV, H 281 (Letter XV).

Netherlands Indies government stepped up active intervention in Balinese affairs in order to establish full colonial control over Bali, a task that would require several military expeditions and would take until 1908 to accomplish fully. Between 1846 and 1849, three Dutch military expeditions were launched against the Balinese rulers and a permanent Dutch colonial administration based in Singaraja was established in North Bali.

During the 1840s, earlier representations of Bali began to be reformulated to establish it as the site of Hindu culture and textual knowledge, and as the museum of Sanskrit-influenced ancient Javanese culture. Spearheaded by the president of the Bataviaasch Genootschap, W.R. van Hoëvell, 'scientific research' on Bali shaped the agenda for much of what was to happen later (Vickers 1989:78-91), including Dutch colonial responses to law codes and juridical practices. Van Hoëvell arranged for the Sanskritist R.H. Friederich to accompany the first Dutch military expedition to Bali in 1846 in order to collect Kawi manuscripts and to document Bali's Hindu religion and culture. Their initial findings were published in the Society's transactions (Van Hoëvell 1846; Friederich 1959). Although in reality much of the textual and religious heritage 'discovered' on the island was of Balinese origin, it was now classified as Javanese and Hindu. This reformulation later served to separate the 'Hindu' Bali of classical literature and the royal courts further from the 'authentic' Bali of the autochthonous autonomous village, awaiting rescue from the despotic feudal overlay imposed by Hindu rulers and priests.

In a similar mould to Raffles and Crawford, whose pioneering work he explicitly acknowledges, Friederich (1959:29) too was in search of the vanquished Sanskritized civilization of Hindu Java. His principal access to knowledge of Bali came via the Danish trader Mads Lange (Schulte Nordholt 1981), who acted as his intermediary with the princes and priests of the South Bali kingdom of Badung. In his turn, Friederich contributed to the foundations for Dutch understandings – and misunderstandings – of indigenous law codes. Apart from listing and describing briefly a number of law books (Friederich 1959:29-33) and lamenting that he could not find the Sanskrit *Laws of Manu* ('the principal law book from India is wanting, according to all inquires for it which I made among several priests and persons of rank, but all their laws are derived from Prabu Manu'), Friederich has nothing to say about their use or about the Balinese system of justice.

From the late 1850s, over a quarter of a century after Dubois's initial account of judicial practices in South Bali, detailed descriptions of the Balinese legal system began to emerge, penned by colonial administrators, whose concerns were very different from those of the Orientalists. In 1859, P.L. van Bloemen Waanders, who had been appointed *controleur* of North Bali in 1854 and was later promoted to *assistent resident* in 1859, published his personal observations of Bali and the Balinese. His initial report (Van Bloemen Waanders

1859), which includes a minutely detailed description of the legal system, predominantly reflects the situation in the Dutch-administered regions of North Bali, but he also travelled to other parts of the island noting practices in each of the kingdoms. Importantly, he was the first European observer since Dubois in the 1830s to live and work among the Balinese for an extended period of time.

In the course of his administrative duties, Van Bloemen Waanders gained first-hand knowledge of the practices of the judiciary and the indigenous courts, and his account is enriched by textual examples of indigenous legal documentation. His observations reflect information from the earlier Western reports, and he records in detail a system still largely unaffected by Western influence. Like most colonial officials of the period, Van Bloemen Waanders was strongly committed to the removal of despotic native rulers and the introduction of enlightened Dutch colonial administrative practices, including in judicial matters, but his straightforward descriptions, only occasionally marked by the moralizing discourse typical of colonial accounts, are indeed, in the words of a later colonial *adat*-law luminary, T.C. Lekkerkerker (1918:41), 'sober and dry in style but rich in content'.

Judicial processes

Van Bloemen Waanders's account (1859:201-20) confirms that the Balinese system of justice was a hierarchical one. Most disputes were able to be resolved under the jurisdiction of local leaders. Initially, all disputes and crimes could be resolved by the *klian tempek*, except matters pertaining to public land and water rights, which came under the jurisdiction of the *sedahan agung*, and murder, which required higher-level intervention. The *klian tempek*'s authority included the settlement of disputes between parties from different villages. If the dispute was not resolved, either party could bring the matter to the *pambekel gede*. As a final resort, dissatisfied litigants could then take their case to the ruler. The *pambekel gede* held wider powers than the *klian tempek*, as he had the right bestowed on him by the ruler to impose the death penalty or exile. Van Bloemen Waanders (1859:201-2) notes that the majority of disputes were satisfactorily resolved at the village level. In cases of theft, for example, the penalty was usually the value of the goods plus an additional fine as compensation, in essence the same system attested in the written Old Javanese law codes.

While local-level officials were able to resolve civil disputes relating to property, both civil and criminal matters could be taken before the council of priests convened by the ruler, called the *kerta*, a tribunal dating back to at least the Majapahit period in Java and described in detail in the *Purwadhigama* and

various *sasana* texts. A similar model, incorporating major Dutch legal refinements, the Raad van Kerta (Court of Justice), was eventually adapted by the colonial government and formally established in Buleleng and Jembrana in 1882 (Korn 1932:42; Robinson 1995:33). Once a crime came to the attention of the ruler, the accused was bound in chains to await trial unless he could produce eight guarantors (*patabeh*) to speak on his behalf. He was then released until the case came before the *kerta*. The king, however, could also pass sentence arbitrarily without consulting the priests or the legal texts, and in these cases the penalties were much more severe.

Van Bloemen Waanders (1859:201-20) provides a detailed account of the trial process. In nineteenth-century (North) Bali, the primary role of the *kerta*, or legal council, was to consult the written legal treatises in its deliberations and reach a verdict. The process of trial and judgement involved several stages. The complainant first brought the matter to the *pambekel* and requested the latter to apprise the ruler of the matter. The ruler then referred the case to the *kanca*, a legal registrar who sent a letter (*surat sengker tetagihan*) to the *pambekel* of the accused, seeking the amount due within one month.⁶ If the accused acknowledged the claim, then the matter was handled in its entirety by the *kanca* and not brought before the *kerta* court. In such cases, the guilty party was required to provide to the *kanca* twice the amount of the fine levied within 30 days. If he met this obligation, the matter was considered settled. If he refused or was unable to pay, the *kanca* placed a sequestration order on his goods and person, and the accused, his family, and his possessions were given to the complainant to be sold to the highest bidder. If the accused believed he had good reason not to comply, he tied a coin with a three-coloured thread to the official document, which was then sent via his *pambekel* to the *kanca* as a symbol that he wished to proceed to trial. This response had to be received within five days or the original judgement was enforced.

When all the formalities had been properly observed, the *kanca* then wrote a letter of summons (*surat sengker pamicara*) notifying the accused of the date and time he should appear with his written defence and witnesses. The *kanca* of both parties then proceeded to investigate the case, seeking out witnesses and recording their names and addresses. Both parties were obliged to provide a surety against false witness. The crucial document recording the details of the case was called the *surat kanda*. On the appointed day, between one and three members of the *kerta* assembled, together with the *pambekel* and

⁶ Van Bloemen Waanders (1859:260-8; Appendices Ia A-Ia F) provides examples of all the legal documents referred to in his account. It is not altogether clear, however, to what extent these documents embody indigenous practices overlaid with colonial documentary processes. Nevertheless, earlier European accounts, such as that of Van den Broek (1834:212-8), provide similar descriptions. The indigenous record of actual trials is sparse because of the fragile medium of the palm-leaf note and the ephemeral nature of the records themselves.

kanca of each party. The priests (*padanda*), in their role as judges, were charged with consulting the law texts. Not all the tribunal members were required to attend, and the presence of just one member to refer to the law texts was considered sufficient. Van Bloemen Waanders (1859:205) lists among the principal law texts consulted in legal trials all the major law codes that I have described elsewhere (Creese 2009), including the *Adhigama*, *Kutaramanawa*, *Purwadhigama*, *Dewadanda* and *Sarasamusccchaya*. In the case of discrepancy in detail, the legal text with the least severe penalty was applied.

Hearings were held in public and attended by large numbers of people, including the relatives, wives, children and neighbours of the parties concerned. The party hosting the trial was required to decorate the pavilions and to provide refreshments. The litigants were not allowed to address the court directly themselves unless invited to do so, and no new evidence was considered necessary or appropriate, since all the facts of the case had been recorded previously in the *surat kanda*. If the complainant or his witnesses failed to appear, then the case was automatically lost. If he did appear but the *surat kanda* was missing or incomplete, he also lost the case. If everything was in order, then the matter was able to be resolved speedily.

As well as the witnesses, a number of guarantors (*patabeh*) were required to appear before the court and take the oath. Under oath, they affirmed that they knew the party concerned to be honest and trustworthy and believed that the complaint (or the defence) was absolutely true. If the parties had an equal number of witnesses they were also required to provide an equal number of *patabeh*. Without the correct number of *patabeh* the case would be lost. The number of *patabeh* was determined by the seriousness of the offence. For example, if the fine was eight *bungkus*, eight *patabeh* were required; if the fine was four *bungkus*, four *patabeh*, and so on. The highest fine was 16 *bungkus*. A *bungkus* was 10,000 *kepeng* and was valued at f 25.⁷

After the members of the *kerta* had consulted the law books and had given their verdict, the *kanca* representing the winning party produced an official report of the verdict (*surat pepegatan*), detailing all the facts of the case and the sentence imposed. This document was then presented to the ruler for approval and ratification. If the ruler agreed with the judges' decision, as was usually the case, then the *surat pepegatan* was given to the offender. The sentence took effect one month after the verdict was passed. The victor was required to produce his guarantors within one month, and should he fail to

⁷ Van Bloemen Waanders 1859:201. The burden of fines of this magnitude on ordinary Balinese would have been considerable and in most cases would have resulted in a lifetime of debt bondage. The British missionary W.H. Medhurst (1837), who visited North Bali in 1829-1830, noted at that time that one and a half rupees was sufficient to maintain a man comfortably for a month. He gives the value of the rupee as equivalent to one *atak* or 200 cash, so that one *bungkus* equivalent to 50 *atak* or 10,000 cash would have sustained an individual for a number of years.

do so, the sentence that had been passed on the offender was instead applied to the complainant. If the ruler did not agree with the verdict, the case was overturned and a new trial set up.

In all cases brought before the *kerta* a fee called *wang-toh* had to be paid; the exact amount was determined by the seriousness of the offence. The *wang-toh* was paid by both parties, although if the penalty included a fine the victor was liable for the entire amount. One-third of it was paid to the *kanca* and three-quarters to the *kerta*. In most disputes a monetary fine was imposed. It was divided as follows: 40% to the ruler, 20% to the *pambekel* of the winning party, 20% to the winning party, 10% to the justices, and 10% to the *kanca*. The *kanca* also received additional payment for preparing the *surat tetagihan*, *surat sengker pamicara* and *surat kanda*. With the exception of children under 12 years of age anyone could be a witness, but close relatives, widows, slaves, the crippled and maimed or mentally defective could not serve as guarantors.

In Van Bloemen Waanders's view, the advantages to ordinary Balinese of settling disputes at the lowest level were that the fines imposed were likely to be only half those laid down in the law books and that all compensation was passed in its entirety to the injured party, rather than being partially appropriated by village heads, officials or the ruler. He attributes largely venal motivations to the success of the legal system at the local level, claiming that it was preferred because offenders knew that the penalties for their crimes would be lighter, and because village heads were thus able to ingratiate themselves with their villagers by their leniency, as well as with the ruler by not troubling him with the case.

Overall, Van Bloemen Waanders considered the legal processes that he witnessed in North Bali failed to meet acceptable standards of evidence familiar from European jurisprudence. He notes (Van Bloemen Waanders 1859:206) that the judges failed to listen attentively, frequently asked the witnesses irrelevant questions, and considered a thorough investigation pointless and time-consuming. Instead, they relied solely on the testimony given by witnesses under oath. The party that produced the greatest number of witnesses who were prepared to take the oath won the case. If the number of witnesses was equal, then both parties took the oath and one party would be deemed to have won the case, although exactly how the successful party was determined is not stated. Van Bloemen Waanders noted that perjury was unheard of and no penalties for it existed because of the blind faith of all Balinese in the affirmation by oath, which will be described in more detail below. The water used during the oath swearing was believed to have the power to strike down anyone who bore false witness, and there was consequently no reason for further deliberation or reflection.

European commentators were concerned to document the barbaric nature of Balinese justice in order to justify colonial intervention. They take pains

to describe some of the more gruesome punishments imposed by rulers. Familiar European penalties, such as imprisonment, flogging and other forms of corporal punishment, were not used in Bali. In 1817, Van den Broek (1834:212-8) had noted that in Badung there were only two penalties, death or confinement in chains. In the latter case, the condemned had a chain passed round his waist and then crossed over his back, on which a heavy weight was hung that he was required to hold in his hand while sitting on public display. On occasions, the offender was instead bound to a tree for two to three days. Later observers, including Van Bloemen Waanders and Van Eck (1879), noted that most cases were punished by fines that were fixed by the law codes, but the death penalty was applied to crimes against the person or property of the king, to incest, and to the violation of caste rules concerning marriage, as well as for theft, no matter how minor, from a *brahmana*.⁸ A repeat offence where the fine was greater than four *bungkus* also resulted in the death penalty. Common punishments included forced working parties, banishment or exile, death by *kris*, and periods of time in the stocks for up to a month for gambling (Van Bloemen Waanders 1859:217-20). According to Van Eck (1879:371) regular punishments had formerly included the putting out of eyes and amputating of hands and feet, practices to which the Dutch presence in Buleleng and Jembrana had brought a halt, but no other evidence is available to support this claim.

In the case of incest, the offender was weighted with stones and drowned (*labuh wer*) or burned alive (*labuh geni*). Van Eck (1879:370) records the case in 1855 of a young *ksatriya* who married a *sudra* woman and was burned alive. Although in theory the death penalty could not be passed on members of the *brahmana* caste, Van Bloemen Waanders documents exceptions, including the case of an 18-year-old *brahmana* from Bangli who stole a blow pipe from the ruler: not only was the thief executed, but also his father and brother, neither of whom apparently had any knowledge of the events, as well as the opium seller to whom the thief had sold the pipe in exchange for opium. The 'most intolerable and inhuman punishment' in the opinion of late nineteenth-century officials, however, was incarceration in the *buhi*. The *buhi* was a closed wooden cage about two metres long and less than a metre in width and height lined with sharp thorns in which the offender had room only to crouch and was confined for long periods of time from a month to a year, according to the whim of the ruler, during which time the prisoner often died in his own filth. Another reported punishment, called *monggal*, used in times of war, required the offender to hunt the enemy and bring back a set number of heads of slain enemies. In many cases, the death penalty could be commuted to debt-bond-

⁸ For a discussion of the regulation of sexuality and marriage in nineteenth-century Balinese law codes, see Creese 2008.

age for ordinary Balinese, or in the case of high-caste individuals to a period of exile (Van Bloemen Waanders 1859:217-8; Van Eck 1879:373). Indigenous legal codes, on the other hand, deal explicitly only with monetary fines or refer to the death penalty, and do not provide details of physical punishments.

Oath-taking – Dewagama

Written law codes detail a wide range of offences and the sanctions wrongdoers might expect to face. In Bali, however, prohibited conduct was equally likely to provoke the wrath of the gods, whose punishments were more to be feared than those of human agents. A core part of the administration of justice was therefore the swearing of the oath, the *cor*. Although the legal texts allude to this practice, they provide few details. Evidence of its prevalence and of its antiquity, however, is found in a variety of indigenous and Western sources. Dubois provides a detailed description of the oath-taking ritual in Badung, South Bali, around 1830:

When a crime has been committed where no human eyewitness is able to identify the perpetrators, they call on divine justice by submitting the suspects to a test named Tjor [*cor*]. It is a beverage made by the priest from crystalline water drawn whenever necessary from a fountain or well inside their private temple (for there are various kinds of temples); it is placed on the shrine of the divinity in a consecrated vessel, together with offerings of rice, flowers and fruits. The priest enjoins the deities to bestow on this water the property to affect and punish the guilty and to spare the innocent.⁹

Dubois identifies two different kinds of Tjor, which he designates as Tjor radja (*cor raja*, royal oath) commanded by the prince and the Tjor branie (*cor brani*, oath of guarantee (?)).¹⁰ Dubois explains the *cor raja* as an oath administered by the commoner advocate (*jaksa*) to the entire adult male population of a village whenever an unresolved crime, such as murder, robbery or arson, had been committed. This oath-taking took place at midday in a public place. The *jaksa* was accompanied by one of the priest-members of the tribunal, who distributed the oath water on the leaf of a banyan tree. The folded leaf was then placed behind the ear of each subject, where it was to remain until the close of the ceremony. Any who did not attend, who refused to drink the water,

⁹ Pierre Dubois, 'Idée de Balie; Brieven over Balie', [1833-1835], in: KITLV, H 281 (Letter XV).

¹⁰ The literal meaning of *cor brani* is uncertain. The expression is not listed in any of the dictionaries and I have not encountered it elsewhere in any reports. Because Dubois was a colonial official with a knowledge of Malay, his narrative is peppered with Malay terms. It is possible that *tjor branie* may be a false etymology derived from *patabeh* (the guarantor in the oath-taking ritual) via Balinese *tabel* 'brave, firm', to its Malay equivalent *b(e)rani*.

or who carelessly spilled it, were deemed guilty and punished accordingly. Dubois's observations were apparently based on actual events that he witnessed, such as one occasion recorded in his report of 27 February 1831 to the Resident of Besuki and Banyuwangi in which he details how, in the wake of looting of homes, warehouses and Chinese *prahu* from Makassar during a fire that broke out in Kuta in September 1830, the culprits refused to return the goods. The ruler was so enraged that he ordered all males over the age of ten years to submit to the oath-taking ritual. On this occasion his efforts were to no avail, since none of the stolen property was returned. Concluding that this lapse in good conduct was evidence that the gods had deserted the land and demons reigned supreme, an elaborate, and undoubtedly costly, purification ceremony was performed in order to restore peace and harmony.¹¹

Dubois notes that all Balinese were subjected to this process countless times, and that it therefore held no fear for those taking part. The *cor brani*, on the other hand, was dreaded because of the dire consequences that inevitably ensued. The *cor brani* was used in a trial where no direct evidence was available. Like the *cor raja*, it was a public event held as part of the trial proceedings and was attended by the *jaksa* and the priest(s). Both accuser and accused had to take the oath. Dubois claims that, as a result of false witness, someone always died following the oath-taking ceremony. The guilty party would suffer from distension of the stomach, his body would be wracked by excruciating pain, and he would die within four to six weeks. From the onset of these symptoms, anyone thus affected no longer dared to appear in public; his relatives sometimes took revenge on the adversary who had brought about this evil fate. According to Dubois, these potentially dire outcomes were one reason that the parties to a dispute endeavoured to reach a settlement before resorting to the oath-taking ceremony, and were always willing to pay the required fee to the ruler that such an out-of-court settlement entailed. It was a widely held belief that the effects of violating the oath would even be passed to the perjurer's children and grandchildren, who as a consequence of having displeased the gods, could rarely find suitable marriage partners and, thus, would often die in miserable circumstances. In the case of the *cor raja*, no one died immediately, although anyone who happened to die within two or three months of the *cor* ceremony was immediately assumed to have been guilty. Dubois concludes by noting that this entire process was motivated by nothing but charlatanism, since the members of the court received a fee for each person undergoing the *cor*.

End-of-the-century reports of this ritual in North Bali by various observ-

¹¹ Dubois, Report to the Resident of Besuki and Banyuwangi, 27-2-1831, in: Nationaal Archief, The Hague, Ministerie van Koloniën, 1850-1900, nummer toegang 2.10.02, inventarisnummer 571.

ers, including Van Bloemen Waanders (1859:220-7), Van Eck (1879:382-4), and Julius Jacobs (1883:81-5), a medical practitioner who visited Bali in 1881 and witnessed such an oath-taking, agree in broad outline with the processes described by Dubois for 1830s' Badung, although none distinguishes the two different forms of *cor*. In Buleleng, the oath formula was read from a palm-leaf manuscript by the *kanca* in the presence of all parties concerned. The *kanca* ladled out a little water, previously blessed by a priest, from a pot using the leaf of a sacred *waringin* (banyan) tree; the person taking the oath then sipped the water. According to Van der Tuuk (1897-1912, I:583), this oath water, which was bought from a priest for 1,000 *kepeng*, was stored in a pot (*payuk*); it was then mixed with blood from the comb of a yellowish-red cock, using a palm leaf. The prayers recited over the water by the priest were believed to have the power to cause severe torments and cramps to the soul of any who swore falsely. A perjurer would never again know joy; his wife, children and grandchildren would be pursued and plagued by earthly torments; he would be killed by a tiger in the forest; he would be struck by lightning in the field.

Members of the *brahmana* and *ksatria* castes did not take the oath publicly, but went instead to a temple to take the oath in the presence of the gods (*madewasaksi*), where, rather than sipping the oath water (*toya coran*), they were sprinkled with it by a priest. Those taking the oath were required to provide a cash payment to the priest, a black and red hen, a little red rice, a strand of white thread, a coconut, and some green *mung* beans, which were all offered to the gods. In North Bali at least, the same oath was applied to all, including to Muslims and Chinese. No earthly punishments were administered to perjurers, whose fate was instead left to the mercy of god Siwa. Van Eck (1879:379), borrowing heavily from Van Bloemen Waanders's earlier report (1859:221-7), notes the threats for false witness included being trapped in dense forest, wandering through deep ravines, being struck by lightning, being eaten by crocodiles, felled by a mortal illness, and devoured by worms and insects, and that all these penalties would befall the offender and his descendants down to three or four generations.

Indigenous legal authority in nineteenth-century Bali

By their very nature the Balinese law codes, concerned primarily with the definition of crimes and their penalties, pay scant attention to the minutiae of judicial procedure. For Balinese, these processes were accepted practices, hardly in need of description. Moreover, records of judgements, the ephemera of Balinese indigenous administrative processes, were not deemed significant enough to be incorporated into European manuscript collections, and have

long since disappeared from the textual record. Nevertheless, even though we are largely dependent on colonial records such as those described above for this kind of detail, there are also other pieces of textual evidence, admittedly somewhat fragmentary, that can be derived from the indigenous textual record and the law codes themselves that attest to indigenous practices and allow a more nuanced understanding of their significance in indigenous terms.

In the following sections, I focus on indigenous Balinese sources in order to describe various aspects of Balinese knowledge systems that underpinned the administration of justice in the late nineteenth century, in particular to highlight the fundamental interconnections between textual authority, divine intervention, and customary knowledge, knowledge that the Dutch, in dismissing the textual evidence as irrelevant, may simply have failed to recognize.

One of the primary legal texts in use in North Bali in the nineteenth century, the *Adhigama*, outlines a tripartite division of legal and moral authority that demonstrates that the familiar titles of the core legal 'texts', namely the *Agama*, *Adhigama* and *Dewagama*, were also general terms for particular kinds of judicial knowledge and practice (Creese 2009). The proper administration of justice, a fundamental responsibility of a good ruler, required all three elements – textual and community authority, royal authority, and divine authority. *Agama* referred to knowledge transmitted both in written form in law codes and in customary, sometimes orally transmitted, forms of local practice. *Adhigama* encompassed the responsibilities of government and oversight invested in the ruler, as well as his promulgations that were applied through a system of tribunals (*kerta*) by appointed court officials. *Dewagama*, the drinking of the oath water described above, the third arm of Balinese justice, represented the domain of divine jurisdiction.¹²

The *Purwadhigama* (HKS 5268:143a-143b), one of the oldest Old Javanese legal texts, highlights the integral role of these legal traditions and written texts in the administration of justice, noting that royal strategy (*rajaniti*) or right conduct for rulers in legal matters was based on a number of different sources, namely *nitiswara*, *adhigama*, *purwadresta*, *desadresta* and *sastradresta*. These terms are defined as follows: *nitiswara* denotes policy obtained from and disseminated by the council; *adhigama* is wisdom derived from inscriptions and royal promulgations; *purwadresta* concerns the application of *adhigama* (that is, the knowledge of right conduct according to law) found in customs known in former times and recorded in written form; *desadresta* encompasses

¹² This practice may have ancient links to the practice of trial by ordeal described in the Sanskrit *Laws of Manu* (8.59; 8.1909; 8.113; Jonker 1885:206-7), but appears to be indigenous in nature.

local tradition stemming from the ancestors from time immemorial;¹³ and *sastradresta* is the written precepts included in kingly policy and codes of royal conduct.¹⁴ Links to similar practices in pre-Islamic Java are indicated by the fact that *sastradresta* and *desadresta*, as embodied in the Kutaramanawa law code or tradition, are also specifically referred to as the basis of legal authority in inscriptions from Majapahit Java, such as in the Decree Jaya Song inscription dating from 1360.¹⁵

Underlining the importance of drawing testimony from both written texts and human knowledge, the *Adhigama* notes on two separate occasions (HKS 1594:38b, 50b; Djilantik and Oka 1909a:57, 71) that the arbitration of legal disputes required three kinds of evidence (*tripramana*), namely witnesses (*saksi*), documentation (*lekita*), and proof (*bukti*). It defines the three kinds of evidence, according to the teachings of the *sastra* (sacred book or treatise), as: people who know and understand (*saksi*); what is evident in written depositions (*lekita*); and what is evident from public knowledge (*bukti*). Both written documentation and witnesses are described as inferior to *bukti*.¹⁶

In the *Dewagama* (*Kretopapati*) law code, the same definition of the three kinds of legal authority, *agama*, *adhigama*, *dewagama*, is followed by the definition of four illustrative determinants of law suits (*caturdresta*). As well as *purwadresta*, *sastradresta* and *desadresta*, whose definitions parallel those recorded in the *Purwadhigama* and equate to ancient customs, local usage, and textual sources respectively, this text includes *lokadresta*, that is the examination of a person's good and bad character. The practice of oath-taking and the evidence of witnesses and guarantors are elements of *lokadresta*.

According to the *Adhigama* (Djilantik and Oka 1909a:89-91), oath-taking as a means of legal arbitration dates from the thirteenth century during the

¹³ It seems possible that *desa* here is not related to its basic Sanskrit and Old Javanese meanings of 'region', 'territory', but instead has the technical meaning of 'written document', a Sanskrit usage found in the *Arthashastras*, in the context of documentary evidence for legal testimony noted in the *Laws of Manu* 8.52-7 (Olivelle 2004:269n).

¹⁴ HKS 5268 143a-143b: *nitiswara ngarannya niti ulih ning angrambah mangke tlas sinarpitaken ring sabha; adhigama ngarannya niti munggw ing prasasti; purwadresta ngaranya adhigama sita-sita ning desa ulih ning akarya purwa mangke inunggwaken ring papan; desadresta ngaranya niti sita-sita ning desa kataman katemu antuk ni sang purwaka nguni dangu; sastradresta ngaranya niti sita-sita ning desa manutaken rajaniti rajasasana*. This explanation does not appear to be adapted directly from Sanskrit sources, although *Manu* (2.6-10) acknowledges as the sources of law 'Scripture [which] should be recognized as "Veda" and "tradition" as "Law Treatise"' (Olivelle 2004:23).

¹⁵ Pigeaud 1960:106. Zoetmulder (1982:1360) erroneously attributes this quotation to a Balinese inscription in Van Stein Callenfels 1926:16.

¹⁶ The second reference (HKS 1594:50b; Djilantik and Oka 1909:71) gives an overlapping but slightly different set of definitions: *saksi*: what is known to be true from the content of pledges, *likita*: written depositions, and *bhukti*: unwavering proof (*saksi wruh karena ubhaya likita aweh surat aweh supatra, bhukti tan gingsir pasek pageh*).

reign of Dandang Gendis (Krtajaya) in the Majapahit, or more accurately the Kadiri, period. It was put in place by the chief minister Patih Tuhan Kanaka and the royal councillors and advisers after a time of great chaos and destruction when crops failed and famine and plague ruled the land. Tuhan Kanaka was assiduous in his care of the *brahmana* caste and in this way prosperity was restored. Only with right worship and right conduct could the Kali age be overturned and the Kerta age flourish. With the accession of the wise ruler Bra Siwa (Krtajaya) the grounds for litigation (*wyawahara*) were established. According to the *Adhigama*, the Majapahit model of litigation and trial was to be emulated by all those seeking to punish perpetrators of evil and wicked deeds. The final pages of the text set out the procedures to be followed in oath-taking. The regulations specify the length of time from the end of the trial those appearing before the court would be required to wait for compensation (namely 'one month and three days in a shady spot'), the distribution of payments to the members of the *kerta*, and the gifts that should be provided, including a basket of rice, pork to the value of 500 cash, five ducks, and a jug of rice wine.

The oath formula (*pamastu ning cor*), which had the power to call down the wrath of the gods on any who bore false witness, survives in a number of nineteenth-century Balinese textual forms. Like the law codes, its roots lie in ancient Java, where oath formulas are consistently invoked and recorded in inscriptions. Most date from the thirteenth to fifteenth centuries, but a few earlier examples also survive from the Central Javanese period. Van den Veerdonk (2001:100), who discusses the curses in a number of East Javanese royal inscriptions granting freeholds dating from the thirteenth century onwards, notes that the curse formulas are composed of five principal parts, namely a description of the context or case, the invocation of a deity, a warning against disobeying the charter, a list of dire punishments, and finally, brief Sanskrit formulaic verses. These oath formulas attested in the epigraphical records reveal similar concerns to those found in the oath-taking ceremonies described for nineteenth-century Bali. There are also a number of remarkable textual links that attest to continuities in practice over several centuries in both Java and Bali.

The final section of the *Purwadhigama* law code comprises an oath formula that overlaps with one used during a trial held in Buleleng in 1855 and recorded by Van Bloemen Waanders (1859:220-7). According to Van Bloemen Waanders, this oath formula, for which he provides the Old Javanese text and a Dutch translation, was recited over holy water by the priest in the presence of the ruler of Buleleng Gusti Ngurah Ketut Jlantik, his father, Gusti Putu Kebon, and Ida Mada Rahi, his chief minister. H. Kern (1873, 1874) later drew attention to the striking fact that the text of this oath in use in nineteenth-century Bali showed extensive correspondence with similar oaths

recorded in two Old Javanese royal inscriptions (Kern 1873, 1874; Cohen Stuart 1875). The first is a copper inscription issued by Lokapala (ruled 856-860 CE) dated 762 *saka* (18 July 840 CE; Damais 1952:29) and the second, the Waharu IV inscription found near Gresik and dated 853 *saka* (12 August 931 CE; Damais, 1952:58-9), was issued in the name of the Javanese ruler Sindok (ruled 929-948 CE), to whom the transfer of power from Central to East Java is attributed. As Damais (1952:28, 58) has demonstrated, both inscriptions are in fact later reissues of the original inscriptions and date from the Majapahit period.¹⁷ Nevertheless, the degree of concordance between the oath formula in use in nineteenth-century Bali as recorded by Van Bloemen Waanders and these Majapahit-era copies of Central Javanese inscriptions supports the proposition that the law codes and judicial practices in use in Bali in the late nineteenth century embody significant legal, religious and cultural influences shared with pre-Islamic Java. The oath formulas recorded in the *Purwadhigama*, in Van Bloemen Waanders' account and in the inscriptions, invoke the god Haricandana (Yellow Sandals) and note as the textual authority for the oath the Sang Hyang Adhigamasasanastroddhreta. This citation links the *Adhigama* and the *Purwadhigama* law codes with the earliest legal traditions and practices in the archipelago attested in the inscriptional record.¹⁸ This correspondence is a remarkable testament to the central role of

¹⁷ Reissuing inscriptions was a hallmark of Javanese and Balinese kingship. A second example is the Bungur A inscription of 860 CE which was reissued as Bungur B in 1367 (Van den Veerdonk 2001:99). It is reasonable to assume that the Majapahit-era copies were faithfully reproduced. For example, an East Javanese inscription, the Kubu-Kubu inscription dated 905 CE, issued in the name of Balitung (ruled circa 900-910 CE) who claimed sovereignty over parts of Central and East Java prior to Sindok's accession and the shift of power to East Java, bears witness to the authenticity of curse formulas of this kind in the tenth century itself. The divine penalties for violation of the oath listed in the Kubu-Kubu inscription include the confiscation of all property and family members, descent into hell, seizure by snakes in the forest, being eaten by tigers, sea monsters, and crocodiles, falling into deep ravines, and being struck by lightning. These punishments show striking similarities to those recorded in nineteenth-century Bali by Van Bloemen Waanders and Van Eck noted above. It is also noteworthy that this inscription appears to have direct links to Bali, since the grant (4a-4b) is made by the king to Rakryan Hujung and Rekai Majawuntan for their role in an expedition to Banten (the Javanese *krama* form of Bali). See Barrett Jones 1984:1-2, 166-77. I am grateful to one of the BKI readers for drawing my attention to Barrett Jones's discussion of the Kubu-Kubu inscription.

¹⁸ The *Purwadhigama* begins with a phrase almost identical to the oath formula recorded in Van Bloemen Waanders's account with minor changes in word order: *Nihan Purwadhigama sasana sarodreta sastra purwaramba sang telas wredhacarya sang purohita*, and reiterates the same text in its preamble: *nihan pratyeka sang bhujangga siwan minakasthawaira ring nagara, sang kumemit mamangu sang hyang adigamasastrasarodreta, lwirnira, sang pinakaprabhreti, sang aryya dharmadhyaksa liyan sangkerika, wwalu kwehnya, ndya ta, sang aryya tirwan, sang Aryya kandamuhi, sang aryya pamwatan, sang aryya panjajiwa, sang aryya manghuri, sang aryya jambi, sang aryya lekan, sang aryya tangar ndah samangkana lwiring linggihnira kapwa bhujangga haji sira kabeh* (Pigeaud 1960:91).

the oath in indigenous judicial practice, to the longevity of these legal traditions, and to the tenacity and intertextuality of cultural connections between pre-Islamic Java and Bali.

Pamastu ning cor

Although the Dutch had little faith in the integrity of a legal system that relied on the acceptance of a sworn oath, in which legal authority was surrendered to divine intervention, there is clear evidence of its force in Old Javanese/Balinese legal thought and practice. Balinese manuscript collections contain a number of manuscripts that record oath formulas in use in the pre-colonial period. Brandes (1901-26, II:219-24) lists a number of dated oath formulas under the title *Pamastu ning Cor* (see Table 1).¹⁹ This range of dates, spanning the seventeenth to nineteenth centuries, suggests that both the accurate recording of oath-taking and the act of oath-taking itself were of considerable importance in the settlement of legal cases over a period of several centuries.²⁰ Apart from the nineteenth-century examples preserved in the Van der Tuuk collection, there are six recent transcriptions (HKS 9/88-9/91; 9/93; 9/95) in the Balinese Manuscript Collection listed in Table 1 that include oath formulas from North Bali and Lombok. They derive from notes belonging to Ida Padanda Gede Ngenjung from Banjar Liligundi, Singaraja, copied in the early 1970s, but the provenance of the original manuscripts is not specified. The oaths differ in length but overlap in content, and all share the four major characteristics of the curse formulas that Van der Veerdonk describes for Javanese inscriptions, namely the invocation, warning, threat of punishment, and Sanskrit phrases and formulas.

¹⁹ There are some minor errors in the correspondences between Brandes's catalogue numbers and Juynboll's description (1911:189-90). Juynboll attributes the *saka* year 1603 only to LOr 3903, but the same date is recorded for the second *Pamastu* from Mengwi contained in LOr 3987, that is in both Brandes #663 and #664. LOr 4368 is not mentioned in Pigeaud (1967, 1968, 1970), who excludes texts written solely in Balinese language, but according to Juynboll (1911:190) it is dated 1790 *saka*.

²⁰ There are a number of additional manuscripts in the Van der Tuuk and Lombok collections comprising short *pangling-eling* (Brandes 1901-26, III:235-6), notes pertaining to cases (*parikanda*) (Brandes 1901-26, III:243) and *paswara* (Brandes 1901-26, III:246-52). Several of them contain seventeenth to nineteenth-century dates, but they have not yet been studied and are not considered further here. See also Juynboll 1912:154-72.

Table 1. *Pamastu ning Cor* manuscripts in the Leiden and HKS collections

Manuscript	Notes
LOr 3852 (11) Br #762	final section of compilation of 12 legal texts in romanized transcription; Van der Tuuk autograph copy; the oath was undertaken in a case of theft by two witnesses and four guarantors.*
LOr 3903 (2) Br #763	Balinese script on paper; original manuscript dated 1603 <i>saka</i> , 1681 CE
LOr 3987 (3) Br #764	Balinese script on paper; contains two formulas: (1) 1623 <i>saka</i> , 1701 CE (from Gianyar); (2) 1603 <i>saka</i> , 1681 CE (from Mengwi); with the <i>Parikanda</i> (case notes)
LOr 3947 (2) Br #765	Balinese script on paper; with the <i>Pulutuk</i>
LOr 4367 Br #766	romanized transcription; Van der Tuuk autograph copy; contains two dates: (1) 1555 <i>saka</i> , 1632 CE; (2) 1794 <i>saka</i> , 1872 CE
LOr 4368 Br #667	1790 <i>saka</i> , 1868 CE; translated by Van Eck (1879); (Juynboll 1911:190)
LOr 13.346	= HKS 9/88 <i>Pamastu Cara Buleleng</i> ; from a notebook in the collection of Ida Padanda Gede Ngenjung from Banjar Liligundi, Singaraja
LOr 13.345	= HKS 9/89; <i>Pamastu</i> ; dated 1683 <i>saka</i> , 1761 CE; Pigeaud gives the date as 1603 <i>saka</i> , 1681 CE (compare LOr 3903 (2) above); from a notebook in the collection of Ida Padanda Gede Ngenjung from Banjar Liligundi, Singaraja
LOr 13.350	= HKS 9/90; final section of the <i>Purvadhigama</i> ; from a notebook in the collection of Ida Padanda Gede Ngenjung from Banjar Liligundi, Singaraja
LOr 13.344	= HKS 9/91; <i>Pamastu Sang Hyang Haricandani</i> ; from a notebook in the collection of Ida Padanda Gede Ngenjung from Banjar Liligundi, Singaraja
LOr 13.343	= HKS 9/93; <i>Pamastu Cara Sasak</i> ; from a notebook in the collection of Ida Padanda Gede Ngenjung from Banjar Liligundi, Singaraja
LOr 13.342	= HKS 9/95; <i>Pamastu Cara Sasak</i> ; from a notebook in the collection of Ida Padanda Gede Ngenjung from Banjar Liligundi, Singaraja

* Juynboll (1912:158) erroneously links this oath formula to that recorded in the colophon of the *Sarasamuccaya* manuscript, LOr 3852 (10) (Br #994) discussed in more detail below.

Textual authority

Late nineteenth-century European accounts refer repeatedly to the use of legal texts, or rather the broader legal traditions represented by a variety of individual texts, by members of the court. No single 'text' appears to have had absolute authority and, even though the extant law codes overlap considerably in terms of content, a variety of law codes were apparently regularly consulted, and when there was contradictory information in the texts, the lowest penalty applied. The law codes were not merely points of reference, but had practical application. One characteristic of Balinese law codes was the use of apothegms or maxims comprising a word or phrase encapsulating the crime. Pigeaud (1967:305) argues that these terms, used in judgements to designate specific crimes, were 'couched in cryptic terms and partook of the character of mantras', but they undoubtedly also served as mnemonic devices and textual place markers to locate particular crimes and relevant punishments.

The law codes themselves were directly cited in trial verdicts. In Appendix F of his account, Van Bloemen Waanders (1859:266-8) includes the text of a letter of verdict (*surat pepegatan*) that documents the case brought by I Limut against I Gede Sibang, which was heard by the *kerta* court in Buleleng in 1855 (1777 *saka*). The case concerned the theft of two oxen. The judgement in this case went against I Sibang, who had been accused of stealing the beasts and selling them to a certain Srebi, who confirmed this transaction under oath. The *surat pepegatan* records that the judgement concerning Sibang's guilt was made according to the *Adhigama* law code. Sibang was to be fined 49,000 *kepeng* and additionally to pay a penalty double the value of the oxen, that is 30,000 *kepeng*. If the money was not paid to the court at Buleleng within 30 days, Sibang would face execution. I Limut and four guarantors (*patabeh*) were required to take the oath. If they did not do so, or if Limut proved unable to find the required number of guarantors, then Sibang's sentence would instead fall on him. All his property would be seized and he and his wife and children would be taken away and sold into bondage by the *kanca*. The *surat pepegatan* ends by declaring: 'The above is completely in accordance with the *Adhigama* law book and pronounced by Sang Gede Made Gunung, Sang Gede Wayan Buruan and Sang Gede Buruan.'

This mid-nineteenth-century legal judgement not only bears witness to the authority of law texts such as the *Adhigama*, but also documents the role and function of the council in pronouncing judgement, the composition of the *kerta* whose members are individually named, and the centrality of the swearing of the sacred oath as the main evidential proof in legal cases in Bali at the time. This is a rich, although potentially not entirely 'uncontaminated' example, of indigenous practice, collected as it was by a European official and dating from a period when colonial administration had already begun to

have an impact on indigenous practice. Nevertheless, it is difficult to separate specific indigenous and colonial influences. For example, although Van Eck (1879:377) claims the recording of the names of the parties in legal cases as an example of Dutch reform, detailed records in palm-leaf manuscript form, particularly in royal edicts (*paswara*), which often specify the names of functionaries, predate the colonial administrative presence and would seem to contradict his assertion. Throughout the eighteenth and nineteenth centuries, Balinese rulers issued laws and promulgated regulations on a regular basis. These regulations, which documented specific applications of the laws and penalties found in legal texts such as the *Adhigama* and *Kutaramanawa*, dealt with the administration of justice (Lieftrinck 1917:54-159), as well as with cases of theft, claims, inheritance law, trade, marriage and sexual relationships.²¹ In this way, the exercise of royal power, which shaped and regulated social interaction and mediated divine influence, was underpinned by undisputed textual authority.

Endnotes and memoranda

The importance of both the authority of a specific legal text and the swearing of the oath is further attested in a number of colophons and endnotes appended to individual copies of certain law codes in which judgements and other aspects of the legal process are recorded. As Vickers (1990:170) has suggested, commemorative notes (*pangeling-eling*) are aids to memory and serve to 'make the coincidental connection between texts quite explicit'. This is certainly the case in a number of manuscripts containing copies of Balinese law codes. In some cases, a manuscript was copied for its general salutary benefits. For example, the colophon to an *Adhigama* manuscript from Buleleng (LOR 3879), containing two colophon dates equivalent to 15 July 1708 and 15 September 1786 respectively (Damais 1958:64, 93), records the name of the scribe as Liladyana from Wani Arep, Banjar Mamangku Pinang, Setubandha, in which he states that the copy was made for the benefit of future generations, including his own family members and his subjects. Although the number of commemorative notes serendipitously preserved in the law codes is relatively small, several of them point to direct links between individual legal cases and the use of Old Javanese legal texts in judicial practice. Among these notes are the following:

²¹ Although Lieftrinck collected and translated three volumes of *paswara* (1915, 1917, 1921), they have never been studied in detail. A number of the *paswara* are dated and would undoubtedly provide considerable insight into the practical aspects of justice.

- The colophon to a copy of the *Adhigama* (LOr 3852 (2)) records that it was made by the scribe Nirartha Pamasah on a date in 1653 *saka* (*agni manca rasa surya* = fire-five-feelings-sun) calculated by Damais (1958:67-8) to be equivalent to 25 March 1731. It notes that the purpose of the copy was to benefit those wishing to carry out the settlement of disputes in the *kerta*, according to appropriate rules of conduct that had been written down by the administrator of religious law (*dharmajaksa*) in the sacred *Kutaramanawa*. The same colophon occurs in HKS 5265, a recent romanized transcription of a manuscript of the *Adhigama* (where it is given the title *Purwadhigama*) made in 1899 by I Gusti Putu Jlantik.²²
- A copy of the *Adhigama* from Badung (LOr 4701), tentatively dated by Damais (1958:65) to 7 July 1709, written by a scribe using the pen name Gunangkara from Bhararuksa, Banjar Harahharah. It records at the end a fine of 14,000 cash, and notes that an owner of livestock is not liable for a fine if the animals wander away and die.
- A copy of the law code *Dewadanda* (LOr 4193) dated 31 July 1842 (Damais 1958:250). The colophon notes that a fine of 14,000 cash was imposed by the *kerta* in accordance with the sacred codes (*luden saking krettha desana saking agama*). The nature of the offence is not given.
- A transcription (HKS 5492) of a *lontar* manuscript from the collection of I Gusti Putu Jlantik dated 1899, containing the second part of the *Dewagama/Kretopapati*.²³ The copy is signed and dated by the *kanca* of the Singaraja court of justice (Radkerta ring Singaraja). It is probable that the signature is that of Jlantik himself.
- A deposition included in Van Eck (1874:91-2) and later incorporated in the *Adatrechtbundels* (XV:82-84) recorded in a *pangeling-eling* dating from 1849 submitted to Ida Cokorda Raka of Satria, an underlord of the Dewa Agung of Klungkung, by a man named Nuriyana from Sampalan, whose wife

²² The same chronogram year – fire-five-feelings-sun – is incorporated into an entirely different colophon in HKS 5268 (171a), a copy of the *Purwadhigama*. In this colophon, it is noted that the text(s) just copied are appropriate texts to be studied and followed by the commander-in-chief of the army to ensure victory. Brandes (1901-26, I:280-1) records the same colophon found in HKS 5268, but the dating elements differ: rather than 1653, the *saka* year is 1655, although the tens and units are given as 4 and 6, indicating a scribal error during the transmission process. On the basis of the other calendrical elements, Damais (1958:118) notes that these unit values and the year in figures given in the colophon cannot be reconciled and amends the reading to 1746 *saka*, giving a date equivalent to 29 May 1824. Amending the *saka* year in the HKS 5268 colophon to match Brandes's reading of 1655 and reading *su* (*sukra*, Friday) as *sa* (*saniscara*, Saturday) provides a date equivalent to 10 October 1733, but this interpretation is admittedly speculative.

²³ This transcription appears to be the same text as the Balinese law code published in 1918 under the title of *Kutara Agama* (Djilantik and Schwartz 1918b). A note indicates that this transcription is the second part of a single manuscript, following on from the *Purwa Agama* (transcribed as HKS 5491) published in 1918 (Djilantik and Schwartz 1918a). See also Creese 2009.

Sawi had been abducted by a certain Kojog from Buleleng. Citing the law books *Palakreta* and *Pasobaya*, Nuriyana sought justice from his overlord.²⁴ The verdict reached by the Padanda Gede Made Rai of the Klungkung court of justice was based on a comparison of the regulations from the *Adhigama*, which demanded the death penalty, with those in the Dewadanda and *Pasobaya*. In the end, the death sentence was not applied. Kojog was fined 160,000 cash and either had to allow Sawi to return to Klungkung or, if he wanted her to stay, to pay the standard bride price of 10,000 or 20,000 cash.

- A copy of an undated *Putrasasana* text from the Kirtya Collection (K 2543) notes that the copyist, Ida Bagus Made Nadra, was troubled and tormented and had been given a fine of 1 *keti* and 6 *tali*, and that although his life had been spared, he had been banished to live in the forest. The nature of the offence is not mentioned.
- A romanized Van der Tuuk autograph copy of the *Sarasamuccaya* (LOR 3852 (11); Brandes 1901-26, III:73) records an endnote dated 17 October 1731 CE (Damais 1958:229) which sets out in detail the time and circumstances of an oath-taking ritual. The same colophon is found in HKS 5251, a copy of the *Adhigama*.²⁵

In the *saka* year 1653 in the month of Karttika, on the day Kliwon, Buda, in the week Wugu. This is the time of taking the oath. Those who took the oath were Cahi ('brother') Nengah Jlantik, Cahi Abyan and Cahi Panah and it extends to all their relatives and family, lest they be not truthful in their service to me.²⁶ If I (waver) from the truth, may they be struck down in taking the oath. And if they have damaged me and my younger brother Adhi Ketut Agung, and my sons I Barak Pembayun and I Barak Madhe, may they be struck down when taking the oath. And if they have wronged me and my brother Adhi Ketut Agung, and my sons I Barak Pembayun and I Barak Madhe, may they be struck down when taking the oath.

²⁴ Legal codes are recorded under these titles in the manuscript collections although the specific texts to which they refer cannot be determined. Van Eck (1897:367) defines the term *palakreta* as the Old Javanese language of the texts kept secret from ordinary Balinese, but there is also a text called *Palakreta Agama* (HKS 5338). *Pasobhaya* (from *ubaya*, 'promise', 'pledge', 'agreement') is synonymous with *paswara*, a term generally used to denote royal promulgations on legal matters, for example, HKS 2130, HKS 2174, HKS 5053; see also Liefcrinck 1915, 1917, 1921.

²⁵ HKS 5251 is a continuation in transcription (71b-101a) of a palm-leaf manuscript from Jero Bakungan, Blayu, in Tabanan. The transcription of the first part of the manuscript HKS 5250 (1b-71a) is entitled *Agama*. A second codex from the same Tabanan source, HKS 5265, is a copy of a manuscript belonging to I Gusti Putu Jlantik dated 1898. It contains three separate texts entitled *Purwadhigama* (1b-137b), *Purwadhigamasasana* (138a-176a), and *Sarasamuccaya* (176a-195a) respectively. It is probable the two Tabanan codices are copies of the Brandes transcriptions, KBG 467 and KBG 478, preserved as LOR 6203a (6); see Pigeaud 1968:346-7.

²⁶ In the transcription in HKS 5251, the third person is named as Cahi Tanah rather than Cahi Panah, probably a typographical error.

The scribe Nirartha Pamasah

The scribe Nirartha Pamasah, the copyist of LOr 3852 (2), the first of the textual endnotes cited above that make specific links between law codes, legal proceedings, and textual activity, is one of the few Balinese copyists with a prominent identity in the textual record, although little is known of his personal circumstances. He appears to have lived in Sidemen in Karangasem, East Bali, in the early eighteenth century and to have been particularly active between 1730 and 1740, a period which coincided with the conquest of western Lombok by the Karangasem royal family. A number of the manuscripts that he copied found their way into the library of the Balinese court in Lombok. His work is particularly strongly represented in the renowned Leiden codex, LOr 5023 of the Lombok Collection. LOr 5023 is a compilation of 11 texts that contains a number of significant Old Javanese *kakawin* texts, including what was believed until the 1980s to be the sole manuscript of the *Nagarakertagama*. All have colophons dated between 1659 and 1662 *saka* (1737-1740 CE) and record details of hostilities that took place in north and east Bali at that time (Vickers 1990:175-7).

Nirartha Pamasah was responsible for copies of two of the major Old Javanese *kakawin* in this codex, the *Nagarakertagama*, written originally in 1365, and the undated *Kuñjarakarna*. He completed the former at Kancanasthana in the village of Kawyan on 20 October 1740 (Damais 1958:252), and the latter at Kancana in 1738. In both cases, the colophons note that it was a time when he, or his homeland, was 'beset by enemies' (*tinanggung ripu*, Pigeaud 1960:76, 1962:346-7; Teeuw and Robson 1981:200-1). Kanta (1978) has argued that this copy of the *Nagarakertagama* originates from Sidemen, which lies to the east of the Talaga Dwaja, a tributary of the river Unda, and that Kancanasthana refers to the Griya Sekaton in Sidemen, East Bali (Vickers 1982:445-6). A copy of the *Siwaratrikalpa*, another Majapahit *kakawin* in the same codex, was also written at Kawyan, presumably also by Nirartha Pamasah, although the name of the scribe in this case is not explicitly stated; its colophon records a number of events that took place in 1659-1660 *saka*/1737-1738 CE (Teeuw et al. 1969:156-7).

In addition to the *Adhigama* found in LOr 3852 (2) noted above, Nirartha Pamasah is named as the copyist in a number of other colophons recorded in recent transcriptions of manuscripts of various law codes. The first of these is HKS 5250, an *Agama* compilation, based primarily on the *Kutaramanawa*. It contains a chronogram (71a) noting the completion of the holy law text(s) – *Sang Hyang Agamasastra* – by Nirartha Pamasah at Sayawanasuksma in Bali, east of the river Unda at Iraya Banjar Kilen, at a time when 'good conduct had been destroyed', in the *saka* year bird-wind-cloud-moon, 1652 (1730 CE) (*i saka paksa bayu ghana candra*, 1652).

Two further colophons link Nirartha Pamasah to the troubled times referred to in the colophons found in LOr 5023. HKS 5268, a copy of the *Purwadhigama Siwasanasastrasaroddhreta* (159b), notes that the scribe Nirartha Pamasah from Sayawanasunya (= Sayawanasuksma), Banjar Iranya, made the copy at a time of war in 1653 (1731 CE).

The legal texts copied by Nirartha Pamasah date from the beginning of the 1730s, a slightly earlier period than the works contained in the Lombok codex. This series of early eighteenth-century colophons and the connections to Nirartha Pamasah draw the legal texts into the wider body of textual knowledge exemplified by the 11 works contained in LOr 5023, which Teeuw and Robson (1981:47-50) have suggested may have encapsulated the civilization of 'Java' that was carried to Lombok when it was conquered by the eastern Balinese kingdom of Karangasem in c. 1740. The law codes, with their close connection to Majapahit Java, appear to have been integral to the shared legacy that became the cornerstone of Balinese identity in the eighteenth and nineteenth centuries. At the very least, they point to the centrality of law texts for the scribe Nirartha Pamasah in this turbulent period.

Reconsidering legal authority

Pre-colonial Bali had a strong legal tradition with close links to pre-Islamic Java, and beyond that to Sanskrit Manawadharmaśāstra traditions. The Balinese legal system incorporated a set of law codes, written for the most part in Old Javanese, and local community-level practices that allowed justice to be administered in ordered but flexible ways based on the ability to negotiate and make restitution between parties in dispute. By the time the Dutch had created a more Western-style judicial system, albeit with a strong focus on localized *adat* law, the flexibility of the indigenous system had all but disappeared, or remained only within a homogenized administratively-compliant framework.

Nineteenth-century ethnographic accounts by European officials provide a rich and detailed overview of the Balinese legal system and the processes involved in the administration of justice. Compiled in the context of colonial ambitions, these descriptions highlight the perceived faults and limitations of Balinese justice. Thus, European commentators were generally dismissive of the disorganized arrangement of the law codes, the lack of appropriate evidence, the arbitrary application of laws and penalties, and the superstitious nature of the trial processes on which the indigenous system of justice depended – particularly the reliance on the oath-taking ceremony, the *cor*. As Van Eck (1879:370) declared, reform of the indigenous law books deserved the highest priority once the Netherlands Indies government had Bali firmly under its control. Reform of judicial practices became integral to colonial

efforts to free ordinary Balinese from the oppressive yoke of despotic Hindu rulers, and was coupled with the Orientalist imperative to purge the overlay of imported foreign Hindu elements from 'authentic' indigenous society. Nevertheless, this colonial assessment of the chaotic and arbitrary nature of Balinese judicial practices tells only part of the story.

In spite of the centrality of oaths to Balinese judicial understandings, such seemingly superstitious practices and blind faith in the power of spirits to adjudicate in matters of law were incomprehensible to Dutch observers. Even as they documented them in great detail, these practices, together with the despotic and arbitrary application of justice by traditional Balinese rulers, became the target of Dutch reforming zeal, particularly as the *adatrecht* movement gathered force in the early twentieth century. But long before the comprehensive documentation of Balinese *adat* law, the authority of Balinese legal texts was dismissed and indigenous practices relegated to infantile superstition.

When read together with the information provided by Balinese sources of the period, however, the judicial system outlined by nineteenth-century Dutch officials emerges as a regulated set of practices organized according to clearly articulated principles of legal thought. In practice, the law may indeed have frequently been arbitrarily applied, and many of the shortcomings noted by colonial administrators undoubtedly existed. Nevertheless, at least in theory, the Balinese legal system did allow for the consistent application of well-documented and longstanding regulations recorded in a widely recognized corpus of law codes. Established rules of evidence and procedures were applied, including the use of witnesses in trials and the swearing of the oath, and local custom and precedent were recognized as central to decision-making. The crucial roles of written legal authority and of judgements made on the basis of that textual authority are attested by the existing indigenous sources and the frequent references made in European accounts to consultation of law codes by tribunal members in reaching a verdict, as well as by the requirement for written documentation at each stage.

That certain law codes were widely used is evident from the number of surviving manuscript copies. The law codes served as practical manuals in which the details of civil and criminal offences and the fines and punishments were set out to provide guidance on appropriate sentencing and arbitration. The colophons and commemorative notes reveal that the processes of copying and studying legal texts were also closely bound up with the practical application of legal judgements. The copying of legal texts served to record judgements and thus to preserve at the local level the knowledge and memory of the application of the law.

The ethnographic focus of representations of Bali, particularly from the late 1850s onwards, added a layer of distrust to written documents and meant

that the Dutch regarded such texts as far less trustworthy than oral testimony. On the whole, Dutch colonial officials in the late nineteenth century remained highly suspicious of indigenous textual sources, a position that undoubtedly stemmed, at least in part, from a profound lack of understanding of Balinese textual practices. Western philological methods of the time were directed towards the recovery of the original Ur-text from which all corrupt readings and errors were to be eliminated in order to uncover the correct readings. Even as late as the 1930s, debate continued on the most appropriate ways to recover authentic Balinese legal thought from its Hindu overlay (Korn 1932:52-8). In the event, philologists failed to provide administrators with a 'reliable' text on which they could draw.

The sheer intractability of the textual record led to the homogenization of Balinese legal codes written in Kawi through a series of editions and translations into Balinese and later into Malay/Indonesian. Produced in order to facilitate the conduct of tribunals, these translations were designed not just for European colonial officials but also for the use of Balinese themselves, whom the Dutch considered to have a poor understanding of the language of the texts (Djilantik and Oka 1909a, 1909b; Djilantik and Schwartz 1918a, 1918b, 1918c). In Balinese terms, however, Old Javanese legal codes in use in the nineteenth century were texts designed for experts, those who knew and understood the law (*sastra*, *agama*) and who had the discernment to apply those laws appropriately in the *kerta*. Balinese exegetical textual traditions were indispensable to textual knowledge in the Balinese polyglossic linguistic context; the interpretation of texts relied on sometimes contested knowledge passed down in a range of languages, from Old Javanese to modern Balinese. By recasting and marginalizing the law codes with their multiple interpretative possibilities, the very essence of Balinese judicial practice – its flexibility within carefully defined parameters, drawing together royal authority (*adhigama*), text (*agama*), custom (*dresta*), human institutions (*saksi* and *kerta*), and the divine (*dewagama*) – was fatally undermined.

Inevitably, the pre-colonial authority of indigenous law codes and judicial practices was eroded by colonial administration. After decades of intensive colonial intervention, we simply cannot recover sufficient evidence to describe in detail how the administration of justice worked in purely Balinese terms, nor the extent to which it may have been reconfigured by the colonial encounter, nor indeed the extent to which Balinese practices in their turn may have shaped colonial processes (compare Cooper 2005:17-22). Nevertheless, the extra-textual information drawn from the Balinese sources described above provides fragmentary but persuasive evidence of the nexus between the Old Javanese written law codes, Balinese textual practices, and the resolution of legal disputes. Integral to the understanding of law and the administration of justice in pre-colonial Bali is the recognition that a variety

of texts and customary practices were invoked in decision-making processes. These fragments of the indigenous legal system at work thus provide hints of what mattered to Balinese themselves in the past.

Abbreviations

Br	Manuscript numbers cited in Brandes 1901-26
HKS	Hooykaas-Ketut Sangka Collection, Balinese Manuscript Project
K	Kirtya Collection, Singaraja
LOr	Codex Orientalis, University of Leiden Library

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