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## Meetings and minutes: Spaces of lawmaking and legal translation in colonial Indonesia

Sanne Ravensbergen

*Central to this article are the minutes of nine codification meetings held in 1865 at various locations in West Sumatra. During these meetings the draft regulations for a new colonial legal system were discussed and negotiated by West Sumatran elites and Dutch officials. This episode and its unique archives serve as a microhistory of lawmaking, legal translation, and erasure. The article argues that the process of making colonialism procedural, as well as the genealogical workings of colonial knowledge production, are crucial to understanding the making and unmaking of law in the context of legal pluralities. It shows that finding similarities in interests and worldview, moments of ‘erasure through translation’, the symbolic language of fluidity of adat and legal hybridity, as well as the archival power of the material and the spatial elements of both the meetings and the minutes, were vehicles through which codification in West Sumatra was attempted and contested.*

<i>Dolo rabab bertongkei</i>	In the past the rebab was stroked
<i>Kini kopi berboea</i>	Now the coffee is fruiting
<i>Dolo hadat di pakei</i>	In the past <i>adat</i> was used
<i>Kini rodi bergoena</i>	Now forced labour is used. <sup>1</sup>

This song was sung by local farmers in the southern districts of West Sumatra at the end of the nineteenth century. Following the pattern and style of a *pantun*, the lyrics describe nostalgically and with an indirect sharpness, how sounds of music and adherence to *adat* (customs; customary law) had been replaced by forced labour under colonial rule. The decades between 1830 and 1880 had brought drastic change in West Sumatra following increasingly intensive colonisation by the Dutch. Colonial control over coffee plantations and the introduction of a criminal law system had

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1 Cited in T.H. der Kinderen, *De algemeene verordeningen tot regeling van het regtswezen in het gouvernement Sumatra’s Westkust; Toegelicht uit Officieele Bescheiden* (Batavia: Ogilvie & Co, 1875), p. 48. *Rodi* or *herendiensten* (corvée labour) was forced labour imposed by the Dutch colonial government.

profound consequences for the populations of the Minangkabau, Mandheling (Mandailing), Ankola and Batak regions. The pantun, verses that were used to orally transmit adat, contrasts the playing of the rebab, with the coercive, written, nature of the Dutch regime and codification.<sup>2</sup>

Colonisation in West Sumatra, as elsewhere, occurred through a long procedural process that involved local and colonial elites negotiating, debating and signing agreements on the organisation of a legal system that established and/or strengthened the political power of both groups. Central to this article are the minutes of nine codification meetings held in 1865 at various locations in West Sumatra ten years before the song was sung. During these meetings the draft regulations for a new colonial legal system—that would be enacted in 1875 and provide the inspiration for the song—were discussed by West Sumatran elites and Dutch officials. The meetings were organised by a Colonial Commission of Inquiry consisting of Dutch Governor Jules Félicien Romain Stanislas van den Bossche and jurist Timon Henricus der Kinderen. They travelled to cities and towns across West Sumatra, where a number of well-known names from West Sumatran history participated in the meetings. Willem Iskander, famous Indonesian writer and teacher, acted as translator to the Mandheling and Ankola languages. Naali Sutan Caniago, local notable and the son of one of Indonesia's national heroes Imam Bonjol, also attended one of the gatherings. The names of numerous other West Sumatran notables and Dutch officials are on the lists of participants. All of them signed the minutes of the meetings.

Naali Sutan Cianago carefully kept the minutes of the meeting held at Fort de Kock (Bukitinggi), where he represented his district, Alahan Panjang, and these copies have partially survived. The minutes of all nine meetings were also kept in colonial archives—preserved in the back of a thick file with legal regulations and formal correspondence between Batavia and The Hague. The minutes reveal conversations, debates and strategic encounters between a variety of actors. Due to the nature of the minutes, the conversations during the meetings were also written down and therefore preserved the voices of a number of local elites directly, albeit through the intermediation of a clerk and translator. The minutes allow us to take a microhistorical approach of what Nasser Hussain called 'the ideological stakes in the notion of procedure'.<sup>3</sup> Colonialism and law went hand in hand and culminated in these moments of codification, but were long in the making, gradually and through generations of slow 'lawfare', and a variety of intermediate channels as well as human intermediaries.<sup>4</sup> Here in the minutes, we 'see' a glimpse of this process happening within the contained space of meetings, where Dutch colonial procedural ideas were in almost direct confrontation with West Sumatran perceptions of law and lawmaking. The meetings happened at a historical moment when promises made in an initial treaty between the

2 Liaw Yock Fang, *A history of classical Malay literature*, trans. Razif Bahari and Harry Aveling (Jakarta: Yayasan Obor Indonesia; Singapore: ISEAS, 2013 [1975]), pp. 442–7.

3 Nasser Hussain, *The jurisprudence of emergency: Colonialism and the rule of law* (Ann Arbor: University of Michigan Press, 2019), p. 68.

4 Studies on the workings of 'lawfare' and legal pluralism include: Lauren Benton and Lisa Ford, *Rage for order: The British Empire and the origins of international law, 1800–1850* (Cambridge, MA: Harvard University Press, 2016); Sally Engle Merry, *Colonizing Hawai'i: The cultural power of law* (Princeton, NJ: Princeton University Press, 2000); John L. Comaroff, 'Colonialism, culture, and the law: A foreword', *Law & Social Inquiry* 26, 2 (2001): 305–14.

West Sumatrans and the Dutch had already been breached and colonial codification was looming.

Historical work on law and empire has shown the long-term consequences of colonial lawmaking and treaties for the place of Islamic law and adat in postcolonial states, and the crucial role local elites had in this process.<sup>5</sup> Moments of colonial codification in the Netherlands Indies such as the Sumatra meetings, however, have been brushed off by historians as being events staged by the coloniser where no real interaction or discussion was possible and the outcome was predetermined.<sup>6</sup> As historian Jeffrey Hadler importantly highlighted though: '[t]he colonial legal system was an intrusion that began during the Padri war but was accelerated and made procedural in the meetings.'<sup>7</sup> In this article, therefore, I will explore the knowledge production process of the codification meetings and its actors, the temporary space of law in which they were held, and the archival power of the minutes.

First, I will closely 'read' the physical and material spaces of the meetings by following the travelling commissioners to the nine different locations and ask how the many attendees were communicating through contestation as well as channels of shared interests and perspectives. I will also trace the archival power of the material culture that culminated from the meetings; ranging from the minutes, the signatures, the signed copies of the regulations, to a revered old tree underneath which a meeting was held. Second, I will specifically focus on moments of *procedure* and *translation* during the meetings to explore understandings of the concept of adat, legal hybridity, and the translation of adat. The 1860s is generally seen as a decade in which liberalism prevailed in Netherlands Indies colonial policy, rather than the moment 'adat law' (*adatrecht*) was introduced, a heavily debated topic in Indonesia's legal history. The so-called 'adat law school' in the early twentieth century was a colonial project that aimed at 'preserving' adat by sanitising it from 'Islamic influences' and turning it into static written archives.<sup>8</sup> The second half of the nineteenth century, in contrast, had predominantly focused on explicitly Westernising the legal systems of the Indonesian islands. Yet, when looking into the minutes of the West Sumatra meetings of 1865 it turns out that adat, and the symbolic language around adat, was actually central to these earlier discussions.

The episode of the Sumatra meetings and its archives will thus serve as a micro-history of the making and unmaking of law. By centring the minutes of the meetings and by taking seriously the space of the gatherings and all those attending, I will argue

5 See especially Iza Hussin, *The politics of Islamic law: Local elites, colonial authority and the making of the Muslim state* (Chicago: University of Chicago Press, 2016).

6 They were also downplayed by contemporary Dutch officials and lawyers such as J. van Bosse, *Eenige beschouwingen omtrent de oorzaken van den achteruitgang van de koffiecultuur ter Sumatra's Westkust, benevens eenige opmerkingen omtrent de economische en politieke toestanden aldaar* ('s Gravenhage: Nijhoff, 1895), p. 41; Christiaan Snouck Hurgronje, *De Atjehers*, part 1 (Batavia: Landsdrukkerij, 1985), pp. 12–15.

7 Jeffrey Hadler, 'A historiography of violence and the secular state in Indonesia: Tuanku Imam Bondjol and the uses of history', *Journal of Asian Studies* 67, 3 (2008): 992.

8 Noor Aisha Abdul Rahman, *Colonial image of Malay adat laws: A critical appraisal of studies on adat laws in the Malay Peninsula during the colonial era and some continuities* (Leiden: Brill, 2006); Daniel S. Lev, *Legal evolution and political authority in Indonesia: Selected essays* (The Hague: Kluwer Law International, 2000).

that the process of making colonialism 'procedural' is crucial to understanding transformations in legal cultures in a colonial context full of legal pluralities. It is the combination of the material and the documentary form with the oral and the discursive that reveals how meetings are central to lawmaking and legal translation.

### Space of the meetings

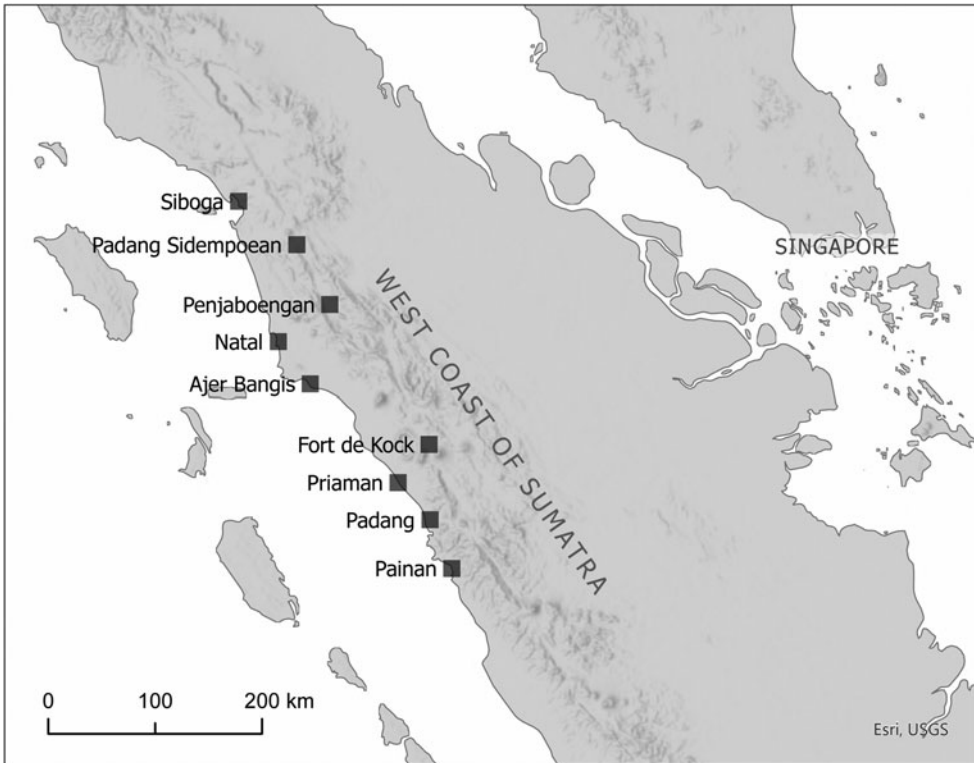
The Sumatra meetings were held between April and June of 1865 and the Commissioners travelled to nine cities and towns across the West Coast (*Westkust*) of Sumatra residency (see [fig. 1](#)). Der Kinderen was a Dutch colonial jurist who was appointed by the governor-general in Batavia to draw up colonial legislation for 17 regions in the Netherlands Indies. Priority was given to a uniform organisation of the law courts and criminal law issues. In 1865, Der Kinderen decided, after Java and Madura, to focus first on West Sumatra as it was an important region for colonial profit-making. The laws and governance of this region were also complicated because of the 1833 *Plakat Pandjang* (*lang plakkaat*; long contract), which will be discussed more fully later, in which the Dutch promised to *never* change the local institutions of government and law in West Sumatra. However, a mere thirty years later, in the 1860s Der Kinderen argued that this contract had to be changed as the Netherlands had to fulfil its obligations as a 'civilised nation'. In West Sumatra he and Van den Bossche and a secretary travelled to and held meetings in nine locations to discuss the proposed new laws with local notables appointed by the colonial government.

Daily office work, the repetitive tasks of the colonial bureaucracy, clerical documents, and the material aspects of paper have increasingly gained importance within the field of legal history.<sup>9</sup> For anthropologists of bureaucracy, similarly, the formal aspects of bureaucratic procedures have been positioned more in the centre of analysis, after they had been a 'blind spot' due to their everydayness, their ordinary nature that easily causes them to be overlooked. This literature has shown that meetings, precisely because of their logical nature, their repetitive symbolism, procedures and order are important sites of knowledge production and constitution.<sup>10</sup> This attention to the everydayness of bureaucratic and codifying procedure leaves questions open though about the legal-cultural aspects of a meeting held in a space where Dutch law, Malay adat and Islamic *syarak* (sharia) and their representatives were involved in the decision-making process. The setting of the meeting was largely defined by Dutch law and procedure, yet the impact of the oral nature of adat as well as the Minangkabau balance of the written *syarak* and oral adat was nonetheless central to the issues discussed and the solutions sought.

All the meetings were held outdoors at a central location of the respective city or the town. At the largest meetings more than eighty local heads and more than ten

9 Studies include Nandini Chatterjee, 'Mahzar-namas in the Mughal and British empires: The uses of an Indo-Islamic legal form', *Comparative Studies in Society and History* 58, 2 (2016): 379–406; Paul Halliday, 'Authority in the archives', *Critical Analysis of Law* 1 (2014): 110–42; Bhavani Raman, *Document Raj: Writing and scribes in early colonial South India* (Chicago: University of Chicago Press, 2012).

10 Hannah Brown, Adam Reed and Thomas Yarrow, 'Introduction: Towards an ethnography of meeting', *Journal of the Royal Anthropological Institute* 23, S1 (2017): 10–26.



**Figure 1. Map of West Sumatra. The meetings were held in Fort de Kock (Bukitinggi) on 6 April 1865, Painan on 23 April, Ajer Bangis (Air Bangle) on 10 May, Natal on 11 May, Penjaboengan (Panyambungan) on 15 May, Padang Sidempoean (Padang Sidempuan) on 17 May, Siboga (Sibolga) on 19 May, Padang on 29 May, and Priaman (Pariaman) on 25 June.**

Dutch colonial officials were present. Other meetings were somewhat smaller. At the meeting of 19 May in Siboga (northern West Sumatra, including Batak regions), for example, the minutes list a number of Dutch officials, including the commissioners, the Resident of Siboga and the Controleur as well as seven *Koeria* (district) chiefs who were mentioned by name, one *Pasar* chief also mentioned by name, and a large number of lesser chiefs who were not mentioned by name. A Dutch Secretary wrote down the minutes. The discussions were held in Malay. Soetan Igamo, district chief, spoke up at the start of this meeting declaring that he could read Malay, but that some of the other district chiefs from the Batak regions could not, and offered to translate for them.<sup>11</sup>

Repeatedly, an emphasis was put by the Dutch Commission on the importance of the open character of the meetings. Governor of Sumatra Van den Bossche, who attended all the meetings and did most of the talking, urged the local heads during the meetings to express all their questions and objections. When in Siboga a Batak

11 Arsip Nasional Republik Indonesia (ANRI), Jakarta, Besluit 22-9-1871, no. 59.

chief, who received the translation through Soetan Igamo, declared that he agreed with ‘everything’ the Dutch had proposed in the draft regulation, Van den Bossche emphasised in his response that the meeting was not intended to enforce a particular order, but was of an investigative character, and expressed his interest in all opinions and remarks on the draft regulations.<sup>12</sup> This stated emphasis on the open character of the meeting, where local notables were encouraged to speak their minds, is important to explore further. After all, Der Kinderen was well aware before he arrived in West Sumatra that he would breach the *Plakat Pandjang* of 1833. This is exactly what he would do, for example by abolishing *tanggung menanggung*, translated by the Dutch as the ‘system of solidarity’, in criminal law.<sup>13</sup> Der Kinderen also knew West Sumatra had a matrilineal system, about which internal conflicts existed, but was nonetheless firmly at the basis of local inheritance. This matrilineal system would be impacted greatly by the introduction of a Dutch legal system, based on European patriarchal ideas of property and progeny. Given the pre-ordained nature of some of these legal transformations, why did Der Kinderen travel to West Sumatra in 1865 for nine large meetings? What was the importance of these meetings? What happened there? What kind of local, regional, and colonial encounter was this? Exploring these questions will allow us to study the construction and erasure of legal histories essential to Dutch and Minangkabau self-perceptions, and the processes of lawmaking in a colonial society where legal pluralities were the norm.

### ***Plakat Pandjang: A promise broken***

Commissioner Der Kinderen left for West Sumatra in 1865 aware of the thirty-year old pledge to ‘entirely not’ (*in het geheel niet*) change the adat in this region.<sup>14</sup> On 25 October 1833 the Dutch had made this promise in a publication that was applicable to all ‘peoples of the Padangs Upper- and Lower Lands’:

... the Resident, or any Government official on this coast, shall entirely not interfere in any interior rule of this land, nor with the authority of your heads and penghulus; the choice of who your heads are will take place according to your own laws and adats, and all cases of debt, infringements, marriage, divorce, inheritance and others, will be administered by your own heads only, according to your adats and laws.

Also, *no one will interfere in the legal administration and trial of criminal cases, [which will] be done by your own heads, according to the laws and adats.* The only exception to this, are crimes committed against the Government, such as revolt and the murder or abuse of Government officials and soldiers, the theft of Government property. Those who commit these crimes will be tried by the Council of Justice in Padang.<sup>15</sup>

12 Ibid. Der Kinderen does not seem to speak during this meeting and the Governor seems to be asking all the questions, although we do not know if this was at Der Kinderen’s request.

13 Kielstra, ‘Sumatra’s Westkust’, pp. 640–41.

14 H.J.J.L. De Stuers, *De vestiging en uitbreiding der Nederlanders ter westkust van Sumatra*, vol. I (Amsterdam: Van Kampen, 1849), pp. 233–4, n.1.

15 Cited in Ibid., vol. II, p. 8. ‘... zal de Resident, of eenig Gouvernements ambtenaar op deze kust, zich in het geheel niet mogen bemoeijen met het inwendig bestuur van het land, noch met het gezag van uwe eerste hoofden en Penghoeloe’s; de keuze van uwe hoofden zal volgens de wetten en adats door u zelven geschieden, en alle zaken wegens schuldvorderingen, overtredingen, huwelijk, echtscheidingen, versterfregt en anderen, alleen door uwe eigen hoofden, volgens uwe adats en wetten, moeten worden afgedaan. Ook zal

This publication, which came to be known as the *Plakat Pandjang* (Long Contract), was crucially not in line with the general Dutch approach when it came to legislation and law in other economically important areas of the Indonesian archipelago. Not only did the Dutch promise to leave family law alone, which was quite common, but the treaty also explicitly mentioned that criminal law would be administered according to the local 'laws and adats' (*wetten en adats*) by their 'own heads' (*eigen hoofden*) without interference from the colonial government.<sup>16</sup> As stated in the *Plakat Pandjang*, the promise was made in the context of the West Sumatran Padri War, in which the Dutch with the proven method of divide and rule claimed to be protecting the adat leaders against the orthodox Islamic Padris: 'With immense sacrifice of money and people, the Government has supported you and freed you from those who want to change and destroy your religious and ancestral laws and customs.'<sup>17</sup>

Even though the Dutch made it seem, in 1833, that they would be protecting the adat against Islam, this was more a strategy than truth, and moreover the result of an erroneous presumption by the Dutch that Minangkabau matrilineity was essentially in conflict with Islam.<sup>18</sup> Europeans regarded the historically powerful Minangkabau Kingdom as the 'ancestral home' of the Malays and blamed Islam for its downfall.<sup>19</sup> Islam, however, had already been in Minangkabau since the sixteenth century, where it had spread mainly through the *surau*, the men's houses of the matriclan where the young men lived and received their education. The Islamic system of Sufi brotherhoods led by syekhs, specifically those of the Syattariyah *tarekat* (stream), fit rather easily within the existing *surau* system.<sup>20</sup> In the *surau*, adat and Islamic education were combined, and Islamic legal institutions were 'adatised'. For example, the Arabic word *warith* (heirs) was translated into Minangkabau as *warih* (*waris*), which means matrilineal heirs.<sup>21</sup> The Minangkabau also established a number of larger Islamic schools, to which students travelled to and from throughout the region. These schools were led by male *tuankus* (teachers), who also served as village advisers.<sup>22</sup> These religious schools also fit easily within another Minangkabau tradition;

*niemand zich mogen bemoeijen met uwe regtspleging en behandeling van criminele zaken, maar zal de afdoening daarvan geschiedenis doir uwe eigen hoofden, volgens de wetten en adats; alleen worden hiervan uitgezonderd misdaden, die gepleegd worden tegen het Gouvernement, als opstand, weerspannigheid, het vermoorden of mishandelen van 's Gouvernements ambtenaren of militairen, het rooven of spoliëren van 's Gouvernements eigendommen. Degenen die zich hieraan schuldig maken, zullen voor eenen raad van justitie te Padang worden teregt gesteld.'* Emphasis added.

16 The only exceptions to this promise were crimes committed against the colonial government, which would be tried by European law courts (*Raden van Justitie*).

17 Cited in De Stuers, *De vestiging*, vol. II, p. 8. 'Met groote opofferingen van geld en menschen, heeft het Gouvernement u bijgestaan en bevrijd van degenen, die uwe godsdienstige en voorvaderlijke wetten en instellingen wilden veranderen en vernietigen.'

18 Matrilineity exists in Islamic communities around the Indian Ocean. Mahmood Kooria, 'Matrilineal negotiations with Islam', *International Feminist Journal of Politics* 23, 2 (2021): 192–7.

19 Hadler, 'Historiography', p. 988.

20 Christine Dobbin, 'Islamic fervour as a manifestation of regional personality in colonial Indonesia', *Archipel* 56, 199 (1998): 303–5.

21 Franz von Benda-Beckmann and Keebet von Benda-Beckmann, 'Islamic law in a plural context: The struggle over inheritance law in colonial West Sumatra', *Journal of the Economic and Social History of the Orient* 55, 4–5 (2012): 779.

22 Dobbin, 'Islamic fervour', pp. 303–5.

that of the *merantau*, where young Minangkabau men were expected to travel for a period and receive their education in various locations and places.<sup>23</sup>

The Minangkabau had been a central node in a transregional Indian Ocean network. Growing demand for spices such as cinnamon and coffee led to an increase in trade and wealth for the Minangkabau at the end of the eighteenth century. This was also a period marked by the increasing prominence of neo-Sufi groups who advocated stricter adherence to Islam. But as Christine Dobbin has noted, ‘back to *syariat*’ was simultaneously a claim to protect international trade networks and to solve commercial conflicts more easily.<sup>24</sup> During this period, a number of Islamic schools were erected. These schools were each connected to different *tarekats*, such as the Naqsyabandiyah, Syattariyah and Qadiriyyah. On top of commercial interests, the reformist movements also started to engage with the daily lives of Minangkabau Muslims. This touched on the subject of matriarchal houses and inheritance law and led to fierce discussion and debate within Minangkabau communities.<sup>25</sup>

The tension between Minangkabau traditionalists and reformist Islamic leaders, however, was minor compared to the impact of a new group, the Padris,<sup>26</sup> who started preaching a Wahhabi-inspired Islam at the end of the eighteenth century. They rejected all adat and were particularly disapproving of matrilineal inheritance and matrilineal residence.<sup>27</sup> They also rejected the belief system of the Sufi Muslims, and also more moderate reformists, and they violently conquered villages. The tensions led to a civil war in Western Sumatra during which the Padris burned down traditional longhouses, and murdered adat leaders and the royal family of Pagaruyung.<sup>28</sup> In 1821 the Dutch made a pact with the adat leaders (the ‘traditionalists’) and sent in an army. In 1832 they believed they had defeated the Padri leader Imam Bonjol.<sup>29</sup>

Tuanku Imam Bonjol, a high-ranking Minangkabau ulama and religious leader, had become ‘the locus’ of the Padris when the Dutch started to intervene in the civil war. By that time, he had already conquered a number of regions, including the (previously non-Islamic) Batak regions.<sup>30</sup> The *Plakat Pandjang* was signed in 1832, when the Dutch were under the impression that the Padri War was over, because they had successfully sided with the adat leaders. The civil war, however, would continue for another five years, at which point both sides decided to unite against the Dutch and their colonial army of European and Javanese soldiers.<sup>31</sup> Imam Bonjol<sup>32</sup> fought from Fort Bondjol against the Dutch between 1833 and 1837—his heroic actions

23 Rudolf Mrázek, *Sjahir: Politics and exile in Indonesia* (Ithaca, NY: SEAP, Cornell University, 1994), pp. 10–12.

24 Dobbin, ‘Islamic fervour’, p. 306.

25 Hadler, ‘Historiography’, p. 979.

26 Dobbin, ‘Islamic fervour’, p. 306.

27 Hadler, ‘Historiography’, p. 979.

28 Dobbin, ‘Islamic fervour’, p. 306; Hadler, ‘A historiography’, p. 979.

29 Hadler, ‘A historiography’, p. 979.

30 *Ibid.*, p. 983.

31 Jeffrey Hadler, *Muslims and matriarchs: Cultural resilience in Indonesia through jihad and colonialism* (Ithaca, NY: Cornell University Press, 2008), p. 9.

32 Also known as Peto Syarif or Muhamad Sahab. See Hadler, ‘A historiography’, pp. 971–2.



led to his valorisation as one of Indonesia's national heroes. He died in exile in Manado, North Sulawesi.

During the course of the civil war, Bonjol began a process of rapprochement with the adat leaders. In his memoirs he wrote that when he heard that the Wahhabi had been defeated in Mecca, he reconsidered his strict interpretation of Islam. He called a large meeting in Alahan Panjang with all *tuanku*, *hakim*, *basa* and *panghulu*, and declared that he would no longer oppose the adat leaders. According to his memoirs, all attending subsequently declared that they would follow the laws of the *adat basandy syarak*: shariah as the basis of customary law.<sup>33</sup> The Agreement of Mount Marapalam of 1837 decided that 'adat is based on the syarak, the syarak is based on adat' as two 'equal foundations' of the Minangkabau; a declaration that would become a powerful expression used in orally sharing and discussing adat issues.<sup>34</sup> As Hadler observes, 'Padri capitulation was not a result of Dutch pressure but, rather, a response to ideological shifts in Mecca and a remorseful desire of a Padri leader to find a compromise between Islam and the customs of the *matriarchaat*.'<sup>35</sup> Pragmatically, Imam Bonjol had also secured his son's future. Naali Sutan Cianago, who had fought with his father against the Dutch, but obtained, after the war, a position within the colonial civil service as the *tuanku laras* of Alahan Panjang district. It was in this capacity that Cianago attended one of the meetings in 1865 that are central to this article.<sup>36</sup>

### Finding common ground

Although it is a myth that the Dutch defended the matriarchy against the padris, they did make a promise to the *adat* leaders, in the treaty of 1833, that they would not intervene *at all* in the laws, customs, and the law courts of Western Sumatra. It was this promise that Der Kinderen wanted to breach, and for this he needed a successful range of meetings and convince the West Sumatran heads; in that sense the meetings fulfilled the role of being a 'managerial process of "stabilization"'.<sup>37</sup> Rather than a

33 Hadler, 'A historiography', p. 985.

34 Von Benda-Beckmann, 'Islamic law in a plural context', p. 780; Taufik Abdullah, *Schools and politics: The Kaum Muda movement in West Sumatra* (Ithaca, NY: Cornell Modern Indonesia Project, 1971), p. 8; Dobbin, 'Islamic fervour', pp. 300–301; Von Benda-Beckmann, 'Islamic law in a plural context', pp. 781–2.

35 Hadler, *Muslims and matriarchs*, p. 9. This does not mean that after the Padri War (1803–37) the differences among the various Minangkabau religious streams were entirely resolved. In the 19th century debates continued among experts who wanted to 'assert and implement the superiority of more uncontaminated versions of either adat or Islam' (Von Benda-Beckmann, 'Islamic law in a plural context', pp. 781–2). And the stricter Islamic branch still existed, for example, in the Kamang region which was known for its Islamic 'fanaticism' both at the start of the Padri War, as well as during the head-tax conflict in 1908. In 1908 another promise from the *Plakat Pandjang* stating that Minangkabau would not have to pay direct taxes was violated. '*Ten vijfde: zal het Gouvernement gene geldelijke heffingen onder u lieden doen, maar het verlangt slechts dat gijlieden, in uw eigen belang, waardoor ook dat van het Gouvernement zal worden bevorderd, groote uitbreiding zult geven aan de koffij- en peper-kultuur. [...] Het zal u evenwel volkomen vrijstaan, om uwe goederen naar Padang te brengen, en naar verkiezing te verkopen.*' (Plakat Pandjang, in De Stuers, *De vestiging*, vol. II, p. 12). The introduction of the head tax to replace the Cultivation System ended this, and Dutch colonialism became even more invasive. See Abdullah, *Schools and politics*, p. 8.

36 Hadler, 'A historiography', p. 989.

37 Brown et al., 'Introduction', pp. 10–26.

meeting between strangers or opponents, therefore, the meetings were presented as an open space for discussion. Iza Hussin in her work on treaty-making in British Malaya shows that although the Malay and British elites did not share a 'system of language, meaning, expectation' and their interactions featured 'misunderstanding and mistaking', results were reached through negotiation simply because both parties needed each other.<sup>38</sup> In addition to needing each other, I argue that there were also certain shared systems of understanding that created space for conversation and negotiation. Common ground was sought, with varying degrees of success. It is therefore relevant to not only explore where there was strategic action, miscommunication or sabotage, *when* colonialism was made procedural, but also *how* this happened through moments of shared interests and understanding.

First of all, this was a meeting of bureaucrats. All the attendees were involved in the daily execution of colonial rule that had gradually intensified over the past thirty years. The everydayness of colonial bureaucracy involved a constant need to clarify and streamline daily tasks. Despite this happening at a relatively low level, acts by local actors had a political impact on the formation of bureaucracies across colonial empires.<sup>39</sup> In Sumatra, this is, for example, quite clear during the meeting in Natal, in the northern tip of West Sumatra. Toeankoe Besaar of Natal on one hand rejects a proposed change in a legal tradition, as discussed below, but also signals that he would like to get clarity on which laws or adat apply, and for that reason would agree to the colonial regulations, because he: '[felt like] a sailor at open sea who does not own a compass to determine his course'.<sup>40</sup> These small interventions became consequential, as in this case, a request for clarity allowed the Dutch to gradually define which laws would apply and how.

To a certain extent, all attendees of the meetings also had a certain interest in maintaining the status quo and streamlining the plantation economy and the legal system that was their joint responsibility. There was an awareness of the legally plural context in which they functioned, and the opportunities it afforded for what Nurfadzilah Yahaya has described as 'creating their own legal domains'.<sup>41</sup> The shared interest in *orde en rust* (peace and order) is especially visible when we look more closely at the discussions surrounding the theme of the legal authority of the village heads. On 15 May 1865, during the meeting in Penjaboengan (Groot and Klein Mandheling) several notables, among whom were the Jang die Pertoean of Kotta Siantar and Dja Bagon of Menangbing, make known that according to them the kampong heads should be given some legal authority in minor cases. The Dutch secretary noted in the minutes that a 'lively discussion among governor and named heads' followed. He did not record this discussion verbatim, unfortunately, but he summarised the opinions expressed by the heads:

38 Iza Hussin, 'The pursuit of the Perak regalia: Islam, law, and the politics of authority in the colonial state', *Law & Social Inquiry* 32, 3 (2007): 767.

39 Diana S. Kim, *Empires of vice: The rise of opium prohibition across Southeast Asia* (Princeton, NJ: Princeton University Press, 2020), p. 12; Bhavani Raman, *Document Raj: Writing and scribes in early colonial South India* (Chicago: University of Chicago Press, 2012), p. 8.

40 ANRI Besluit 22-9-1871, no. 59. 'eenen zeeman [voelt] die in volle zee is doch geen kompas bezit, waarnaar hij zijne koers kan regelen.'

41 Nurfadzilah Yahaya, *Fluid jurisdictions: Colonial law and Arabs in Southeast Asia* (Ithaca, NY: Cornell University Press, 2020), p. 9.

If one would withhold the special legal authority from the kampong heads, one would take away their only means to exercise their authority. Orders will hardly be followed if the kampong head cannot mete out immediate punishment [...] And yes, the coffee cultivation and the maintenance of roads and bridges, and the peace and order (*orde en rust*) in the kampong, would severely suffer from this.<sup>42</sup>

The interest in the legal authority of the kampong heads here is clearly driven by the potential threat to the profits of the colonial cultivation system. In Mandheling with its many coffee plantations, this was especially relevant. Governor Van den Bossche and Commissioner Der Kinderen were susceptible to this argument: 'After consultation with the Governments' Commissioner, the Governor told the heads who were at the meeting that their remarks and thoughts would be considered carefully, and that already it could be said that they contain much value, and that therefore their wishes would be met as far as possible.' In this moment, when the interests of the Dutch and the Minangkabau heads came together in the service of economic profits, the meeting immediately became more productive, the discussions have more content, and they look more like a real exchange of ideas, than at other moments that we will discuss further below.

Second, all those attending were men. Although the Minangkabau had a matrilineal system when it came to land and (parts of) inheritance, this did not mean that all power was also in the hands of women. At these kinds of meetings, a colonial space, women were not invited, just as there were spaces within Minangkabau society to which women did not have access or where they had no influence over decision-making. It was with ease that all the men participating in these meetings spoke about the fate of women in certain criminal law issues, in the absence of women representatives. For example in Priaman on 25 June, there was a 'lively discussion' on the issue of women committing adultery, and it was one of the few moments that the local heads were not rather swiftly silenced by the Governor:

Maharadja di Radja (Mangong) reminds the meeting of the adat on a woman who begets a child outside marriage. Mother and child are then made the slaves of the head, but can buy their freedom by paying sathail sapau (f40,-). Will this adat be maintained? This question leads to a lively discussion, in which the Governor and various heads partake. Among the latter, there are a number who think it beneficial to maintain the adat, among whom were Bagindo Saleh (Oelakkan) and Toenkoe Raija (Loeboe Bassong). The former, because this is what the adat says. The latter, because he is afraid that unmarried women might no longer be fearful of an immoral lifestyle.

The Governor, however, argues that it is cruel to punish one single misstep with slavery; how unjust it is for the child to have to be punished for the wrong committed by his mother; and also that the abolishment of the adat would not have the negative consequences one might fear, and that the continuation of this adat is only in the interest

42 ANRI Besluit 22-9-1871, no. 59. 'Onthoudt men den kamponghoofden alle bijzondere regtsmagt, dan ontnemt men hun het eenige middel om hun gezag te kunnen doen gelden. Het opvolgen van gegeven bevelen zal bijna nimmer plaats hebben, wanneer de dienstpligtige weet, dat het kamponghoofd hem niet onmiddellijk straffen kan, maar dat zijne zaak moet gebragt worden voor den rapat van het koeriahoofd, dat in de meeste gevallen ver afwoont, en het is duidelijk dat daaronder de koffijcultuur, onderhoud van wegen en bruggen, ja orde en rust in de kampong zeer zullen lijden.'

of the heads, who, as the judges themselves, have an advantage in the verdict they pronounce. After this, no one [at the meeting] urges anymore for the preservation of this adat.

Toeankoe Sariep Andal, regent of Priaman, asks which law court will administer an accusation of adultery? The Governor answers that this would be the Landraad in Priaman, or elsewhere the rapat, presided by European officials. Maharadja di Radja points out the existing adat regarding adultery: a man who catches his wife committing adultery red-handed, has the right to kill both her and her accomplice, without being punished. Furthermore, an accusation of adultery can be made by the husband as well as witnesses.

The Governor says that according to the Netherlands Indies' criminal law only the husband can make an accusation of adultery, which is more effective. Other than that, he agrees with the adat. Maharadja di Radja (Ticoe) thinks it necessary that this particular point should be stated more specifically. [But] the Governor does not think such a specific regulation is necessary.<sup>43</sup>

Here, again, we observe an exchange of information and views, in a relatively open atmosphere. Although Van den Bossche did not agree with all aspects of the adat—he was not so much concerned about the fate of the women as of that of their children—there was a common understanding among the male Minangkabau leaders and Dutch officials alike of the position of women in society and agreement about the punishment for adultery.<sup>44</sup> This shared understanding went beyond general ideas about women in Minangkabau society. Governor Van den Bossche also spoke here from personal experience; he was unmarried, but had at least three children with

43 Ibid. 'Maharadja di Radja (mangong) brengt in herinnering welke de adat is, wanneer eene vrouw buiten huwelijk moeder wordt. Moeder en kind worden dan slaven van het hoofd, maar kunnen zich door betaling van sathail sapau (f40,-) vrijkopen. Zal deze adat worden behouden? Die vraag geeft aanleiding tot eene levendige discussie, waaraan de Gouverneur en onderscheidene hoofden deelnemen. Onder deze laatsten zijn er verscheidene die het behouden dezer adat wenschelijk achten, onder anderen Bagindo Saleh (Oelakkan) en Toenkoe Raija (Loeboe bassong), de eerste omdat de adat nu eenmaal zo is, de ander, omdat hij beducht is, dat wordt die adat afgeschaft, geen vrees voor de gevolgen de ongetrouwde vrouwen meer afschrikken zal van eene onzedelijke levenswijze. De Gouverneur betoogt daarentegen hoe wreed het is eene enkele misstap met slavernij te bestraffen; hoe onregtvaardig het is het kind voor de fout zijner moeder te doen boeten; en verder; dat de afschaffing dier adat niet te nadeelige gevolgen zal hebben, welke men daarvan vreest, en dat het behouden derzelve slechts in het belang der hoofden is, die zelve regters, voordeelen trekken uit de straf welke zij opleggen. Daarna wordt niet langer op het behouden van de meerbedeelde adat aangedrongen. Toeankoe Sariep Andal, regent van Priaman, vraagt voor welke regtbank eene klagte wegens gepleegd overspel zal moeten worden behandeld? Gouverneur: te Priaman voor den Landraad, elders voor de rapat, voorgezeten door de Europesche ambtenaaren. Maharadja di Radja, lar-ashoofd van Tiede, wijst op de bestaande adat ter zake van overspel; de man die zijne vrouw op echtbreuk betrapt, heeft het regt om zoowel haar als haar medepligtige te dooden, zonder daarvoor strafschuldig te worden. Eene klagt wegens overspel kan ingebracht worden door den man en ook door personen die getuigen waren van het feit. De Gouverneur merkt op dat volgens het Nederlandsch Indisch strafregt, klagten wegens gepleegd overspel alleen van den echtgenoot kunnen worden aangenomen, hetgeen ook doelmatiger is. Overigens is de adat goed. Maharadja di Radja (Ticoe) acht het noodig dat dit punt in het bijzonder worde geregeld. In de aanspraak van den Gouverneur wordt het niet vermeld. De Gouverneur acht zulk eene specifieke regeling niet noodig.'

44 Sanne Ravensbergen, 'Courtrooms of conflict: Criminal law, local elites and legal pluralities in colonial Java' (PhD diss., Leiden University, 2018). There is a resemblance with how crimes of passion (*minnenijdzaken*) were decided within the colonial legal system. A pardon was almost always given to an Indonesian who murdered his wife in a fit of jealousy over her adultery, but hardly in other cases.

two local women. Both the attending Minangkabau men as well as Van den Bossche were enmeshed in local family life, including having children, albeit under very different circumstances.<sup>45</sup>

Third, all attending Dutch and Minangkabau men shared a discourse of progress and the conviction that education for men of certain classes was important. The long tradition of *merantau*—travelling to distant schools to receive education—continued under colonial rule. The possibility of gaining a better position within the colonial government through Dutch education was illustrated at the meeting in Ankola by the presence of translator and teacher Willem Iskander, who came from the area and had been trained in the Netherlands. At the time of the meetings Iskander had just returned from the Netherlands. From around the mid-nineteenth century, a relatively high number of Minangkabau men (compared to other Indonesian regions) went to the Netherlands for higher education.<sup>46</sup> Ideas of progress and civilisation were also central to the meetings. A number of the Sumatran attendees referred to certain parts of West Sumatra as being more ‘developed’ than others, especially the Batak regions, which were considered ‘less developed’ compared to the Minangkabau.<sup>47</sup>

Finally, all attendees shared their belief in one God. At each meeting there was an explicit reference to religion. God was a central part of the gatherings, and implicitly the emphasis that Christianity and Islam had the same God. Although these points of convergence—shared ideas about bureaucracy, gender, civilisational progress, and religion—may seem obvious, the meetings foreground the marked and unmarked ways in which common ground, however temporary, was crucial to the workings of the law and legal transformation. A close reading of the minutes enables us to see these moments of connection where there was more space to go in depth in the discussion and make decisions seemingly collectively and with consensus.

### Adat as argument

Despite a number of shared commonalities, the minutes reveal that there were more moments when there was tension and disagreement between the Sumatran and Dutch officials, especially when discussing adat in criminal law. The *adat tanggung menanggung*, or solidarity system, in particular turned out to be a dead-end conversation as the Dutch aimed to introduce a system of individual instead of communal

45 C. Zimmerman, Introduction to the ‘Inventory of the personal archives of J.F.R.S. van den Bossche and E.M. Francis (no. 2.21.030)’, National Archives of the Netherlands (The Hague, 1978). Van den Bossche never married, although he legally recognised three children. The mother of two of these children was the local woman Badima. For more information about Van den Bossche in West Sumatra, see: E.B. Kielstra, ‘Sumatra’s Westkust sedert 1850’, *Bijdragen tot de taal-, land- en volkenkunde* 41, 1 (1892): 306.

46 Siti Norma Nasution, ‘Willem Iskander: Spirit of nationalism, education and moral religion’, *International Journal of Linguistics, Literature and Culture* 5, 1 (2018): 24–31.

47 *Adatrechtbundel XLIII Gajo, Alas en Bataklanden* (1949), p. 1. In 1880 de *Keur van Canne* was implemented in Tapanoeli (northeast of Siboga; a Batak area), because under the regulation imposed by Der Kinderen a number of ‘adat violations’, such as *soembang* (violation of the prohibition of exogamy), could not be tried anymore. The *Keur van Canne* solved this. In 1906 Tapanoeli was administratively separated from the west coast of Sumatra. See also Sita Thamar van Bemmelen, ‘Good customs, bad customs in North Sumatra: Toba Batak, missionaries and colonial officials negotiate the patrilineal order’ (PhD diss., Leiden University, 2012).

responsibility. Van den Bossche passionately argued that the solidarity system was in fact Islamic and that the abolishment of this system would be a rightful return to the 'old adat'. During the meeting of 29 May 1865, in the largest West Sumatran city Padang, he emphasised his views when explaining article 1 of the proposed draft regulations: 'The so-called solidarity system, or the *adat tanggung menanggung*, which has generally come into vogue here, should be abolished and there should be a return to the original adat, which says that every person is responsible for his own deeds and not for those of others.'<sup>48</sup>

The issue was, of course, that there was not something like *the* adat, because adat was an unwritten, living law that responded to change in Sumatran society. There were also different kinds of adat with various terms signalling what kind of adat was used. Adat that changed due to decision-making, for example, was called *adat nan diadatkan*.<sup>49</sup> When the Sumatran heads attempted to explain this during the meetings, they were met with ignorance and arrogance on the part of the colonial officials. On 25 June 1865, at the meeting in Priaman the proposal to abolish the solidarity system met the most resistance. A discussion arose in which Bagindo Tan Linbang, the *laras* head (*larashoofd*) of V Kotta, argued that when a thief cannot pay back the value of stolen goods to the victim, the thief's *kampung* should do this instead. To this Van den Bossche responded: 'But that is not what the old adat says; according to the old adat each and everyone has to pay their own debts and pay for their own misdeeds, as follows from the principles: *beroetang, membaijar; tangan menantjang, bakoe memikoel enz.*'<sup>50</sup> Bagindo Saleh, *laras* head of Oelahkan responded to this by explaining: 'The *adat tanggung menanggung* does belong to the traditional Malay adat. The cited principles, instead, have more resemblance to the Koran.'<sup>51</sup> Maharadja Nando, *laras* head of Mangong argued: 'The cited principles belong to the original *adat tanggung menanggung* (the custom of who bears the responsibility), that have come into vogue at a later time (*adat jang di abatkan*).'<sup>52</sup>

The local heads thus pointed out to Van den Bossche, a self-declared expert on Sumatran adat, that there were inconsistencies in his explanation of the existing solidarity system, in which the murderer's community was involved in payments to the victim's community. Van den Bossche wanted to convince the meeting of his belief that the solidarity system was an infringement on what he calls 'the old adat' and that the abolishment of the system would therefore mean a protection of adat. When he did not succeed in convincing the meeting he turned to Bagindo Saleh and asked incredulously if he would be willing to pay for his relatives if they committed a murder. The Dutch clerks noted Bagindo Saleh's response: 'Named head

48 ANRI Besluit 22-9-1871, no. 59. 'Het zoogenaamde solidariteitsstelsel of de *adat tanggung menanggung*, welke algemeen in zwang is gekomen, behoort afgeschaft en teruggekeerd te worden tot de oorspronkelijke *adat*, volgens welke een ieder naar zijne eigene daden aansprakelijk is en niet voor die van anderen.'

49 Von Benda-Beckmann, 'Islamic law in a plural context', p. 778.

50 ANRI Besluit 22-9-1871, no. 59. 'Dat is toch de oude *adat* niet; volgens deze moest ieder zijne eigene schuld betalen en zijn eigen misdrijf boeten, zooals volgt uit de spreuken: *beroetang, membaijar; tangan menantjang, bahoe memikoel enz.*'

51 Ibid. 'De *adat tanggung menanggung* behoort wel tot de oorspronkelijke maleische *adat*. De aangehaald spreuken stemmen meer overeen met het strafregt, zooals dat uit den Koran moet worden afgeleid.'

52 Ibid. 'de aangehaalde spreuken behooren tot de oorspronkelijke *adat tanggung menanggung* eerst in lateren tijd in zwang is gekomen (*adat jang di abatkan*).'

answers that this would depend on the circumstances, but that he would certainly be willing to pay in certain instances.’ This short dialogue between Bagindo Saleh and Van den Bossche reflects the latter’s lack of understanding, and unwillingness to understand, certain legal concepts followed by Bagindo Saleh.<sup>53</sup> Reading the minutes almost a hundred and fifty years later in an archive, it is also this exchange that stands out most in the files; for a short moment the format of the minutes changed, the tensions and stakes of what was discussed during a meeting about regulations surfaced; the formal became personal.

Whereas Van den Bossche emphasised that the abolishment of the solidarity system would be a return to adat, in other places the Dutch conversely argued that the ‘old adat’ had to be changed, because the area ‘had blossomed’ (*in bloei was gestegen*) and the laws were to be adapted to the new circumstances. The liberal lawyer and newcomer to the colony, Der Kinderen, used this metaphor of blossoming and transformation to argue for the introduction of colonial legislation as being similar to the fluid, ever changing, nature of adat. Ten years after the meetings, in 1875, when Der Kinderen returned to West Sumatra and visited the same places as before to enact the new colonial legislation, he also explicitly referred to adat. During one of his speeches, Der Kinderen was standing at the same place where the meeting was held ten years ago and reminded the Sumatran leaders of the large, old waringin tree (see [fig. 2](#)) that had been there:

Ten years ago we found shelter under the broad branches of this old waringin that later fell over. Some of you might think that the adat will be sidelined because of the new legislation. But those who say that have not thought about it long enough, because if they did they would understand that when a people develops more, the laws will also change. That is why in your traditions the *hadat nan di hadatkan* exists next to the *hadat nan benar*. The new laws that I now give you in the name of the Government, are like the *hadat nan di hadatkan*.

Many of you will remember the large waringin tree, that, when we held that large meeting here over ten years ago, spread its branches and leaves over us; that tree had lived for a long time, it was old, very old, and finally fell down, and it cannot protect us from the sun anymore. But, in its place a young tree will be planted, and this tree will grow old too and protect the people with its wide branches and leaves from sunshine and rain, until that tree will become old and fall, die and be replaced by yet another tree.

This is similar to the hadat and the laws: slowly they penetrate the soul of the people providing guarantees of justice and safety, but they also get old, the people progress in their development, the adat and laws do not fit the circumstances anymore and have to be replaced. That is how the new laws, which I have brought here now, will replace outdated customs and institutions and in their turn, these new laws too will change, and will have to be replaced.<sup>54</sup>

53 Van den Bossche responded by saying that everyone was of course free to pay for their relatives or others, but that this should be out of free will, and that criminal law should be uninterrupted. Datoe Radja van Satie, head of Loeboe Along, then attempts to posit a similar question as Bagindo Tan Linbang’s, and receives a similar answer.

54 T.H. der Kinderen, ‘Uittreksel uit het verslag van den gouvernements-commissaris mr. T.H. der Kinderen, betreffende de invoering der nieuwe regeling van het regtswezen in het gouvernement van



**Figure 2. Photograph of a waringin tree in Sumatra, c.1877–79 (Leiden University Libraries, KITLV no. 7097)**

After the speech Der Kinderen and those gathered planted a new waringin and the penghulu read a prayer.<sup>55</sup> Der Kinderen exclaimed in Dutch and after that in Malay:

May this young tree grow into a giant, who reaches his roots far and wide over the earth and spreads his wide-leaved branches protectively over the people! May, equally, the new regulations be planted in the hearts of the people and protect them against crime, vice and injustice. To this, God will give his blessing!<sup>56</sup>

Sumatra's Westkust', in *Verslag van bestuur en staat van Nederlandsch-Indië, Suriname en Curaçao* (The Hague: Koloniaal Verslag, 1875), Attachment M. 'Velen uwer zullen zich nog wel dien grooten waringinboom herinneren, die, toen wij hier ruim tien jaren geleden die groote vergadering hielden, zijne taken en bladeren over ons uitstreckte; die boom had reeds lang geleege, was oud, heel oud geworden, en eindelijk is hij omgevallen, en nu kan hij ons niet meer tegen de zonnestralen beschermen, maar in zijne plaats zal een jonge boom worden geplant, en die boom zal ook groot worden en de menschen met zijne wijd uitgespreide taken en bladeren tegen zon en regen beschermen, tot dat hij ook weder oud zal zijn geworden, op zijne beurt zal omvallen, sterven en weder een anderen worden vervangen. Zoo is het ook met de hadat en de wetten: langzamerhand dringen die door inde ziel van het volk en dan zijn ze waarborgen van regt en veiligheid, maar ook zij worden oud, het volk gaat vooruit in ontwikkeling, ze passen niet meer in den toestand en moeten door andere worden vervangen. Zoo vervangen de nieuwe wetten, die ik nu heb gebragt, verouderde gewoonten en instellingen en op hare beurt, zullen ook deze nieuwe wetten weder veranderen en door andere moeten vervangen worden.'

55 Ibid.

56 Ibid. 'Moge deze jeugdige boom opgroeijen tot een reus, die zijne wortelen verre over de aarde uitstreckt en zijne wijdgebladerde taken beschermend over de menschen uitbreidt! Moge evenzo de nieuwe



Der Kinderen spread the first three scoops of soil around the sapling, followed by the governor, the European officials, military commanders, the indigenous heads, and finally ‘most of the ladies’.

During the 1865 meetings, ideas about the fluidity of adat provided not only the Dutch with an argument to transform existing customs, but this was a process that a variety of local elites also sought. Through a recourse to fluidity, they inserted their interests and concerns in this space, revealing local differences. That the matrilineal inheritance law, for example, was not undisputed in West Sumatra appears from the minutes of a number of meetings. Family law issues, such as marriage, divorce, property and inheritance were generally touched as little as possible by the Dutch, as had also been their strategy in Java.<sup>57</sup> Matrilineal inheritance (*adat pusaka*) was applicable through the *harato pusako*—the property of matrilineages under a lineage head, which comprised of land and houses, but also titles and jewelry. *Harato pancahari*, to the contrary, was property that was obtained by an individual during his lifetime and which was inherited by the male lineage.<sup>58</sup> For many Sumatran notables, the potential interference with this adat was a concern and thus the issue was brought up in most meetings. During the public meeting held with the local chiefs of Ajer Bangis and Ran on Wednesday 10 May 1865, for example, the *laras* head of Tandjang Batang declared that he ‘entirely’ (*ten volle*) approved of the proposed regulations and considered them to be ‘of the highest importance to the well-being of land and the people’ (*van het hoogste belang voor het welzijn van land en volk*), but he added that he hoped that it was not the aim of the government to make any changes in the *adat poesaka* (matrilineal inheritance) of the Malay inheritance traditions. Van den Bossche assured him that this would not happen.<sup>59</sup>

At the meeting in Natal, however, the Toeankoe Besaar of Natal proposed to change the ‘old *adat poesaka*’ so that the inheritance of a man would from then on go to his children. He argued that this way of inheriting would be more in concurrence with the ‘laws and regulations of the religion followed by the population of Natal’. Toeankoe Batahan responded by stating that in his region, in Batahan, a coastal town a bit more south, the ‘old adat’ was followed, and that there was no wish for a change in this adat. He did add, carefully it seems, that a change, however, would not meet opposition (*gene tegenkanting*) if the colonial government would want to introduce this change. The input from the two local heads shows that there were regionally different interpretations of the inheritance law, and we can see glimpses of the tense history around this issue. Van den Bossche responded to both these remarks equally carefully, hinting that the colonial government was not

*regeling zich planten in de harten der menschen en hen weldadig beschermen tegen misdrijf, ondeugd en onregt. Daartoe geve God Zijn zegen!*

57 Von Benda-Beckmann, ‘Islamic law in a plural context’, p. 780. The village adat council administered cases related to property and inheritance, and the adat and Islamic heads in mosques dealt with cases of marriage and divorce.

58 Ibid., p. 777. Formal consensus was reached only in the 1930s when a fatwa was issued deciding that ‘pusako-lineage property [is] inherited according to adat and self-acquired property to Islamic inheritance law’. However, disagreement about this practice continued to exist (ibid., p. 787).

59 Kielstra, ‘Sumatra’s Westkust sedert 1850’, p. 306. In their own correspondence and publications, the Dutch described Minangkabau matrilineality as ‘unnatural’ (*tegennatuurlijk*). But they did not want to touch it yet out of fear of sparking revolt and unrest.

a proponent of matrilineal inheritance, but said that ‘however useful’, a change in the inheritance law could only take place with the ‘collaboration of all stakeholders. If the entire population would be in favour of such a change, then the heads could inform the colonial government of this.’<sup>60</sup> In the minutes of the meetings it is clear that the Dutch preferred to not engage, let alone intervene, in matrilineal inheritance issues.<sup>61</sup> Since there were local differences on the subject, it was relatively easy to return the issue to the local heads of the region by telling them that they first had to find agreement amongst themselves.

In using the *idea* of what adat was as an argument during the meetings, the Sumatran elites were either attempting to protect their legal traditions or saw a possible gateway into changing certain adat traditions they did not observe to be fitting to their own sub-region. The two Dutch actors used the idea of a fluid adat as well to advance their own agenda of wanting to introduce Dutch laws and abolish certain adat altogether. Van den Bossche and Der Kinderen used opposing arguments about adat to reach the same conclusion that a colonial regulation of the legal system was needed. Van den Bossche argued for a return to the ‘old adat’ by removing Islamic influences. Der Kinderen was in favour of changing the local legal traditions, arguing that change and fluidity was inherent to adat. This discrepancy in both Europeans’ reasoning, while still reaching the same conclusion, was not necessarily orchestrated, but rather reflects their very different backgrounds. Van den Bossche was an ‘oudgast’, a long-term resident of the Indies with ties to local society and Sumatra in particular. He was personally invested in the idea of protecting adat against the influences of Islamic law. Der Kinderen was a relatively recent arrival in the colony, who strategically used his interpretation of the fluid nature of adat as a rhetorical tool in order to abolish parts of it.<sup>62</sup>

### Adat translated

The broader concerns about the preservation of adat and conflicting ideas about its fluidity eventually led to moments during the meetings where the translation of specific Malay legal terminology to Dutch became key sites for codification.<sup>63</sup> The ‘colonizing significance of translation and mistranslation’ becomes apparent in the minutes.<sup>64</sup> On 6 April, the Djaksa tutulair Datoe di Negrie Rang Kaija Besar in

60 ANRI Besluit 22-9-1871, no. 59; ‘medewerking van alle belanghebbenden. Wanneer de geheele bevolking zulks mogt verlangen kunnen de hoofden langs de gewonen weg daarvan aan het bestuur mededeling doen.’

61 At a number of meetings, for example, in Siboga on 19 May 1865, there were also requests to abolish the practice of *djoedjoer*, a marriage in which the father of a boy paid a sum of money to the father of the girl. Here too the Governor declares he would be glad to do this, because of the ‘negative effects’ (*negatieve gevolgen*) of *djoedjoer*, but only if the heads first discussed the issue among themselves and the community elders, and reported the outcome to the resident of Tapanolie.

62 ‘Timon Henricus Der Kinderen’, in *Nieuw Nederlandsch Biografisch Woordenboek*, part 8, pp. 972–6.

63 See Ab Massier, ‘Van Recht naar Hukum: Indonesische Juristen en hun Taal’ (PhD diss., Leiden University, 2003). Translation of legal codes in the Netherlands and within Europe, and later of Dutch codes to Malay and other languages, led to many translations of translations. On the importance of studying translation rather than legal transplantation, see Renisa Mawani and Iza Hussin, ‘The travels of law: Indian Ocean itineraries’, *Law and History Review* 32, 4 (2014): 746.

64 Liv Østmo and John Law, ‘Mis/translation, colonialism, and environmental conflict’, *Environmental Humanities* 10, 2 (2018): 349–69. On legal translation studies and comparative law, see Jan Engberg,

Fort de Kock (Bukitinggi) asked ‘in the name of a number of heads’ specific questions about legal translation in the regulations which would be drafted in both Malay and Dutch. He questioned the difference between *moord* (murder) and *manslag* (manslaughter) and explained that according to the Malay adat there were three different ways in which a person could lose their life due to the actions of someone else: ‘*amat, sacboe and ghatta*’. The severity of the crime decided the punishment. In this instance, Van den Bossche responded by saying that Dutch criminal law had a similar divide, because there was murder (*moord*), malicious manslaughter (*doodslag met voorbedachte rade*) and manslaughter caused by an accident or carelessness (*doodslag door toeval en onvoorzichtheid*). Only the first one would lead to the death penalty. According to the minutes, the Djaksa agreed on this translation. In this instance, through the (Western) process of translating word-for-word the meaning of Malay legal ideas immediately transforms and is at risk of getting lost in translation. In the tradition of the Shafi’i school of law, commentarial translation was more common, in which the translator took on a significant role and wrote extensive commentaries, especially in instances where Islamic law was translated to local languages.<sup>65</sup> The minutes of the Sumatra meetings, therefore, show a collision between the European way of translating with the more collective and contextual local traditions of translation.

Even more striking, though, during the Sumatra meetings translation is a moment of colonial negotiation and imposition, where the meaning of local legal concepts is being purposefully changed through the act of translating. This is most visible in the minutes when an issue arose about the term *bangon*, which the Dutch translated as ‘blood money’ (*bloedgeld*), and were planning to abolish as being part of the solidarity system, to replace it with monetary compensation. The Djaksa explained that *bangon* was not to be replaced with compensation money, because a compensation price always had to be paid for the life of the victim if the murderer continued to live. Van den Bossche insisted that only the judge could decide if and how much compensation money the relatives of the victim would receive. In the end they came to an agreement, according to the minutes, that the Sumatran heads, who served as judges in the colonial law courts, were allowed to continue using the word ‘*bangon*’ in the courtroom even though this would from then on refer to compensation money instead of blood money.

There is an interesting dynamic going on in this colonial encounter, precisely because there is no other outcome possible than the full introduction of the Dutch criminal law system. There is little to no space for negotiation on the part of the Sumatran leaders, and no real attempt on the part of the Dutch officials to try to understand the Minangkabau criminal law traditions. The suggestion that this is a meeting and therefore a space of exchange as opposed to an imposition of new

‘Comparative law for legal translation: Through multiple perspectives to multidimensional knowledge’, *International Journal for the Semiotics of Law* 33 (2020): 263–82; Gerard-René De Groot, ‘The influence of problems of legal translation on comparative law research’, in *The role of legal translation in legal harmonization*, ed. Cornelis J.W. Baaij (Alphen aan den Rijn: Kluwer Law International, 2012), pp. 139–59; Richard Evanoff, ‘Universalist, relativist, and constructivist approaches to intercultural ethics’, *International Journal of Intercultural Relations* 28, 5 (2004): 439–58; Jaakko Husa, *A new introduction to comparative law* (Oxford: Hart, 2015).

65 Mahmood Kooria, ‘Translative sedimentations in the Indian Ocean’, in *Translation and the afterlives of Anglophone theory*, ed. Iza Hussin and Mona Oraby, *The Immanent Frame (TIF)*, 15 June 2021, <https://tif.ssrc.org/2021/06/15/translation-and-the-afterlives-of-anglophone-theory-introduction/>.

laws is constantly put forth in the minutes. Yet, in this moment of legal translation what happened was actually a discussion about the translation of existing Minangkabau legal terminology into Dutch legal concepts, making the earlier meanings of the Malay terms disappear. Minangkabau law was being erased to a greater degree, because their concepts and terms were given a different meaning and content. This was more than a meeting where things got lost in translation; this was a case of active erasure through translation.

### Materiality of the minutes

Having presented the meetings as an open space for conversation, Van den Bossche and Der Kinderen were invested in continuing in this mode after the meetings had ended. Equally important to the Dutch agenda was keeping the memory of the meetings alive, to remind everyone of the collaborative process they made it out to have been. The minutes of the 1865 meetings (fig. 3), therefore, had to be signed for approval by all the attendees. This was time consuming—Der Kinderen wrote in one of his letters impatiently that not all minutes had been returned yet, because they were still in the residences ‘to be signed’—but it was a completion of the process he insisted upon.<sup>66</sup>

It would take ten years between the meetings and the return of Der Kinderen to the region to implement the new legal system. The physical and material aspects of Der Kinderen’s strategy—in line with the nine meetings across Sumatra’s West Coast and the signatures on the minutes—was central to reaching this goal.<sup>67</sup> In addition to the signed minutes of the meetings, Der Kinderen’s report of his return visit in 1875 was another way of controlling the narrative. The report was attached to the national Colonial Report in the Netherlands, a narcissistic fest in which Der Kinderen himself was the central hero. He wrote repeatedly about how content everyone was with his new regulations and how satisfied the people of Sumatra’s West Coast were with Dutch colonial rule. Gala dinners were held, with flags, streamers, parties and speeches:

While the cannons roared, I spoke in both languages and requested from all to cry from gratitude to Heaven, a cry, so loud, that it would be heard over the high mountains and the wide seas into the heart of the Netherlands, a cry, to honour our beloved King! And immediately thousands shouted with enthusiasm three times: Long live the King! Selamatlah Radja Maharadja!<sup>68</sup>

After that, folk games (*volks spelen*) started ‘among thousands and thousands celebrating, without any disturbances’. In the evening the resident organised a gala reception ‘in my honour’ where also local heads appeared and ‘thousands of natives surrounded the house of the resident’. On his own initiative, Der Kinderen printed and distributed 600 copies of his speech, in Arabic script. Der Kinderen presented himself almost like

66 ANRI Besluit 22-9-1871, no. 59.

67 On the importance of material culture in legal histories, see Sanne Ravensbergen, “Do not harm the decorum”: Mixed courts and cloth in colonial Indonesia’, *Law and History Review* 40, 3 (2022): 533–48.

68 Der Kinderen, ‘Uittreksel uit het verslag’. ‘Onder het gebulder van het geschut nam ik opnieuw in beide talen het woord en verzocht allen een kreet van dankbaarheid ten Hemel te heffen, een kreet, zoo luide, dat hij over de hooge Bergen en de wijde zeeën kon worden gehoord tot in het hart van Nederland, een kreet ter eere van onze geliefde Koning! En onmiddellijk riepen duizenden vol geestdrift tot drie malen toe: ‘Leve de Koning! Selamatlah Radja Maharadja!’

Afschrijft

Dezes verbaal van de openbare vergadering  
 "ving gehouden tusschen de Laraschoofden en ministers  
 hoofden der afdeeling Ajerbangis en Sawu, te  
Ajerbangis op Macassar dese Lande den 10<sup>en</sup>  
1860 bij en te zijt.

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Tegenwoordig:

de Gouverneur van honderd's Westkust, J.  
P. H. S. van den Broek,  
 de Kammermeester van het Gouvernement tot het  
 int'nerpon en assidelen van uetzelijke Opzake  
 ugen vericent het verzeet v'geling van het Regt  
 u men in de berittingen, besitke Jawa en Macassar.  
 (Hr. J. H. der Winders,  
 de assistent Meirichet van Ajerbangis en Sawu.  
J. P. P. P. P.  
 de Kantonschouder der 1<sup>ste</sup> Klasse in de Opzake  
u ten, C. de Clerog Massambecg,  
 de Kantonschouder der 1<sup>ste</sup> Klasse te Sawu, H. H.  
van Sawu,  
 het waarnemend Laraschoofden van Ajerbangis  
Sactan Schaban,  
 het Laraschoofden van Schaban, Sarankae Sa  
u,  
 het Laraschoofden van Beljeng Gading, Sarankae  
Satie,  
 het Laraschoofden van Schilang, Sarankae Sam  
alah,  
 het Laraschoofden van Pesaman, Saulat,  
 het Laraschoofden van Kinaha, Sactan Waron,  
 het Laraschoofden van Pjacobata, Raja Sundan,  
 het Laraschoofden van Simpang Puang, Raja  
Saralang,  
 het Laraschoofden van Palac, Sarankae Bocoor,  
 het Laraschoofden van Kanaihan, Sarankae  
Mahadindja,  
 het Laraschoofden van Sinueroot, Sarankae van  
Satie,  
 het Laraschoofden van Punggaw, Sarankae Satie,  
 het Laraschoofden van Sawang at Waneng, Jong de Witacore  
kel

Figure 3. First page of the minutes of the meeting held in Ajer Bangis on 10 May 1865. (Arsip Nasional Republik Indonesia, Besluit 22-9-1871, no. 59. Reproduced with permission)

a religious leader, not uncommon amongst the liberal colonial lawyers around that time in the Netherlands Indies (and elsewhere). Liberalism and spreading the rule of law (*rechtsstaat*) had an almost religious character to these lawyers, which they effortlessly combined with colonial power grabs.<sup>69</sup>

Another aim of the tour was the legitimisation of the new legislation. To build or expand support for these reforms, the local heads had to feel that they had been heard ten years ago and that these new regulations were a good development. As discussed, explicit references were made to the 'renewed adat' with the help of the symbolism of planting a tree to replace the old waringin. At each gathering in 1875, Der Kinderen reminded the attending heads of the meetings how they had expressed support of the reforms ten years earlier. During the visit, local officials were trained by the well-known Javanese *jaksa* (prosecutor) Hadiningrat who accompanied Der Kinderen.<sup>70</sup> Through publishing and writing, Der Kinderen consciously built an archive of the formation of the new legislation which had to be continued and become part of the legal and archival knowledge of the region. Next to the loud and visible ceremonies accompanying the introduction of the new laws, there was therefore also a material aspect to ensure the continuation of Dutch legal rule: copies of the regulations addressed to the heads and officials were bound in sturdy linen embossed with the Netherlands royal crest in gold. Printed copies of the regulations were presented in three local languages. There was an incredible formalism to this process, with each copy personally signed by the Resident and with the name of the recipient inscribed on the first page. Der Kinderen thought that this would increase the value of each copy to 'those who received it' and that it would have 'a higher probability of becoming part of the archive of the official involved and therefore will be passed on to his successor'.<sup>71</sup>

Whether these regulations were indeed kept carefully and became part of the archives of West Sumatran heads is unclear, but we do know that the minutes themselves were kept, at least by one Sumatran notable: Sutan Cianago, the son of Imam Bonjol. He kept the minutes of the meeting in Fort de Kock and gave them later as a gift to a Dutch official together with a text about abuses committed by the Dutch colonial government, and the ill treatment he himself received. Not only did Cianago keep the minutes, but he also combined them with his father's memoirs and his own memoirs into one manuscript, which was published in 2004 as *Naskah Tuanku Imam Bonjol*;<sup>72</sup> it was no coincidence that these three texts were kept together, as is shown in the following comments by Hadler on Cianago's memoirs:

Sutan Cianago protests claiming that he does not proselytise or even speak but merely wanders the roadways supervising labourers. He has become a perverse inversion of a traditional Tuanku. A religious tuanku would be localised and visited by students seeking knowledge. He would speak and not move; his voice would be the site of authority. Sutan

69 Sanne Ravensbergen, 'Rule of lawyers: Liberalism and colonial judges in nineteenth century Java', in *The Dutch Empire between ideas and practice, 1600–2000*, ed. René Koekoek, Anne-Isabel Richard and Arthur Weststjeijn (Cham: Springer International Publishing, 2019), pp. 159–82.

70 Ibid.

71 Der Kinderen, 'Uittreksel uit het verslag'. '*Hierdoor toch vermoedde ik dat elk exemplaat nog meer waarde zou verkrijgen voor hem die het bekwam en ook meer kans hebben tot het archief van den betrokken inlandschen ambtenaar te blijven behooren en dus aan zijnen opvolger te worden overgegeven.*'

72 S.A. Nain, *Naskah Tuanku Imam Bonjol* (Padang: Pusat Pengkajian Islam dan Minangkabau, 2004).

Cianago is voiceless, moving aimlessly, the sort of powerless wanderer who is a tragic figure in Minangkabau literature.<sup>73</sup>

Sutan Cianago's voicelessness in the face of his position is also reflected in the minutes of the codification meetings: minutes that he kept, preserved and passed on to send a message to the colonial government—minutes of meetings where his own voice was not heard. During the meeting in Fort de Kock that Cianago attended, he stayed silent. For him, it was the materiality of the minutes and its archival power that spoke and that revealed the devastating consequences of the meetings, of the procedures, of colonialism.

### Conclusion

This microhistory of the Sumatra meetings of 1865, and the archival power of the minutes long after, demonstrates the impact of the *procedural* as well as the *genealogical* workings of colonial knowledge production on the formation of colonial (legal) culture.<sup>74</sup> First, by zooming in on the meetings and by exploring the space in which these meetings were held this article has teased out how procedural aspects, rhetorical strategies about adat as well as moments of translation and erasure, were essential for seeking support and reaching decisions about the implementation of a colonial codification. The minutes of the codification meetings reveal a dialogic yet complex process where adat was simultaneously invoked in both resolving and complicating practical concerns of colonial governance, while local elites inserted their interests and concerns within this space.

Der Kinderen would almost immediately be criticised for ignoring the West Sumatran adat by other colonial lawyers, especially by followers of the colonial *adatrecht* school of the early twentieth century.<sup>75</sup> Such criticisms of Der Kinderen were obviously not unjustified. He was a colonial bulldozer-lawyer who, after West Sumatra, went to 18 other islands and regions within the Indonesian archipelago to implement oppressive colonial legal regulations and systems. The minutes of the Sumatra meetings unsurprisingly show that there was only space for discussion and an exchange of information if it was in the direct interests of the colonisers; if it would bring more peace and order (*rust en orde*); would lead to higher profits for the Cultivation System; and better execution of other forced labour services (*herendiensten*). Yet, as the minutes also reveal, Der Kinderen *was* aware of Islamic law

73 Hadler, 'A historiography', p. 992.

74 Alicia F. Schrikker, 'Institutional memory in the making of Dutch colonial culture in Asia (1700–1870)', in Koekkoek et al., *The Dutch Empire*, pp. 111–34.

75 Cornelis van Vollenhoven, *De ontdekking van het adatrecht* (Leiden: Brill, 1928), p. 113. Van Vollenhoven described Der Kinderen's strategy to symbolically and strategically use adat terminology 'to convince outsiders of an inclusion of adat law' ('*Hij maakt het tot stelsel, adattermen of vermeende adattermen te combineeren met uitvindels en vervormingen van hem zelf—proatin, rapat, moesapat—en aldus bij buitenstanders een indruk te wekken van aansluiting op adatrecht*). Snouck Hurgronje described similar meetings held in Aceh by Der Kinderen as 'gravely superficial research' (*ernstig oppervlakkig onderzoek*) and 'mocking with a serious matter' (*spotten met een ernstige zaak*), in *De Atjehers*, part 1, pp. 12–15. He described how in Aceh attendees would avoid answering Der Kinderen's question whether laws other than Islamic law were followed as well. The latter concluded that the attending Acehnese did not understand his question, but Snouck Hurgronje pointed out that they were hesitant to answer the question, worried that the Dutch came to abolish Islamic law and introduce Christian laws. In reality, adat did play an important part in the Acehnese legal culture.

and adat, pretending during the meetings to partially respect them, but would then strategically use language to largely abolish various adat. His strategy was knowledge-driven and more refined, more devious, than is often assumed. Adat, here, was part of the process of colonial knowledge production, because ignoring it at this relatively early stage of colonisation was simply impossible.

By a close reading of the minutes, we see how local knowledge and living laws were explained, translated and codified by various actors. We see the moments of trust and distrust between those attending the meetings, and how there were shared ideas about bureaucracy, gender, religion and civilisational progress, but also legitimate distrust on the part of Sumatran elites. The minutes serve as a microhistorical gateway to observe what happened *after* a treaty was signed; when its promises were broken, and when colonial lawyers were the next intruders after the soldiers and the administrators, to colonise a region. The minutes also show how the Sumatran heads negotiated with the Dutch, protected their adat, and attempted to further their own interests by making use of colonial rule. Local dynamics within West Sumatra and differences between districts surface continually in these minutes. Local elites used the space of the meeting to bring forward their own interests regarding preserving or rejecting legal traditions in adat. The meetings and the procedures were only possible through finding similarities in interests and worldviews; and where moments of translation as well as the symbolic language of adat and legal hybridity were the vehicles to bridge friction, incomprehension and disagreement.

Second, this article uncovered that the material and the spatial elements of both the meetings and the minutes—the paper, the collection of signatures, the stamps, the celebrations ten years later, a tree—were central to a localised procedural colonial process of the (un)making of law and empire building. Both Cianago and Der Kinderen's attempts to preserve documents and memories of the meetings of 1865, show that the minutes were archived by Dutch and Sumatran elites to build archival knowledge and legitimise their viewpoints. Even the *pantun* quoted at the beginning of this article was eventually preserved in paper archives. Der Kinderen wrote it down, convinced that it was proof that Sumatrans had forbearingly accepted the changes in their customs and laws. It is hard to believe that this song was taken as an actual compliment to colonial rule, yet, Der Kinderen seems to have truly believed he had done the farmers a service by abolishing parts of the adat.

The meetings and minutes served the Dutch colonisers as acts of legitimisation of colonial rule. By travelling to all districts and organising meetings, by sharing draft regulations in local languages and by collecting signatures, the local notables became complicit in the undertaking of new regulations. Van den Bossche and Der Kinderen made use of their environment, rituals, the space of the meeting, and the archival power of the minutes, to reach their goals. Sutan Cianago, however, observed in the meetings the proof that adat was being destroyed and that the local heads were losing their power. The making of archives thus became central to the colonisers and the colonised. For Der Kinderen it was the fact of the meetings (or more accurately his report of the meetings) and the legal regulations that emerged from them that were the archives that mattered. For Sutan Cianago it was the minutes and not the meetings that mattered, for it was in the minutiae of the minutes that we see promises broken and colonialism at play.