



J. Otto

A. Dekker

C. de Waaij

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JAN MICHIEL OTTO, ALBERT DEKKER AND CORA DE WAAIJ

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A recent 'Note from the Editors' of *Bijdragen* reported that in the past the journal had restricted itself to 'reports of historical, anthropological and linguistic research' (*Bijdragen* 148(1992):2). In the future, the Editors wrote, it was hoped that more articles with 'a socio-geographical as well as a politicological or economic orientation' would appear. So what does that mean for an article setting out to review the role of *Bijdragen* in the fields of 'law and administration', a field that from the outset seems to have been of marginal importance to *Bijdragen* and which looks like staying that way in the future? At the very least, one might expect the article to be short and to the point! However, a closer look at *Bijdragen* reveals that if 'law' and 'administration' are not interpreted too narrowly, some 150 articles can be listed under 'law' and another 230 articles can be said to deal to a considerable extent with matters of 'administration'. So perhaps this review will not be so short after all.¹ Our selection of around 380 articles can be found in a separate publication, hereafter referred to as *Bibliografisch overzicht*.²

How is it that so many articles on law and administration could appear in a journal that – at least formally – has primarily been devoted to linguistics, geography and ethnology? To answer this question one must go back to the KITLV's original objectives, formulated as the 'taal-, land- en volkenkunde van Nederlandsch Indië in den uitgestrekten zin' (*Bijdragen* 1(1853):2). In 1853 those topics considered by the KITLV to be the most important were listed as 'Vraagpunten' in the first volume (1:ix-xx). Under the heading of 'land- en volkenkunde' (geography and ethnology) one finds several issues regarding the rights and obligations of the population and their functionaries, the rules of land use, communal and individual ownership, crime and punishment, Islamic case law and judicial procedures. Some problems of public administration are also proposed

¹ The editors also requested an evaluation of the significance of *Bijdragen* for law and administration. We have imposed the following limits on this evaluation. First, we have looked only at articles, not at book reviews or other items published in *Bijdragen*. Second, we have ignored the monograph series, *Verhandelingen*, edited by the same people who were responsible for *Bijdragen*. The authors wish to thank Ilse Mollet, Xander Storms and Sylvia Winterink for their bibliographical assistance, and Sebastian Pompe for his valuable remarks.

² The full reference is: Albert J. Dekker, *Recht en bestuur in BKI (1853-1993), een bibliografisch overzicht*, Van Vollenhoven Instituut Leiden, forthcoming (1995).

such as the *bekel* office, the duties of local headmen, traditional forms of Javanese government, civil duties, taxation, community supervision of agricultural plots and, last but not least, a comprehensive description of the political situation in the archipelago.

Two factors may have contributed to this inclusion of matters of law and administration in *Bijdragen*. First, the politico-administrative background of the KITLV and its membership, and second, the blurring of disciplinary boundaries in the confrontation between western science and Indonesian society.

J.C. Baud, the well-known colonial administrator and one of the KITLV's founders, stressed in his opening address to the Institute, on 4 June 1851, that in the face of the many conflicts about colonial policies in which both the government and certain civil servants were involved, the KITLV's only proper course was to refrain from commenting on government policy. On the other hand, Baud argued, the Institute could freely embark on ethnographic and statistical studies, even if they bore some relation to government policies. He went on to say that studies on the rights and obligations of the owners and users of *sawah* land as well as of the *soekoe* administration on Sumatra were of the utmost importance. There was obviously a high degree of ambivalence in all this. Remarkably enough, the audience to which Baud's admonitions were addressed consisted to a large extent of administrators and civil servants who had already devoted their lives to administering the Netherlands Indies. Baud realized this and ended by stressing that 'there is no more important calling than that of being a civil servant in the East Indies'. Yet the KITLV itself, he insisted, could retain the necessary confidence of government and civil servants only by rigidly refraining from passing judgement on governmental measures or encouraging such assessment by others, even if such measures were related to the Institute's sphere of interest.

One hundred and forty years later the political context is still sensitive and it is still almost impossible for the KITLV to keep completely aloof from political debates and questions of government policy. For example, as recently as March 1992 Dutch foreign aid was rejected by the government of Indonesia because the Netherlands government, most notably in the person of its minister for development cooperation, J.P. Pronk, had aroused the irritation of the Indonesian political leadership with its alleged interference in 'internal' politics. In a KITLV publication in 1993, the same J.P. Pronk sang the Dutch swan song on Dutch development policies in Indonesia (Dirkse, Hüsken and Rutten 1993). Reading this publication, one is moved to wonder whether the road from J.C. Baud to J.P. Pronk, which has seen radical changes in policy objectives, has brought any significant improvements in clarity of policy concepts or in diplomatic skills. In any event, politics and policy, law and administration, have continued to surface every now and then, in spite of Baud's well-meant warnings.

With respect to the second factor, the blurring of disciplinary boundaries, the inclusion in *Bijdragen* of articles on law and administration has been facilitated by their often mixed, interdisciplinary character: adat law, Islamic law, legal history, and in fact the entire field of *Indologie* represented countless transgressions of what we now see as disciplinary boundaries. In many nineteenth-century administrative area descriptions the amalgamation of 'law' and ethnography seemed only natural. Later, at the time of C. van Vollenhoven, this developed into a full-fledged school and a matter of academic prestige. Van Vollenhoven's broad concept of *adatrecht* and *adatbestuur* was adopted by many students, with the result that the study of 'law and administration' ballooned: it could be easily and almost endlessly inflated and merged with ethnography.

How then did we decide which *Bijdragen* articles to categorize as dealing with law and administration? First of all we have included all those articles whose title mentions the word *recht* (law). This includes articles on *adatrecht*, *Islamitisch recht* and legal history. Next, we have included articles whose title mentions topics commonly associated with the work of legal practitioners. We have also tried to include articles which make frequent mention of *recht* or *adatrecht*.

With regard to *bestuur* (public administration) we have followed conventional wisdom in this discipline which divides public administration into four main subject areas: administrative organization, government policies, administrators and civil servants, and the administrative environment. This last subject area has frequently been represented in *Bijdragen* by administrative area descriptions. One of the KITLV's first objectives was to study and describe thirteen administrative regions in Sumatra, Borneo and Celebes. It was assumed that the KITLV would collect and analyse administrative documents and reports on such areas, and that it would supplement, improve and extend these data from other sources so that colonial policy-making would ultimately have a better factual basis. Consequently, these area descriptions have been included in our category of 'administration'.

The categories and subcategories of law and administration in this article sometimes overlap one other, and they overlap other fields such as history and anthropology, which are treated elsewhere in this volume. This is scarcely avoidable, and we do not consider it a serious problem as it does not detract from any of the main points we wish to make.

We have classified the articles roughly according to subject area and period. What then are the main subject areas of articles on law? Listed in order of frequency they are: adat law, Islamic law, legal history, land law, constitutional law and civil law. The main subject areas of articles on administration, also in order of frequency, are: administrative area descriptions, the life and work of individual administrators, administrative expansion (colonization), sectoral policy issues, indigenous administration, lists of

officials and rulers, national administrative organization, national policies, and finally, regional and local administration.

The entire range of articles has also been broken down into three time periods, 1853-1900, 1901-1945 and 1946-1993, enabling us to give some indication of the topics authors have addressed during particular periods. Our analysis of *Bijdragen* articles on law and administration is divided into three sections in accordance with this chronology.

On the assumption that few readers will be familiar with legal and administrative developments in Indonesia, each section begins with a few introductory remarks about the period under review. This is followed by systematic descriptions of the topics covered by *Bijdragen* articles on law and administration. Each section ends with an assessment of *Bijdragen's* significance, in particular in the light of what was appearing at that time in other periodicals.

Finally, in order to provide a contemporary background to *Bijdragen's* significance in the field, we devote a separate section to the current state of publications on Indonesian law and administration world-wide.

The foundations: 1853-1900

The 1848 Dutch constitution had made the parliament in The Hague the primary arena for political deliberations on reforms to the laws and public administration of the Netherlands Indies, as a consequence of which the second half of the nineteenth century was fairly buzzing with such plans. Various reforms were urged with a view to liberating both European business interests and indigenous peasants from governmental grip, most notably from the Cultivation System.

The year 1848 also saw the introduction to the Netherlands Indies of a number of important codes, including a Civil Code and a Code of Commerce. In 1854 an extensive and long-awaited colonial 'constitution' was produced, the Regeeringsreglement. It codified the famous legal dualism that divided the population into two (later three) population groups, each having its own legal system. In 1870 the Agrarische Wet introduced a new system of land rights, opening up the land to private entrepreneurs. In 1882 an ordinance regulating the Islamic courts was promulgated. Each of these pieces of legislation and administrative reform was surrounded by political conflicts and heated policy debates.

After the 1860s the Dutch modernized both the Dutch and the indigenous administration. Schools for indigenous administrative and medical personnel were established, in particular on Java (Ricklefs 1981:122-3). Many regions outside Java were brought under colonial control.

How much of all this percolated through to the pages of *Bijdragen* between 1853 and 1900? It would appear that Baud's admonition to the KITLV to maintain a low profile on political and administrative issues had not fallen on deaf ears. Most of the important legal and administrative reforms of these years were not explicitly debated in *Bijdragen*.

Nevertheless, with the territorial expansion of colonial rule there was a need for more information about administrative regions on Sumatra, Borneo and Celebes. Some 20 articles appeared in *Bijdragen* describing such areas. In 1860 (93), for example, the KITLV's first secretary, J.G. Pijnappel, published over a hundred pages on the Sampil district (South and East Borneo) extracted from the reports of an administrator named Von Gaffron. It dealt with the following topics: the land, the 101 *kampong* and their inhabitants, the system of administration and traditional laws, religion and education, history, social stratification, customs, commerce, industry, mining and communications. The most comprehensive area description to appear in *Bijdragen* was E.B. Kielstra's chronological account on Sumatra's west coast since the mid-eighteenth century, published in thirteen instalments between 1887 and 1892 (432, 441, 454, 472, 488, 498, 512). Most such descriptions were at the regional level. During the period under review only two descriptions of a local community appeared in *Bijdragen*, the first of a village area (*kelurahan*) in Cianjur by H.W. van Marle (1862, 94), the second of a subdistrict in Tapanuli by H. Ris (1896, 568).

After 1795, Dutch colonial expansion in the Indies had been interrupted by British penetration into parts of the archipelago culminating in the occupation of Java from 1811 until 1816. This period, in particular Raffles' dealings with various parts of Sumatra, prompted around a dozen articles. P.H. van der Kemp, a retired colonial administrator, was the most prolific writer, devoting over a thousand pages to this subject, some of them sharply critical of Raffles.

With respect to law, the single most frequently discussed subject in *Bijdragen* during this period was 'Islamic law'. S. Keijzer, professor at Delft, was of the opinion that the proper point of departure for an understanding of the law of the indigenous population was pure Islamic law. Deviations from this law would then reveal to what extent the original 'Polynesian' legal system had persisted in certain fields and areas. Keijzer's publications in *Bijdragen* were actually often translations of other people's work. His main work on the subject in *Bijdragen* was a 127-page translation of a treatise on Islamic law by W.H. Morley, which had first appeared a decade earlier (1859, 76). More original and significant work on the *shari'a* appeared in 1869 with L.W.C. van den Berg's PhD thesis on the Islamic sales contract, which was translated from Latin into Dutch (191). Van den Berg served in the colonial administration as an adviser on oriental languages and Islamic law. In the 1890s Van den Berg wrote extensively in *Bijdragen* on 'deviations' from Islamic private law on Java and Madura (515, 574), articles that were strongly criticized by his successor, C. Snouck Hurgronje (Fasseur 1993:225). A.W.T. Juynboll also published some contributions on the subject in *Bijdragen* (367, 377).

One should keep in mind that the term *adatrecht*, adat law, did not yet exist. Information about local custom was often published as part of the aforementioned area descriptions, but from the 1880s onwards various

writers, notably G.A. Wilken, started to place customary marriage rules in a legal context. The title of Wilken's 1888 article 'Oostersche en Westersche rechtsbegrippen' (Concepts of oriental and western law) (448) speaks for itself. His line of reasoning – that the indigenous population had its own laws – would later earn him C. van Vollenhoven's praise as one of the pioneers of adat law (Van Vollenhoven 1928:99-104). Wilken did not content himself with a description of customary law in one particular area. In several articles he explained the rules governing mortgaging (*pandrecht*) (1888, 459) and marriage ceremonies (1886, 421) in 'the Indies archipelago'.

Wilken was not the only writer on indigenous law. In 1873 and 1874 H. Kern wrote about Javanese legal texts used on Bali (259, 267). And there was L.W.C. van den Berg, who had by now succeeded Juynboll as professor of religious laws and indigenous customs at Delft. In 1894 he needed an entire *Bijdragen* volume of 352 pages to translate and annotate 'Rechtsbronnen van Zuid-Sumatra' (Legal sources from South Sumatra, 536).

One field of law that has always been very important in the Netherlands Indies is land law. Its purpose was to balance the interests of the government, agribusiness and real-estate developers, traditional peasant communities, individual farmers, rural gentry, indigenous rulers and urban dwellers. During this period both S. Keijzer and L.W.C. van den Berg published articles in *Bijdragen* on this subject. Once again Keizer (1864, 132) worked from other people's texts and focused on Islamic law, while Van den Berg made his own analysis of state landownership on Java and Madura (1891, 495).

Several scholars contributed articles on legal and administrative history, both that of the VOC and that of indigenous rulers and realms. Thus S. Keijzer (1863, 121, 122), J.J. Meinsma (1864, 140) and J.J. de Hollander (1871, 223) described the dynasties of Surakarta, Yogyakarta, Majapahit and Sambas (Borneo). At the request of the KITLV, Keijzer also edited a publication of the old Batavia Statutes of 1642, his own explanatory notes being limited to four pages (1863, 128). P.A. Leupe, a military officer who upon retirement had become a full-time historian, wrote biographies of several seventeenth- and eighteenth-century members of the Raad van Indië (1859, 83).

What is the significance of all these articles for law and administration as a field of scholarship during this period? It must be conceded that *Bijdragen* could not possibly play more than a marginal role. From 1849 onwards there was a journal devoted to law in the Netherlands Indies: *Indisch Tijdschrift voor het Recht*.³ A second periodical appeared for a short period

³ This important law journal has been the subject of two recent KITLV publications by J.H. van Katwijk and A.J. Dekker.

after 1864: *Indisch Weekblad van het Recht*. Both were published in Batavia, and it was only natural for judges, administrators, lawyers and professors of law living and working in the Netherlands Indies to obtain and disseminate their legal information through such journals, rather than through *Bijdragen*, based in far-away Holland, and having an academic constituency drawn mainly from linguistics and history. On the eve of the twentieth century a third legal periodical appeared, I.A. Nederburgh's *Wet en Adat* (1896-98). From time to time there were other periodicals that contained articles on law in the Indies: *Tijdschrift voor Indische Taal-, Land- en Volkenkunde (TBG)*, *Tijdschrift voor Nederlandsch Indië*, *Tijdschrift voor het Binnenlandsch Bestuur*, *Koloniaal Tijdschrift*, *Koloniale Studiën*, plus *Verlagen Indisch Genootschap* and, last but not least, the regular legal journals in the Netherlands. So it is hardly surprising that so few prominent legal practitioners in the Netherlands Indies published in *Bijdragen*. Those missing from its pages included C.J. Scholten van Oud-Haarlem and H.L. Wichers, who had introduced the main legal codes, T.H. der Kinderen, who set up the judicial system for the Outer Islands, professors of law such as P.A. van der Lith in Leiden and J. de Louter in Utrecht, together with all those legal scholars responsible for mapping out the new legal system, the competencies of the different courts, the agrarian legislation and private laws for Europeans.

For public administration the situation was similar. Some of these same periodicals also discussed problems of colonial policy and administration. Furthermore, between 1887 and 1917, over 1,600 articles appeared in *Tijdschrift voor het Binnenlandsch Bestuur*. Political and policy debates were also conducted in *Indische Gids* and *De Gids*, which published articles by the legal practitioners A.J. Immink and C.Th. van Deventer.

Moreover, it should be noted that important developments in the fields of law and administration were marked by books, rather than by articles in journals. The prominent scholar C. Snouck Hurgronje, who published *De Atjehers* in 1893-94, published very little in *Bijdragen*, even though he was an active member of the KITLV.

We can therefore conclude that between 1853 and 1900 *Bijdragen* made a significant contribution to the fields of Islamic law, area descriptions, politico-administrative and legal history. The major contributors were P.H. van der Kemp, H. Kern, S. Keijzer, E.B. Kielstra, P.A. Leupe, J.G. Pijnappel, G.A. Wilken and above all, L.W.C. van den Berg. Snouck's sharp criticism of Van den Berg's work may give the impression that his predecessor in the colonial administration was a tragic misfit. Reviewing his many articles in *Bijdragen*, however, one cannot escape the impression that Van den Berg's work deserves to be reassessed.

1900-1945: the heyday of 'Indologie'

The 1900-1945 period saw many important social and political events and major changes in the legal system and public administration of the Netherlands Indies. *Ethische Politiek* (Ethical Policy) notwithstanding, the rise of nationalism and calls for democratization and autonomy continued unabated. The last decades of colonial rule, the Japanese occupation, and the declaration of Indonesian independence all brought with them waves of far-reaching reforms. To name but a few: the decentralization policies of 1903-1905, the unified Criminal Code of 1918, the democratization symbolized by the Volksraad and local and regional council elections, also around 1918, the *Bestuurshervorming* of 1922, the new Regeeringsreglement or Indische Staatsregeling of 1925, severe conflicts over the future of the colony's private law (European-style unification or pluralism with adat law), the revival of Islamic courts in 1937, the Japanese rejection of everything Dutch, the 1945 constitution, and the first years of the Republican government conducted in an atmosphere of hostility with the Dutch colonial state, which still claimed sovereignty over the archipelago.

How much of this turbulence is reflected in the articles on law and administration published in *Bijdragen* during this period?

One of the high points of colonial scholarship was undoubtedly the Adatrechtschool (school of *adat* law). Its two key figures were C. van Vollenhoven and C. Snouck Hurgronje, secretary and chairman, respectively, of the KITLV commission on adat law and later of the Adatrechtsstichting (Adat Law Foundation), which collected and published data in its impressive series of *Adatrechtbundels*. *Bijdragen* clearly reflected the importance of the subject by publishing a vast quantity of field research data, *adat* texts, secondary studies and lists of bibliographical references. Most of these studies concerned family law and judicial procedures in the Outer Islands. Sizeable studies in this respect were C.J. Westenberg's article on the adat jurisdiction of the Karo Batak (1914, 867, app. 150 pp.) and M.C. Schadee's treatises on family life and family law among the Dayaks of Landak and Tajan (1910, 778; 1912, 803, app. 125 pp.). Other substantial contributions came from L. Adam on Minahasa adat (1925, 1035, 1036), J. Woensdregt on marriage among the To' Bada in central Celebes (1929, 1081), P. Middelkoop on Timorese adat marriage (1931, 1103), H.J. Friedericy on adat law of southern Celebes (1932, 1114) and V.E. Korn on the female *mama* in Minangkabau adat (1941, 1232). Only two contributions in this category were written by Indonesian scholars, S. Achmad on Dayak adat (1942, 1241) and N.Dt. Pamontjak (with Ph.S. van Ronkel) on Minangkabau adat sayings (1942, 1259). Exceptional because of its focus on Javanese adat was R.A. Kern's lengthy article 'Javaansche rechtsbedeeling' (Javanese jurisdiction) (1927, 1061, 130 pp.). Of a more general and reflective nature were F.D.E. van Ossenbruggen's article on Van Vollenhoven (1933, 1139), and J.J.

Schrieke's essay on 'Adatrecht tegenover juristenrecht' (*Adat* law versus jurists' law) (1941, 1238). Finally, the 20 *Literatuuropgaven voor het adatrecht*, published between 1927 and 1935, provided an important bibliographical source on the subject.

A field of law that concerned existing adat rules was land law or, in colonial terminology, *agrarisch recht* (agrarian law). In 1918 *Bijdragen* published a 1904 report by G.P. Rouffaer on land rights among the indigenous inhabitants of Java and Madura (937, app. 90 pp.), immediately followed by a critique by Van Vollenhoven entitled 'Antirouffaer' (938). Van Vollenhoven clarified the relative significance of Mataram's royal ordinances as a source of both traditional Javanese land law and of contemporary land law and rural taxation. P. de Roo de la Faille also published a lengthy article on Javanese land law in the light of conditions on Lombok (1925, 1041, 60 pp.).

During this period the field of Islamic law lost much ground to adat law, and fell back to an average of one *Bijdragen* article per decade. L.W.C. van den Berg's article on Muslim rulers was the most impressive (1901, 639, 80 pp.). His successor and critic Snouck Hurgronje published one article in *Bijdragen* during this period, concerning an important document on *jihād* (1917, 919); Snouck's travel report on Islam and folklore on Java, edited by Van Ronkel, was published posthumously (1942, 1254).

The administrative area descriptions continued to occupy a prominent place during this period. In addition to over a dozen regional area descriptions, even more local area descriptions were published in *Bijdragen*. Among the regional area descriptions is an anonymous series of almost 500 pages on Aceh, published in instalments between 1903 and 1914: 'Mededeelingen betreffende de Atjehse Onderhoorigheden' (663, 670, 687, 759, 773, 807, 830, 866). Another impressive account of the same region was R. Hoesein Djajadiningrat's review of Malay sources (1911, 790, 130 pp.). Th.C. Rappard's description of Nias took up 170 pages (1909, 763), J.L.M. Swaab's description of Rejang almost 100 pages (1916, 906), A.C. Kruyt's 'De Soembaneezen' (1922, 997) and 'De Timoreezen' (1923, 1005) some 150 pages each. Another prolific contributor to *Bijdragen*'s regional area descriptions was J. Mallinckrodt, who between 1924 and 1927 wrote over 300 pages about Dayak areas in Borneo, a subject on which he published his PhD thesis in 1928 (1023, 1029, 1068).

Local area descriptions, dealing with subdistricts (*onderafdeelingen*), small princedoms (*landschappen*) and mini-states, were published regularly as from 1905. Brief descriptions alternated with lengthy ones. Among the latter, G.J. van Dongen's two articles on the Kubu of Palembang beat the lot (1910, 775; 1931, 1111, app. 260 pp.). Others included S.C. Knappert's description of Kutai (1905, 707), a 1909 article on Mandar areas (764), J. Kruyt's 'De Moriërs van Tinompo' (Celebes) (1924, 1017, app. 180 pp.), W.Ph. Coolhaas' article on Bacan, Moluccas (1926, 1054) and F.H. van den Weetering on the 'Savoeneezen' of Timor (1926, 1055). Many of

these articles described localities with only a few thousand inhabitants. Their inclusion in *Bijdragen* reflected the deeper penetration of both government and scholarship to the local levels of Indonesian society. With the enactment in 1906 of the *Inlandsche Gemeente Ordonnantie*, the local indigenous administration on Java and Madura had become politically and legally a highly relevant subject. Prior to this enactment L.W.C. van den Berg – there he is again – published a substantial article on the subject in *Bijdragen* (1901, 627, 140 pp.).

A prolific author on politico-administrative history, who continued to publish in *Bijdragen* until 1920, was P.H. van der Kemp. Apart from completing his systematic critique of the British interventions in the 1810s and 1820s – for instance in Nias (1901, 635), Benkoelen (1903, 666), Borneo (1920, 965), Cheribon (1920, 973) – he studied colonial constitutional development (1908, 744) and various early nineteenth-century economic and trade policies on linens (1908, 757), coffee (1913, 844) and the coinage system (1913, 825; 1915, 874). Altogether this filled more than 800 *Bijdragen* pages.

During the 1900-1945 period *Bijdragen's* interest in matters of law and administration often focused on their historical dimensions. J. de Hullu in the 1910s (832), F.W. Stapel in the 1930s (1116, 1133) and J. van Kan in the 1940s (1230) wrote about legal developments during the VOC period. One of the few remarkable pieces of more recent legal history was H.A. Idema's (1941, 1228) article about three legal practitioners of nineteenth-century Netherlands Indies: W.A.P.F.L. Winckel, M.C. Piepers and T.H. der Kinderen, respectively lawyer, judge and legislator, who each in his own way tried to make some contribution to the establishment of an impartial rule of law. An interesting episode of constitutional legal history, J.C. Baud's role in drafting the first *Regeeringsreglement* between 1851 and 1853, was described by Ph.J. Kleintjes in 1932 (1122).

As the last two publications illustrate, a substantial portion of *Bijdragen* articles on political, administrative and legal history took a biographical approach. During the period under review, some 20 articles were devoted to the life and work of individual administrators. These might be VOC officials, mostly from the seventeenth and eighteenth centuries, indigenous rulers in various parts of the archipelago, scattered over many centuries, or, in a few instances, nineteenth-century colonial civil servants. There was, for instance, an article by A.K.A. Gijsberti Hodenpijl on the maladministration of Governor-General Diderik Durven in 1731 (1917, 917), F.W. Stapel's biography of Governor-General Speelman (1936, 1165), C. Poensen on Mangkubumi (1901, 630), C.M. Pleyte on Singa Mangaradja, holy king of Batak lands (1903, 661), B. Hoetink on So Bing Kong, the first captain of the Chinese community in Batavia (922, 1000); P.H. van der Kemp on minister of the colonies C.T. Elout's disapproval of Governor-General Van der Capellen's policies (1909, 762, 475 pp.) and R.A. Kern's 1941 article about Van der Capellen's 1822 journey through Java (1231).

In fact the historical biographical genre is the largest single category of *Bijdragen* articles providing us with information about public administration in the Netherlands Indies.

In conclusion we can say that between 1901 and 1945 *Bijdragen's* main subject areas were adat law, local and regional area descriptions and legal and administrative history. Many distinguished *adat* scholars and administrators wrote lengthy articles on the Outer Islands, for example H.J. Friedericy on Celebes, J. Mallinckrodt on Borneo and A.C. Kruyt on the eastern islands. R.A. Kern's contributions were more concerned with the main island of Java. The intense military and political operations surrounding the final colonial conquest of Aceh may explain the considerable attention paid to this region in *Bijdragen*. It was also during this period that the first articles by Indonesian authors appeared: Raden Hoesein Djajadiningrat in 1911 (790), S. Achmad (1241) and N.Dt. Pamontjak (1259) in 1942. In legal and administrative history P.H. van der Kemp exemplifies impressive scholarly continuity and productivity, other outstanding historians being J. van Kan and F.W. Stapel.

If we try to evaluate the significance of *Bijdragen* in the light of what was published elsewhere, it must be admitted that even in its favourite field of adat law, *Bijdragen's* role was not a central one. Adatrechtschool champions like C. van Vollenhoven, B. ter Haar and F.D. Holleman published very little if anything in *Bijdragen*. Their major outlets were the *Adatrechtbundels*, the *Pandecten van het Adatrecht*, dozens of dissertations (see Pompe 1993) and hundreds of other monographs.⁴

The many hot issues in law and administration during this period of Ethical Policy and rising nationalism were hardly debated at all in *Bijdragen*. And its more outspoken commentators – *opheffer* G.R. Gonggrijp, J.W. Meijer Ranneft and A.D.A. de Kat Angelino – also published monographs and articles in periodicals other than *Bijdragen*. Legal practitioners and the law faculty still had *Indisch Tijdschrift voor het Recht*.

A new journal, *Locale Belangen*, which appeared from 1911 to 1941, was founded especially with the newly formed local governments in mind. It dealt with all kinds of problems faced by local governments, particularly those in the major towns, such as *kampong* improvement, low-income housing and local finance.

1945-1993: new approaches

The 1945 Constitution of the new Republic of Indonesia provided for the legal and administrative systems to be reconstructed on the understanding that the existing colonial laws and institutions would be respected in so far

⁴ In the period under review (1900-1945) *Indisch Tijdschrift voor het Recht* published 66 articles on adat law, while *Bijdragen* published only 22 articles (Van Katwijk and Dekker 1992:165-85).

as they did not conflict with the Constitution (Transitional provision II). Although a number of new laws and institutions were created after 1945, it was only after 1949 that full-fledged Indonesianization could be carried out in the archipelago. Since 1949 national policies have been aimed at nation building and at socio-economic progress. Dutch support for a federalist state and the old *Adatrechtschool* have often been portrayed by nationalists as manifestations of a colonial 'divide and rule' policy, and as such viewed as unacceptable.

In the early years of the *orde lama* the keywords were Indonesianization, parliamentary democracy and socialism. After 1957 regional unrest resulted in the army playing a more active role in national politics. The nationalization of Dutch and other private enterprises cut many personal and institutional ties and accelerated the 'dehollandification' of the legal and administrative systems. Anti-Dutch feelings reached a climax during the crisis over Dutch New Guinea (Irian Jaya), which was not transferred to the Indonesian Republic until 1962. In 1963 Minister of Justice Wirjono Prodjodikoro declared that the *Indisch Burgerlijk Wetboek*, being of colonial origin, no longer had the force of law and should henceforth be considered simply as a reference book (*rechtsboek*). The 1960 agrarian legislation bore the marks of socialist reform, confirming the trend towards a powerful executive that would increasingly intervene in the lives of the people. Yet *adat* law, the autochthonous system of rules, was not abandoned despite its colonial undertones, but was maintained, especially in rural jurisdictions.

In rural areas political tensions between communists, local powerholders and Muslim groups increased, finally exploding in the 1965-1966 events that marked the beginning of the *orde baru*. The early years of the *orde baru* signalled the regime's desire to re-establish the rule of law and good ties with the West. One result was renewed academic cooperation with the Dutch legal community, which was to prove most fruitful between 1985 and 1992, when a large-scale programme of bilateral legal cooperation was funded through foreign aid programmes. Other collaborative programmes, in law, public policy and administration, were established with the USA and other countries.

Both the practice of Indonesia's development policies and the theory of its public administration were strongly influenced by American concepts, mainly through Indonesians who had studied in the USA and through US and UN experts. In 1967 new foreign investment laws were promulgated, and American, Japanese, German and other foreign companies re-entered the Indonesian economy. Comprehensive five-year development plans were drafted by Bappenas, and implemented by an evergrowing national civil service controlled from the centre. Agriculture, industry, social services and physical infrastructure were managed by the state with increasing technical and economic success, especially in the western parts of the archipelago. Urbanization rose sharply. Land labourers drifted

towards the industrial, trade and services sectors in the cities, many of them seeking refuge in the so-called informal sector.

Still, unification of laws and central control remained key concepts in maintaining national stability. In the area of family law, the 1974 marriage legislation was the main result of unification efforts. *Shari'a*, Islamic law, however, continued to impose its own rules and still needed to be integrated within the national law. Since the 1970s the Pancasila, introduced as a set of abstract state objectives in the preamble to the 1945 Constitution, has developed into a formal state ideology on which all political thought, legislation, administration and social organization must be based. During the 1980s tight military and civil control over society raised questions in some circles about the rule of law and the state of human rights in Indonesia. Economic success was nevertheless considerable, and the Suharto regime became manifestly self-assertive, as for example in March 1992 – 50 years after the end of Dutch rule – when it cancelled Dutch foreign aid projects, including the above-mentioned programme on cooperation in the field of law. In the late 1980s and early 1990s the position of Islam in politics, law and administration was reinforced, for example in the 1989 legislation on religious courts.

If one had to name the most prominent feature of law and administration in this period it would be growth. Since Independence the numbers associated with law and administration have grown enormously: the number of laws and minor regulations, the number of courts and cases, the number of law faculties, professors, lecturers and *sarjana hukum* (SH, or graduates). The designation of law as a 'field' (*bidang*) in the 1993 Main Lines of State Policy (GBHN), is generally considered by the legal community to be an official recognition of its importance in society.

Similar growth can be seen in the field of public administration: more comprehensive planning, especially since 1968 when five-year planning (Repelita) started, more policy fields coming within the scope of the government – from public works to family planning and from education to foreign investment and environmental protection – more civil servants in national and regional government institutions, increased budgets for many of these institutions, more training and research in public administration faculties (*administrasi negara*), institutes and government offices.

How were these first dynamic decades of the Republic of Indonesia reflected in *Bijdragen* articles on law and administration? Were new approaches tried and new categories established? Were the old colonial showpieces such as *adatrecht* and biographies of colonial administrators replaced by accounts of legal and administrative developments during the old and new order? As will be shown below, continuity prevailed to a large extent, although a few new categories appeared.

Adat law, especially that of the Outer Islands, remained a major

category.⁵ Since 1946 *Bijdragen* has published some 17 articles on adat law and on adat and anthropology in the Outer Islands. Among them we find articles by the last Dutch representatives of the Adatrechtschool, such as V.E. Korn's 'Problemen der Makassaars-Boeginese samenleving' (1952, 1350) which gives an overview of the adat law of South Celebes. Prominent Indonesian and western scholars began to contribute to this field, especially after 1965. They included the famous professor of adat law at Gadjah Mada University in Yogyakarta, Djodjodigoeno (1968, 1761), and one of the last fierce defendants of adat law as the core of a new Indonesian law, Mohammed Koesnoe (1970, 1813), who until the 1980s was professor in Aceh and Surabaya. Other Indonesian contributors were W.H. Makaliwe on Minahasa (1981, 2107) and J.W. Ajawaila on Halma-hera (1990, 2381). Other non-Dutch authors included J.V. Maretin (1961, 1580), A.C. Viner (1981, 2103), Nancy M. Tanner (1982, 2128), David S. Moyer (1983, 2160) and Olaf Smedal on various regions of Sumatra (1991, 2409). Most of these works are concerned with family relations, in particular marriage. Recent articles are much shorter than in the previous periods, usually running to between 10 and 20 pages. Besides descriptions and analyses of regional adat, we find more general and theoretical reflections on adat law: the early 1950s, for example, saw J. Prins' article on Indonesian politics and adat law (1951, 1340), followed by E.A. Zorab's account of case law of the Adat chamber of the former Batavia High Court from 1930 until 1942 (1954, 1407). During the *orde baru*, J.F. Holleman and Sugijono considered the effect of the village headman's recommendations on local adat judges of the national courts (1971, 1856), Djodjodigoeno commented on earlier debates by B. ter Haar, F.D. Holleman and J.H.A. Logemann on concepts of adat private law as positive law (1972, 1867) and S. Pompe discussed the influence of adat law on recent criminal jurisdiction (1987, 2290).

Islamic law, which had occupied such a significant place in *Bijdragen* during the nineteenth century, kept a low profile in this period, giving rise to only five articles. But some of these were very interesting: V.E. Korn compared Dutch colonial policies on Islamic and adat law, with colonial policies in British India. He argued that Dutch practices were far better than British ones (1948, 1289). P.E. Josselin de Jong described the tensions between matrilinear adat and Islamic law in Negri Sembilan, Malaya, compared to the Minangkabau situation (1960, 1554, 45 pp.). Such articles carried on debates that had been appearing in *Bijdragen* for many decades. We can also mention here Jacob Vredembregt's historical overview of state policies on the Mecca pilgrimage from the VOC period to the Republic of Indonesia (1962, 1603). Umar Junus' 1966 (1722) account

⁵ Of those articles that we have categorized here as *adat* law, a number of them could equally well be classified as social anthropology or, in a few cases, as legal anthropology.

of the payment of *zakat al-fitrah* in Minangkabau was historically very much in line with what A.W.T. Juynboll had written in 1882 (367, 374).

In the 1990s Dutch studies of Islamic law in Indonesia revived, partly because the University of Leiden set up a research and training project for Indonesian scholars of Islam: INIS. Nor was the academic heritage forgotten. Martin van Bruinessen used L.W.C. van den Berg's description of the *fiqh* books in use in the Netherlands Indies as a baseline study for a comparison with the Arabic books currently being used in *pesantren* milieus (1990, 2388, 43 pp.). Nico Kaptein went back to sources from the 1875-1930 period in order to distinguish different trends in the interpretation of Koranic texts with regard to the Berdiri Mawlid issue (1993, 2471).

Another *Bijdragen* tradition, the publication of regional area descriptions, has also been continued. Such articles include V.E. Korn's policy-oriented views on the future of New Guinea (1955, 1447), Jacob Vredembregt's account of migration and Islam on the islands of Bawean (1964, 1652), and Umar Junus (1964, 1662) and J.S. Kahn on social change in Minangkabau (1976, 1959), L.E.A. Howe on social organization on Bali (1989, 2338), Jet Bakels on Mandala communities in West Java (1989, 2358), Martin Rössler on Islam and social organization among the Patuntung in South Celebes (1990, 2390), and Jérôme Rousseau (1980, 2071) on Kalimantan's social-administrative organization of the Iban.

A special place has been occupied by articles on New Guinea. In addition to V.E. Korn's 1955 article mentioned above, there is his 1958 article on land law (1511), J. Keuning's article on criminal case law in central West New Guinea (1961, 1573), Paul W. Van der Veur's 'Questionnaire survey among the potential Papua elite in 1962 West New Guinea' (1964, 1672), Gabriele Stürzenhofecker's 'Border crossings, Papua New Guinea models in Irian Jaya' (1991, 2420), and J.J. de Wolf and S.R. Jaarsma's 'Colonial ethnography: West New Guinea (1950-1962)' (1992, 2441). Like Islamic studies, research on Irian Jaya has recently received a boost from a new research and training project (IRIS) at Leiden. Both projects were initiated by W.A.L. Stokhof, professor of linguistics.

The number of local area descriptions was far fewer than in the previous period. D.W.N. de Boer's work on the morals, customs and laws of the Nai Pospos of Toba Batak fits into the colonial tradition of lengthy, detailed descriptions (1946, 1280, 119 pp.). P. Voorhoeve published in Indonesian on the same people (1949, 1305). Clifford Geertz' 'Tihingan; A Balinese village' marked the transition to a new type of monograph, that of modern social anthropology (1964, 1649).

However, most area descriptions published after 1949 were of a more historical nature. J. Noorduynd, who was general secretary of the KITLV from 1965 to 1991, carried out comprehensive research on historical topics such as the Islamization of Makassar (1956, 1463), the Bodjonegoro Regency (1968, 1771), Makassar and the Islamization of Bima (1987,

2279) and Majapahit in the fifteenth century (1978, 2023, 67 pp.). Other contributions to Indonesian regional history were made by R.A. Kern on Cirebon (1957, 1487), by G.J. Resink (1979 (2056), on the VOC Sultan Mangkubumi agreement, and 1976 (1981), on Boedi Oetomo) and M.C. Ricklefs (1983, 2162, on the 1740-1741 crisis) on Java, and by Harry J. Benda and Lance Castles (1969, 1789) and Victor T. King (1973, 1900) on Samin, an early twentieth-century Javanese peasant movement.

If we try to divide *Bijdragen* articles covering legal and administrative history into subcategories, then in addition to the above-mentioned regional histories we can distinguish five types: legal history proper, administrative history proper, the histories of indigenous ruling families, the biographies of administrators, and socio-economic history.

The number of articles on legal history proper declined somewhat during this period. C. Gerretson debated with J. van Kan about the Batavia VOC court (1946, 1279). G.J. Resink explained the law of conflicts of the Netherlands Indies, the so-called *intergentiel recht* (1959, 1526). Subsequently this judge-historian-poet – who served as a civil servant and a university professor – studied the indigenous states of the archipelago in the period 1873-1915 and discussed their criminal law and their status under international law (1960, 1562). His contention that autonomous states in the colony were in fact highly independent – at least until the nineteenth century – gave rise to a far-reaching scholarly debate in *Bijdragen* with Resink's publication being followed by J.M. Van der Kroef's 'On the sovereignty of Indonesian states: a rejoinder' (1961, 1582). A final contribution to this type of constitutional legal history was L.Y. Andaya's 'Treaty conceptions and misconceptions: a case study from South Sulawesi' (1978, 2024).

An important contribution to the field of research methodology in legal history was F.G.P. Jaquet's study of nineteenth-century archival records in connection with the possible impact of the 1857 Mutiny in Lucknow, British India, on Dutch colonial Islamic policies as expressed in legislation on the Mecca pilgrimages (1980, 2080). Finally, the history of Indonesian legal education was well served by G.J. Resink's essay on the *Rechts-hoogeschool* (1974, 1925).

Administrative history, which also crops up in a considerable number of area descriptions, continued to attract attention. J. van Baal described the last years of the colonial administration in Bali and Lombok (1982, 2135). Hubert van Rheeden wrote about educational reforms during 1916-1932, with special regard to reformer Johan Toot (1986, 2249). Peter Boomgaard discussed the confrontation between traditional and western health care (1993, 2469). Economic and trade policies of colonial and indigenous states were described by D.K. Bassett with regard to the British empire (1964, 1657) and by G.W.J. Drewes concerning Aceh custom tariffs at the beginning of the nineteenth century (1963, 1645).

Among the genealogical studies on royal and ruling dynasties in *Bijdragen*, H.J. de Graaf's articles are outstanding: the crown of 'Madja-Pait' (1948, 1299), Javanese rulers (1953, 1376), Mataram's royal family (1970, 1821), Katawengan in East Java (with Th.G.Th. Pigeaud, 1977, 2006), Semarang's rulers (1978, 2025; 1979, 2050). In the biography genre we find polemical debates between W.F. Wertheim and R. Nieuwenhuys about Multatuli in the early 1960s (1961-62, 1587, 1596, 1609), a portrait of P. Brooshoof, a leading journalist and politician representing the 'ethical' tendency, by E. Locher-Scholten (1976, 1969), Harry A. Poeze's article on Abdul Rivai, a nationalist journalist and politician of the early twentieth century (1989, 2340) and two articles by R.C. Kwantes (1987, 2278) and B.B. Hering (1989, 2352) about an episode from Soekarno's life, namely some letters he had written to the public prosecutor in 1933 from the Soekamiskin prison at Bandung, hinting at his withdrawal from active politics. W.Ph. Coolhaas continued the tradition of biographical administrative history of the VOC with his article about Antonio van Diemen, Governor-General from 1636 to 1645 (1946, 1282).

In the history of socio-economic policies and problems, we find articles by J. Bastin on Raffles' early land rent system (1960, 1561), G.R. Knight on plantation development in western Java in the same period (1975, 1944), C. Fasseur on state sugar plantations around 1850 (1977, 1997) and J.Th. Lindblad on the Southeast Kalimantan economy during 1900-1940 (1986, 2248), as well as articles by W.F. Wertheim (1987, 2281) and J. Breman (1988, 2300) on harsh conditions on the plantations along Sumatra's east coast in the early twentieth century.

Finally, we have found a category of miscellaneous aspects of legal and administrative history, such as Jan Bank's comparative study of decolonization policy as it developed in Indonesia and the Netherlands, seen within the context of their respective regions, Southeast Asia and Western Europe (1985, 2207). Another topic that belongs here is one very familiar to older issues of *Bijdragen*: British rule in Indonesia in the early nineteenth century. This topic did not disappear altogether, as witness J. Bastin's 1953 article on Palembang (1393, 1403), and P.B.R. Carey's account of the 1815 Sepoy conspiracy (1977, 1998).

Since 1945, two new categories dealing with administrative and legal changes in Indonesia in the light of nation building, unification and socio-economic progress, have appeared in *Bijdragen*: development administration⁶ and Indonesian state law.

Since 1946, development administration has spawned a substantial category of articles in *Bijdragen*. Most have applied American social science concepts to problems of policy formation and implementation as well as to

⁶ Although development administration as an academic discipline has its origins in American political science, it could, in terms of substance, be considered as a continuation of the policy-oriented studies of the Dutch *Indologen*.

administrative organization. One scholar who represented the transition from 'colonial policy and *adat*recht' to 'development policy' was V.E. Korn, who commented in a 1951 article on the task of the Netherlands and the role of the KITLV with regard to international technical assistance to new states (1333). But it was only after the coming of the New Order that this category really took off.

A considerable number of articles dealt with questions of bureaucracy, planning, decentralization and leadership. In 1972 H.W. Bachtiar published 'Bureaucracy and nation formation in Indonesia' (1877), in which he explained that although bureaucratic growth would have certain negative effects, it was a necessary instrument for fostering national loyalties in the many regions of the republic. Peter J.M. Nas, Linda Darmayanti and Farida Sjamsir studied the classification of *kabupaten* (districts) according to stages of development (1979, 2043). In the 1980s N.G. Schulte Nordholt published two articles on the position and election of village heads (*lurah*) in Central Java (1982, 2127, 2131), H.G.C. Schulte Nordholt reviewed Geertz's account of *Negara; The theatre state in nineteenth-century Bali* (1981, 2118), and Ph. Quarles van Ufford discussed the legitimate authority of political and administrative local leadership in Indonesia (1987, 2272). Directly connected with development practice was P.J.M. Nas' analysis of a West Java regional development planning project (1991, 2421). These articles also bear some relation to the subdiscipline of political anthropology, as do John J. MacDougall's study of élite friendship ties and their political function (1981, 2099), and E. Ensering's study of local religious leaders in West Java (1987, 2277).

The policies and administration of urban growth became a subcategory in itself. *Bijdragen's* first article on the subject was written by The Siauw Gap and dealt with *kampung* problems and urban management in Surabaya (1959, 1539). It was followed by James L. Cobban's historical essay 'Uncontrolled urban settlement, the *kampung* question in Semarang (1905-1940) (1924)', Donald MacTaggart's 'Land-use in Sukabumi, West Java; Persistence and change' (1982, 2139) and Wertheim's look at colonial and post-colonial cities as areas of conflict (1987, 2293). H.D. Evers (1975, 1932) and F. Colombijn (1992, 2461) both published articles about changes in Minangkabau urban landownership.

The last two articles both reveal a close connection between urban management, physical planning, land use and land law. However, in spite of the far-reaching changes in agrarian law in Indonesia, *Bijdragen* has published remarkably little on land law proper. We have already mentioned V.E. Korn's treatise on the land law of West New Guinea (1958, 1511), and we might add here F. and K. von Benda-Beckmann's article on the limited value of written documents in establishing land rights on Ambon (1987, 2276), which properly speaking belongs in the academic tradition of legal anthropology.

The painstaking process of formulating a national Indonesian legal

system, involving hundreds of laws and many, many thousands of minor regulations and judicial decisions, and accompanied by intense debates about morals, religion, family relations, rule of law, economic growth and redistribution, has not completely escaped the attention of *Bijdragen's* readership. When on 6 July 1959 Sukarno ordered a return to the 1945 constitution, this event, so important for understanding legal life in Indonesia, was described and explained by J.H.A. Logemann (1959, 1537). The same year saw the publication of H.J. de Graaf's chronological review of the Indonesian declaration of independence (1541). Developments in Indonesia's modern private law have been examined by S. Pompe in a series of articles published in *Bijdragen* between 1988 and 1993 and ranging from the problems of mixed marriages (1988, 2314; 1991, 2418) and *intergentioneel recht* (1989, 2359, with C. de Waaij-Vosters) to company law (1991, 2429; 1992, 2439). Apart from critically following recent legislation, case law and legal literature from Indonesia, these articles also pay attention to the social and economic contexts and to the effectiveness of the law. Since they do not fit into the *Adatrechtschool* or legal anthropology tradition, they could perhaps be considered as a separate category, one which exemplifies the direction of studies in 'law, administration and society' at the University of Leiden since the mid-1980s.

Recent trends in publications in Indonesia and abroad

Given the legal and administrative expansion indicated above, one might also expect a sharp increase in the number of Indonesian publications on law and administration. A visit to one of the major bookshops in Jakarta would certainly support such an assumption. How then should we characterize contemporary Indonesian legal literature? As far as we can ascertain, at least 400 books are published every year, including approximately 100 reprints, and covering most fields of modern state law, including civil, criminal and commercial law. Only a few monographs on adat law have been published. Professor Soekanto's *Bibliografi hukum adat* (1975), covering almost a century, contains 2,000 references, but only 100 of these are recent works in Indonesian. One seldom finds significant works on legal and administrative history, or other works of an interdisciplinary nature. Even within the legal literature, a rigid separation between subjects is observed. Among the works on modern state law we find only a few standard works that are in general use country-wide. More often the books are used by a limited, often local, group of students or practitioners. Often large sections of these (paperback) books consist of appendices (*lampiran*) containing the full text of legislation. Low publication costs may partly explain this phenomenon, which is also found in certain law journals. Such an approach to the dissemination of legal information does not particularly help to establish common ground and shared opinions in the Indonesian legal community. A general lack of consistent legal information has been cited as a cause of legal uncertainty

in Indonesia and a serious impediment to socio-economic development (Gray 1991).

If we take the number of articles on law, including adat law, published in *Bijdragen* since 1946 to be about 50, how does this figure compare with other periodicals? To what extent have the law journals of the colonial period been succeeded by Indonesian publications? According to a recent index (*Indeks 1991*) some 14,000 such articles were published between 1947 and 1990. Law journals in independent Indonesia have been published by professional legal institutions and associations, by private business circles, faculties and the central government.

In 1947 the first Indonesian association of lawyers, Perhimpunan Ahli Hoekoem Indonesia, published the first volume of its journal *Hoekoem*; it was to continue, as *Hukum*, from 1951 until 1959. In 1955 another association, the Ikatan Sardjana Hukum Indonesia, published *Hukum dan Masyarakat*. In 1960 the two associations and journals merged, so that there was now one journal – *Hukum dan Masyarakat* – published by one organization – Perhimpunan Sardjana Hukum Indonesia (Persahi). It lasted until 1967 and the turbulent start of the *orde baru*. From 1969 until 1974 and from 1978 until 1981 a new Persahi (Persatuan Advokat Indonesia) published *Hukum dan Keadilan*. Apart from the useful but short-lived *Media Notarit*, which was published by the association of notaries public, the major professional law journal has come from the judiciary: *Varia Peradilan*. Its first run was from 1961 to 1967; it was revived in 1985 and has been published regularly ever since. Nowadays it is produced by the judges and staff of the Supreme Court and the Jakarta district court. It is a major source of published case law. Each month all Supreme Court decisions in criminal law are listed, and about five cases, either civil, criminal, religious or administrative, are reproduced and explained in a detail. *Varia Peradilan* also contains legislation, and personnel transfers within the judiciary.

During the 1950s there were two legal periodicals aimed at the business community; they published government regulations and other financial and economic information. Both were the result of private initiatives: *Warta* was launched in 1952 and *Business News* in 1956. They have continued to appear ever since, with three or four issues each week.

In 1971 several law faculties began to publish their own journals, thus filling the gap left by the demise of *Hukum dan Masyarakat* in 1967. The Universitas Indonesia in Jakarta launched *Madjalah Fakultas Hukum UI*; in 1977 it changed its name to *Hukum dan Pembangunan* and has remained a reliable and authoritative journal up to the present day. Other well-known faculty journals were those from Bandung (*Padjadjaran, Pro Justitia*), Semarang (*Masalah-masalah Hukum*), Surabaya (*Yuridika*) and Medan (*Panta Rhei*); some have appeared without interruption to the present day, while others have suffered interruption or been discontinued altogether.

The Ministry of Justice's Agency for National Law Development (BPHN) has issued several periodicals since 1968, when its *Madjalah Hukum Nasional* appeared. These have been published on a quite regular basis ever since.

A fairly recent journal that has gained popularity with many readers (circulation over 100,000 copies) is the juicy but meticulous fortnightly magazine *Forum Keadilan*. It is related to the mass media and its journalists not only investigate and describe legislation, as most of the other legal journals do, they also report on the debates surrounding the formation of such regulations and on their practical application by judiciary and administration. Its editors and reporters do not hesitate to discuss delicate issues of Indonesian politics and social developments.

To sum up, of all the periodicals mentioned only a handful have appeared on a regular basis over an extended period. It seems that most law journals do not have long lives (Churchill 1984:376). The happy exceptions at the moment seem to be: *Varia Peradilan*, *Forum Keadilan*, *Hukum dan Pembangunan* (Jakarta, Universitas Indonesia), *Pro Justitia* (Bandung, Universitas Katolik Parahyangan) and *Hukum Nasional* (BPHN).

What topics and writers are to be found in these journals? Generally speaking, the articles comment on legislation, and, to a much lesser extent, on case law and legal literature. Does *adat* law, which has remained the single most important category of *Bijdragen* articles on law, still command the attention of the Indonesian legal community? It seems that the major journals mentioned above have paid very little attention to *adat* law, something like 2.5%. Some journals of law faculties in the Outer Islands do a little better, but *adat* law does not appear to be seen as a big issue. Another subject familiar to the *Bijdragen* readership is legal history; this too has received very little attention in recent Indonesian law journals. Most contributors to Indonesian journals write about current problems; draft laws or newly enacted laws are very popular. Yet there is a tendency among many authors to refrain from open criticism of laws and judicial decisions.

During the Sukarno era, journals devoted much attention to constitutional law and the basis of Indonesian democracy, as well as to land law (Harsono).⁷ During the 1970s, in addition to constitutional and administrative law, there was interest in family law, criminal law and criminal procedure (Mardjono Reksodiputro, Oemar Seno Adji), followed by commercial law. *Hukum dan Pembangunan* also devoted a lot of attention to the sociology of law and legal theory (Soerjono Soekanto). And in the 1980s and early 1990s investment law, commercial law (Charles Himawan), arbitration (Gautama), taxation law (Soemitro), environmental

⁷ The authors whose names are mentioned between brackets in this paragraph have published quite regularly in the major law journals.

law (Koesnadi, Danusaputro), international public law and human rights (Mulya Lubis, A.B. Nasution) and administrative jurisdiction (Sjahan Basah, Philippus Hadjon) have come to the forefront. Lately there has been an upsurge in articles on Islamic law. During the whole period under review, civil law and civil procedure (Setiawan, Retnowulan Sutantio, Subekti) has remained a major category. Sunaryati Hartono, head of the BPHN, has published in many different fields of law, including economic law, and more recently legal planning and development.

The number of journals dealing with public administration appears to be much smaller. As far as we can make out, the main Indonesian periodical in this field seems to be the *Majalah Administrasi Negara* (1958-1988), which has close links with the national institute of public administration, LAN. Other journals we know of that publish regularly on Indonesian government policy and administration have a social science basis, such as *Prisma* and *Jurnal Ilmu Ilmu Sosial*, or an economic basis, such as *Ekonomi dan Keuangan Indonesia* and the *Bulletin of Indonesian Economic Studies*.

The topics dealt with in *Majalah Administrasi Negara* cover a wide range: national development policy and planning studies, internal organization and resources (financial, material, personnel), leadership (supervision, control) and internal structure (coordination, communication, motivation, efficiency), sectoral studies and comparative studies, the last written either by Indonesians on the basis of a study tour, or by western experts. A number of articles seem to be of a more ideological-normative nature, merely demonstrating a spirit of political correctness with regard to *Pancasila* and *pembangunan* and nation building. We find remarkably few empirical case studies and scant attention for regional and local government issues. Public administration is presented as a national affair and a matter of management skills.

The most regular contributors to *Majalah Administrasi Negara* include F.X. Soedjadi, S.P. Siagan, Bintoro Tjokroamidjojo, Buchari Zainoen, Arifin Abdurachman, Soerjono, Prajudi Atmosudirdjo and Salamoen Soeharjo. Most have been influenced by American public management and development administration studies. Although French, German and British public administration literature is sometimes referred to, we find few significant traces of a European tradition and an ever-decreasing number of references to Dutch authors. We have discovered one author who has published both in *Majalah Administrasi Negara* and in *Bijdragen*: Willem H. Makaliwe.

Another yardstick by which to measure the significance of *Bijdragen* is foreign journals that publish articles on Indonesian law and administration. A recent bibliography by S. Pompe lists 2,500 references on Indonesian law published in a language other than Indonesian between 1949 and 1990. During the 1950s and early 1960s Dutch law journals were still

playing a significant role. Besides the dozens of law articles in *Bijdragen*, often on legal history and adat law, there was the *Mededelingen van het Documentatiebureau voor Overzees Recht* of the Leiden law faculty, which published over 220 items between 1951 and 1957 and contained a lot of material on constitutional law and international public law. The journal *Kadaster* contained dozens of articles on land law, while *Het Personeel Statuut* published regularly on nationality law matters.

After the 1960s American law journals became more interested in Indonesia. The *American Journal of Comparative Law* paid special attention to issues of international public law connected with Indonesia's withdrawal from the UN in 1965 and its subsequent return to the fold in 1966. And the Cornell-based journal *Indonesia* has published a number of articles on adat law, often by Australian authors like Carol Warren.

A special constituency is formed by human rights circles. *The International Commission of Jurists Review*, *Amnesty International Reports*, *Inside Indonesia* (Australia), *Asia Watch* (USA), *Indonesia Feiten en Meningen* and *Indoc Bulletin* (the Netherlands) have all regularly published articles on aspects of Indonesian legislation and administration, most of them critical. Topics have included East Timor, labour relations, environmental degradation, land disputes, political arrests, torture and court cases.

Another special constituency is formed by those legal anthropologists whose main field of study is Indonesia. Authors like H. Slaats and K. Portier and F. and K. von Benda-Beckmann have preferred to publish in the *Journal of Legal Pluralism* and *Unofficial Law* rather than in *Bijdragen*.

Furthermore, incidental foreign articles on Indonesian law are to be found in many of the specialized law journals that exist all over the world.

Finally, no attempt to evaluate developments in this field can afford to ignore monographs. Since 1946 a few dozen monographs on Indonesian law have been published abroad, a few of which we mention here. In the USA Daniel S. Lev's works on constitutional development, Islamic courts and the politics of legal communities are a definite landmark. Robert Hornick, in collaboration with Indonesian scholars, has made notable contributions to the diffusion of modern positive Indonesian law. A good many unpublished American PhD theses could be mentioned here as well, and one would also expect to find such products of junior scholarship elsewhere. In the Netherlands several authors who themselves once lived in pre-independence Indonesia have continued to write about its legal system after 1946. A. Bruinink-Darlang, R.H. de Haas-Engel, J.E. Jonkers, J. Keuning, Ko Swan Sik, W.L.G. Lemaire, J.H.A. Logemann, J. Prins and W.F. Prins have produced surveys of historical and contemporary aspects of criminal law, investment law, agrarian law, law of nationalities, constitutional and administrative law, and international public law.

Among the 'new' approaches represented in Dutch monographs are: studies in legal anthropology – to some extent a continuation of the *Adatrechtschool* – by F. and K. von Benda-Beckmann, H. Slaats en K.

Portier and A.J.K.M. Strijbosch; the human rights studies edited by H. Thoolen; taxation law by S. Cnossen, and legal documentation by S. Pompe, J.H. van Katwijk and A.J. Dekker. In Australia John Ball has contributed to legal history and to general introductory work on Indonesian law. In Japan Hisako Nakamura examined marriage and divorce law, in Germany Bernd Kaehlig described commercial law and its cultural roots, whilst in Great Britain Barry Hooker published on *adat* law, Islamic law and legal pluralism. Most of these monographs are solid scholarly works, yet their impact in Indonesia has been quite limited unless, as has occasionally occurred, they have been translated into Indonesian.

Who has published on Indonesian public administration abroad? Given the enormous wealth of information and scholarship in the Netherlands on the pre-1950 administration of Indonesia, it is surprising to find so few monographs by Dutch scholars: N.G. Schulte Nordholt's on rural administration, G.C. Zijlmans on the last years of the colonial civil service and S.L. van der Wal on colonial administration. In line with the growth of comparative and development administration as an important field of study in the United States and consequently in other English-speaking countries, many more monographs on the policies and administration of Indonesia have been published by American, Australian and British authors. Some, such as John Bresnan, William R. Liddle, Richard Robison, Leo Suryadinata, Michael Vatikiotis and Karl Jackson, have chosen a political science approach. Furthermore, Colin MacAndrews edited a general introduction to Indonesian government, Christine Drake took up regional decentralization, Michael Morfit and Carole Warren published on local government, Gary E. Hansen on rural development administration, Anne Booth and Nick Devas on government finance, and Martha Logsdon on the contemporary civil service.

The number of foreign journals occasionally paying attention to Indonesia's public policy and administration has grown enormously. They include journals of comparative politics and administration (e.g. *Public Administration and Development*), area journals of Asian or Southeast Asian studies, development journals (e.g. *World Development* and *South*) and finally the regular press (e.g. the *Far Eastern Economic Review* and *The Economist*).⁸

Special constituencies in this category can be found among the many development consultants who have worked in Indonesia since the 1960s. Urban planning specialists, rural development experts, forestry specialists, economic planners and many others all have their own journals that occasionally publish articles on developments in policy and administration in Indonesia.

As we have shown in this section, the literature on law and adminis-

⁸ See for example an 18-page section devoted to Indonesia, 17 April 1993.

tration published both inside and outside Indonesia has expanded enormously since 1946. What final conclusions can be drawn regarding the significance of *Bijdragen* in these fields?

Conclusions

It is apparent that most of the ongoing debates about law and administration – debates about legislation, state policies, the judiciary and the civil service in both the Netherlands Indies and the Republic of Indonesia – developed outside *Bijdragen* and were often not even reported in *Bijdragen*. *Bijdragen* was intended more for the dispassionate scholar or for the practitioner with a strong academic, interdisciplinary interest in topics that did not urgently require immediate, practical solutions. One reason for this was the very political nature of the subject of law and administration, which did not fit in with *Bijdragen*'s cautious editorial policies.

Rooted in the Dutch colonial tradition and specializing in subjects that were and still are less topical in Indonesia, such as *adat* law and legal history, *Bijdragen* has gradually been driven further to the periphery of this field. There have always been other journals giving wide coverage to law and administration. In the colonial era *Indisch Tijdschrift voor het Recht*, *Weekblad voor het Recht*, *Tijdschrift voor het Binnenlandsch Bestuur*, *Koloniaal Tijdschrift* and *Locale Belangen* were the established periodicals commonly read by professional lawyers and civil servants. After 1945, when the Indonesians took control of law and administration and Indonesian gradually became the legal and administrative language, the major issues of Indonesian law and administration were discussed in Indonesian periodicals such as *Hukum*, *Hukum dan Pembangunan*, *Majalah Hukum Nasional*, *Varia Peradilan*, *Forum Keadilan* and *Administrasi Negara*. Foreign legal periodicals have also dealt with aspects of Indonesian law and administration. The role of 'adat law' and 'adat administration', which have figured prominently in *Bijdragen*, has become more peripheral with the expansion and penetration of modern state law and administration.

Having said this, we do not want to suggest that *Bijdragen* is of no importance for the study of Indonesian law and administration. It has built up a tradition that is still worth building upon for several reasons: its continuity, its soundness, its interdisciplinary nature, its international character and its special interests.

As to continuity, the 380 or so articles on law and administration in 150 volumes of *Bijdragen* do indeed represent a critical mass. *Bijdragen* has witnessed and initiated certain traditions and it has served as a forum for a number of outstanding authors. In its first period (up to 1900) *Bijdragen* pioneered in Islamic law, and after 1900 it amassed a wealth of information about *adat* law in the Outer Islands, and on legal and administrative history. The authors who deserve special attention here are L.W.C. van

den Berg, P.H. van der Kemp, J.E. Heeres, G.J. Resink and V.E. Korn. Many, like S. Pompe, who revived *Bijdragen's* interest in Indonesian law in the late 1980s, were intellectuals who combined broad cultural interests with a pragmatic view on matters of implementation. Political conditions in Indonesia have not always been conducive to serious efforts to study colonial laws and policies and their relation to contemporary developments. This fact alone provides *Bijdragen* with an extra reason for continuing to focus on legal and administrative history.

As to soundness, in the recent literature on law and administration in other journals, one sometimes comes across articles that are poorly informed, hastily written, inconsistent in their use of terminology, or distorted by political motives. *Bijdragen's* academic standards and political neutrality have resulted in a tradition of meticulous articles that present valuable empirical materials and demonstrate a responsible use of academic freedom.

Because of its interdisciplinary nature, *Bijdragen's* combination of legal and administrative topics and approaches with elements of history, geography, anthropology and linguistics has the potential to open up fascinating fields of research. While the Adatrechtschool may belong to the past, many new opportunities for interdisciplinary research have arisen. To mention a few: policy implementation at local levels, social access to courts, the application of *shari'a* in state courts, the politics and management of legal institutions, legal language. An interdisciplinary journal like *Bijdragen* can certainly play a leading role in this respect.

Internationally, *Bijdragen* has become a forum for researchers and readers from different continents, countries and religions. This creates opportunities for cross-cultural thinking, and makes this journal better prepared for the next century of internationalization than many more parochial journals, as most journals of law and administration tend to be. Of course a further increase in the number of Asian authors, in particular Indonesians, would help to foster the international dimension of *Bijdragen*. Given the sheer amount of Indonesian journals and monographs on law and administration and the predominantly non-Indonesian readership of *Bijdragen*, one would expect not only reports of fresh research on very specific subjects but also articles introducing and reviewing significant trends in the Indonesian academic literature. In a journal with the history of *Bijdragen* one would also welcome editorial policies that stimulate collaborative research by western and Indonesian authors.

Special interests and genres include administrative area descriptions of remote areas, biographies of administrators and politicians, *adat* law and public administration. Each of these genres could usefully be continued in the future. Even if one argues that *adat* law is not topical in today's Indonesia, this in itself might be a good reason for *Bijdragen* to remain active in the field. Biographical work on Indonesian legal practitioners and administrators is also scarce and could prove enlightening.

In conclusion, having compared *Bijdragen* with the other journals that

have produced an explosion of information on current legal and administrative developments in Indonesia, it seems to us that *Bijdragen* has been and could well remain a modest yet solid source of meticulous, mostly interdisciplinary articles of a reflective nature on the law, administration and society of Indonesia.

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