INDONESIAN LEGAL HISTORY 1602-1848. By JOHN BALL. [Sydney: Oughtershaw Press. 1982. viii+300 pp. Hardcover: A$32.00]

INDONESIAN LEGAL HISTORY: BRITISH WEST SUMATRA 1685-1825. By JOHN BALL. [Sydney: Oughtershaw Press. 1984. viii+307 pp. Limp: A$28.00]

AT different points in history, different parts of Indonesia were colonised by the Dutch and the English. The Dutch arrived in 1596, followed by the English in 1685. The rivalry that ensued between the Dutch and the English in Indonesia only ended in 1824 when the British finally relinquished their settlements in West Sumatra under the Anglo-Dutch Treaty, leaving the Dutch the unchallenged colonial masters of Indonesia. The two books by John Ball contribute towards a deeper understanding of colonial Indonesian legal history. They also provide a useful basis for comparing Dutch and English colonial legal policies in Indonesia and their impact on the indigenous legal order. The research for both books was undertaken at the University of Sydney, the School of Oriental and African Studies, University of London, and the India Office Library and Records, London.

The first book examines the evolution of legal dualism under Dutch colonialism in Indonesia between 1602-1848, and sets out to demonstrate that the major reasons for this phenomenon were European self-interest and indifference to the indigenous legal order. In the process, the author traces the stages by which Dutch law was superimposed on the native systems, and examines Dutch colonial policy and its impact on the colonial legal system. He also attempts to describe how Dutch colonial laws and institutions interacted with the indigenous legal order upon which they were superimposed.

The first chapter opens with the arrival of the Dutch in Indonesia in 1596, and examines the impact of the Dutch East India Company over the next two hundred years on the native legal systems, particularly in Java where Dutch influence was the strongest. This period saw the first seeds of legal dualism being sown, primarily as a result of European self-interest, disinterest in the indigenous law and lack of effective control over the native population.

The second chapter deals with the next period of significance to colonial Indonesian legal development: 1795-1811. During this period, the Netherlands fell into French hands. This and other turbulent political and constitutional changes in the mother country had important consequences for the colonial Indonesian legal system. Between 1808 and 1811, Daendels, the Dutch Governor-General of the Indies, tried to institute a number of legal reforms. However, his efforts were not allowed to come to fruition because in 1811 Java was occupied by the British. During this period from 1795 to 1811, the Dutch also began to show signs of interest in learning more about the indigenous adat law. However, these early attempts to understand adat law are castigated by the author as being inadequate. According to him, Dutch understanding of adat law during this period was often mistaken or overly superficial.

The brief hiatus (from 1811-1816) in Dutch control over Java is the subject of the third chapter. During this short British occupation of Java, Raffles introduced a number of legal and administrative reforms which, like Daendels' reforms, could not be fully implemented because the Javanese colonies changed hands. Although the British surrendered their Javanese colonies to the Dutch in 1814, and the rest of their Indonesian colonies in 1824, they were, in contrast to their arch-rivals the Dutch, able to boast of three colonial administrators (namely Marsden, Crawfurd and Raffles) who made significant pioneering contributions to the western attempt to understand adat law.

The restoration of Dutch control began a new phase in colonial Indonesian legal development. This era saw an attempt by the colonial government to consolidate the many reforms first introduced by both Daendels and Raffles. It also witnessed a growing but controversial Dutch interest in adat law which eventually resulted in the entrenchment of the principle of legal dualism in the colonial legal system.

The author concludes by reiterating his main thrust that European self-interest and indifference to the indigenous legal order were the major reasons why the colonial Indonesian legal system between 1602-1848 developed into a dualistic one. Indeed, the author builds up an impressively documented case to support this conclusion. As such, the book stands as an indictment of Dutch colonial policy and practice in Indonesia.

Perhaps one of the foremost virtues of this book lies in the fact that the author drew quite heavily from non-English language (mainly Dutch) sources. In so doing, he has made available to the English-speaking world a further store of information on Indonesian legal history which would have otherwise been inaccessible because of the language barrier. This, in itself, makes the book a valuable addition to the existing English language literature on Indonesian legal history.

The second book sheds light on another aspect of the legal history of colonial Indonesia. This time, the focus shifts to the administration of justice in British West Sumatra where the English East India Company maintained settlements between 1685 and 1825. For the purposes of examining Indonesian legal development during this period, the author divides it into four sub-periods:

a) 1685-1716 (the initial period of British settlement);
b) 1760-1785 (the Presidency period);
c) 1800-1810 (the administrations of Walter Ewer, Thomas Parr and Richard Parry);
d) 1818-1824 (the administration of Sir Stamford Raffles).

Although British colonisation had a limited impact on the indigenous administration of justice, the information documented in the book will give the reader a valuable insight into the customs, laws, practices and institutions of the diverse native communities within the territories governed by the English East India Company. The author also describes how justice was administered to the immigrant Chinese community, Company servants and slaves.

The information in this book was culled from two primary sources — the records of the English East India Company and the works of European writers. The book is thus admittedly written from the colonial viewpoint. Be that as it may, the records of the English East India Company are not readily accessible to many readers, and, for the benefit of such readers, the author has attempted to discuss the matters covered in those records in much greater detail than would otherwise be warranted. This feature in itself makes the book a worthwhile contribution to the existing store of literature on Indonesian legal history.

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