

FOREWORD

I.

The plan to prepare a translated selection of Professor Van Vollenhoven's writings on Indonesian adat law was first seriously mooted in the early 1950s. The motivations for such a venture were clear and compelling. For more than three decades, from the turn of the century until his premature death in 1933, Van Vollenhoven had been the mastermind and driving force behind the first systematic study of the rich variety of indigenous Indonesian law, and the foremost champion of its recognition in the colonial system of the Dutch East Indies. His influence on colonial legal policy had been immense (see *Introduction*, below). His towering scholarship and rare powers of persuasion as a writer and teacher had inspired a whole generation of workers in the field — colonial servants, academics, missionaries and others — whose researches had yielded a vast new adat law literature, all faithfully cast into the conceptual categories and distinctive terminology which Van Vollenhoven had designed to stress the 'oriental' identity of Indonesian law. Yet very little of this rich store of knowledge was accessible to the outside world. Admittedly, in 1948, Hoebel and Schiller had published an English edition of Ter Haar's authoritative 1939 treatise on Indonesian adat law, but of the master's own writings in this field virtually nothing was known to non-Dutch readers, except a French translation (1935) of his brilliant essay on the 'discovery' of adat law (1928) and a few short papers in English and French.

Holland had lost the Dutch East Indies, but could pride itself on a wealth of scholarly studies on every aspect of Indonesian life and culture, which, if translated into a world language, might be of benefit to scholars everywhere. (The Royal Institute for the Tropics in Amsterdam had, in fact, already started with a long-term programme of translating selected Dutch studies on Indonesian culture.) Moreover, there

was evidence that the English version of Ter Haar's book had aroused the interest of foreign scholars in the writings of Van Vollenhoven himself, among them experts on African law like Gluckman and Phillips (letter P. J. Idenburg to J. W. M. van Eysinga, 23/6/52).

Under the aegis of the Leiden Institute of Oriental Studies (*Oostersch Instituut*) a commission was formed to explore the possibilities. Its members included the Leiden professors F. M. van Asbeck, V. E. Korn, R. D. Kollewijn, J. H. A. Logemann (chairman), and Dr. J. Prins — all of whom had studied under Van Vollenhoven.

From the beginning it was realized that only a small selection from Van Vollenhoven's vast oeuvre on adat law could be contemplated, and that even the production of a relatively modest volume would present major problems of translation and editing.

The main problems, as seen by the commission, were two. First, Van Vollenhoven's highly individual style would be difficult to reproduce in English, and in particular the problem of finding suitable English equivalents for the technical terminology he had designed would present a major challenge.

Secondly, Van Vollenhoven had written with an eye to administrative and judicial officers in the Dutch colonial service, and his description and analysis of indigenous institutions and legal concepts were closely interwoven with a critical scrutiny of statutory provisions and administrative practices. However pertinent at the time, many of these were no longer relevant, or were even incomprehensible to English readers not thoroughly acquainted with the complexities of the pre-war legal and administrative system in the Dutch East Indies. Moreover, eschewing footnotes, Van Vollenhoven had put his often very extensive and predominantly Dutch source references in parentheses. In a translated text most of these would needlessly encumber readers who have no Dutch. In short, the preparatory work alone of 'pruning' the selected texts before their translation would demand a very considerable scholarly effort and amount of time.

The commission thought it wise to invite Dr. A. Phillips (then at the London School of Economics) as an external adviser. Himself no reader of Dutch, Phillips welcomed the project as likely to stimulate the growing numbers of Anglo-American scholars in the field of customary law, but in view of Van Vollenhoven's stylistic and terminological idiosyncracies he stressed that the production of a 'good and easily readable English text' was of first importance if the work was to make any impression at all. Furthermore, the work would need an

authoritative introductory essay outlining the historical significance of Van Vollenhoven's work, showing its background in the complex administrative and legal system of the Dutch East Indies, the trends in Dutch colonial legal and economic policy, and the development of adat law scholarship from the early 1900s onwards.

A further difficulty, never fully appreciated by the commission, was that its own persistent striving for near-perfection was to prove a major obstacle to the satisfactory completion of the work within a reasonable time.

My father, F. D. Holleman, was invited to write the Introduction and to prepare the Van Vollenhoven texts for translation. He had been a student of Van Vollenhoven, and his successor to the Leiden chair of Adat Law between 1934 and 1939, but had since returned to his native South Africa, where he taught at Stellenbosch University. His academic commitments made him decline the first task, but he agreed to take care of the second when he was told that his son was being asked to make the translation. (Phillips, having read some of my publications on African customary law, conceded that my command of English, though 'not perfect' and probably in need of some expert editing, might be good enough to turn out a translation not unworthy of Van Vollenhoven's scholarship. My familiarity with his work and my training in this field of study were considered distinct advantages.)

I accepted the task after much hesitation. I had more than enough work in hand at the time, which even prevented me from working up my own field material the publication of which was overdue. Also I had little experience as a translator, and though much less familiar with Van Vollenhoven's writings than the commission seemed to believe, I had read enough of his work to have some idea of the formidable difficulties I would face. The selection was to be taken entirely from the monumental *Adatrecht van Nederlandsch-Indië*, a work in which, more than in most of Van Vollenhoven's writings, the force of his pure if slightly archaic language was likely to be lost through his frequent use of a highly involved syntax, utterly different from English usage. Though written in my mother-tongue I had found the *Adatrecht* no easy reading, and the portent of some passages had escaped me because I lacked the inside knowledge of the Dutch colonial system, and of its problems and practices, which the learned author evidently assumed his readers would have.

On the other hand, knowing the veneration with which Van Vollenhoven was regarded in Dutch academic circles (I, too, deeply admired

him) it was difficult to turn down an urgent appeal from people I had known and respected in my youth when they were my father's colleagues in the Law School at Batavia (now Jakarta).

To be entrusted with a task which they considered to be of such importance academically and a fitting tribute to one of the greatest scholars Dutch legal science had known, was an honour to which I was not insensitive. But the main reason why I agreed to take on the job (its remuneration would be a mere pittance) was the prospect of close collaboration with my father in a vocational fellowship which meant much to both of us, even though we would have to communicate by letter between Bulawayo, where I lived at the time, and Stellenbosch, some 1500 miles away.

We bravely set about our task in January, 1954. The commission in Holland expressed the hope that the translation would be completed in about two years, which I considered wildly optimistic for I had warned Logemann that I doubted if I could spare it more than a few hours in the evening. But even in my most pessimistic moments I could not foresee that twenty-five years later I would still be burdened with it.

II.

The selection made by Logemann's commission comprised these sections from Vols. I and II of Van Vollenhoven's *Adatrecht* (cf. the table of contents in *Annex B*):

First Part,	ch. I:	Adat, Adat Law, Native Law	10 pp.
	ch. II:	The Elements of Adat Law	25 pp.
	ch. IV:	The Study of Adat Law	37 pp.
Second Part,	ch. I (2):	Aceh	78 pp.
	(18):	Central and East Java and Madura	150 pp.
Third Part,	ch. I-III:	The Maintenance of Adat Law	172 pp.
Fourth Part,	ch. VII:	Conflict of Private Laws	15 pp.

Total: 487 pp.

This was much more than had been initially contemplated, but the excision of passages thought to be of no interest to English readers was expected to reduce the number of pages considerably.

As the first three sections were part of Van Vollenhoven's methodological 'orientation', the commission agreed to my request to add the short section on 'Law Areas' (Second Part, chapter I,1), which I con-

sidered to be indispensable to the understanding of his methodology.

Aceh (composed in 1908-9) was selected because it was the first of Van Vollenhoven's systematic 'area' studies, cast under the headings and in the terms which were to become standard practice in virtually all later adat law studies. Central and East Java and Madura (1917) represented what many considered to be his most accomplished exposition of a coherent body of living adat law in an area widely believed to be virtually devoid of it after centuries of foreign occupation. The chapters on the maintenance of adat law (1926) were an obvious choice, being not only a masterly treatise on the judicial process and various forms of adat law observance, but an invaluable guide to government courts on the essential nature of indigenous justice.

The short chapter on the internal conflict of laws (1931) did little more than annotate problems met with in legal commerce between parties of different legal (sub-)cultures, a subject sufficiently important to form a separate discipline, *Intergentiel Recht*, in the Batavia Law School (where its most prominent exponent was R. D. Kolléwijn, later at Leiden and a member at the commission). This chapter was dropped from the selection many years later, when after Logemann's death the whole project was reviewed and some changes were made (see below).

The Introduction — the commission envisaged a comprehensive scholarly essay of some hundred pages — was to be written by Prof. C. T. Bertling of Amsterdam, also a student of Van Vollenhoven (Korn, my father's successor at Leiden and an obvious first choice, had declined to undertake what he rightly feared to be a most arduous task). To my dismay I heard that I was to translate the Introduction, too, in order 'to preserve a certain unity of style'. I shall return to its fate later.

It was agreed that the translation would be posted to Holland in instalments as the work progressed, each batch of 20-40 typewritten pages going to each member of the commission in turn to be scrutinized, as well as to Phillips in England, who had generously agreed to supervise my exercise of the King's English. All comments would then be sent back to Africa for our consideration.

Between Father and me a similar shuttle service operated, and my files show that every part of the translation travelled at least four times in both directions across the Limpopo River in a lively exchange of comments and suggested improvements before being finally retyped and sent off to Holland, where we hoped it would meet with the commission's (and Phillips') approval. The search for suitable technical terminology posed special problems often requiring a good deal of con-

sultation and research. Van Vollenhoven had designed a whole new range of legal terminology in order to avoid the misleading habit among most jurists of too readily employing western juridical terms for oriental conceptions and institutions which superficially resembled those of the west. Sometimes his inventions had been inspired by early Dutch or biblical usage, but as often as not they were products of his imaginative linguistic craftsmanship. Where a literal translation would be un-English or incomprehensible, we had to go back to the Indonesian institution or concept itself in order to think up an appropriate English name for it (my excursions into old Anglo-Saxon law were less fruitful than I had hoped they might be).

Initial progress was slow, despite the fact that for the first four months I was unemployed and could therefore devote all my time to the translation. Trying to reproduce (as the commission dearly hoped) Van Vollenhoven's characteristic style and often striking idiom in the 'good and easily readable English' on which Phillips had insisted, proved to be far more difficult than I had feared it would be, and it took me several weeks to make some headway. (The brief and deceptively simple opening sentence alone was completely redrafted seven times and even then failed to satisfy us; it was not until the final revision, many years later, that Maddock and I hit upon the right formulation.)

But three months later (April 1954) we were able to despatch the first few chapters, some forty pages of typescript, with which we felt reasonably satisfied. The commission found it (letter Kollewijn, 11/5/54) 'a most encouraging start', but felt doubtful about some of our terms and the accuracy of some passages. Phillips expressed reservations about the quality of the English: 'good but not perfect', clearly a euphemism, for he urged that it be thoroughly purified by a competent English editor.

We had, of course, expected criticism, but when we received the manuscript back, several months later, it was absolutely littered with suggested changes which the commissioners and Phillips had scribbled on it, and we had to grit our teeth. It was not only that revision as indicated would require weeks of extra work and lengthy correspondence to sort out the many technical points on which we differed with the commission. We also realized that it would be impossible for us to achieve the 'accuracy' which the commission evidently wanted of us with regard to Van Vollenhoven's idiom, while producing a text which would satisfy an English purist.

An even more nagging problem was the fact that I was now fully employed and that my regular work (first in Salisbury, then in Bulawayo) demanded so much of my time and energy that I could not spare more than six to ten hours a week for the translation, and even that far from regularly. Production slowed down to a trickle, which worried us as much as it did the commission, but neither side was yet prepared to acknowledge defeat. By the time I moved to Durban (1957) to take charge of the University of Natal's Institute for Social Research, we had completed Aceh and made a start with Java. Knowing that my new employment would require me to be away from home for weeks on end, I wrote to Father and Logemann suggesting that the time had come to face realities and to make other arrangements. But they urged me to go on, hoping for a favourable turn of the tide. By the end of the year and about half-away through the Java chapter, I learned that my father was incurably ill and that our splendid partnership would soon end. I wrote to Logemann that I had to give up, and I was grateful for the understanding he showed. After Father's death in January 1958, I sent Logemann whatever I still had in draft translation. It included a section I had found on my father's desk. His careful emendations had stopped at mid-page . . .

III.

When I accepted the Leiden chair of African studies in 1963, Logemann had already retired from academic life. In spite of our close relationship, — it was he who had persuaded me to come to Leiden — he was reticent about the state of the Van Vollenhoven translation. But I understood from him that professional translators had been working on it from time to time under his supervision, but that progress had been painfully slow and that the work was far from completion.

My translation (after some revision) had been retained, except for the unfinished Java chapter. He admitted that he had much underrated the technical difficulties involved, but that working with professional translators posed problems of an even more intractable kind ('like *prima donnas*, they can be the devil to play with').

Despite his disheartening experience, he was still determined to see it through, 'provided of course, that I live long enough'.

He did not.

After his death (late 1969) I 'inherited' the Van Vollenhoven material 'to dispose of as you think fit', a stack of carefully ordered files

reaching two feet high, containing everything done so far, including a vast amount of correspondence and minutes reflecting seventeen years of frustrating efforts. It made depressing reading.

I found Bertling's long Introduction. Its Dutch original, revised several times at Logemann's insistence, had been completed in October 1957, and translated professionally in 1959. But in 1961, after the Van Vollenhoven project had been transferred to the Royal Institute for the Tropics in Amsterdam to form part of its series of translated Dutch studies on Indonesia, the Institute's editorial committee decided, with Logemann's consent, to drop the whole Introduction 'for financial reasons' in favour of a brief Foreword (not yet written) — a poor reward for more than three years of diligent effort.

Doubts about the quality of my own translation appeared to have been more persistent than Logemann had ever let on to my father and me. The manuscript had finally been submitted to a reputable American adat law scholar for his 'frank opinion'. He found it to be 'good and faithful', requiring only a little expert editing to make it fully acceptable. (Reading my own text again after an interval of more than twelve years, I thought that he had been too kind, and that it would need more drastic treatment.)

I was shocked to discover that, apart from Bertling's ill fated introductory essay, no more than 25 'approved' pages of Van Vollenhoven text had been added to my own translation — a pitiful yield for a ten-year period.

The correspondence files revealed the whole sad story, which need not be told here in all its detail. Suffice it to say that, after I had given up the work, the commission believed that quicker and better results would be achieved by engaging fully qualified, English-born translators with experience of scientific writings. But such people proved to be extremely rare, and usually freelancers mainly dependent for their livelihood on assignments from regular 'customers' (publishers, magazine editors) whose deadlines had to be met in order to keep their custom. The Van Vollenhoven project was subsidized on the basis of a fixed rate per word. This may have been sufficient remuneration for a reasonably smoothly running translation process. It was hopelessly inadequate for a work which not only demanded much more time and concentrated study than a non-salaried man could afford to give it, but which was also burdened by the same wearisome repetition of scrutiny and revision by exacting Dutch adat law scholars with insufficient command of English which had already been irksome to my father

and me many years earlier, but which sooner or later proved to be intolerable to hard-pressed and highly sensitive professional translators.

The results were disastrous. The first engagement (1960) of nearly twelve months yielded 25 approved pages of Van Vollenhoven text. The second and last engagement — six years later! — though lasting even longer, did not produce a single page that fully satisfied the editors, but it left the files full of letters which spoke only too clearly of an exhausting battle between a fast ageing but still courteously persisting, retired academic, and an increasingly recalcitrant, if self-opiniated, member of the translating profession.

IV.

The decision to resume the project, though in a somewhat revised form, was taken around the middle of 1971 by an *ad hoc* committee of the (now defunct) Adat Law Foundation in Leiden. Besides myself as convener, its members were:

Professor J. Prins of the University of Utrecht, the only surviving member of the original commission;

Mr. H. W. J. Sonius, an old student of Van Vollenhoven with a long and distinguished career in the pre-war Dutch East Indies administration;

Professor G. van den Steenhoven of the University of Nijmegen, who was doing much to restore a working relationship with Indonesian adat law scholars, which had been badly disrupted by the war and Indonesia's independence.

Needless to say, it was a difficult decision, based more on good faith and a feeling that a debt of honour had to be discharged, than on sober reckoning. Frankly, I dreaded it, for I estimated that about two-thirds of the work had yet to be done. Having read through my own (professionally edited) part of the manuscript and scrutinized the other approved pages, I thought the first still to need thorough revision and the second to be so full of inaccuracies as to need re-doing. Moreover, I knew that, no matter how much assistance and moral support my colleagues gave me, mine would unavoidably be the main burden. For I now held the chair that had been Van Vollenhoven's and my father's, a chair saved mainly by Logemann's efforts when, after the dismantling of the East Indies colonial administration and the retirement of Korn, there seemed little incentive for the Leiden law faculty to

retain it. So it was not only to Van Vollenhoven's memory that a debt of honour had to be paid.

The new editorial committee made some changes in the plan of the book. We re-adopted Arthur Phillips's idea of an introductory essay as an essential framework for English readers unfamiliar with the vicissitudes of Dutch colonial policy and the complex legal and administrative system in the East Indies. But the essay needed to be far more concise than Bertling's had been; and it had to include a section on problems of legal pluralism to replace Van Vollenhoven's short and rather fragmented chapter on the internal conflict of laws, which we had decided to drop. Sonius, who was now retired, was eminently qualified for this difficult task.

We added the brief area study of Minangkabau to the selection, mainly because its divergent social structure and its peculiarities of family property had so intrigued Van Vollenhoven (the data then available were sparse) that he deviated from his normal order of headings.

On the other hand, we drastically cut the long chapter on Java and Madura and the even longer section on the maintenance of adat law. Thus space was made for what we hoped would be an interesting comparison of colonial and post-colonial attitudes to adat law. For this purpose we meant to choose two of Van Vollenhoven's most outspoken essays on legal policy (including the famous 'No Lawyers' Law for the Indonesian' of 1905), and we invited a number of prominent Indonesian legal scholars to evaluate his work and views in the light of Indonesia's current policy and of the conceptions that were now held of the place of adat law in the national legal system. Much to our regret, we later had to abandon this promising venture because of editorial difficulties.

We also agreed on a simpler working method. Sonius would be largely responsible for excising 'redundancies' from Van Vollenhoven's text; I would then annotate every page with detailed directions for the translator, the supervision and final judgement of whose work was to be entirely my responsibility. We thus hoped to avoid the paralysing rounds of scrutiny by individual committee members all striving for perfection. Although I was to be free to consult my colleagues when I needed their technical advice, only the final draft of the translation as passed by me would be submitted to them, and then only for essential emendations.

The next step was to find a suitable translator. This was crucially

important, because after Logemann's experience I would not work with professionals. We wanted a native speaker of English with a good ear for language, preferably with an academic background, with a sufficient grasp of Dutch to understand Van Vollenhoven's idiom (helped, where necessary, by my annotations). Translating experience would be useful, but more important was the will to see the long and difficult job through in a spirit of give and take. Logemann, unsure of his English, had conceded to the professionals their demand for the final say in 'all matters of English usage', with the commission being left to rule only on 'technical terminology' and on faulty interpretations of Van Vollenhoven's text. This had led to endless debates and even to such absurdities as the refusal of one translator to use the term 'adat law' because the adjective was 'un-English'. (Logemann, who must have been very tired, finally compromised by accepting 'customary law', which Van Vollenhoven himself had occasionally used.) What Logemann never fully realized — and these translators apparently would not admit — was that the linguistic and technical problems posed by this translation were so closely interwoven as to make it well-nigh impossible to draw a clear line between the translator's and the editor's respective fields of competence and final responsibility. Willing though I was to respect a translator's craftsmanship and to welcome his inventiveness, I would not surrender responsibility for the final product.

Late in 1971, on the recommendation of one of my Leiden colleagues, we engaged Mrs Rachel Kalis as translator. A young English-born housewife, academically qualified in anthropology and married to a lawyer, she had some experience of translating Dutch scholarly writings. Our long tale of past frustrations did not discourage her, nor did the many corrections which I had seen fit to make in her test-translation of a piece of Van Vollenhoven as a fair warning of what she could expect. She undertook the task on my terms, and she saw it through in a fine spirit of co-operation which did not flag in spite of her returning to England, raising a family, and moving house several times. I am deeply grateful for her perseverance and loyalty.

When the translation was resumed, early in 1972, some of us hoped that it might be completed in 1974, the centenary of Van Vollenhoven's birth, but this, too, was over-optimistic. What with domestic responsibilities on one side of the English Channel and academic commitments on the other, the translation remained what it had always been: a demanding and much interrupted spare-time occupation. Not until

spring, 1976, was the main task at an end, though I still had to revise my earlier translation of the first five chapters, and to try to bring greater unity of style into the work as a whole.

In the meantime, Sonius' Introduction, too, had been completed (and translated by Mrs Kalis), a scholarly essay, which unfortunately was too long for us. At his request, the Dutch version was therefore published separately (Institute of Folk Law, University of Nijmegen, 1976), an abbreviated and slightly revised English version being made for the present volume.

Overwork and ill-health prevented my getting down to a general revision until I took final leave in January, 1979. I had prepared myself for a long and solitary effort. I was, instead, presented with the most stimulating collaborator I could have wished for: Kenneth Maddock of MacQuarie University, New South Wales. A trained lawyer and anthropologist, actively interested in customary law (aboriginal land rights, Northern Territory), he had become familiar with Van Vollenhoven's and other Dutch writings on Indonesian adat law during two years of study leave in Holland. Maddock brought to the translation what it needed most at this late stage: a fresh, inventive mind, a keen eye for essentials and, above all, a sense of fun in spotting simple solutions to seemingly intractable problems of language. The three days we spent together going over the first fifteen pages (which I had already revised) changed a dreary process of correction into an exhilarating contest in English marksmanship. It resulted in the kind of revision I had hoped for but could never have done alone. The new spirit prevailed also after he had left for Australia and we had to continue by post, covering page after typewritten page with scribbled corrections and comments. When we reached Mrs Kalis' translation, she sportingly joined in the game.

Fifteen months later (spring, 1980) we had reached the end of the long trail.

V.

The two hefty volumes of Van Vollenhoven's *Adatrecht* were first published in fourteen instalments between 1906 and 1931 (see publishing schedules, *Annex B*). Barring any further mishaps, this selection — barely one-sixth of the original — will appear almost exactly fifty years after the last, eagerly awaited, instalment, which moved the editors of a leading law journal to write:

‘Our humble tribute to the scholar who laboured for twenty-five years to raise this monument. To-day a source of reference for the practitioner, it will stand as a model of scholarship for many years to come’ (ITR, 134/4, 1931).

Unlike Ter Haar’s more accessible work, Van Vollenhoven’s *Adatrecht* is no longer a work of reference in present-day Indonesia — in fact, very few university libraries there have a copy. Even in the Netherlands, only a handful of scholars can claim to have read it. It has come to be looked upon as a colonial relic, ‘relevant only to historians’.

The commission of eminent scholars who decided that a choice of Van Vollenhoven should be published were of a different view. All of them had many years of administrative or judicial experience in the East Indies, which had given them the opportunity to gain a deeper understanding of adat law, not merely for the sake of scholarship, but for the higher purpose stated by Van Vollenhoven: ‘our loftiest aim is the creation, not on paper but in reality, of a good administration of justice and a good system of government . . . two things that cannot be attained without a solid knowledge of popular law and popular conceptions’ (1909:90). They hoped that this publication would foster the same motivating spirit among other workers in the fields of customary law and of legal development in culturally plural societies. The colonial era was then fast approaching its end, and many newly independent governments would soon face the same problem of how to accommodate the diversity of living popular law with received western law in a coherent system of comprehensible justice for all. The Dutch experience might still hold a lesson for others.

Now, more than a quarter of a century later, scores of new states are pursuing policies of legal reform which are often more radical and western-orientated than Van Vollenhoven and his followers would have considered advisable. It may be argued — as Sonius points out in his Introduction — that Van Vollenhoven was being too conservative when he fiercely defended traditional values and institutions. And, indeed, anyone with more recent experience of the grass-roots of law in these indigenous societies can testify that much is no longer traditional; but also — and this point is crucial — that these changes were seldom intended by legal reformers. Mostly they have been popular responses to the compulsion of social and economic change, giving rise to new trends and developments in the living law of which government courts are all too often ignorant. Add the declining authority of traditional local tribunals (if recognized at all), and the certainty of law for com-

mon folk becomes highly doubtful. In fact, Van Vollenhoven's ideals of good government and of a system of justice comprehensible to all, based on solid knowledge of popular law and popular conceptions, is more remote than ever. Therefore, the greater the need for systematically applied and constructively critical scholarship, founded on patient investigation and close observation of the realities of legal life.

For these reasons, a choice of Van Vollenhoven's seminal work may still be of more than historical value.

Although much of his descriptive material is obviously dated (as, indeed, it tended to be when he was writing), his treatment of it still stands out for his perceptive interpretation of the basic legal conceptions, relationships and institutions which operate to this day at the grass-roots of Indonesian legal life. This is the more remarkable because Van Vollenhoven never did field-work, but this lack was more than compensated by his vast erudition, which made him impatient with western juristic dogmatism and eager to search for what he once called 'the living face of law'. The East Indies archipelago became a revelation to him: a 'jumble' in the eyes of a codist, but an 'inexhaustible source of instruction' to those 'whose desire for knowledge and explanation of the living law on earth is inspired by the very diversity of its past and present manifestations'.

There is little explicit theory in Van Vollenhoven's work — the nearest he comes to a definition of law is in a parenthetical subordinate clause in the opening sentence of his second chapter — but he has an unusually wide and critical sense of classification, which leads him not only to organize conceptual categories into coherent systems of law within homogeneous 'law areas', but also to the notion of a broader geographical framework for a comparative, transcultural study of law which extends far beyond the Indonesian archipelago.

The principal tenets of Van Vollenhoven's approach are discussed in the Introduction, and little needs to be added here.

The first four chapters unfold the basic pattern of his method, including the historical aspect which is essential to all his work.

The next three chapters apply this method to different law areas: systematic 'inventories' of substantive law and legal practice based on indigenous conceptions and categories which Van Vollenhoven distilled from the materials available to him. Only the first of these area studies is reproduced here virtually in full; the other two have been abridged (compare the headings with those listed in the Introduction).

Chapter VIII, on the maintenance and growth of adat law, contains

three sections which originally appeared as separate chapters in the second volume. They were written in 1926, some eight years after the completion of his area studies, when Van Vollenhoven was able to draw on fresh field materials. The result was an analysis of the ways of popular law observance and judicial intervention which for its comprehensiveness and perspicacity not only far excelled anything similar done before, but even to-day must rank as a rare feat of interpretative scholarship. The second section establishes 'attested law observance' — or 'preventive law care', to use Logemann's term — as a distinctive and vital level in the maintenance of law, between voluntary observance and judicial sanction, and throws new light on the role of authoritative 'witnesses' to important transactions in indigenous legal commerce. The section on the role of the courts (much shortened here) is largely based on the practice of those tribunals which were later officially recognized as 'village justice'. Van Vollenhoven not only makes a penetrating analysis of what he regarded as the essence of an effective indigenous administration of justice, but provides an authoritative guide for government courts entrusted with applying adat law in the colonial system.

We decided to add the last, very brief, chapter of his *Adatrecht* as an 'epilogue' to our choice. In the original, it concludes a series of chapters which Van Vollenhoven had devoted to the critical survey of successive legal policies and experiments during more than three centuries of Dutch colonial rule, in order to see what lessons might be drawn for the future. The course of adat law had always been influenced by two contending forces: its own 'germinating power', and the impact of foreign influences and demands. These forces would, in future, diverge even more sharply, and the fate of adat law would depend more than ever before on the people themselves, on their will and striving to preserve and adapt their rich cultural heritage. The epilogue is not only a hopeful appeal to Indonesian cultural pride, but also the final testimony of a great western scholar's respect for the virtues of another culture.

A choice like this, concentrated almost entirely on the adat law of some of the *indigenous* peoples of Indonesia, must inevitably fail to reveal the comprehensiveness of Van Vollenhoven's *Adatrecht*. We have had to omit, for instance, the separate sections on the popular law of so-called foreign orientals — Chinese, Indians, Arabs — in the archipelago, and the chapters on the religious — pagan, Hindu, Mos-

lem, Christian — elements in adat law. Likewise, we had to leave out the major treatise on the place which all this popular law assumes in the legal system of the East Indies. For an appreciation of the vast scope and methodical build-up of the *Adatrecht*, readers are therefore referred to the translated table of contents in *Annex B*, which also lists the titles of his essays on adat law as collected in the third volume of 1933, and of his other publications in this field. (It may be mentioned that more than one-half of his massive oeuvre was in other fields of scholarship.)

In 1910, the newly created Commissions for Adat Law at The Hague and Batavia issued a brief 'guide' to field research — believed to be largely composed by Van Vollenhoven. It is reproduced here as *Annex A*. After more than seventy years, it still makes instructive reading.

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J. F. Holleman

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