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# Human Rights and Anticolonial Nationalism in Sjahrir's *Indonesian Contemplations*

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**Paul Bijl**

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**Abstract.** In 1945 and under the pseudonym Sjahrazad, Indonesia's first prime minister Sutan Sjahrir and his wife Maria Duchâteau published a book in Dutch entitled *Indonesian Contemplations* about Sjahrir's exile to and incarceration in the 1930s in the Dutch colonial concentration camp Boven-Digoel. Through an analysis of the book's critique of the legal spatialities of the Dutch empire and its imagination of the space of the Indonesian nation-state, this article makes a double argument: on the one hand, for the importance of scholarly analyses of Indonesian writing on the Dutch colonial-legal project and, on the other, against the idea that national liberation and international human rights were mutually exclusive in anticolonial nationalism.

**Keywords.** human rights, anti-colonial nationalism, legal geography, colonial history, history of Indonesia, history of Europe, concentration camps, humanism

## INTRODUCTION

Scholarly work on legal history in colonial Indonesia (1816–1942) has focused on the various legal projects – European, indigenous, and Islamic – in this Dutch colony and on individual rights struggles by Europeans.<sup>1</sup> Through an analysis of Sjahrazad's *Indonesian Contemplations* (1945) (published in Dutch as *Indonesische overpeizingen*; hereafter *IC*), this article starts to answer a different question, namely, how Indonesians living with the Dutch colonial project have themselves written about their legal positioning, and specifically about individual rights. Recent literature in the field of human rights studies has emphasized that the discourse on human rights as we know it today emerged only after World War II in the late 1940s, “breaking through” in the 1960s or even the 1970s.<sup>2</sup> However, before this particular discourse on human rights took the historical stage, Indonesian subjects living in the Dutch empire had already concluded that within the Dutch colonial project rights were unequally distributed and started asking tough questions about, precisely, humanity, citizenship, and rights. In the case of Sjahrazad's book, particularly observations about the relation between individual rights and space

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will be analyzed here, as one of the central critiques of *IC* is how law produces spaces of legal (and, therefore, physical) in- and exclusion.

The text of *IC* was authored by two people in two phases: in the 1930s by Indonesia's later first prime minister, Sutan Sjahrir (1909–66, in office 1945–47), who was exiled to the Dutch colonial prison camp Boven-Digoel, and in 1945 by his Dutch wife Maria Duchâteau (1907–97), who selected, rearranged, and partly rewrote Sjahrir's writings and had them published. "Sjahrazad" can be seen as their collective pseudonym. This is a book about a nameless man in a legally paradoxical position that the Italian philosopher Giorgio Agamben has called one of "inclusive exclusion."<sup>3</sup> On the one hand, because the Dutch governor-general had subjected him to the so-called "exorbitant rights" (more about these rights below), he was excluded from asking a judge for a verdict about the legality of his detention. On the other hand, again precisely because of these exorbitant rights, he was completely included in the law, coexistent with it. In this article I will call this man "Sjahrir," for although this name is not mentioned in the book, already in 1945 readers could guess that the "young Indonesian, frontman of democratic popular party [...] P.N.I. [Pendidikan Nasional Indonesia, or Indonesian National Education]" who is mentioned in *IC*'s unsigned foreword was in fact Sjahrir, about whom hundreds of articles had been published in newspapers before the war.<sup>4</sup>

Both through showing and telling, space is a central motif in the book. Throughout its texts, Sjahrir is stuck in a prison, in a camp, and on an island; displaced from home, family, and friends; and on the move, covering around 5000 kilometers in the course of the text as he is brought from one place of detainment to another. The legal spaces unfolded by the Dutch imperial project and critiqued in the book I will analyze by employing insights from the interdisciplinary field of legal geography, which addresses the relation between law and spatiality by investigating the production of space by law and the ways in which spaces are inscribed with legal significance.<sup>5</sup>

Sjahrazad's work is one example of the many writings emerging from Indonesian contexts which directly address the topic of rights or describe situations in which rights, or their absence, were at stake, from the letters of Kartini (1879–1904) to pamphlets, for instance by Soewardi Soerjaningrat ("Kalau saya seorang Belanda," 1913), to novels by Semaoen (*Hikayat Kadiroen*, 1920) and Soerwarsi Djopoespito (*Buiten het gareel*, 1940). In these writings, Indonesians responded to the inequalities of colonial society by criticizing existing and imagining alternative legal projects with different legal spatialities and temporalities, but also with different constellations of the (legal) self and the law. These responses, to be sure, differed widely from each other and this analysis of Sjahrir's thought should not be seen as representative of Indonesian anticolonial nationalism as a whole, but as part of one particular line of thought which, as John Legge writes, lived on as "the 'PSI stream' in the life of the Republic," with PSI standing for the Socialist Party of Indonesia, which was founded by Sjahrir in 1948.<sup>6</sup> In their study on Indonesian

political thinking between 1945 and 1965, Herbert Feith and Lance Castles place Sjahrir under the header of “democratic socialism,” but also distinguish various other ideologies, in particular radical nationalism, Javanese nationalism, Islam, and communism.<sup>7</sup> Moreover, these “streams of thought,” as Feith and Castles call them, were often brought together as in Semaoen’s novel which can be interpreted as both Islamic and communist. In the republic, Sjahrir’s thought on human rights did not prevail but certainly remained, in the words of Legge, “a particular moral and ethical and intellectual strand within Indonesian political life.”<sup>8</sup>

By highlighting Indonesian reflections on rights from the colonial period, this article shows that rights are not Western inventions and export products to Asia and Africa, but should be considered as processes that have histories in which indigenous people in Europe’s colonies were actively involved.<sup>9</sup> Histories of rights, whether human or citizen rights, are shaped not only by Europeans and Americans but also by those thinkers and activists who were subjects, but not citizens, in Europe’s colonial empires. This view stands in sharp contrast to a dominant perspective in the contemporary West, where rights are often seen as Euro-American gifts for the non-Western world that, if not accepted gracefully, can also be brought with military force. For the Netherlands, for instance, Barbara Oomen has shown that rights are mostly not seen as urgent matters for life at home: “[w]hilst human rights [are] a cornerstone of Dutch foreign policies, they [are] deemed less suitable as yardstick for domestic affairs.”<sup>10</sup> Oomen has indicated how seeing rights as export products thwarts a clear view on rights issues in Europe. This article addresses a related problem, namely that partly because of this prevalent perspective on rights, we still know very little about their relational histories in colonial contexts.

In the decades before human rights as we know them today, and before they became citizens of a nation-state, Indonesian colonial subjects co-shaped global conversations on rights, engendering and appropriating concepts of legal subjectivity, citizenship, and humanity. The already-mentioned Kartini, for instance, in her letters fashioned a self that was “ready” for the kind of rights already had by citizens in imperial Europe. Inspired by the European feminist movement and indigenous writers from colonial Egypt and India, her endeavor was to write a self that made her part of what was deemed humanity.<sup>11</sup> In Sjahrazad’s writings about the camp and other places of incarceration, reflections on humanity, and particularly on humanism, are also prominent, and as Sjahrir was in the 1930s going through the disruptive experience of imprisonment and banishment and Duchâteau in 1945 wanted to support the cause for Indonesian independence, *IC* importantly connects these reflections to the legal production of space and the spatial dimensions of the law and rights. Sjahrir, moreover, not only believed in the importance of individual rights but was also a nationalist struggling for national liberation and sovereignty. This combination, as I will show below, problematizes Samuel Moyn’s argument in

*The Last Utopia* captured in his chapter title “Why Anticolonialism Wasn’t a Human Rights Movement.”<sup>12</sup>

Sjahrir, who was born in the Minangkabau region in Sumatra, had been arrested in February 1934, together with thirteen other leaders of PNI, the nationalist organization in which he had become involved after he had studied law in the Netherlands and during which, although not following many classes at the Faculty of Law and certainly not graduating, he likely had developed a more legally informed perspective on his colonized nation.<sup>13</sup> He spent eleven months in Cipanang prison in Batavia (present-day Jakarta) and together with the later first vice-president of Indonesia Mohammad Hatta (1902–80) and others was put on a boat to Boven-Digoel in early 1935. In early 1936, Sjahrir and Hatta were again put on a ship, this time to Banda Neira, a small island of 7000 inhabitants in the Banda Sea. From all three places, Sjahrir wrote to Duchâteau in the Netherlands. It was only in 1942, as the Japanese were invading the Dutch East Indies, that Hatta and Sjahrir were brought back to Java by the Dutch, who soon would be imprisoned themselves in massive numbers by the Japanese army. From 1945 to 1947, Sjahrir would become Indonesia’s first prime minister and in this capacity had elaborate but ultimately failed negotiations with the Dutch, who in 1947 and 1948–49 initiated the Dutch–Indonesian wars.

*IC* was published in December 1945 by an Amsterdam publisher called De Bezige Bij (“The Busy Bee”). The writings of Sjahrir on which *IC* is based can be read as diary entries (implying Sjahrir himself as their intended audience), essays on politics (Sjahrir read parts concerned with politics and general issues to other prisoners in the camp), self-presentations to the Dutch colonial authorities (his letters from Cipanang and Boven-Digoel were checked by the colonial censor), and personal letters to Duchâteau.<sup>14</sup> On Duchâteau’s editorial role, Kees Snoek writes that she made Sjahrir’s Dutch “smoother and more condensed” and that “[s]ometimes she picked passages about a certain theme from different letters and joined them together. The dates in the fictional diary of [*IC*] do not always correspond with the dates in the original letters.” What these changes sought to establish, Snoek writes on the basis of an interview he had with Duchâteau, was “a speedy international recognition of the Republic of Indonesia.” To reach this goal, all personal passages were deleted as well as pieces of writing that would make Sjahrir look “overly radical.”<sup>15</sup> Besides Duchâteau, who was a member of the cooperative society that ran De Bezige Bij, there were several others within the publishing house who saw the year of the Dutch liberation from Nazi occupation as a good moment to remind the Dutch of the way in which they themselves had persecuted Indonesian nationalists.<sup>16</sup> The title of the book being *Indonesian* and not *Indian Contemplations* – with “Indian” being the translation of “*Indische*,” the standard Dutch colonial adjective – made clear that the publisher, which was nurturing its image as a politically engaged cooperation that had started out with printing illegal poetry during the Nazi occupation, supported this voice for Indonesian independence.<sup>17</sup>

## IN THE PALACE OF KING SHAHRYAR

One of the particularities of *IC* is that its texts were for the most part written when the Dutch deemed themselves firmly in power in the Dutch East Indies, whereas they were published a few months after Sukarno had declared Indonesian independence. The legal spaces that the book contested and in which its texts circulated had changed dramatically, the most important shift being that the Indonesian nation-state, which in the 1930s existed *in potentia* in the imagination of nationalists like Sjahrir and of some fearful Dutch, had through Sukarno's proclamation become a real fiction and a contested reality. The situation of legal pluralism when Sjahrir wrote his texts had turned into one of legal hyperpluralism, with the competition between various geographical imaginations in the Asian part of the Dutch empire running out of control to the point of war.<sup>18</sup> Important Indonesian-republican notions about space and boundaries simply could no longer coexist with dominant Dutch-colonial ones within the same physical space.

Yet *IC* invokes a third legal space that stood outside the socio-legal spaces of the Dutch empire and the Indonesian nation-state and was derived from fiction, namely the palace of king Shahryar and his wife Sjahrazad (or Scheherazade) from the collection of stories *One Thousand and One Nights*. Various compilations have circulated in the Arabic world and beyond since at least the ninth century and were well known in both the Netherlands and colonial Indonesia.<sup>19</sup> Sjahrir's name, his biographer Rudolf Mrázek writes, was possibly inspired by that of Sjahrazad or of king Shahryar.<sup>20</sup> Often, "Sjahrazad" is seen as a pseudonym of Sjahrir and in 1966 an edition of the text of *IC* was published under his name, just like the 1949 English translation *Out of Exile* had been.<sup>21</sup> Snoek as well as already in 1946 the Indonesian member of the Dutch parliament Nico Palar, however, have conveyed that Duchâteau identified herself as the one behind the name "Sjahrazad."<sup>22</sup> Part of the ambiguity of the name is that we can read it as a mixture of the two real authors of the book, as morphologically it looks somewhat like "Sjahrir," while its connection to *The Arabian Nights* (as *One Thousand and One Nights* is also known) adds a feminine aspect that we can relate to Duchâteau. In this article, the name of Sjahrazad will not definitely be connected to either one of them, but seen as indicating a fictional author figure with a gender-fluid identity.

Naming "Sjahrazad" as the author of the book has great critical potential. In the classic Arabic collection, Sjahrazad is the main intradiegetic narrator, meaning she is also a character within the framing narrative. Often, within the stories told by Sjahrazad, intradiegetic narrators of the second or even third degree appear, whereas one narrative level above her there is a nameless, extradiegetic narrator who starts off the collection by telling the story of king Shahryar and whose voice is only heard between the stories told by Sjahrazad when she, for instance, says: "Morning now dawned and Shahrazad broke off from what she had been allowed to say. Then, when it was the two hundred and sixty-fifth night, SHE

CONTINUED.”<sup>23</sup> Before he married Sjahrazad, Shahryar each day killed the woman he had married the day before to prevent her from being unfaithful to him, as his first wife had been on quite a spectacular scale. Sjahrazad’s well-known trick to stay alive was each night to tell Shahryar a story but only continue or finish it the next night. The king lets her live for 1000 nights after which he has fallen in love with her and decides not to kill her.

If we compare *IC* with *One Thousand and One Nights* in narratological terms, several similarities become apparent. Structurally, both texts are divided into parts that are each connected to a specific day. *IC* consists of 112 entries (19 from Cipanang, four from the boat between Java and Papua, 18 from Boven-Digoel, and 72 from Banda Neira), some of a few lines, some several pages long, and each starting with a specific dating, from “29 March 1934” to “25 March 1938.” A second similarity is the narrative situation, for in both cases somebody named Sjahrazad is telling stories to a listener from whom she wants something, and on whom she is in some way dependent. A crucial difference, however, is that in between *One Thousand and One Nights* and *IC* she has moved two narrative levels up, from an intradiegetic narrator past the extradiegetic narrator to the position of author: her name appears on the cover. Through this elevation the readers of *IC*, in first instance the Dutch who were supposed to grant the Indonesians their independence through offering it to prime minister Sjahrir, are given the position of nobody less than Shahryar, the vengeful king. One possible implication is that once they had read all the dated entries, they would have a change of heart and set the Indonesians free. In the meantime, they had entered a narrative space which was a semi-fictional world summoned by a fictional author figure who had previously been imprisoned within the legal space produced by the tyrannical rule of law of Shahryar, bringing the Dutch close to the kind of Oriental despotism they had so often discovered in Indonesian leaders. In the years around the publication of *IC* Dutch newspapers were still calling President Sukarno a dictator and an Eastern despot.<sup>24</sup> Being strangely familiar, the fictional legal space invoked by the name of Sjahrazad potentially had an uncanny connection for the Dutch with their own legal project.

## THE COLONIAL STATE OF EXCEPTION

Throughout *IC*, the legal spaces produced by Dutch colonial law – the prison cell, the camp, the island as a place of exile – have ambiguous legal meanings for Sjahrir as, on the one hand, it is the law that produces them, yet, on the other, they stand outside the law. This meant that they were completely unpredictable for him in temporal terms: when they would come and go and how long he was to stay in them was fundamentally uncertain. Sjahrazad’s first entry, from Cipanang prison, opens with him addressing the absence of known grounds for his detainment: “Already one month I am now sitting behind bars, but I still can’t make sense of it: I still do not know why I am detained. They did not tell me at my arrest.”<sup>25</sup> The similarities

with the opening of Franz Kafka's novel *Der Process* (1925) – “Jemand musste Josef K. verleumdet haben, den ohne dass er etwas Böses getan hätte, wurde er eines Morgens verhaftet” – are striking. In both cases, a man is arrested and put behind bars and in both cases he is not told why, while access to legal justice is thwarted.<sup>26</sup> Sjahrir had no right to petition for a writ of *habeas corpus* (“show the body”), meaning that he could not ask any court to state whether he was lawfully detained. In an entry from November 12, 1937, to be found near the end of the book, Sjahrir writes from Banda Neira:

Exiles stand outside the law and their fate thus depends exclusively on the disposition of the colonial rulers. We are therefore never troubled by the need to refer to laws or other general regulations. Justice [...] does not apply to us.<sup>27</sup>

What was the legal background of Sjahrir's imprisonment and what can we make of his paradoxical assertion that exiles stood outside the law, that they were legally lawless?

Running about 50 years behind the Netherlands, the colonial constitution of 1854 (*Regeringsreglement*) had introduced a number of fundamental rights for both Europeans and Indonesians, though these were unevenly distributed.<sup>28</sup> This situation did not change with the new constitution of 1926 (*Indische staatsregeling*), which had jurisdiction until the practical end of the colony in 1942. Additionally, in 1910, the “Law of 10 February” had created the category of Dutch subjecthood (*Nederlands onderdaanschap*), with three subcategories: Dutch subjects – Dutch nationals, Dutch subjects – non-Dutch nationals (primarily indigenous people), and foreigners (mainly Chinese and Arabs). This categorization had far-reaching implications for personal liberties. If we connect these legal categorizations to Sjahrir's case, we see that legally in 1934 he was a Dutch subject, but not a Dutch citizen and categorized in the population group of Natives.

With respect to the violation of fundamental rights, different groups were subject to different systems of legal protection. The Netherlands-Indies had a mostly dualistic legal system with largely different laws and legal institutions for Europeans and Indigenous people. Crucially for Sjahrir, the fundamental rights of Indonesians were less safeguarded than those of Europeans. Arrests of Europeans, for instance, were, except in the case of being caught *in flagrante delicto*, only possible with a court order, whereas in the case of Indigenous people, the police had much broader authority.<sup>29</sup> Most important for the present context were the so-called “exorbitant rights” held by the governor-general and precisely meant to curb the constitutional rights of subjects. Through political deportation, banishment, exile, and internment, these rights offered the governor-general the possibility severely to curtail individual liberties, without the intervention of a judge.<sup>30</sup> A small and powerless number of checks and balances were put in place with respect to the



execution of exorbitant rights: the governor-general had to consult the Board of the Netherlands-Indies (*Raad van Nederlandsch-Indië*), the subject in question needed to be interrogated (in practice a mere ritual), and the Minister of the Colonies and parliament needed to be informed about the banishment of Dutch citizens (but not of subjects who were not Dutch nationals).<sup>31</sup> Sjahrir calls his interrogation a “procedure” and a “mere formality” in which he answered “solely for [his] own pleasure.”<sup>32</sup>

In the case of the exorbitant rights, all three powers as distinguished by Montesquieu (executive, legislative, and judicial) were in the same hands, namely those of the governor-general. Between 1855 and 1920, various governors-general used their exorbitant rights to deport, exile, or intern 1145 people. After 1900, an important reason for the government to execute its exorbitant rights was acting against Indonesian nationalists and revolutionaries. Particularly political internment was often used, for instance against those participating in the communist uprisings in Java and Sumatra in 1926 and 1927. The most important place of internment was Boven-Digoel where up until April 1930, 1308 people had been imprisoned.<sup>33</sup> When Sjahrir was brought to Boven-Digoel in 1935, the camp had 400 prisoners, mostly from various communist and Islamic organizations.<sup>34</sup>

“Exorbitant” in Dutch means “too far exceeding the borders of the normal, the usual, the desirable or the proper; exaggerated, extravagant, too extreme, too demanding.”<sup>35</sup> Those members of the Dutch parliament who criticized the laws backing up these rights had introduced the word in the 1854 debate about the new constitution, but the new laws’ defenders had immediately picked it up in an act of conservative re-appropriation.<sup>36</sup> The success of this re-appropriation is apparent from the widespread usage of the term “exorbitant rights,” which can be found even in indexes of officially published editions of the constitution. That in the Dutch colonial context exorbitance, the divergence from the norm, became the new normal can be interpreted as an example of what Walter Benjamin has written that “the state of exception [...] has become the rule,” or, as Agamben puts it, that the state of exception has become more “a technique of government [...] than an exceptional measure.”<sup>37</sup> In the 20th century, the Indies were in a permanent state of exception in the sense that there were continuously subjects like Sjahrir who were included/excluded by and from the law. Hence, Sjahrir’s observation that “as a ‘Native’ you do not have much to assert in terms of rights.”<sup>38</sup>

## THE CAMP

Sjahrazad writes in the entry dated April 24, 1936, that “Boven-Digoel has now been in existence for almost ten years without its being regulated by law!”<sup>39</sup> It shows an acute awareness of the legal limbo in which Sjahrir and his fellow inmates found themselves. On their way to the site of the camp, a police inspector had said that the prisoners were “administratively ‘punished,’” which Sjahrir immediately

characterizes as “a misconception” that stood outside any legal project.<sup>40</sup> Throughout *IC*, Sjahrir offers an overview of life in the camp, especially of the physical duress the prisoners had to endure: living in iron boxes with temperatures up to 38°C, not enough food and water, widespread malaria and severe psychological problems, driving some to suicide.

In *Homo Sacer*, Agamben has written that “the camp,” which in his writings is both a physical location and an ideal type, is “the fundamental biopolitical paradigm of the West.”<sup>41</sup> He sees it as the spatial pendant of the “state of exception” that is created when a sovereign or government suspends the rule of law and which, just like the camp, is positioned at “the limit between politics and the law.”<sup>42</sup> In the state of exception, measures are taken because of a perceived “state of necessity,” that is, because there is a political crisis such as a civil war, an insurrection or another (possible) event that is perceived as a threat to the political order. Dutch colonial officials continuously invoked this “state of necessity.” It is precisely because it is ambiguous whether states of exception are decided on political or on juridico-constitutional grounds (like in the “misconstruction” of an “administrative” punishment) that Agamben characterizes them as “juridical measures that cannot be understood in legal terms” and as situated in “a no-man’s-land between public law and political fact.”<sup>43</sup> Agamben calls the creation of a state of exception “one of the essential practices of contemporary states,” its goal being physically to eliminate citizens (or, in the present case, subjects) who cannot be integrated into the political system. Moreover, as indicated above, he detects a transformation of a measure that is initially “provisional and exceptional” into “a technique of government” that is permanent.<sup>44</sup> Examples offered by Agamben are the “Decree for the Protection of the People and the State,” issued by Adolf Hitler as soon as he was in power, and the US Patriot Act. Also in the paradox offered by the term “exorbitant rights” we can recognize the permanence of such measures.

Agamben writes that the state of exception has an “immediate biopolitical significance [...] in which law encompasses living beings by means of its own suspension.”<sup>45</sup> The concept of biopolitics Agamben derives from the work of Michel Foucault, where it is a politics aimed at the population as a whole that seeks to optimize its productivity through various techniques from schooling and healthcare to encampment and genocide.<sup>46</sup> Biopolitics means the politicization of natural life, and for Agamben is closely connected to the sovereign and the state of exception, because the suspension of the law by the sovereign, paradoxically, not only means the exclusion of specific living beings but also these living beings’ coexistence or coincidence with the law, something Agamben calls “inclusive exclusion.” According to Agamben the state of exception and the biopolitization of life can become visible in a specific location, namely the camp. In *Homo Sacer*, “the camp” is first of all the Nazi extermination camp, yet Agamben also gives several colonial examples, namely early 20th-century medical experiments performed on inmates of Manila’s

Bilibid Prison in the Philippines (then a US colony), the *campos de concentraciones* in Spanish Cuba, and the concentration camps in British South Africa.<sup>47</sup>

In several ways, Agamben's conceptual apparatus sheds a light on the Dutch East Indies, Boven-Digoel and Sjahrazad's analyses of the extra/legal production of space. Though several scholars, for instance in the edited volume *Agamben and Colonialism*, have pointed out that Agamben did not include analyses of colonialism in a sustained manner, some of the essays in this same volume nevertheless show the fruitfulness of using an Agambenian lens to analyze colonial camps, for instance the British concentration camps for Mau Mau in Kenya in the 1950s.<sup>48</sup> More fundamentally, however, several authors have criticized the way in which Agamben's work leaves not enough room for the agency of those in the camps, and several scholars have therefore emphasized the necessity of making visible, in the words of Marcelo Svirsky and Simone Bignall, "an active subjectivity that can operate as an alternative to the abandoned and hopeless figure of the Muselmann," the latter being Agamben's ideal type of completely politicized life.<sup>49</sup> In a separate essay, Svirsky writes that a certain reading of Agamben's work risks seeing colonial subjects as caught in a "dark image of oppression" where rebellion and a better life are unimaginable and passivity is inevitable.<sup>50</sup> These points are pertinent in the context of the present essay, which seeks to supplement the scholarly analyses of the various legal projects in the Dutch East Indies precisely with an example of one of the written engagements offered by Indonesians in response to the Dutch colonial-legal project. By showing the fictional and factual interactions of Indonesians with the law, both its force and limitations come into view.

#### THOSE WHO HAVE THE RIGHTS THEY HAVE NOT

In a fundamental critique of Agamben's work, the French philosopher Jacques Rancière holds that in it "there is no more opposition between sovereign power and biopower. Sovereign power is the same as biopower. Nor is there any opposition between absolute state power and the Rights of Man."<sup>51</sup> The result is that "each of us would be in the situation of the refugee in a camp. Any difference grows faint between democracy and totalitarianism and any political practice proves to be already ensnared in the biopolitical trap."<sup>52</sup> Rancière posits an alternative for this line of reasoning, stating against Agamben's (and Hannah Arendt's) work that "the Rights of Man are the rights of those who have not the rights that they have and have the rights that they have not."<sup>53</sup> The example he offers is of the French woman Olympe de Gouges (1748–93), who reasoned that "if women are entitled to go to the scaffold, they are entitled to go to the assembly."<sup>54</sup> By stating this, she created what Rancière calls a "dissensus": she put two worlds together in one and the same world and created an opening for political subjectivization. "Political subjects," Rancière writes, "put together the worlds where those rights are valid and the worlds where they are not."<sup>55</sup> In her interpretation of Rancière's essay, Drucilla Cornell writes

that “those who do not have rights [...] are not, in Rancière’s language, appealing to rights they do not have: they are contesting the reality that denies them those rights by acting now as if they had them.”<sup>56</sup>

This theory offers a fruitful framework of analysis for those texts of Indonesians in which they addressed and criticized the colonial legal project in colonial Indonesia. Take, for example, Sukarno’s 1930 speech “Indonesia Impeaches” (delivered and published in Dutch as *Indonesië klaagt aan*).<sup>57</sup> We can say that “Indonesia,” according to the Dutch, was not a legal space or personality and ask in front of which court of law she was supposed to impeach, but with Rancière we can say that Sukarno was actually using the rights he did not have. Also Sjahrir’s texts can be seen as putting two spaces together: the space of colonial extra/legal injustice and a space where equal rights and justice could be found. One difference with Sukarno is that Indonesia’s first president excelled in doing things with words, in using performative language – he impeached and declared – whereas Sjahrir primarily contemplated.<sup>58</sup> Nevertheless, also in *IC* Indonesians’ rights are invoked as if they existed, be it more indirectly through the means of critique.

One line of criticism through which Sjahrir asserts his rights is formed by his analysis of what he sees as a global pattern in both Asian and Western contexts in which “power” trumps justice. His prime examples are colonialism and National Socialism. “[T]he drive and *élan* of the struggle for justice are becoming increasingly superseded by the calculated, deliberate, strategic struggle for power,” he writes on July 22, 1934, from the prison in Java.<sup>59</sup> His most systematic analysis of the tension between power and justice in the world of the 1930s can be found in a relatively elaborate discussion of a 1936 book written by the well-known Dutch historian professor Johan Huizinga (1872–1945).

In *In the Shadows of Tomorrow* (*In de schaduwen van morgen*), Huizinga diagnoses the situation of European society as nearing a catastrophe. The world he sees around him is “possessed,” on the brink of madness, and the general feeling he detects is one of “vague fear” and the decline and downfall of civilization.<sup>60</sup> One of the many casualties to be expected was Europe’s “legal order” and the justice it had provided: “Before our eyes we see how almost everything that once looked fixed and holy has become shaky: truth and humanity, reason and right.”<sup>61</sup> What seems to have rubbed Sjahrir particularly the wrong way is Huizinga’s views of the boons of this legal order and the means he saw fit to defend it, namely through a harsh biopolitical agenda. Huizinga writes that in general he condemns killing human beings, but that he makes one exception to this rule, namely in order to “maintain order and the rule of law” which “demand violence, even the destruction of human life.”<sup>62</sup> According to Sjahrir, such opinions bring Huizinga close to National Socialism, but, we can add, these views also fit the reasoning of the Dutch government and colonial army during the dozens of wars in the decades around 1900 through which they subjected the many islands that today form the Republic of Indonesia. Then, what was deemed “chirurgical violence,” suggesting rationality, planning, and control,

was employed to battle the perceived unjust rule of local leaders and to establish a situation of colonial law and order called the *Pax Neerlandica*.<sup>63</sup> The Boven-Digoel camp was also part and parcel of Dutch biopolitics, and we see Sjahrir comparing this space several times with the Nazi *Konzentrationslager*.<sup>64</sup> Just like colonial policy, therefore, Huizinga's biopolitics imagines eliminating a part of the population in order for the rest to live and so becomes an example of the struggle between (biopolitical) power and justice Sjahrir is analyzing.

Sjahrir's critique, moreover, not only concerned the way in which Huizinga wanted to defend the legal order but also this order itself. Huizinga did not see, Sjahrir says, that within the European (colonial) legal projects "a power rules that is used by one part of humanity to rule over another part."<sup>65</sup> The Dutch professor had written that truth, humanity, reason, and right were under attack, but according to Sjahrir these values were never fully realized in the "old" order, of which Huizinga neglected the racist and classist dimensions. Furthermore, through Huizinga, Sjahrir could attack his bigger target, being the Dutch and their empire. After noting *In the Shadows of Tomorrow's* great success – five print runs within a year – he argues that we can understand its best-seller status if we realize that "Huizinga's pattern of thought and feeling is so closely linked to that of the Netherlands people."<sup>66</sup> This pattern is mirrored, Sjahrir holds, by the Dutch landscape: both are full of hedges, borders, and ditches and are characterized by rest, order, and balance, amounting to a static way of thinking. In the Netherlands there are "more boundaries than free land" and the people living there work hard not to transcend the borders of anything, be it religion, customs, or "decency."<sup>67</sup> During his imprisonment in the 1930s, Sjahrir had continuously been confronted by the fact that the Dutch empire consisted of boundaries and spaces of in- and exclusion. Sjahrir's critique of Huizinga can be read as a critique of an empire in which laws and extra/legal "administrative" measures produced spaces that were only enterable or exitable for certain people, primarily on the basis of the ways in which they were identified in terms of race and class. It is also a critique of the compartmentalization in Dutch thinking about nation and empire: Huizinga, for instance, is known for never having addressed colonial issues, and indeed never mentions colonial Indonesia, Suriname, or the Dutch Caribbean islands in his book. Against the grain of Dutch legal thought, Sjahrir in *IC* asserts that Indonesians have the (spatial) rights that they have not, something that can be further elucidated if we look at his ideas about humanism and race.

## HUMANISM AND RACE

What Sjahrir values in Huizinga is the latter's "humanism," which forms a counterweight to the small-mindedness of the Dutch, yet he also sees the professor's humanism as limited and therefore as not enough to salvage his book. Peter Derkx has distinguished five meanings for the term "humanism" in Dutch contexts in the

19th and 20th centuries: pedagogical, moral, renaissance, and aesthetic humanism and humanism as a worldview.<sup>68</sup> Sjahrir's use of the term can first be connected to its pedagogical dimension, which Derkx describes as emphasizing *Bildung* for the sake of reaching true or higher humanity.<sup>69</sup> In *IC*, "humanity" and "humaneness" are named together with civilization, ethics, and idealism, but also with solidarity and charity.<sup>70</sup> Sjahrir posits an intimate connection between ancient Greece and the best humanity has had to offer in both artistic and social terms – he writes about "the noble, broad mind of the Greek classics" – forging a connection which could be found with many writers in modern Europe.<sup>71</sup> Seen from this perspective, Sjahrir values *In the Shadows of Tomorrow*.

The failure of Huizinga's book, in Sjahrir's eyes, can first be attributed to a lack of humanism of the moral kind. Dutch moral humanist Allard Pierson (1831–96), for instance, deemed all humans "fundamentally connected with each other as persons who wish to develop themselves" and saw humankind as "the highest unity: higher than other collectives that might claim loyalty from people, e.g. the church, Christianity or the nation."<sup>72</sup> As Tony Davies has shown, the concepts of humanism and humanity have in the nineteenth and twentieth centuries figured in various constellations which mapped the relations between people across the world, involving processes of in- and exclusion, ranking, and unification. On the one hand, in Frenchman Arthur de Gobineau's *Essai sur l'inégalité des races humaines* from the 1850s, one of the founding books of scientific racism, *humanité* in its highest form is found in white people.<sup>73</sup> On the other hand, authors like Matthew Arnold, Jacob Burckhardt, and John Addington Symonds subscribed to a myth of "essential and universal Man: essential, because humanity – human-ness – is the inseparable and central essence, the defining quality, of human beings; universal, because that essential humanity is shared by all human beings, of whatever time and place."<sup>74</sup> It is this second type which we can call, with Derkx, moral humanism. In *IC*, (moral) humanism is opposed to collectivist forms of social organization as could be found most prominently in the 1930s in Nazi Germany with its emphasis on race, community, and the state and in certain strains of absolutism Sjahrir perceived in socialism. Against these values, Sjahrir emphasizes the importance of individual rights and freedom, both of which he names in one breath with humanity.<sup>75</sup> What Sjahrir misses in Huizinga's book is precisely the broadminded inclusiveness of a true moral humanism that would also encompass those humans living outside Western Europe, in one of its many colonies and beyond.

Although, as mentioned above, Huizinga never addressed colonial issues, he does write elaborately about an aspect that is directly related to the colonial condition in which Sjahrir had found himself: race. One of the elements of European life that Huizinga saw as in decline was science, and he particularly criticized the popularity in the 1930s of certain racial theories. According to Huizinga, physical characteristics corresponded with certain cultural characteristics, in his formulation: "Chinese and Englishman are the product of race + culture." What Huizinga objects

to, however, is any straightforward idea of what he calls “mental race characteristics”: “that the mental quality directly derives from the anthropological definition.”<sup>76</sup> Yet, although Huizinga in these passages is clearly critical of scientific racism, what Sjahrir seems to have found missing in *In the Shadows of Tomorrow* is a critique of Dutch institutional racism.

At certain moments in *IC*, Sjahrir seems to subscribe, though cautiously, to the same set of theories as Huizinga did, affirming the existence of biological race and keeping open the possibility of its influence on culture and character, but rejecting the notion that it determines these.<sup>77</sup> Sometimes he describes the population of East Indonesia, particularly of the island of Ambon in the Moluccas, in the kind of racist terms that could have been used by many Dutch observers and at moments he goes so far as to call people in Eastern Indonesia (Maluku and Papua) “backward” and characterizes that part of the country as having “from a social point of view [...] almost no meaning.”<sup>78</sup> Yet at several other moments Sjahrir rejects the notion of biological race, for instance when writing about of a group of people living near Boven-Digoel camp he calls “Kaja-Kaja.” He does not believe we can “still” talk about race in their case, as “[d]uring the course of the centuries there have been far too many complex mixings amongst these peoples.”<sup>79</sup> Although he seems to believe that once “race” was a useful category, and therefore does not reject the notion of biological race altogether, he implies here that in current society the concept has little value.

Throughout the whole of *IC*, moreover, he strongly condemns the racism that he sees as part of Dutch colonialism and its legal project. He addresses, for instance, “the socially and intellectually inferior station of the Indonesians and the resentment against that race that looks down upon them as inferior millions lying below. No welfare policy, no ethical policy can eliminate this fact.”<sup>80</sup> Sjahrir writes that in the Asian part of the Dutch empire things were much worse than in Europe, and that Europe itself is more easily reached than the European zones in the colony, because ships and airplanes cannot breach social and racial barriers, which mutually reinforce each other.<sup>81</sup>

It is precisely those barriers, the hedges, borders, and ditches, that Sjahrir also condemns in Huizinga’s book. Huizinga’s pedagogical humanism was not matched by a true moral humanism, which included the whole of humanity. His defense of a legal order which was, Sjahrir holds, “based on opposition [*tegenstellingen*], on the power of one group over another, – whether this group is a nation or a class” and stood in his view in sharp contrast to any belief in “binding forces, in humanism.”<sup>82</sup> Sjahrir refuses to accept the contemporary legal–spatial compartmentalization of humanity on the basis of race. This shows that even before “human rights,” people, also within nationalist movements, argued for rights on the basis of their humanity.

## ANTICOLONIAL NATIONALISM AND HUMAN RIGHTS

An important imagined legal geography in Sjahrir's book is, of course, the Indonesian nation-state. Yet this does not mean that other legal concerns, particularly for individual rights for every human being, are absent in *IC*. In arguing that anticolonialism was not a human rights movement, Moyn paints a picture of stark contrast between, on the one hand, "popular liberation" and, on the other, "individual human rights."<sup>83</sup> The present article shows that national liberation and a concern for individual rights are not necessarily mutually exclusive. I argue that Moyn's zero-sum game in which anticolonialism and human rights are diametrically opposed is problematized by comparing it with the writings of authors like Kartini and Sjahrir, both of whom were critics of Dutch colonialism as well as proponents of inalienable individual rights belonging to people because of their humanity. Especially in Sjahrir's writings, concerns for self-determination and individual rights are strongly related and balance each other out in his vision of what we can call a "dynamic" or "humanist nationalism." This link between human rights and nationalism in *IC* can be further illuminated with the help of the Minangkabau concept of *rantau*.

Mrázek in his biography of Sjahrir, which is as much literary as it is scholarly, writes about his main protagonist that he was a stranger, even within his own community, who never mentioned the word "Minangkabau" in his writings. Yet Mrázek also sees Sjahrir as precisely bridging different traditions, primarily between Indonesia and Europe. One way he counters the image of Sjahrir as "restless and rootless" and as wholly cut off from his homeland in Sumatra is by invoking the Minangkabau concept of *rantau*. The meaning of the word is "abroad," with a *perantau* being someone who travels abroad, a settler in a foreign place. The *perantau* in Minangkabau matrilineal society was always a man who travelled outside the Minangkabau heartland, to places as far as the Netherlands. Mrázek describes *rantau* as a "culture of the fringes," in between various cultures, including Minangkabau and Western/Dutch culture.<sup>84</sup>

As a legal geography, Mrázek's description of Sjahrir's *rantau* imagines a space that is not fixed and exclusionary, but dynamic and democratic and opposed to legal spaces that are coercive, exclusionary, and unjust.<sup>85</sup> In *IC*, as indicated above, Sjahrir defends justice against power, but we should now specify this opposition by indicating that what he is constantly arguing against are all forms of what he calls "absolutism": "theories which 'completely' explain and represent the truth."<sup>86</sup> Throughout his entries, Sjahrir builds up an image of what this absolutism looks like. Its central concern is the community, not the individual; absolutist ideologies think in collectivities and mass movements, not in what Sjahrir calls "humanity," "world," "life's unity," and "life's beauty," which are all terms that indicate holistic yet ultimately ungraspable conceptions of human life on earth that escape absolutism's hollow phrases, slogans, and "administrative measures," and, perhaps



paradoxically, have the kind attention for individual needs and interests that is lacking in absolutism. Against absolutism's slogans, Sjahrir, in the spirit of pedagogical humanism, brings in (world) literature, particularly novels, and against "absolute and exclusive truths" he puts forward his ideal of "critique of oneself," which means that "we [...] continually need to try to maintain as broad a viewpoint as possible by the recognition of the relativity of our own conviction and our own truth."<sup>87</sup> Next, and crucially, it is not only the absolutism of national-socialism and colonialism which Sjahrir criticizes in *IC*, but interestingly enough also the absolutism of nationalism. He calls Western European nationalism "false" and "almost disgusting," often "braggingly bombastic" and "coarse," and admits that he is "relatively unpopular in nationalist and intellectual circles in Indonesia" because he is resistant to its "anti-Dutch" "sentiments."<sup>88</sup> He even writes with a sense of pride that "[i]n a relative sense, we Indonesians are the most nationally characterless people in the world," especially when compared with other Asian peoples.<sup>89</sup> Mrázek presents Sjahrir as an eternal *perantau*, but we can elaborate this insight by indicating that Sjahrir's ideal legal geography is one in which everybody can be a *perantau* and is afforded an open, fair space where they can enjoy freedom and justice. In a passage from *Cipangang* in which he criticizes absolutism in all its forms, Sjahrir leaves no doubt about his thought on the type of nationalism that would have little to no attention for human rights:

What a contempt for individual rights, for humanity, for freedom! The community, the race, the state are number one. There are no longer individual rights, only individual duties; the individual only has a right to exist in the service of the community. The hierarchy is restored and even made absolute through the connection between race and state, which are elevated as eternal values.<sup>90</sup>

Nationalism, for Sjahrir, has to be humanist in the moral sense of the word and therefore it had to be dynamic, its projects and workings constantly reflected upon and its legal spaces, in Mrázek's words, "'tactical,' 'temporary,' and, therefore, 'incidental.'"<sup>91</sup>

## CONCLUSIONS

Having lured her Dutch readers into the seat of the Eastern despot king Shahryar, Sjahrir offers them a strong critique of the Dutch colonial legal project in which "exorbitant rights" placed Indonesian subjects outside the law and in prison camps, but also a perspective on a dynamic, humanist social contract in which spaces are not exclusionary and compartmentalized, like the Dutch nation-state and empire had been, but principally accessible to all human beings. This rethinking of nationalism and the stripping of its absolutist tendencies was in many ways at odds with

the nation-state president Sukarno would develop after 1945. Mrázek writes that “Sjahrir’s attitude towards the new Indonesian state led by Sukarno and Hatta may [...] appear ambiguous” and that he was continuously “moving on the fringe” of the Indonesian nationalist movement.<sup>92</sup> Benedict Anderson’s assessment of Sjahrir’s 1945 pamphlet *Our Struggle* (in Dutch, *Onze strijd*; in Indonesian, *Perjuangan kita*) was that it contains “the typically Sjahririan undercurrent of detachment and scepticism,” basically leaving the future “uncertain and wide open.”<sup>93</sup> This concern for openness can be directly connected to a concern for individual rights, as can be seen from remarks made by Sjahrir in 1948, in which he emphasizes the importance of “the individual and his welfare” rather than that of “the state.”<sup>94</sup> In *Our Struggle*, Sjahrir wrote:

One of the most important aspects of our struggle is our attitude towards various groups who are more or less isolated from the rest of our citizens: foreigners, Europeans and Asians of mixed descent, Christians, Ambonese, Menadonese, and so forth. [...] Hatred for alien groups and peoples is a hidden facet of every nationalist movement. Our attitude towards this question must be [...] in the service of the cause of humanity and social justice.<sup>95</sup>

Anderson notes that in stating his case like this, Sjahrir was “fully in harmony with the liberal rhetoric of the West,” but we need to note that *IC* and *Our Struggle*, both published in Dutch in 1945, did nevertheless not placate the Dutch all the way, precisely because these were also writings that left no doubt about their desire for national liberation. Directly combining national sovereignty with a concern for human rights, Sjahrir writes: “In their struggle for nationhood our people are demanding their basic human rights [in Indonesian, *hak-hak kemanusiaan*”; in Dutch, *menselijke rechten*] as guarantees that they will never again be treated like slaves.”<sup>96</sup>

Lydia Liu has pointed out that in the work of Moyn “who invented *X* and where?” in this case “*X*” being “human rights,” was transformed into “the truth of *X*.”<sup>97</sup> “Moyn,” she writes, “remaps the discursive terrain of the discourse of human rights essentially as an American idea.”<sup>98</sup> The present article argues that the concept of human rights in the sense of individual rights accorded to every human being is fruitful in other contexts than the American 1970s and beyond, for instance in the Indonesian first half of the 20th century. This is not to claim that Sjahrir’s human rights are the same as the post-1970s human rights as discussed by Moyn which are, as he puts it, “canonized in international law,” particularly in the 1948 Universal Declaration of Human Rights.<sup>99</sup> What is important about *The Last Utopia* is that it objects to the projection of a specific post-1970s’ conception of human rights on the whole of human history. But *The Last Utopia* partly seems to fall into the trap it identifies by upholding a certain notion of human rights as the measuring

stick for all earlier attempts to define those rights inalienable to every human being. One important aspect of its argument is the absence, before 1948, of canonized law. However, if we take a legal pluralist perspective on the matter, we see that it is not only black letter law which can be a source for the normative legal order but also, in this case, the humanistic inspired set of ideas Sjahrir is developing in which there is a transnational law which is at least equally important as state law.<sup>100</sup> This unwritten, uncanonized law is the source of human rights and gives Sjahrir and the other Indonesians the rights which they do not have. Certainly not all Indonesian nationalists subscribed to this law, or even addressed it. Nevertheless, the case of the first Indonesian prime minister shows that anticolonial nationalism was, at least in part, a human rights movement.

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1. Studies addressing the colonial legal project or European rights struggles in colonial Indonesia include: Mirjam Maters, "Persvrijheid en persbreidel in Nederlands-Indië 1906-1942: een onontkoombaar dilemma?," in *Geschiedenis van de mensenrechten: Bouwstenen voor een interdisciplinaire benadering*, ed. M. Kuitenbrouwer and M. Leenders (Hilversum: Verloren, 1996), 202-26; Cees Fasseur, "Cornerstone and Stumbling Block: Racial Classification and the Late Colonial State in Indonesia," in *Racial Classification and History*, ed. E. Nathaniel Gates (New York: Garland, 1997), 37-56; Elsbeth Locher-Scholten, "The Colonial Heritage of Human

Rights in Indonesia: The Case of the Vote for Women, 1916-41," *Journal of Southeast Asian Studies* 30, no. 1 (1999): 54-73; Cees Fasseur, "Colonial Dilemma: Van Vollenhoven and the Struggle between Adat Law and Western Law in Indonesia," in *The Revival of Tradition in Indonesian Politics: The Deployment of Adat from Colonialism to Indigenism*, ed. J. Davidson and D. Henley (London: Routledge, 2007), 50-67; Franz von Benda-Beckmann and Keebet von Benda-Beckmann, "Myths and Stereotypes about Adat Law: A Reassessment of Van Vollenhoven in the Light of Current Struggles over Adat Law in Indonesia," *Bijdragen tot de taal-, land-*

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2. Samuel Moyn, *The Last Utopia: Human Rights in History* (Cambridge, MA: Harvard University Press, 2010); Jan Eckel and Samuel Moyn, eds., *The Breakthrough: Human Rights in the 1970s* (Philadelphia: University of Pennsylvania Press, 2014); Steven Jensen, *The Making of International Human Rights: The 1960s, Decolonization, and the Reconstruction of Global Values* (Cambridge: Cambridge University Press, 2016).
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  4. Sjahrazad, *Indonesische overpeinzingen* (Amsterdam: De Bezige Bij, 1945), 7.
  5. Irus Braverman, Nicholas Blomley, David Delaney, and Alexandre Kedar, eds., *The Expanding Spaces of Law: A Timely Legal Geography* (Stanford: Stanford Law Books, 2014); Austin Sarat, Lawrence Douglas, and Martha Merrill Umphrey, eds., *The Place of Law* (Ann Arbor: University of Michigan Press, 2003).
  6. John Legge, *Intellectuals and Nationalism in Indonesia: A Study of the Following Recruited by Sutan Sjahrir in Occupation Jakarta* (Ithaca: Cornell Modern Indonesia Project, 1988), 126.
  7. Herbert Feith and Lance Castles, eds., *Indonesian Political Thinking 1945-1965* (Ithaca: Cornell University Press, 1970).
  8. Legge, *Intellectuals and Nationalism*, 134.
  9. An important source of inspiration for me was Leila Gandhi, who writes: "A miscellany of opinions from the vanguard of Euro-American life has surreptitiously fostered the view that democracy is a uniquely Western property and inheritance. This book asserts a global provenance for democracy"; Leila Gandhi, *The Common Cause: Postcolonial Ethics and the Practice of Democracy 1900 to 1955* (Chicago: University of Chicago Press, 2014), 1. Just like democracy, rights and rights discourse also have a global history. See also José-Manuel Barreto, ed., *Human Rights from a Third World Perspective: Critique, History and International Law* (Newcastle: Cambridge Scholars, 2013). For British India, see, for instance, Sudir Chandra, *Enslaved Daughters: Colonialism, Law and Women's Rights* (Delhi: Oxford University Press, 1998); and Rachel Sturman, *The Government of Social Life in Colonial India: Liberalism, Religious Law, and Women's Rights* (Cambridge: Cambridge University Press, 2012).
  10. Barbara Oomen, *Rights for Others: The Slow Homecoming of Human Rights in the Netherlands* (Cambridge: Cambridge University Press, 2012), 1-2.
  11. Paul Bijl, "Legal Self-Fashioning in Colonial Indonesia: Human Rights in the Letters of Kartini," *Indonesia* (forthcoming 2017).
  12. Samuel Moyn, "Why Anticolonialism Wasn't a Human Rights Movement," in Moyn, *Last Utopia*, 84-119.
  13. We are fortunate to have two elaborate, historical studies on Sjahrir, one from 1988 by John Legge on Sjahrir and his group of followers during the Japanese occupation from 1941 to 1945, and a 1994 biography by Rudolf Mrázek. It is from Mrázek's book that I derived the most important events from Sjahrir's life; Legge, *Intellectuals and Nationalism*; Rudolf Mrázek, *Sjahrir: Politics and Exile in Indonesia* (Cornell: Southeast Asia Program, 1994).
  14. Burhanuddin, "Sjahrir yang saya kenal," in *Mengenang Sjahrir: seorang tokoh pejuang kemerdekaan yang tersisih dan melupakan*, ed. H. Rosihan Anwar (Jakarta: Gramedia, 2010), 48-69, 79.
  15. Kees Snoek, "The Postponement of an Apotheosis: Sjahrir's Lengthy Exile," in *Janus at the Millennium: Perspectives on Time in the Culture of the Netherlands*, ed. Thomas Shannon and Johan Snapper (Dallas: University Press of America, 2004), 153-165, 162. Currently, Snoek is preparing a complete edition of Sjahrir's original letters. See also Kees Snoek, "Soetan Sjahrir: De strijder," in *Tropenlevens: De (post)koloniale biografie*, ed. Rosemarijn Hoeft, Peter Meel, and Hans Renders (Leiden: KITLV, and Amsterdam: Boom, 2008), 148-170; and Kees Snoek, "De relatie Sjahrir - Du Perron: Een speurtocht en een kennis-making," *Cahiers voor een lezer* 31 (2010): 16-30.
  16. Richter Roegholt, *De geschiedenis van De Bezige Bij, 1942-1972* (Amsterdam: De Bezige Bij, 1972); Hans Renders, *Gevaarlijk drukwerk: een vrije uitgeverij in oorlogstijd* (Amsterdam: De Bezige Bij, 2004); Daan Cartens, *Hoger honing: 60 jaar De Bezige Bij* (The Hague: Letterkundig Museum, and Amsterdam: De Bezige Bij, 2004).
  17. Even though in the same year De Bezige Bij also published *Zes kaarsen voor Indië* (Six Candles for the Indies), through which the Dutch army aimed at getting volunteers to fight to regain the colony. The same people who supported the publication of

- Sjahir's letters were angry about this; Renders, *Gevaarlijk drukwerk*. The Dutch word *Indisch* is directly connected to the Dutch colonial period in Indonesia, when the Dutch called it Nederlands-Indië, in English the Netherlands-Indies or the Dutch East Indies.
18. On legal pluralism, see Franz von Benda-Beckmann, "Who's Afraid of Legal Pluralism?," *Journal of Legal Pluralism and Unofficial Law* 34, no. 47 (2002): 37-82; Lauren Benton, "Historical Perspectives on Legal Pluralism," in *Legal Pluralism and Development: Scholars and Practitioners in Dialogue*, ed. Brian Tamanaha, Caroline Sage, and Michael Woolcock (Cambridge: Cambridge University Press, 2012); and Lauren Benton and Richard Ross, eds., *Legal Pluralism and Empires, 1500-1850* (New York: New York University Press, 2013).
  19. Matthew Isaac Cohen, *The Komedia Stamboel: Popular Theatre in Colonial Indonesia, 1891-1903* (Athens: Ohio University Press, 2006).
  20. Mrázek, *Sjahir*, 8-9.
  21. Sjahir, *Indonesische overpeinzigen*, 5th Ed. (Amsterdam: De Bezige Bij, 1966); *idem*, *Out of Exile*, rewritten and ed. Maria Duchâteau-Sjahir, trans. Charles Wolf, Jr. (New York: Greenwood, 1949). According to Wolf, "Sjahrazad" is "a combination of Sjahir and Azad, a name that had often been used in Sjahir's family"; Wolf, "Introduction" to *Sjahir*, *Out of Exile*, 17.
  22. *Verslag der Handelingen*, January 15, 1946, 269, <http://www.statengeneraaldigitaal.nl>. See also Snoek, "Postponement of an Apotheosis."
  23. *The Arabian Nights: Tales of 1001 Nights*, trans. Malcolm C. Lyons, vol. 1 (London: Penguin, 2008).
  24. See, for instance: "Soekarno's 'regeering,'" *Amsterdamsch Dagblad* (October 1, 1945): 1; and "Hitler's echo in Oost-Azië: Kleine Indonesische bloemlezing," *Friesch Dagblad* (July 17, 1946): 6.
  25. Sjahrazad, *Indonesische overpeinzigen*, 7; Sjahir, *Out of Exile*, 1. Quotes for Sjahrazad in this article are based on the translation by Wolf, but sometimes slightly adapted to make them more literal translations of the Dutch. Wolf, for instance, uses the first person pronoun "I" more than Sjahrazad uses "ik." Sometimes, Wolf has chosen not to translate certain passages.
  26. The first translation in Dutch of Kafka's novel was published in 1947, making it improbable that Sjahir or Duchâteau were aware of the novel's existence. It is striking, however, that the first name in Mrázek's biography of Sjahir is that of Kafka. Mrázek sees an affinity between the two men, as both were strangers in their own community yet also bridges between different cultural traditions, in Sjahir's case between Indonesia and Western Europe.
  27. Sjahrazad, *Indonesische overpeinzigen*, 169; Sjahir, *Out of Exile*, 199.
  28. Efthymiou, *Recht en rechtspraak*, 15.
  29. *Ibid.*, 39-40.
  30. *Ibid.*, 41.
  31. *Ibid.*, 47.
  32. Sjahrazad, *Indonesische overpeinzigen*, 20; Sjahir, *Out of Exile*, 19-20.
  33. Efthymiou, *Recht en rechtspraak*, 49-50.
  34. Mrázek, *Sjahir*, 129.
  35. See *Woordenboek der Nederlandsche taal*, <http://gtb.inl.nl>.
  36. See *Verslag der Handelingen*, July 21 and 26, 1854, <http://www.statengeneraaldigitaal.nl>.
  37. Giorgio Agamben, *State of Exception*, trans. Kevin Attell (Chicago: University of Chicago Press, 2005), 6-7. Benjamin is quoted by Agamben on p. 6.
  38. Sjahrazad, *Indonesische overpeinzigen*, 7; Sjahir, *Out of Exile*, 1.
  39. Sjahrazad, *Indonesische overpeinzigen*, 82; Sjahir, *Out of Exile*, 93.
  40. Sjahrazad, *Indonesische overpeinzigen*, 50; Sjahir, *Out of Exile*, 52.
  41. Agamben, *Homo Sacer*, 181.
  42. Agamben, *State of Exception*, 1.
  43. *Ibid.*, 1.
  44. *Ibid.*, 2.
  45. *Ibid.*, 3.
  46. Michel Foucault, *The Birth of Biopolitics: Lectures at the Collège de France, 1978-1979*, ed. Michel Senellart, trans. Graham Burchell (New York: Picador, 2008).
  47. Agamben, *Homo Sacer*, 157, 166.
  48. Stephen Morton, "Reading Kenya's Colonial State of Emergency after Agamben," in *Agamben and Colonialism*, ed. Simone Bignall and Marcello Svirsky (Edinburgh: Edinburgh University Press, 2012), 110-27.
  49. Simone Bignall and Marcello Svirsky, "Introduction: Agamben and Colonialism," in Bignall and Svirsky, *Agamben and Colonialism*, 1-14, 3.
  50. Marcello Svirsky, "The Cultural Politics of Exception," in Bignall and Svirsky, *Agamben and Colonialism*, 52-74, 59.
  51. Jacques Rancière, "Who Is the Subject of the Rights of Man?," *South Atlantic Quarterly* 103, nos. 2-3 (2004): 297-310, 300.
  52. *Ibid.*, 301.
  53. *Ibid.*, 302.

54. Ibid., 303.
55. Ibid., 304.
56. Drucilla Cornell, "Fanon Today," in *The Meaning of Rights: The Philosophy and Social Theory of Human Rights*, ed. Costas Douzinas and Conor Gearty (Cambridge: Cambridge University Press, 2014), 121-136, 132.
57. Soekarno, *Indonesië klaagt aan! Pleitrede voor den landraad te Bandoeng op 2 December 1930* (Amsterdam: Arbeiderspers, 1931).
58. J. L. Austin, *How to Do Things with Words* (Cambridge, MA: Harvard University Press, 1962).
59. Sjahrazad, *Indonesische overpeizingen*, 19; Sjahrir, *Out of Exile*, 18.
60. Johan Huizinga, *Verzamelde werken*, vol. 7 (Haarlem: Tjeenk Willink, 1950), 315.
61. Ibid.
62. Ibid., 356.
63. Paul Bijl, *Emerging Memory: Photographs of Colonial Atrocity in Dutch Cultural Remembrance* (Amsterdam: Amsterdam University Press, 2015).
64. Sjahrazad, *Indonesische overpeizingen*, 170; Sjahrir, *Out of Exile*, 199.
65. Sjahrazad, *Indonesische overpeizingen*, 88; not in Sjahrir, *Out of Exile*.
66. Sjahrazad, *Indonesische overpeizingen*, 85; Sjahrir, *Out of Exile*, 97.
67. Sjahrazad, *Indonesische overpeizingen*, 85; Sjahrir, *Out of Exile*, 98.
68. Peter Derkx, "Modern Humanism in the Netherlands," in *Empowering Humanity: State of the Art in Humanistics*, ed. Annemie Halsema and Douwe van Houten (Utrecht: De Tijdstroom, 2002), 63; also *idem*, "Het woord 'humanisme': opkomst en betekenis," in *Voor menselijkheid of tegen godsdienst? Humanisme in Nederland, 1850-1960*, ed. Peter Derkx, Ulla Jansz, Corrie Molenberg, and Carla van Baalen (Hilversum: Verloren, 1998), 10-33; and *idem*, "Wat is humanisme? Hoofdlijnen in de Europese humanistische traditie en hun actuele betekenis," in *Humanisme: Theorie en praktijk*, ed. P. B. Cliteur and D. J. van Houten (Utrecht: De Tijdstroom, 1993), 99-114.
69. Derkx, "Modern Humanism," 63.
70. Sjahrazad, *Indonesische overpeizingen*, 77, 36; Sjahrir, *Out of Exile*, 88, 35.
71. Tony Davies, *Humanism*, 2nd ed. (London: Routledge, 2008), 9-10.
72. Derkx, "Modern Humanism," 63.
73. "Les grandes civilisations humaines ne sont qu'au nombre de dix et que toutes sont issues de l'initiative de la race blanche"; A. de Gobineau, *Essai sur l'inégalité des races humaines*, vol. 1 (Paris: Firmin-Didot, 1853), 362.
74. Davies, *Humanism*, 24.
75. Sjahrazad, *Indonesische overpeizingen*, 29; not in Sjahrir, *Out of Exile*.
76. Huizinga, *Verzamelde werken*, 350.
77. On June 20, 1935, he wrote: "It is possible that climatic and race-biological moments [*momenten*] influence present differences in development between East and West, yet because of economic and sociological moments [*momenten*], which after all express themselves most directly, we can never determine precisely what the direction and magnitude of this influence is"; Sjahrazad, *Indonesische overpeizingen*, 61-62; Sjahrir, *Out of Exile*, 67-68. Subtle hints here indicate Sjahrir's hesitation, for instance his usage of the word "moment," which indicates temporality and a process rather than the more static notion of a "factor."
78. Sjahrazad, *Indonesische overpeizingen*, 46; Sjahrir, *Out of Exile*, 48.
79. Sjahrazad, *Indonesische overpeizingen*, 150; Sjahrir, *Out of Exile*, 173.
80. Sjahrazad, *Indonesische overpeizingen*, 175-76; Sjahrir, *Out of Exile*, 207.
81. Sjahrazad, *Indonesische overpeizingen*, 22; Sjahrir, *Out of Exile*, 22.
82. Sjahrazad, *Indonesische overpeizingen*, 89; Sjahrir, *Out of Exile*, 99.
83. Moyn, *Last Utopia*, 84.
84. Mrázek, *Sjahrir*, 17.
85. The concept of *rantau* has many, shifting meanings. In we look for instance at the 1933 novel *Kalau ta'oentoeng* by Selasih, a Minangkabau woman, we find nothing of the optimistic dynamism which Mrázek addresses, but instead an image of *rantau* as a source of loneliness, broken hearts and death. See Selasih, *Kalau ta'oentoeng* (Jakarta: Balai poetaka, 1933); and Selasih, *If Fortune Does not Favor: A Pre-Revolution Indonesian Novel*, trans. Patricia Henry (Jakarta: Lontar Foundation, 2015).
86. Sjahrazad, *Indonesische overpeizingen*, 79-80; Sjahrir, *Out of Exile*, 90.
87. Sjahrazad, *Indonesische overpeizingen*, 79-80; Sjahrir, *Out of Exile*, 90-91.
88. Sjahrazad, *Indonesische overpeizingen*, 62, 75; Sjahrir, *Out of Exile*, 69, 85.
89. Sjahrazad, *Indonesische overpeizingen*, 112; Sjahrir, *Out of Exile*, 125.
90. Sjahrazad, *Indonesische overpeizingen*, 29; not in Sjahrir, *Out of Exile*.
91. Mrázek, *Sjahrir*, 84. The first name in Mrázek's biography is not that of Sjahrir, but of Kafka and

Sjahrir is often described by him in terms of European literary modernism with its epistemological doubt and emphasis on the situatedness and temporariness of all truths. In reading *Indonesian Contemplations* I was often reminded of the style and thought of a Dutch literary modernist whom is mentioned by Sjahrazad: the literary critic and essayist Menno ter Braak (1902–40). Just like Ter Braak, Sjahrir emphasizes the importance of tactics and the need constantly to rethink the products of one's own thought in order not to get stuck and lose sight of an ultimately ungraspable reality. In terms of style, this way of thinking led both to dialectics: often, Sjahrir introduces an idea, next confronts it with its opposite, and finally brings thesis and antithesis together in a synthesis. An example can be found when Sjahrazad writes that "reason in the end is nothing more but a slave of the beast [...] of the animal," next he writes that this statement is exaggerated and pessimistic and notes "the peculiar results of the influence of reason on the psychic and nervous life," and finally ends by stating that will influences thought and thought influences will; Sjahrazad, *Indonesische overpeizingen*,

78–79; Sjahrir, *Out of Exile*, 89. The best starting point for Ter Braak is Menno ter Braak, *Politicus zonder partij* (Rotterdam: Nijgh & Van Ditmar, 1934). For more information on what Sjahrir thought about Ter Braak, see Snoek, "De relatie Sjahrir."

92. Mrázek, *Sjahrir*, 271–72.
93. Benedict Anderson, "Introduction," to Sjahrir, *Our Struggle*, trans. Benedict Anderson (Ithaca: Cornell University, 1968), 1–16, 10.
94. Quoted in George McTurnan Kahin, "Preface," to Sjahrir, *Our Struggle*, iii–v, iv.
95. Sjahrir, *Our Struggle*, 31–32; Sjahrir, *Onze strijd* (Amsterdam: Vrij Nederland, 1945), 26–27; Sjahrir, *Perdjoeangan kita* (Djakarta: Repoeblik Indonesia, 1945), 30–31.
96. Sjahrir, *Our Struggle*, 26; *idem*, *Onze strijd*, 21; *idem*, *Perdjoeangan kita*, 19.
97. Lydia Liu, "Shadows of Universalism: The Untold Story of Human Rights around 1948," *Critical Inquiry* 40 (2014): 385–417, 387.
98. *Ibid.*, 386.
99. Moyn, *Last Utopia*, 85.
100. On legal pluralism, see note 15 above.

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