

The Dragon in The Lion's Nest: Confucianism Under The Colonial Legal System

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ABSTRACT

This article aims to reveal the position and status of Confucianism under the colonial legal system in the Dutch East Indies. By explaining this status, this article not only provides an explanation of the religion as a legal entity but also the limitations of its rights and obligations, including ownership rights over land used for its liturgical and social activities. For that, with a temporal scope of the colonial era, the method used to construct it is the historical method combined with the methodology of legal science. Through a combination of the two, it is hoped that this paper will be useful to provide explanations at least to the scholars from both disciplines. The data used in this research is colonial-era data, which consists of archival sources (especially manuscript) and contemporaneous information sources (old newspapers). The use of such data is based on the consideration that the information obtained has a high value of validity and legality and supports the objective judgements contained in the conclusions. The conclusion of this research is that there was a dualism within the colonial policy, between viewing Confucianism as a legitimate form of religion like other religions or making Confucianism an integral legal part of the Chinese community.

KEYWORDS

Confucianism; Chinese; Colonial; Legal System; Religions

INTRODUCTION

On 18 October 1918, the Chinese population of Surabaya submitted a letter of request to the Surabaya Municipality government. The request held their intention to preserve the temple (*klenteng*) building on Baud Street, Keputran Village, which was to be demolished and moved to Idenburg street. The relocation process was the result of an agreement between three parties: “Koepang” Buiding Company, the Surabaya City government, and the Chinese population of the village.

An agreement reached in early October 1918 stipulated that the “Koepang” Building Company would receive permission as well as project from the Surabaya Municipality government to widen Tamarinda Street in the complex. This road widening required the demolition of the temple and as a solution, the Surabaya Municipality government offered

the Chinese Confucian congregation who used the house of worship to move the temple from Baud Street to Idenburg street. In other words, the Surabaya Municipality government provided land on Idenburg Street for the construction of a new temple.

Although this agreement was initially reached, the technicalities of building the temple on Idenburg Street could not be accomplished. As consequence, the Chinese community in Keputran no longer wanted to build it and decided to continue using the existing house of worship on Badu Street. After studying the spatial planning in Keputran Village, the Confucian congregation of Surabaya saw that the existence of the temple on Baud Street did not actually interfere with the widening of Tamarinda Street. Therefore, by starting to use the pretext of religious beliefs related to the prohibition of moving a temple, they requested that the mayor of Surabaya grant their request.¹

Although at first glance the above issue is a technical problem, namely the construction and spatial planning of the municipality, in reality it can extend to social issues. The issue concerning religious people's ability to worship in their house of worship that is considered legal is a social issue, while the land used for construction and replacement for the establishment of a new temple will enter the civil realm. In the article published by the local newspaper, it is not explained what the civil rights of the Keputran population or congregation are over the land and building of the temple on Baud Street, while the status of the replacement land located on Idenburg Street is also not explained even though it was provided by the Surabaya Municipality government.

The issue above is a little part of the problems that have arisen in the past, especially regarding the existence of the Confucian religion and its houses of worship within the colonial legal system in Indonesia. By placing it in a juridical administrative context, it will be easy to know the origin as well as settlement process for legal disputes such as what happened in October 1918 in the City of Surabaya. In addition to its political status,² the legal status of the religion's existence under the colonial legal system needs to be explained. This includes not only administrative but also civil matters, namely the ownership of assets held by the klenteng institution or its house of worship.

This article is intended to raise the issue of what status the Confucian religion or Confucianism had under the Dutch East-Indies colonial religious legal policy, including its social institutions such as houses of worship, schools, and social centres managed by Confucian foundations. By understanding this status, it will be easier to find solutions to various problems concerning the civil rights of these religious institutions and the recognition of their legality by the Dutch East-Indies colonial government.

RESEARCH METHODS

This report is the result of researching the past that has occurred, taking the temporal of the colonial era, when the Dutch power structure was established in Indonesia. Despite the temporal limitation, the methodology adopted is the structural historical methodology. The

¹ "De Chinesche Klenteng" in *Soerabajasch Handelsblad*, November 5th, 1930, 6th sheet. No name is given in the article, but based on the locational research it can be identified as Klenteng of Hong San Ko Tee, because this klenteng is the oldest in Keputran district now.

² Harto Juwono, "The Smoke of the Incense and the Roar of the Lion: Confucianism under the Colonial Political System in Indonesia" in *Sinolingua*, vol. 2, number 1, 2024, page 98-117.

basic consideration is that the theme chosen as the focus is the existence of Confucian religion within the scope of the legal system built by the Dutch East-Indies colonial power structure. Within this legal system, the colonial government's policy towards religion became one of the supporting pillars of the structure, namely that contained in the *Regeerings Reglement* of 1854.³

Departing from the provisions of this first law of the Dutch East-Indies, the colonial regime's policy towards various religions was non-intervention. However, in practice differences in policy, both due to political and juridical factors, occurred. In terms of political factors, the colonial regime's policy was based on the principal of upholding *rust en orde* (peace and order). Based on this principle, all activities deemed to disturb security and stability must be eradicated from any source, including from the religious aspect, as shown below.

*De uitoefening der politie en de verdere bedeeeling des regts heeft het Gouvernement zich voorbehouden, met zoodanige andere bepalingen welke in het belang van rust en orde noodzakelijk zijn geacht geworden. In de regmatige uitoefening van gezag werden zij van hooger geschraagd en waar zij het moedwillig te buiten gingen, gestraft. Ook de Europeesch ambtenaren vonden als handhavers der openbare orde en rust de vereischte ondersteuning.*⁴

The enforcement of security and the further distribution of laws are continued by the government with such other provisions as it deems necessary in the interests of security and order. In the enforcement of power, those from above are brought down and if they dare not step in are punished. Also the European authorities find the necessary assistance as enforcers of security and public order.

Juridicially, the policies made by the Dutch government towards a religion cannot be separated from its adherents. For Confucians who mostly consist of ethnic Chinese, government's policies cannot be separated from colonial politics towards the *Vreemde Oosterlingen* (Foreign Easterners) group.⁵ As consequence, confusion often occurred between policies towards citizens and towards religious communities or institutions, including houses of worship, as happened at the beginning of this paper.

Het is de bedoeling onder de uitdrukking "Inlandsche Christenen" ook te begrijpen de Christenen onder de vreemde oosterlingen: wel is waar kunnen bewoordingen van artikel 109 van het Regerings Reglement tot verschillende opvatting aanleiding geven omtrent de vraag of vreemde oosterlingen die het Christendom belijden met Europeanen of met Inlanders gelijk zijn te stellen, maar de Regeeriung was bij het uitvaardigen van het wetboek, de meening toegedaan dat de wet alle ingezetenen van Nederlandsch Indie

³ *Staatsblad van Nederlandsch Indie* of 1855, number 2.

⁴ Anonymous, *Hoofdbeginzelen van bestuur voor Nederlandsch Indie op stelsel tegenover stelsel* ('s Gravenhage, 1863, H.C. Susan), page 8-9.

⁵ T.H. der Kinderen, *Wetboek van Strafrecht voor Inlanders in Nederlandsch Indie* (Batavia, 1885, Ogilvie), page 98.

terug brengende tot twee cathegorien, namelijk Europeanen en Inlanders, en alle andere natien daaronder begrijpende, wil dat men in eerste plaats zal te rade gaan met de nationaliteit en niet met den godsdienst zoodat de vreemde oosterling welken godsdienst hij ook moge belijden, behoort tot de cathegorie der inlanders.

The intention with the phrase "Christian Indigenous People" is also to include Christians among the Foreign Easterners; indeed the wording of section 109 of the Government Regulation may give grounds for different views on the question of whether Christian Foreign Easterners can be equated with Europeans or indigenous people, but the government in drafting the Act was of the view that the Act returned all population of the Dutch East-Indies in two categories, namely Europeans and indigenous people, and all other nations also wanted people to look first at their nationality and not their religion so that Foreign Orientals who embraced any religion were still included in the indigenous group.

By looking at the quote above, it can be known that the structure built in colonial law was more based on racial division, which was used to make their policies towards all of their subjects, including in the rights of religious communities.

In this case, it is important to know deeper about the religious quality of Confucianism. At least there are two aspects of it : *rujia* and *rujiao*, especially about her perception of the Chinese tradition. This quotation can be read.

Practically rujiao rather than rujia or ruxue is more capable of encompassing the religious aspect of Confucianism in e heuristic sense. Unlike rujia and ruxue which are inclined to direct attention to the intellectual dimension of Confucianism, rujiao is ore likely to bring the little tradition (rather than the great tradition) into vie. A rujiao could be functionally similar to the word Confucianism in terms of conjuring imagery of the civil religion, the official cult and the intellectual tradition in traditional Chinese society.⁶

From the above quoted text, it can be seen that rujiao puts more emphasis on the socio-anthropological aspects of the Confucian religion in the social life of the community where it exists, both internally and externally. So did the colonial government look at the Confucius.

Considering the close relationship between the object of research and the structure that surrounds it and the subordination of the object to the structure, structural methodology in historical reconstruction is considered the most appropriate to use in compiling this report. In structural methodology, the structure has a very strong and dominant position towards its agents, which are the elements that form the structure. So strong is the position of the structure, that no changes can occur other than changes initiated by the structure.⁷

⁶ Yong Chen, *Confucianism as Religion: Controversies and Consequences* (Leiden, 2013, Brill), page 39

⁷ Those who pioneered the use of structural methodology in historical reconstruction were the French historians who joined the *Annales d'histoire economique et sociale* school. Their aim in analysing structure was to include the whole of society as the object of social history, in contrast to the focus on elites that characterized political history. E. Sreedharan, *A Manual of Historical research Methodology* (Trivandrum, 2007, Centre for Sout Indian Studies), page 209.

By using this structural methodology, it is hoped that this work can answer the research question above by placing Confucianism within the scope of the colonial legal system as its structure. From there, it will be understood the motivation of the colonial government in making policies towards the Confucian religion in the Dutch East-Indies, including its adherents and houses of worship as a form of institution that represents the interests of the religion in social life.

The above mentioned Confucianism is a belief system that was thought by a man named Confucius. Confucius himself was the son of a soldier named Shuh Leang Hieh and lived in China in the 6th century BC. Confucius had lived as a high-ranking royal official who was also trusted to be an advisor to the ruler where he lived. In principle, the teachings of Confucius, which made him the founder of Chinese religion in addition to Taoism, stemmed from his live experiences. This paper does not elaborate on the teaching materials of the religion, but mentions that its teachings were accepted among China's ruling elites in the 5th century BC and later spread throughout China.⁸

After the death of Confucius, his teachings spread outside of China and considering that most of its followers were Chinese, the overseas Chinese became the main actors who brought Confucius' beliefs outside of China and adopted them where they were.

Regarding the Chinese people's belief in the teachings of Confucius, this inseparable from the nature of the Chinese people towards their beliefs. The following can be known.

Een van de sterkste karaktertrekken der Chineezzen in Ned. Indie is altijd geweest hun eerbiedig vasthouden aan hun voorvaderlijke godsdienstige en sociale zeden en gebruiken. Hun familieleven is daardoor bijna geheel en al het familie leven van Cjina gebleven. De Orde der Dingen in de mensheid werd door de groote Chineesche wijsgeeren (Confucius) die voor de Chineezzen hun sociale en zeden wetten hebben vastgesteld, beschouwd als te zijn eene voortzetting van de geheele kommissche Orde der Dingen.⁹

One of the defining characters of the Chinese people in the Dutch East-Indies has always been to honor ancestral religion and social customs and habits. Their family lives therefore remained almost entirely within the Chinese family life. The order of life in mankind is regarded according to the great Chinese philosophy (Confucianism) which is established as social law and custom for the Chinese, as a continuation of the order of the entire cosmos.

In the above explanation, it can be seen how Confucianism as a form of religion later grows and develops through its adherents into an increasingly complex institution. This can be attributed to the fundamental character of the Chinese people that upholds the values of customs and traditions, embodied by the teachings of Confucius from their homeland. All Chinese ethical values, such as respect for parents or family are accommodated in the teachings

⁸ His teachings were spread by his disciples who learnt from him during his lifetime, both in official and individual relationship. His disciples were convinced that Confucius' moral teachings could be used as their life doctrine. James Legge, *The Life and Teachings of Confucius* (London, 2867, M. Trubner en Co), page 90.

⁹ "Chineezzen" in D.G. Stibbe and H.J. de Graaff, *Encyclopaedie van Nederlandsch Indie, eerte deel* ('s Gravenhage, 1917, Martinus Nijhoff), page 481.

of Confucius so that Confucianism is accepted as the religion of the Chinese and at the same time also separates them from other ethnicities, whose philosophical and ethical values are different from the Chinese.

RESULTS AND DISCUSSION

Under The Colonial Legal System

The colonial legal system, especially towards the indigenous people according to the *Regeerings Reglement* of 1854, was based on regional considerations. For this reason, special policies towards certain regions with certain legal systems apply. For example, the government's policy towards the self-governing (*zelfbestuur*) areas and towards areas with customary communities (*groepgemeenschap*) is of course different. However, despite the complexity of adapting to local customary values and rules, colonial legal policy towards them could still be organised on a territorial basis, namely by linking the rule of law to the local customary system, as was the case with the customary courts.¹⁰

This was different when the government faced a group called Europeans and Foreign Easterners. For Europeans, legal issues were also less-complicated for the colonial government. Since the application of the concordance principle in 1848¹¹, by applying the rules applied in the motherland (the Netherlands) to the colony, the issue of the rule of law for European people became less of a problem except in a few small matters that were nonexistent in Europe and had to be regulated according to the local situation, such as private lands in West Java.¹²

The most difficult of these was to regulate the legal affairs of the Foreign Easterners, especially the Chinese and Arabs who make up the majority of this class of people. For Arabs and other Middle Easterners, this article will not discuss them. On the other hand, for the Chinese, the issue is complicated due to the customary values and traditions adopted by them as a legal system in their homeland, while there is no particular territorial bond that identifies them as a *groep-* or *rechtgemeenschap*.

In this case Prof. C. van Vollenhoven wrote as follows

Doch ook binnen Indie zelf doet zich, althans onder Chineezzen, verscheidenheid van volksordening bij deze vreemdelingen voor., Wij hebben dus om het adatrecht dezer Oosterlingen te begrijpen, allereerst te zien – evenals bij het overzicht van Indonesisch adatrecht – telkens

¹⁰ J. van der Zwaal, *Inlandsch Gemeentewezen in Zuid Sumatra en Javanentrasmigratie* (Wageningen, 1936, H. Veenman eb Zonnen), page 4. Customary courts were evidence of the strong legal ties that grew out of traditional values and rules at the community level.

¹¹ G.J. Resink, "Conflictenrecht van de Nederlands-Indische staat in internationaalrechterlijke setting", dalam *Bijdrage tot de Koloniaal Instituut (BKI)*, 1959, volume 115, page 2. The principle of concordance was the view that the Dutch East-Indies colony was an inseparable part of the motherland, so that what was decided and declared to apply in the motherland also applied in the colony, including the self-governing and customary areas.

¹² Private land was a form of land ownership that was given absolute authority by the government to regulate the land and its population, as long as the rules do not conflict with the government. The difference with self-governing areas, which were also recognised as autonomous, was that private land had the status of absolute property rights (*recht van eigendom*). Therefore, under the protection of existing laws, many government regulations could not be enforced on private land. Harto Juwono, "Lex Specialis Derogat Legi Generali: Status Tanah Partikelir Depok" in *Diakronik*, 2013.

*beginnend bij de laagste van onderop; het onderkennen van hun rechtskringen sluit zich vanzelf daarbij aan.*¹³

But also in the Indies, at least among the Chinese, there was a diversity of folk rules for these foreigners. So to better understand the customary laws of these Easterners, we must first observe how their legal community, back then (as it appears in the study of Indonesian customary law) started from the lowest level below; recognition of their legal sphere must correspond.

According to van Vollenhoven's view, it is evident that he followed the procedure applied to find the best policy by the colonial government towards the indigenous people, namely departing from the common law which was then personified by its legal community (*rechtgemeenschap*). In other words, van Vollenhoven equated that Chinese community was not much different from the Indigenous people of the Dutch East-Indies.

If in the communalistic indigenous customary legal communities there were customary units such as *marga* (clan), *mega*, or *ulayat*,¹⁴ then van Vollenhoven also considers the surname in Chinese names as part of the clan or which when confined by a common settlement is considered a *kampung* and *desa*. This underpinned the colonial government's policy of *wijkstelsel* for the Chinese community following the riot of 1740 in Batavia, and eventually developed in other cities in the 19th century.

It appears that the system adopted above could not last long and by the end of the 19th century, changing conditions demanded changes to the policy. The most prominent change in the legal field was the classification of this community. In the middle of the 19th century, the Chinese were classified in the indigenous community according to the *Regerings Reglement* of 1854. But by the end of the 19th century, gradually in local policy the Chinese were included in the Foreign Easterners (*Vreemde Oosterlingen*) as it happened.

The second condition that emerged in the early 20th century was the existence of a major division among the Chinese community, namely between the newcomers since 1860 who were referred to as *totok* and those who had lived much longer and were suspected of having indigenous blood, a group referred to as *peranakan*. The existence of this dualism caused the colonial legal system towards the Chinese to change.¹⁵

The impact that emerged from this development also affected the Confucian religion, which until the end of the 19th century was still practiced by the majority of Chinese in Indonesia. Regarding this, C. van Vollenhoven still mentions the following.

Deze Confuciaansche concessie aan autonomie der genealogische en sociale groepeerings brengt onder meer mede, dat in geslacht (clan), geslachtstak (familie) en Vereeniging ons privaat-en publiekrecht samenvallen, want overheidsgezag is daar immers tevens familie-gezag of

¹³ C. van Vollenhoven, *Het Adatrechtbundel van Nederlandsch Indie, tweede deel* (Leiden, 1931, E.J. Brill), page 4.

¹⁴ B. Ter Haar, *Beginselen en Stelsel van het Adatrecht* (Batavia, 1939, J.B. Wolters), page 54. The authority of the community as a local social units was very large, because in addition to being a law enforcer consisting of customary rules, the community also determined internal land tenure or ownership rights as a form of existence against threats from outside the community.

¹⁵ Twang Peck Yang, *Elite Bisnis Cina di Indonesia dan Masa Transisi Kemerdekaan 1940-1950* (Yogyakarta, 2005, Niagara), page 28.

*genootschapsgezag en de organisatie van onze gemeente-wet is er tevens die van ons eerste of van ons derde boek burgerlijk wetboek.*¹⁶

Confucian concession to the autonomy of social groups and descendants also appears in our descendants (clan), branches of descendants (families), and organisations combining private and public law, as royal power is at once family power or community power and our communal legal organisation are at once similar to our first and third codes of civil law.

In his next step, Van Vollenhoven clearly incorporated Chinese kinship status in the legal system applied in the Dutch East-Indies colony. In this case, he searched for a basis in the teachings of Confucius, which was embraced by the majority of Chinese people. Respect for the family and extended family that originates from parents and ancestors, which is the main pillar in Confucian teachings, was attempted to be adjusted to the common law system according to Western positive law. Through this adaptation, the application of civil regulations based on the Law was easily applied to the Chinese community.

Of course, this eventually led to the status of Confucianism as a religion, albeit a politically charged one. For those Chinese who continue to embrace Confucianism, Taoism, or other eastern beliefs such as Buddhism, they will be classified in the Foreign Easterner group. For Chinese who embraced Islam, whether by marriage with an indigenous person or on their own initiative because they were in the middle of a muslim majority society, they would be classified into the indigenous community which in the first quarter of the 20th century, through new regulations (*Indisch Staatsregeling*) was different from the Foreign Easterner group. As for those who embraced Christianity or Catholicism, there was a good chance that they would be classified as Europeans, albeit through a process called *gelijkgesteld*.

Towards Confucianism as a religion, the government was guided by the principle of non-intervention contained in the *Regeerings Reglement* of 1854, which includes the following regulation.

*Ieder belijdt zijne godsdienstige meeningen met volkomen vrijheid, behoudens de bescherming der maatschappij en harer leden tegen de overtrading der algemeene verordeningen ip het starafrecht. Openbare godsdientoefening wordt toegelaten binnen gebouwen en besloten plaatsen, wanneer die geen stoornis aan de openbare orde, toebrent; buiten gebouwen en besloten plaatsen slechts met toestemming des bestuurs. De Gouverneuer Generaal zorgt dat alle godsdienstige gezindheden zich houden binnen de palen van gehoorzaamheid aan de algemeene verordeningen.*¹⁷

Everyone embraces his or her religious beliefs with absolute freedom, in addition to receiving the protection of society and its people against violations of the general rules of criminal law. Public worship is permitted within enclosed buildings and premises, when it does not disturb public order; outside enclosed buildings and premises only with government approval. The Governor-General is mindful that all religious views are held to the general regulations within the limits of compliance.

¹⁶ C. Van Vollenhoven, *op.cit.*, page 6.

¹⁷ *Regeerings Almanak van Nederlandsch Indie, eerste deel*, 1901, page 236.

In the above regulation, it can be known that the colonial government viewed religion in relation to its liturgical and ceremonial activities, or more deeply in terms of politic. The absolute authority of the state in controlling public worship, including Confucianism, attests to a great deal of state control over religion.

Interesting to note in this regard is that during Dutch colonial rule, Confucianism never received any special legal attention and was identified by the colonial government and its local apparatus with their policies towards the Chinese community. This is evident in official colonial reports such as *Koloniaal Verslag*, *Indisch Verslag* and *Regeerings Almanak*, where no space is devoted to religions other than Protestantism, Catholicism, and Islam. It can thus be assumed that the government had no direct relationship with other religions, including financial relationship such as subsidies.¹⁸

However, when there were events that connected Confucianism in the Dutch East-Indies with legal or political issues, the colonial government immediately took action in accordance with the applied regulations, especially from the aspect of enforcing security (*rust en orde*). Among other things, this happened in June 1911 when signs of a national revolution formented by Dr. Sun Yat Sen emerged in China. The Dutch government in Batavia, suspecteing the influence of this event among the Chinese community, immediately took action by attempting to find a connection between these nationalist ideas and the teachings of Confucius on the state, at least the adherents of this religion who were suspected of playing a role in the spread of Chinese nationalist ideas.¹⁹

Conversely, in tackling radical Chinese elements with both nationalist and communist background, the Dutch government tried to use Confucianism to prevent them. Among others, Henri Borel, in front of Dutch East-Indies officials in Amsterdam on 5 April 1913, said the following.

*Confusius' leer zal op de openbare scholen zelfs niet meer worden onderwezen. Dit is voor iederen China kenner een afdoend bewijs van de grooten omvang der hervorming. Er is echter tegen dat weren van Confusius van de school sterkte oppositie geweest en die werkt nog. Een gevaar is dat de republiek van het eene, Oostersche uiterste in het andere. Westersche zal vallen; dat zij het Chineesche volk materialistisch zal maken; zonder wijsbegeerte en godsdienstig wijsgeerig bewustzijn. Confusius zelf en de wijsheid der klassieken uitstooten, tegelijk met hetgeen er van zijn leer verbasterd en uit den tijd geraakt is, dat zoude zijn de nationale kracht van China breken*²⁰

The teachings of Confucius are no longer taught in public schools. To any China observer this is clear evidence of how far-reaching the reforms are. However strong opposition to the exclusion of Confucianism from the

¹⁸ Perhaps a little different from Hinduism and its institutions in Bali, which received special attention from the government and was carried out by the local government, considering its majority status there. "Bali" in *De Locomotief*, September 22nd, 1925, 2nd sheet. One of the special government policies towards Bali was the prohibiton of missionary activities including *Zending* and *Missi* until the first few decades of the 20th century.

¹⁹ In this case of Batavian chief of research met the Chinese Major Khouw Kiem An at the temple when he was worshipping to the Prophet Confucius and the Dutch official conducted an investigation there. The basis for this action was the news that Chinese revolutionary figures had arrived in Batavia from Canton and were being hosted by Khouw Kiem An. "Revolutionnaire Chinezen" in *De Preanger Bode*, June 30th, 1911, 5th sheet.

²⁰ "Henri Borel over de Chineesche republiek" in *Algemeen Handelsblad*, April 6th, 1913, 5th sheet.

curriculum still exists. The risk being that the republic (China) will move from one Eastern model to another. The West will fall; the Chinese people will become materialist without philosophical and religious consciousness. Abolishing Confucius and classical philosophies as well as the distortion and outdated nature of his teachings would mean the destruction of China's national power.

The lecture, which was attended by high-ranking Dutch East-Indies officials including former Governor-General J.B. van Heutz, sought to make connections between events in China and in the Dutch East-Indies. According to Borel, although Confucian teachings in China began to be excluded from the curriculum, at least this did not happen in the Dutch East-Indies because Confucianism was considered to be a restraint on the revolutionary spirit that emerged among the younger generation of Chinese intellectuals.

The Status of Temple (Klenteng)

If in the colonial administrative juridical policy towards religion, especially Confucianism, a non-interventionist attitude was prioritised and there also tended to be neglect among colonial officials or at least relate it to policies towards the Chinese in general, in the issue of houses of worship the opposite occurs. The colonial government used its authority to apply Western law to the physical building complex of a houses of worship with the intention of providing certainty and clarity as well as providing protection for its existence, as seen in the incident at the beginning of this paper.

When a Confucian house of worship (*klenteng*²¹) was established, the land on which it was built had to be purchased or acquired (*onteigening*) from other rights and transferred to the management of the temple. In this case Dutch civil law was used for the process of releasing and transferring rights, thus involving local colonial government apparatus. Because of the connection with the legal administration of the colonial government, the role of local Chinese leader (*opsir*) was necessary in the process. In fact, these officers often acted as committee chairmen in the process of building the temple or became chairmen of the foundation that managed the house of worship.²²

The establishment of temples in self-governing (*zelfbestuur*) areas also took place with the involvement of colonial government apparatus, who were usually more co-operative and helpful in the process. In Yogyakarta and Surakarta during the late 19th century, temples were also established as Chinese settlements increased there with the commercialisation of the Vorstenlanden.²³ The building committees, which consisted of prominent Chinese citizens approached the government residents in the two capitals of

²¹ By analogy, the word "klenteng" comes from the Mandarin word, *kwan jin ting*, which means the abode of the Goddess Kwan Im (Guan Yin). R. Broersma, "De Nieuwe Klenteng te Jogjakarta" in J.D.E. Schmeltz, *De Saamlungen aur Korea*, (Leiden, 1891, Verlag von P.W.M. Trap) page 76.

²² This was the case with Hok An Kiong Temple in Muntilan, whose land was purchased in 1905 and further expanded in 1907 and 1910. The purchase took place from the property rights (*recht van eigendom*) of a Dutch person and was transferred to The Tjien Ing, who at the time was the head (*wijkmeester*) of Muntilan's Chinese quarter, before a year later being appointed Lieutenant (*Lieutenang voor Chineezzen*) for the District of Muntilan. See *Meetbrief no., 26 van perceel gelegen in kadastrale afdeeling Moentilan*, which replaced *meetbrief 26 Augustus 1872 no. 66*, Muntilan's Temple collection.

²³ ANRI, *Politiek Verslag der Residentie van Soerakartaover het jaar 1870, 1871, 1872, en 1873*, Surakarta bundle number 401, 402, 403, and 404. It can be observed from this report of the Resident of Surakarta the growth in the number of Chinese people living in the city of Surakarta and its surroundings.

Vorstenlanden. The aim was to seek permission for the construction and at the same time request land for the purpose.

In terms of security, the colonial government also legally provided protection to Confucian houses of worship, especially when threatened by the uncooperative attitudes of other groups, whether European or indigenous. For example, when a temple was established in Melayu Village, Semarang, which stood in the Chinese quarter there but bordered an Arab settlement. This incident, which occurred in early September 1900, immediately demanded the intervention of the local government, which provided guarantees to the temple building committee so that the process went smoothly and by 5 September 1900 the temple was inaugurated for use as a Confucian house of worship.²⁴

The above object had become a problem almost a year earlier. The colonial government was concerned that the existence of the temple could lead to new problems, especially with the indigenous people living around the village. Therefore, in late 1899, the Resident of Semarang ordered a halt of the construction project that had already commence. In response, a number of Chinese figures in Semarang gathered and agreed to go to the Resident of Semarang. In their meeting, they assured that there would be no objection from the indigenous side towards the existence of the temple and asked the Resident to revoke the stop order and provide guarantees for its realisation.²⁵ In the end, the Resident of Semarang was willing to grant the request and guarantee its resolution of all disturbances and objections, as mentioned above.

The case of the temple in Melayu Village, Semarang, became an example of how the colonial government's legal policy towards the existence of the temple (*klenteng*) as a Confucian house of worship. Regardless of the political aspect, the legal status of the temple as the object of a legal entity (*rechtspersoon*), namely the Confucian religious board was entitled to guarantees from the colonial government, both its rights to the land on which the building stood (legal aspect) and its function as a house of worship (social aspect).

The social aspect above can also be related to the legal aspect, especially when it comes to social norms that apply and must be respected despite legal status. This was the case with a temple in Yogyakarta (presumably in *gondomanan*) that annually held a *Rebutan* or *Prebutan* event on the 15th day of the seventh month of the Confucian calendar. Considering this festive event involves a number of pigs being slaughtered and served whole in the temple courtyard, it was feared that this scene could disrupt harmonious social relations with the surrounding neighbourhood, especially with the palace (*kraton*). For this reason, on 12 September 1909, an announcement was made by the temple management that in that year and the following years it was planned that the *Rebutan* event would no longer be held at the temple.²⁶

The *Rebutan* event above, which involved a public crowd, was also used as a source of revenue for land acquisition and the construction temple. As soon as all requirements were fulfilled and permission was obtained from the government for its establishment, the event was held prior to the construction of the temple. The promoters were local wealthy Chinese

²⁴ "Ingewijd" in *De Locomotief*, September 7th, 1900, 2nd sheet.

²⁵ "De Klenteng op Kampong Mlajoe" in *De Locomotief*, February 24th, 1900, 2nd sheet.

²⁶ "Djokja" in *De Locomotief*, September 18th, 1909, 6th sheet.

who embraced the Confucian religion. By various means they raised funds to take advantage of the government's approval with the aim of building the temple and once the building was built, the government's approval for the temple's function would automatically come down.²⁷

The principle of communal land acquisition for the establishment of a temple was commonly used. For example, in Banjarmasin at the end of the 19th century, a group of wealthy Chinese collected money, either from each participant or seeking donations from other Chinese people and even from outside the city. Once the money was collected, they used it to purchase the necessary piece of land. To prevent future disputes, the land purchased was generally registered as property rights (*recht van eigendom*) with communal ownership. Ownership conflicts were immediately avoided when they then dedicated the land as *wakaf* and it was registered in the name of the temple's management foundation.

In this way, the foundation not only obtained a grant for land ownership but also a source of income from the temple. Utilising the trust of the congregation, a number of activities were organised at the temple which could then generate income, in the form of both donations and commerce. The sale of incense and amulets, the provision of divination services, and auction of goods could all be considered legitimate sources of income for the temple's treasury, while exempting them from government taxation on the basis of being a house of worship activities.²⁸

In addition to the form of "*wakaf*" donated by committee or donors for land used for the construction of a temple, in a number of areas in the Dutch East-Indies there were also family temples. This meant that a wealthy person who built a temple on his own land and dedicated it as a family house of worship, although in practice outsiders may also worship there. However, in particular, the construction prioritised ancestor worship with the construction of this temple.²⁹

Another issue related to cultural behaviour factors such as family ties above and concerning the temple is the issue of gambling. Although gambling (*dobbelspel*) was a prohibited activity and was considered a crime under colonial law, the issue of gambling in the temple was different. According to Chinese experts, gambling for the Chinese community is not considered a crime but a means of seeking social donations and also an entertainment game, although there is an element of betting in it.³⁰ Therefore, when the temple in Bandung organised gambling activities, and even the management rented out the

²⁷ Among others, in the Town of Bondowoso in early October 1904, Chinese figures organised a lottery, game with prize money that was much favored by the Chinese and wealthy indigenous people. The proceeds of the lottery, which was organised on the occasion of the *rebutan*, amounting f25.000, were used for the construction of a temple in the town. "Bondowoso", in *De Locomotief*, October 13th, 1904, 2nd sheet.

²⁸ In general, such activities were very busy during traditional ceremonies, but in everyday activities such semi-transactional processes could also still be found. A Dutch person visiting the Pasar Baru temple at Banjarmasin reported on how incense and amulets were burned to accompany their prayers for safety. "De Boose Geester Verjaagd" in *De Locomotief*, March 10th, 1909, 3rd sheet.

²⁹ As a family temple, the government recorded it as a private inheritance and not a *wakaf* or public asset for the temple. This happened in Medan in 1921 when Chinese Captain, Tjong A Fie died and allegedly left a temple for the benefit of his family. From this fact it can also be surmised that the temple became a clan or family property for generations. C. van Vollenhoven *op.cit*, page 43.

³⁰ In particular, gambling was most commonly practiced as games such as cards and dice. Sim Ki Ay, *De Chineesche Nederzetting in Nederlandsch Indie* (Batavia, 1918, Chung Hwa Hui Vereeniging), page 27.

land in front of the temple as gambling arena, the Bandung Municipality government and its police did not take action.³¹

Thus, the legal status of the temple can be included in the civil law group according to the Dutch legal system. With its status as a civil object, the foundation that owns or manages the Confucian temple is considered a private legal entity, especially before 1927 when the colonial government determined that all Christian religious institutions were included in the classification of private legal entity (*privaat rechtspersoon*) because they were considered to be under the Western legal system.³² This change then affected the ownership of land, which prevented the status of property rights.

This is also the case with school institutions opened by Chinese people. Unlike religious-based schools such as Christianity, Catholicism, and Islam or even Hinduism in Bali, Confucian religious organisation did not open or manage school. They were only limited to the management of the temple, while the school for its congregation was taken care of and managed by religion-neutral educational foundation, the *Tionghoa Hwee Koan*, since 1900. Although it is suspected that the teachings of Confucius were taught in THHK schools, the material was limited to subjects and was also more philosophical than liturgical as in Christianity.³³

When there were liturgical events at the temple, which were never held at school, the Confucian religious organisers did perform the ceremonies in a more flashy and festive form. For this reason, THHK school students received an invitation to attend and celebrate the ceremony. Only in such activities did Confucian liturgical form coincided with Chinese education, including its teachers and pupils.³⁴ Thus in the field of education, Confucianism did not play a major role, and did not determine the direction of education.

CONCLUSION

The explanation above illustrates the legal status of the Confucian religion in the Dutch East-indies. Despite the Dutch government's recognition of Confucianism as a form of religion, complete with its house of worship (klenteng), the treatment received by Confucianism in colonial government's policy was different from other religions during the colonial period. Its close identification with the Chinese community as part of the Foreign Oriental group in colonial political administrative and legal formal policies made Confucianism sunk as an official religious status and become more of a cultural part of the Chinese community.

³¹ "Bedehuis-terrein als plaats voor Dobbelspel" in *Het Nieuws van den Dag voor Nederlandsch Indie*, January 2nd, 1932, 2nd sheet. It is possible that the temple management or those who managed gambling fulfill their obligations to pay taxes from the income earned. Because there was a similar case of a number of Chinese people organising *dadu kopyok* in front of the temple in Lombok Alley, were arrested by the police on the pretext of illegal gambling. "Dobbelen", in *Het Algemeen Handelsblad*, July 10th, 1931, 3rd sheet.

³² *Staatsblad van Nederlandsch Indie* of 1927, number 532.

³³ For example, the Hwee Koan Chinese school in Semarang was established in 1904. Their orientation was more on the economic ability and political orientation to pursue higher education in their ancestral homeland, so they did not teach much about the four Confucian scriptures. "35 Jarig Bestaan der Tionghoa Hwee Koan" in *De Locomotief*, February 7th, 1940, 8th sheet.

³⁴ An example, when a temple in Tegal celebrated the *rebutan* holiday and set up a large stage in front of the temple, students were involved. Whether they were invited because they were motivated by religious studies or because they were more interested in the festivities is unknown. "Tegal" in *De Locomotief*, September 8th, 1909, 6th sheet.

Such a view certainly does have a basis in the fact that no other nation has embraced the Confucian religion except the Chinese. Based on this assumption, the colonial government legally regulated Confucianism as a part of its policy towards the Chinese people, or even the Foreign Oriental group, in all its aspects. In contrast to other religions, even Hinduism, which although limited to Bali had a clear territorial identification, Confucianism was considered difficult to be given the status of a public religion equal to Christianity, Islam, or even Hinduism and Buddhism within the colonial power structure.

So it is difficult for the Colonial Government not to apply her dualism policy toward Confucianism under her rule. The government face two alternatives about Confucianism: as a legal institutional religion of Chinese or as a part of Chinese philosophical thought in her living. This dualism marked the colonial political policy towards the life and existence of the Confucian religion in the Dutch East Indies, and inherited it to the religious policy of the subsequent regime.

Nevertheless, legally, the status of Confucianism was recognised with the same rights and obligations as other religions. The absolute property rights applied to its assets mean that the religion had a legally constituted foundation and management, which can legally represent it both outwardly and inwardly. It also had the opportunity to co-operate with other parties under formal contracts in all aspects of economic, social, and cultural life. Within the political sphere, this religion did not show significant activity, and could even be said to be irrelevant. Likewise, its teachings, despite having a concept of state philosophy, were not used by its adherents or other parties to become the basis of political or social movements. Thus Confucianism in the colonial period was not officially recognised as a religion by the colonial government, but as a form of cultural civilisation that was identical to the Chinese culture and community.

REFERENCES

- [1] “35 Jarig Bestaan der Tionghoa Hwee Koan” in *De Locomotief*, February 7th, 1940.
- [2] Anonymous, 1863, *Hoofdbeginzelen van bestuur voor Nederlandsch Indie op stelsel tegenover stelsel*, ‘s Gravenhage, H.C. Susan.
- [3] Ay, Sim Ki, 1918, *De Chineesche Nederzetting in Nederlandsch Indie*, Batavia, Chung Hwa Hui Vereeniging.
- [4] “Bali” dalam *De Locomotief*, September 22nd, 1925.
- [5] “Bedehuis-terrein als plaats voor Dobbelspel” in *Het Nieuws van den Dag voor Nederlandsch Indie*, January 2nd, 1932.
- [6] “Bondowoso”, in *De Locomotief*, October 13th, 1904.
- [7] “De Boose Geester Verjaagd” in *De Locomotief*, March 10th, 1909.
- [8] “De Chinesche Klenteng” in *Soerabajasch Handelsblad*, November 5th, 1930.
- [9] “De Klenteng op Kampong Mlajoe” in *De Locomotief*, February 24th, 1900.
- [10] “Djokja” in *De Locomotief*, September 18th, 1909.
- [11] “Dobbelen”, in *Het Algemeen Handelsblad*, July 10th, 1931.
- [12] Haar, B. Ter, 1939, *Beginselen en Stelsel van het Adatrecht*, Batavia, J.B. Wolters.
- [13] Harto Juwono, “Lex Specialis Derogat Legi Generali: Status Tanah Partikelir Depok” in *Diakronik*, 2013.

- [14] Harto Juwono, "The Smoke of the Incense and the Roar of the Lion: Confucianism under the Colonial Political System in Indonesia" in *Sinolingua*, vol. 2, number 1, 2024.
- [15] "Henri Borel over de Chineesche republiek" in *Algemeen Handelsblad*, April 6th, 1913.
- [16] "Ingewijd" in *De Locomotief*, September 7th, 1900.
- [17] Kinderen, T.H. der, 1885, *Wetboek van Strafrecht voor Inlanders in Nederlandsch Indie*, Batavia, Ogilvie.
- [18] Legge, James, 1867, *The Life and Teachings of Confucius*, London, M. Trubner en Co.
- [19] *Meetbrief no., 26 van perceel gelegen in kadastrale afdeeling Moentilan*, yang menggantikan *meetbrief 26 Augustus 1872 no. 66*.
- [20] *Politiek Verslag der Residentie van Soerakarta over het jaar 1870, 1871, 1872 en 1873*
- [21] *Regeerings Almanak van Nederlandsch Indie, eerste deel*, 1901.
- [22] Resink, G.J., "Conflictenrecht van de Nederlands-Indische staat in internationaalrechterlijke setting", in *Bijdrage tot de Koloniaal Instituut (BKI)*, 1959, volume 115.
- [23] "Revolutionnaire Chinezen" in *De Preanger Bode*, June 30th, 1911.
- [24] Schmeltz, J.D.E., 1891, *De Saamlungen aur Korea*, Leiden, Verlag von P.W.M. Trap
- [25] Sreedharan, E., 2007, *A Manual of Historical research Methodology*, Trivandrum, Centre for Sout Indian Studies.
- [26] *Staatsblad van Nederlandsch Indie* of 1855.
- [27] *Staatsblad van Nederlandsch Indie* of 1927.
- [28] Stibbe, D.G., 1917, ,en H.J. de Graaff, *Encyclopaedie van Nederlandsch Indie, eerte deel*, 's Gravenhage, Martinus Nijhoff.
- [29] "Tegal" in *De Locomotief*, September 8th, 1909.
- [30] Twang Peck Yang, 2005, *Elite Bisnis Cina di Indonesia dan Masa Transisi Kemerdekaan 1940-1950*, Yogyakarta, Niagara
- [31] Vollenhoven, C. van, 1931, *Het Adatrechtbundel van Nederlandsch Indie, tweede deel*, Leiden, E.J. Brill
- [32] Yong Chen, 2013, *Confucianism as Religion: Controversies and Consequences*, Leiden, Brill
- [33] Zwaal, J. van der, 1936, *Inlandsch Gemeentewezen in Zuid Sumatra en Javanentransmigratie*, Wageningen, H. Veenman eb Zonnen