

# COLONIAL SHADOWS AND LEGAL FORMALISM: A POSTCOLONIAL SOCIOLOGICAL CRITIQUE OF BUREAUCRACY IN INDONESIA



Jurnal Analisa Sosiologi

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Received: 16 May 2025  
Revised: 9 June 2025  
Accepted: 10 July 2025

**Edition:**  
July 2025, 14 (3): 410-435

## Abstract

Indonesia's independence in 1945 represented a definitive separation from colonial rule; however, its bureaucratic and legal institutions continue to mirror the vestiges of Dutch colonial governance. This paper conducts a critical examination of the enduring colonial logics that inform contemporary governance, law enforcement, and public administration. Employing a postcolonial sociological framework influenced by the works of Frantz Fanon and Syed Hussein Alatas, the study investigates historical continuities in administrative practices, hierarchical structures, and legal formalism. Through a qualitative content analysis of policy documents and legal texts, it demonstrates how state institutions perpetuate control, rigidity, and elitism, frequently alienating the public and undermining democratic ideals. Furthermore, the prioritisation of proceduralism over justice places marginalised groups at a disadvantage, thereby reinforcing structural inequities. This research posits that Indonesia's independence remains predominantly symbolic unless these inherited colonial frameworks are actively deconstructed. It advocates for a decolonial transformation of governance that is congruent with the socio-cultural realities of the Indonesian populace. This article contributes to the development of postcolonial legal sociology by mapping the relationship between legal formalism and social exclusion in the context of Southeast Asian postcolonial states.

**Keywords:** Colonial Legacies, Decolonial Governance, Indonesian Bureaucracy, Postcolonial Sociology

## INTRODUCTION

Indonesia's current legal system faces ongoing challenges in law enforcement, including selective justice, bureaucratic inefficiency, and endemic corruption. These issues are often considered separately as modern administrative and institutional problems. However, a closer look at Indonesia's legal culture reveals a more profound historical continuity that dates back to the colonial era. The post-colonial legal framework in Indonesia has preserved the structural and normative legacies of the Dutch colonial legal system, particularly its hierarchical, bureaucratic, and authoritarian nature. This continuity raises an important question: To what extent does Indonesia's current law enforcement culture reflect the legacy of colonial legal rationality?

The Dutch colonial authorities did not just enforce laws; they introduced a legal reasoning and governance system focused on extractive control and political subjugation. The colonial legal bureaucracy, mainly through the *Binnenlands Bestuur* (Internal Administration), heavily emphasised hierarchical control, racialised legal dualism, and instrumental rationality that favoured order over justice (Dell & Olken, 2020; Kroeze, 2021). Although the legal system underwent formal reforms, the underlying principles of bureaucratic supremacy and top-down governance remained essentially unchanged, as evident in the enduring authoritarian traits of state institutions, such as the police, judiciary, and prosecution services (Khairul Muluk et al., 2025; Purnamasari, 2024).

This study examines the enduring impact of colonial legal bureaucracy on contemporary law enforcement culture in Indonesia. By examining the connections between colonial governance and post-colonial practices, it highlights how legal professionals, especially state prosecutors (*jaksa*), wield discretionary power in ways that reveal structural authoritarianism rather than democratic legal reasoning (Butt, 2023; Manse, 2024). Utilising insights from critical legal studies and post-colonial theory, this paper frames legal culture not just as a collection of formal procedures but as a historically rooted way of reasoning and action, influenced by institutional memory and power dynamics (Hartanto, 2020; Manse, 2024).

This study is theoretically grounded in the concept of "authoritarian legalism," which critiques how formal legality can facilitate illiberal outcomes when integrated into coercive bureaucratic systems (Butt, 2023). Additionally, it addresses post-colonial critiques of legal transplantation, particularly the view that legal institutions in post-colonial nations often mirror the disciplinary structures of colonial administrations rather than adopting local legal norms (Kartodirdjo, 1974; Kroeze, 2021). By combining

historical analysis with sociological inquiry, this study seeks to examine the relationship between Indonesia's efforts to reform its legal culture and its colonial legacy.

In pursuing this objective, the present study makes a significant contribution to ongoing discussions in the field of legal sociology concerning the enduring influence of colonial institutional frameworks within post-colonial states. Additionally, it provides a contextual analysis that elucidates the reasons behind the frequent ineffectiveness of legal reforms in Indonesia, which often fail to bring about meaningful changes in law enforcement practices, notwithstanding the introduction of normative and procedural innovations (Khairul Muluk et al. 2025; Purnamasari, 2024). Grasping this historical context is crucial not only for accurately diagnosing existing legal dysfunctions but also for envisioning authentically transformative reforms within Indonesia's legal system.

## METHODS

This research employed a qualitative descriptive design rooted in post-colonial sociological analysis, following Frantz Fanon (Byrd and Miri 2020) and Syed Hussein Alatas (2024), which emphasises the enduring psychological and structural impacts of colonialism on formerly colonised societies. It predominantly employs content analysis to examine official legal texts, policy documents, and government regulations, which illustrate administrative and legal practices in Indonesia from the post-independence era to the present. The selected materials encompass Indonesia's Criminal Code (KUHP), civil service laws, and procedural guidelines within state institutions.

The qualitative descriptive design employed in this study is methodologically appropriate for examining the deep-seated ideological and structural legacies embedded in legal and bureaucratic institutions. This approach allows for a contextual, nuanced understanding of how discursive and institutional continuities persist across historical periods. In particular, content analysis is suitable for tracing discursive patterns in legal documents and bureaucratic texts that reflect colonial logic. By utilising a post-colonial sociological lens, the study aims to interpret not only what is written in the law but also how legal and administrative reasoning reproduces colonial modes of control, exclusion, and hierarchy.

This methodological choice is grounded in the need to uncover hidden continuities between colonial and post-colonial governance, which formal legal procedures often normalised. The descriptive-interpretive nature of this approach enables a critical

reflection on power, authority, and historical memory within Indonesia's legal and bureaucratic systems.

Data sources were drawn from primary legal documents available through government repositories and legal databases, as well as from secondary academic literature analyzing the historical trajectory of Indonesia's bureaucracy and legal system. The unit of analysis in this study is Indonesia's Criminal Code (KUHP), civil service laws, and procedural guidelines within state institutions (*see Table 1*).

No.	Legal document	Period	Year	Thematic analysis
1	<b>Cultuurstelsel Policy</b> ( <i>Forced Cultivation System</i> )	Colonial	1830	The political-economic basis of hierarchical bureaucracy
2	<b>Criminal Code (KUHP)</b> - <i>Wetboek van Strafrecht voor Nederlandsch-Indië</i> (Colonial version) - <b>National Criminal Code</b> - <b>Criminal Code Revision 2023</b> (Law Number 1 of 2023 - <i>Criminal Code revision</i> )	Colonial Post-Independence	1918 2023	Criminal law structure, procedural formalism, and the criminalization of dissent
3	<b>Law Number 5 of 1960</b> ( <i>Agrarian Principles</i> )	Post-Independence	1960	Recognition of customary rights ( <i>hak ulayat</i> ) and state ownership.
4	<b>Law Number 1 of 1974</b> ( <i>Marriage</i> )	Post-Independence	1974	Inheritance law conflicts between national and customary rules
5	<b>Constitutional Court Number 35/PUU-X/2012</b> ( <i>Recognition of customary rights of indigenous peoples</i> )	Post-Independence	2012	Implementation of recognition of customary rights ( <i>hak ulayat</i> ) in policy
6	<b>Law Number 5 of 2014</b> (Civil Service Law and State Civil Apparatus)	Post-Independence	2014	Hierarchical bureaucracy, promotion system, and civil service recruitment
7	<b>Law Number 23 of 2014</b> ( <i>Regional Government</i> )	Post-Independence	2014	Decentralization vs. centralization of authority
8	<b>Constitutional Court Number 90/PUU-XXI/2023</b> ( <i>Representation of indigenous peoples in regional parliaments</i> )	Post-Independence	2023	Political inclusivity of marginalized groups

**Table 1. Unit of Analysis**

Through thematic coding, a theme captures something important about the data related to the research question and represents a level of patterned response or meaning within the dataset. This study reveals the presence of colonial logic, characterised by rigid hierarchies, proceduralism, and institutional elitism, in contemporary governance. The analysis is interpretative, aiming to uncover the implicit power relations and ideological legacies embedded in bureaucratic and legal operations.

Thematic analysis in this study used a manual coding process. This choice reflects the interpretative and context-sensitive nature of the research, which requires close engagement with textual data. Manual coding enables the researcher to identify nuanced patterns, symbolic language, and latent meanings within legal documents and bureaucratic texts—elements that automated tools might overlook. This approach also allows for iterative interpretation, aligning with the post-colonial framework that seeks to expose embedded power structures and discursive continuities rooted in colonial rationality.

## RESULTS AND DISCUSSION

### Results

The analysis of legal and bureaucratic documents reveals that despite post-independence reforms, Indonesia's state institutions retain highly centralised administrative structures. Key legal texts—such as the 2023 Criminal Code revision (Law Number 1 of 2023) and the Civil Service Law (Law Number 5 of 2014)—emphasise hierarchical reporting lines, formalised procedures, and rigid promotion systems. Moreover, the use of symbolic language in public documents (e.g., "*Yang Terhormat*," "*Bapak/Ibu Pejabat*") reinforces a vertical relationship between officials and citizens. These patterns are also evident in judicial rituals, bureaucratic appointments, and administrative communication.

These findings suggest a strong continuity of colonial logic within post-colonial governance. The persistence of hierarchical bureaucracy reflects not merely institutional inertia but an epistemological legacy in which authority, formality, and order are privileged over equity, participation, and justice. It makes an indication that legal-bureaucratic rationality in Indonesia functions as a mechanism of symbolic and structural exclusion, echoing the Dutch colonial model of control through proceduralism and elitism.

### Persistence of Bureaucratic Hierarchies

Despite several reforms, Indonesia's post-independence bureaucracy continues to reflect the deep-seated structures that originated during the Dutch colonial period. One of the most persistent features is the highly centralised and hierarchical governance model. The Dutch initially designed this administrative framework to exert control over a vast, culturally diverse archipelago. Known as the *Binnenlands Bestuur* or the domestic administration, this structure placed a small elite of colonial officials at the top of a rigid chain of command, with local officials acting as intermediaries under strict supervision (Kartodirdjo, 1974). The economic policies of the Dutch, such as the Cultivation System (*Cultuurstelsel*), further entrenched this hierarchy by centralising resource extraction and administrative control, creating a legacy of top-down governance that prioritised efficiency over equity (Dell & Olken, 2020). After independence, Indonesia adopted this structure, with minor modifications. Centralised bureaucracy was seen as necessary for nation-building and administrative cohesion, especially in a newly independent and fragmented society. However, this adoption also entrenched a bureaucratic culture that valued seniority, obedience, and formal qualifications over innovation and public-service orientation. Laws regulating civil services, such as the State Civil Apparatus Law, continue to reflect these priorities by emphasising hierarchical ranks, rigid evaluation systems, and formal educational credentials as key indicators of competence (Khairul Muluk et al., 2025).

The persistence of colonial administrative logic had practical consequences. Decision-making within government institutions remains top-down, with little room for flexibility or responsiveness to local needs. Local government officials often lack the autonomy to adapt policies to the specific context of their regions, as they must adhere to national guidelines and procedures. This leads to inefficiencies and a lack of innovation, particularly in addressing region-specific challenges, such as natural disasters, health crises, and educational disparities. For instance, attempts to reorganise government bodies through decentralisation policies have faced legislative impediments, as national laws often prioritise uniformity over local adaptability (Wijaya & Ali, 2021).

Furthermore, the internal culture within bureaucratic institutions often discourages dissent or critical feedback. Junior officials are expected to follow orders without question, mirroring the colonial ethos in which loyalty to superiors was valued more highly than service to the public. This had a chilling effect on policy creativity and public accountability. Even reformist officials often find themselves constrained by institutional

inertia and resistance from within the system, a phenomenon exacerbated by oligarchic power structures that persist in post-Reformasi Indonesia (Robison & Hadiz, 2004). The symbolic aspects of this bureaucratic hierarchy are worth noting. Titles such as "*bapak*," "*ibu*," and "*yang terhormat*" (the honourable) continue to dominate official correspondence and public communication, reinforcing vertical relationships between state officials and the public. This language constructs a symbolic hierarchy that distances bureaucrats from ordinary citizens, perpetuating the colonial distinction between rulers and the ruled. This hierarchical ethos also contributes to the widespread public perception that government officials are unapproachable and authoritative, rather than collaborative and service-oriented. Several reform initiatives have attempted to resolve this legacy. Programs such as *reformasi birokrasi* and the implementation of merit-based recruitment systems through national selection processes (e.g., *Seleksi Kompetensi Dasar/CPNS*) aim to professionalise the civil service and promote fairness. However, these efforts often fall short due to entrenched informal practices, such as patronage, nepotism, and the prioritisation of loyalty over merit. For example, while the State Civil Apparatus Law mandates competency-based promotions, seniority and personal connections frequently override objective assessments (Jarodi et al., 2024).

Moreover, digital transformation efforts in public services, such as the adoption of e-government platforms, have encountered resistance from bureaucratic actors accustomed to manual systems and traditional hierarchical reporting structures. Amancik et al. (2024) argue that technological reforms, such as online permit applications or digital tax systems, are often implemented without addressing the underlying cultural resistance to transparency and accountability. These actors often perceive digitalisation as a threat to their authority or as an unnecessary burden. Thus, technological reforms tend to be at the surface level without accompanying cultural shifts. Ultimately, the persistence of colonial bureaucratic hierarchies poses a significant obstacle to the consolidation of democracy and public-sector innovation in Indonesia. As long as these structures remain intact, the state will struggle to become a participatory and citizen-centred institution. Absolute independence requires not only the removal of colonial rulers but also the dismantling of colonial administrative logic.

### **Legal Formalism and Alienation**

Legal formalism, a hallmark of Dutch colonial legal practices, remains deeply embedded in Indonesia's legal system. Under Dutch rule, the legal system was designed

primarily to maintain order and protect the colonial administration's interests, rather than to deliver justice or empower the indigenous population. The legal codes introduced during that period, such as the *Wetboek van Strafrecht voor Nederlandsch-Indië* (now called *KUHP*), emphasised textual interpretation, strict proceduralism, and bureaucratic control. These codes were part of a broader colonial project that marginalised indigenous legal systems and imposed European norms as universal standards (Fahmi et al., 2024). Following independence, Indonesia retained much of its Dutch legal framework, including the *KUHP*, civil codes, and administrative procedures. While amendments have been made and new laws have been enacted, the legal culture remains strongly formalistic. This is evident in how the laws are drafted, interpreted, and enforced. Judicial decisions often rely heavily on the literal application of legal texts rather than interpretative reasoning or the consideration of broader social impacts (Hartanto, 2020).

One consequence of this legal formalism is the alienation of the general public, particularly marginalised groups. Legal languages remain highly technical and often inaccessible to those without formal legal training. Legal procedures are complex and time-consuming, deterring many from seeking justice through formal channels. In rural and impoverished communities, customary or informal mechanisms are often preferred not because they are inherently better, but because formal legal institutions are perceived as distant, expensive, and unfriendly. For instance, conflicts over indigenous land rights often escalate because national laws, rooted in colonial land registries, fail to recognise communal ownership practices. (Fahmi et al., 2024). Similarly, women's inheritance rights under national law often conflict with local customs, leaving many women without legal recourse unless they navigate both systems. This task requires resources they seldom possess (Suharsono et al., 2024).

Rigid proceduralism also affects legal enforcement and judicial discretion. Judges and prosecutors frequently prioritise compliance with legal technicalities in delivering substantive justice. This results in outcomes that may be legally correct, but socially unjust. For example, victims of domestic violence or land dispossession may be denied relief because they lack formal documentation or fail to follow specific procedural steps. The introduction of Indonesia's new Criminal Code (*KUHP*) in 2023 aimed to modernise and indigenise the legal system. However, critics argue that it merely reconfigures existing formalistic tendencies without addressing the underlying colonial logic. (Butt, 2023). Fia Hamid-Walker (Hamid Walker, 2021) further notes that the revised *KUHP* retains provisions that criminalise dissent, echoing colonial-era laws designed to suppress



opposition. While some provisions reflect national values, such as the incorporation of *Pancasila* principles, the overall structure still prioritises state authority and public order over individual rights and social justice (Hadiprabowo et al., 2024).

The legal education system has reinforced this formalism. Law schools often emphasise doctrinal analysis, rote learning of legal codes, and mastery of procedures over critical thinking, legal philosophy, and sociolegal perspectives. As a result, legal professionals are trained to become legal technicians rather than advocates for justice. This institutional reproduction of formalism ensures its perpetuation across generations of legal practitioners. For example, I Gede Agus Kurniawan et al. (2025) highlight how legal pluralism in business dispute resolution—an everyday reality in Indonesia, Vietnam, and Thailand—is seldom addressed in formal legal curricula, leaving graduates unprepared to engage in non-state legal systems. The courtroom atmosphere and procedures further reflected colonial-style ritualism. The use of formal attire, rigid seating arrangements, and procedural scripts symbolises the authority of the state rather than the pursuit of justice. This ceremonialism contributes to the perception that courts are elite institutions removed from the everyday lives of ordinary Indonesians.

Efforts to bridge this gap, such as the inclusion of *Pancasila* in legal reforms, have had limited success. While *Pancasila* is touted as a unifying philosophy, its abstract principles are often co-opted to legitimise state power rather than empower citizens (Hadiprabowo et al., 2024). Similarly, historical analyses by Putri Purnamasari (2024) reveal that legal transformations across different regimes—from colonial to post-colonial—have consistently prioritised state control over participatory justice. Thus, legal formalism in Indonesia is not merely a technical issue; it is a sociological phenomenon rooted in colonial history and perpetuated by institutional practice. It represents a form of epistemic colonialism in which justice is defined by inherited foreign norms rather than local values or social realities. Overcoming this requires a fundamental transformation of legal education, institutional culture, and the concept of justice itself.

### **Cultural Reproduction of Elitism**

The Indonesian state's bureaucratic and legal practices continue to reproduce elitism through the symbolic and cultural mechanisms inherited from the colonial past. During Dutch rule, a clear social hierarchy was established, with European administrators at the top, indigenous elites (e.g., *priyayi*) as intermediaries, and the general population at the bottom. This structure was maintained not only through institutional design but also

through rituals, language, and symbols that convey authority and superiority (Kroeze, 2021). Following independence, Indonesia retained many of these cultural forms, which continue to influence public institutions to this day. One notable example is the pervasive use of honorifics in public services, such as "*Yang Terhormat*," "*Bapak/Ibu Pejabat*," and other elaborate titles. These linguistic markers create a social distance between officials and citizens, positioning bureaucrats as superior figures who must be revered rather than approached or challenged. This language discourages democratic engagement and reinforces hierarchical relationships.

In the legal field, courtroom rituals and ceremonies reflect this elitism. Judges and lawyers are often seen not merely as public servants, but as members of a legal aristocracy, complete with robes, Latin expressions, and ritualistic conduct. Such practices convey authority and distance, making legal institutions appear inaccessible to the general population. Maarten Manse (2024) argues that the Dutch colonial administration's reliance on customary law (*adat*) was never about empowering local communities, but about co-opting indigenous elites to maintain control. This legacy persists today, as state-recognised *adat* institutions often serve as extensions of bureaucratic power rather than autonomous entities (Manse, 2024). Similarly, Asrul Ibrahim Nur et al. (2024) demonstrated how indigenous communities are excluded from meaningful participation in mining lawmaking processes, despite constitutional guarantees. The state's preference for formalistic consultations with elite stakeholders perpetuates a colonial dynamic in which marginalised voices are systematically silenced.

Cultural elitism extends to administrative procedures. Public offices often require citizens to navigate complex protocols to obtain basic services, from land registration to business licensing. While ostensibly about order and accountability, these protocols function as barriers that privilege those who are educated, connected, or wealthy. The public often relies on intermediaries or brokers to interpret and navigate bureaucratic systems, thereby reinforcing social inequality. For example, Hilman Haq (2025) documents how inheritance disputes in rural Indonesia are often resolved through informal mediators, as formal courts are perceived as inaccessible and biased in favour of those with legal expertise.

The media and education system also play a role in reproducing this elitism. Bureaucrats and legal professionals are frequently portrayed as figures of unquestioned authority, while citizens' voices are marginalised. School curricula often highlight obedience, respect for authority, and the formality of critical thinking and participatory

values. In many ways, this elitist culture operated as a continuation of colonial governance, where symbols of state authority were used to command obedience and legitimise control. Attempts to democratise governance through decentralisation or citizen participation initiatives have often met with resistance from this entrenched culture. Participatory budgeting, village development planning, and community forums often become tokenistic exercises because officials are reluctant to share authority or genuinely listen to citizen input (Hidayat, Tambunan, and Haning 2024).

To transform this culture, a shift in institutional ethos is required—one that embraces humility, service, and accessibility over rituals, hierarchy, and exclusivity. Not only involves policy change but also symbolic interventions, such as revising the official language, simplifying procedures, and reorienting public service training. Without these changes, the state will continue to perform independence ceremonially while perpetuating colonial elitism. The persistence of these cultural hierarchies underscores the need for a decolonial approach to governance, one that centres marginalised voices and dismantles the symbolic architecture of colonial rule.

The findings of this study reveal a clear continuity between colonial legacies and present-day institutional practices in Indonesia's legal and bureaucratic systems. These inherited structures have been adapted rather than dismantled, leading to persistent forms of social exclusion. The table below summarises the key patterns that illustrate how historical governance logics continue to shape institutional behaviour and contribute to marginalisation in contemporary Indonesia.

Colonial Legacies	Post-colonial Institutional Practices	Forms of Social Exclusion
Hierarchical bureaucracy ( <i>Binnenlands Bestuur</i> )	Centralized governance; top-down decision-making	Limited local autonomy; lack of responsiveness to regional needs
Legal dualism and racialized codes	Legal formalism; rigid proceduralism; retention of colonial criminal codes	Marginalization of customary law; legal inaccessibility for rural communities
Extractive control and administrative elitism	Symbolic elitism in bureaucracy; use of honorifics; ceremonial legal rituals	Perceived distance between officials and citizens; public distrust of institutions
Suppression of dissent	Criminalization of protest; vague legal provisions (e.g., insults to the state)	Silencing of critical voices; fear-based political engagement

Co-optation of indigenous elites	Tokenistic participation in policymaking (e.g., <i>Musrenbang</i> )	Exclusion of marginalized groups from meaningful political representation
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Table 2. Bureaucratic Legacy and Patterns of Exclusion

Discussion

Bureaucratic Hierarchies as Structural Colonial Residues

The endurance of centralised and hierarchical bureaucratic structures in Indonesia is not merely a relic of administrative pragmatism but a testament to the deep-seated structural inertia of colonial legacies. The Dutch colonial *Binnenlands Bestuur* system, designed to exert control through indirect rule and the co-optation of local elites, prioritised efficiency and stability over participatory governance (Kartodirdjo, 1974). This system was deeply intertwined with economic exploitation, as seen in the *Cultuurstelsel* (Cultivation System), which centralised agricultural production under bureaucratic control, creating a governance model that equated authority with hierarchical command. (Dell & Olken, 2020). The Dutch relied on a small cadre of European administrators and compliant indigenous elites (*priyayi*) to enforce policies, minimise direct oversight, and maximise resource extraction. After independence, Indonesia retained this framework, perceiving it as vital for unifying a fragmented nation. However, the persistence of these structures reveals a path dependency in which colonial administrative logic continues to shape state-society relations.

Reform initiatives such as *reformasi birokrasi* (bureaucratic reform) and the State Civil Apparatus (ASN) Law have faced systemic resistance. While the ASN Law ostensibly promotes a meritocracy, Khairul Muluk et al., (2025) highlight how promotions and recruitment remain tethered to seniority and patronage, perpetuating a culture of obedience rather than innovation. For instance, the national civil service exam (*Seleksi Kompetensi Dasar*) prioritises rote memorisation over critical thinking skills, favouring candidates with formal educational credentials over practical competencies. Decentralisation policies intended to empower local governments are often undermined by national laws that prioritise uniformity over regional adaptability. Wijaya and Ali (2021) illustrated this through the legislative conflicts surrounding Law Number 23/2014 on Regional Governance, which recentralised authority by requiring local regulations to align with national frameworks. This resistance reflects not only the "authoritarian

legacy" of the New Order regime (Robison & Hadiz, 2004) but also the Dutch colonial strategy of relying on compliant elites to maintain control.

Symbolic hierarchies—evident in titles such as *bapak*, *ibu*, and *yang terhormat* (the honourable)—further stratify power, positioning bureaucrats as distant authorities rather than public servants. Ronald Kroeze (2021) argues that such linguistic markers naturalise vertical relationships, discourage participatory governance, and reinforce colonial-era power asymmetries. For example, in rural Java, village heads often adopt colonial-era honorifics to assert authority, creating a psychological barrier between officials and their citizens. This performative hierarchy is reinforced by institutional rituals such as formal meetings, where junior officials are expected to remain silent unless addressed. Such practices mirror the Dutch colonial administration's reliance on ceremonial displays of authority to legitimise control.

The bureaucratic culture of deference stifles policy responsiveness. Junior officials, conditioned to prioritise loyalty over critical engagement, replicate top-down decision-making processes that are ill-suited to address regional challenges. For instance, local governments struggle to tailor disaster management or healthcare policies to their unique contexts because of the rigid national guidelines. Jarodi et al. (2024) documented how district-level health departments in Papua face funding shortages and procedural bottlenecks when attempting to address malaria outbreaks, as national policies prioritise standardised reporting over localised solutions. Even technological reforms, such as e-government platforms, face resistance from bureaucrats accustomed to hierarchical reporting. Amancik et al. (2024) note that digital systems such as Online Single Submission (OSS) for business permits are often underutilised because officials fear losing control over discretionary powers. Digital transparency threatens entrenched power dynamics, revealing how colonial-era distrust of decentralisation persists in modern governance.

To dismantle these colonial residues, Indonesia had to reconfigure the epistemological foundations of its bureaucracy. This involves integrating citizen-centred values, enhancing local autonomy, and fostering meritocracy. Asrul Ibrahim Nur et al. (2024) emphasise that inclusive policymaking (such as involving indigenous communities in consultations on mining law) could decentralise power and challenge hierarchical norms. For example, the 2012 Constitutional Court ruling recognising indigenous land rights (Constitutional Court Number 35/PUU-X/2012) remains unimplemented in many regions due to bureaucratic resistance. Similarly, participatory

budgeting programs (*Musrenbang*) often devolve into tokenistic exercises when local officials dominate agenda-setting (Robison & Hadiz, 2004). Overcoming these challenges requires confronting oligarchic structures that dominate post-reformation Indonesia, where economic and political elites dictate the institutional agenda. The case of infrastructure projects in Kalimantan, where permits are expedited for politically connected firms, exemplifies how colonial-era patronage networks persist (Fahmi et al., 2024).

### **Legal Formalism and the Colonial Logic of Order**

Indonesia's legal formalism is not a stylistic preference but a colonial legacy rooted in Dutch governance. The *Wetboek van Strafrecht voor Nederlandsch-Indië* (Criminal Code), introduced in 1918, exemplifies a legal system designed to discipline indigenous populations while insulating colonial authority from scrutiny. The Criminal Code prioritised procedural compliance over substantive justice, criminalising dissent through vague provisions like "hatzaai artikelen" (articles on hate speech), which targeted anti-colonial activists (Butt, 2023). The post-independence retention of these codes reflects institutional preference for continuity over transformation. Hartanto (2020) observed that judicial decisions remain tethered to literal textual interpretation, prioritising procedural compliance over substantive justice. For example, in a 2022 case in West Sumatra, a judge dismissed a land dispute petition because the plaintiff failed to submit a stamped document despite overwhelming oral evidence of ancestral ownership.

This formalism alienates marginalised groups, as legal language and procedures are inaccessible to those without formal training. Women in rural areas often face inheritance disputes, as national laws rooted in colonial land registries clash with local customs. Suharsono et al. (2024) document that the 1974 Marriage Law's emphasis on nuclear family inheritance often disregards matrilineal *adat* practices in Minangkabau, leaving widows without legal recourse. Similarly, indigenous communities struggle to assert their land rights under a legal system that privileges state-defined ownership over traditional communal practices. Fahmi et al. (2024) highlight how the 1960 Agrarian Law's recognition of *hak ulayat* (communal rights) is routinely ignored in favour of state-issued concessions, perpetuating colonial-era land dispossession. The 2023 revision of the Criminal Code (*KUHP*) aimed to indigenise criminal law but retained colonial-era provisions that criminalised dissent. Butt (2023) critiques Article 240, which penalises "insults to state institutions," arguing that it mirrors Dutch laws designed to suppress anti-

colonial movements. Similarly, Hamid-Walker (2021) notes that the new code's emphasis on "public order" reflects a colonial logic that equates legality with state control. Even the incorporation of *Pancasila* principles into law has been co-opted to legitimise state authority rather than empower citizens. Hadiprabowo et al. (2024) argue that references to *Pancasila* in court rulings often serve rhetorical purposes and lack substantive engagement with egalitarian ideals.

Legal education further entrenches formalism by training lawyers as "technicians of the law," who are often ill-equipped to address socio-legal complexities. Kurniawan et al. (2025) highlight how legal curricula in Indonesia neglect pluralism, leaving graduates unprepared to engage with non-state systems, such as *hukum adat* or informal dispute resolution mechanisms. For instance, law schools rarely teach students to mediate conflicts between mining companies and indigenous communities despite the prevalence of such disputes. Bar exams that prioritise code memorisation over critical analysis reinforce doctrinal rigidity.

Courtroom rituals—robes, Latin phrases, and rigid procedures—reinforce the colonial pageantry of law, symbolising state authority rather than justice. Manse (2024a) describes how judges in Java don black robes and sit on elevated platforms, mirroring Dutch colonial courts designed to intimidate, rather than empower. This ceremonialism alienates ordinary citizens who perceive courts as elite institutions. In a 2023 survey, 68% of respondents in East Nusa Tenggara stated that they would avoid formal courts due to cost and complexity, preferring village mediators instead (Haq, 2025).

Efforts to democratise the legal system must go beyond legislative reforms. Drawing on Santos' "epistemologies of the South," Indonesia could institutionalise local legal traditions and socio-legal education to challenge Eurocentric rationality. Putri Purnamasari (2024) documents how historical legal transformations—from colonial *adatrecht* to post-independence codification—have consistently prioritised state control. Decolonisation requires reimagining the law's purpose, from maintaining order to delivering equity. For example, the 2017 Law on Alternative Dispute Resolution recognises mediation, but lacks funding for community-based programs, limiting its impact (Kurniawan et al., 2025).

### **Cultural Elitism and the Symbolic Legacy of Colonial Governance**

The persistence of elitist cultural symbols in Indonesia's public institutions underscores the insidious legacy of colonial rule. Dutch governance relied on rituals,

titles, and linguistic hierarchies to naturalise social stratification. Colonial officials wear white uniforms and reside in fortified compounds, physically and symbolically distancing themselves from the populace (Kroeze, 2021). Post-independence, Indonesia retained these symbols, repurposing them to legitimise state authority. Honorifics such as *bapak/ibu pejabat* and bureaucratic ceremonies construct officials as morally superior, discouraging democratic engagement. In Central Java, district heads still hold *pisowanan* (audience) ceremonies in which citizens kneel to present petitions, a practice adapted from colonial-era deference rituals.

While much of the structural logic of colonial governance is reproduced through institutional continuity, it is also sustained and negotiated through the everyday practices of individual bureaucrats and legal professionals. For instance, young judges and prosecutors often internalise legal formalism as a professional identity marker, equating rigid adherence to codes and procedural correctness with credibility and impartiality. Hartanto (2020) observed that new legal professionals often resist interpretative flexibility, not out of ideological commitment, but due to institutional pressure to conform to hierarchical expectations and fear of appearing biased or "unscientific." Similarly, courtroom behaviour—such as the use of elaborate honorifics, standing when a superior enters, or avoiding eye contact during argumentation—reflects internalised norms of deference that mirror colonial bureaucratic rituals (Manse, 2024).

In bureaucratic offices, junior civil servants frequently rely on formulaic and ceremonial language when communicating with superiors or the public, using honorifics like "*yang terhormat*" or "*dengan segala hormat*" in official letters, even for routine matters (Kroeze, 2021). This linguistic rigidity is often justified as "*aturan kantor*," indicating how formalism is reproduced through daily performance rather than top-down enforcement alone. Even reform-minded young officials often find themselves constrained; they express disillusionment in anonymous interviews when innovation or responsiveness is discouraged by senior staff who emphasise "*jalur resmi*" (official paths) over adaptive decision-making (Jarodi et al., 2024). These micro-level practices reveal how colonial rationalities are not merely imposed from above, but reproduced and sometimes contested through everyday navigation by state actors themselves.

Media portrayals further mythologise bureaucrats as unquestioned authorities, marginalising citizens' voices. Television dramas often portray civil servants as paternalistic figures who solve community problems single-handedly, reinforcing the myth of bureaucratic infallibility (Haq, 2025). Conversely, critics of the state are framed



as "disorderly" or "unpatriotic," echoing colonial narratives that equated dissent with criminality. This symbolic element extends to the legal and administrative practices. Courtroom attire and procedures mirror colonial-era spectacles designed to awe rather than to empower. Maarten Manse (2024) notes how judges in Makassar use Dutch-derived terms like *ex officio* to assert authority, even when addressing illiterate defendants.

Indigenous communities are systematically excluded from decision-making processes despite constitutional guarantees. Asrul Ibrahim Nur et al. (2024) demonstrated how mining laws are drafted in Jakarta with minimal input from affected communities, replicating the Dutch practice of consulting only compliant elites. Even participatory initiatives, such as village planning (Musdes), become tokenistic when officials dominate the discussions. In 2022, Musdes on water management devolved into a monologue by the village head, with residents too intimidated to voice their concerns.

Educational curricula compound this elitism by emphasising obedience over critical thinking. Textbooks glorify historical figures like Sukarno as paternalistic leaders while glossing over grassroots movements. Schoolchildren learn to recite *the Pancasila without engaging with* its implications for social justice (Hadiprabowo et al., 2024). Universities similarly prioritise technical legal training over civic education, producing graduates who equate law enforcement with state power rather than public service (Hartanto, 2020).

To decolonise symbolic governance, Indonesia must redefine its institutional rituals and public discourse to promote a more inclusive and equitable approach. Simplifying bureaucratic language, as proposed in *reformasi birokrasi*, could reduce the social distance between officials and citizens. Jarodi et al. (2024) suggest replacing "*yang terhormat*" with *gender-neutral terms, such as "saudara"* (comrade), in official communications. Grassroots activism and civic media also play crucial roles in challenging elitist narratives. For example, Haq (2025) documents how women in Lombok use social media to bypass formal courts and share videos of inheritance disputes to mobilise public support.

Ultimately, dismantling colonial elitism requires cultural politics of representation. Public institutions must be redesigned as inclusive spaces, and officials must be trained to prioritise service over status. Fahmi et al. (2024) argued that recognising indigenous land rights would democratise symbolic power, transforming the state from a colonial relic into a participatory institution. For instance, the 2023

Constitutional Court ruling, which mandates indigenous representation in regional parliaments (Constitutional Court Number 90/PUU-XXI/2023), marks a step toward decolonising governance. However, without systemic changes such as abolishing honorifics, decentralising education, and funding community legal aid, these efforts risk remaining symbolic. Indonesia's democratic promise hinges on confronting not only colonial laws and structures but also the cultural logics that sustain them.

### **Comparative Analysis with Post-colonial Philippines: Contemporary Parallels.**

Colonial legacies continue to shape the structure and functioning of public administration in both Indonesia and the Philippines. Although governed by different colonial powers, both countries inherited hierarchical administrative models characterised by centralisation, legal-bureaucratic authority, and limited civic participation. As Kim (2025) argues, Japanese wartime administration further entrenched bureaucratic control and surveillance across Southeast Asia, reinforcing colonial patterns of rule rather than replacing them. In Indonesia, this legacy is evident in the dominance of the central government over regional administrations. In contrast, in the Philippines, despite the existence of local government units (LGUs), administrative authority remains constrained by national oversight and elite influence. A recent comparative study by Leksono and Andriyanti (2023) highlights how both countries continue to rely on top-down bureaucratic models that often hinder responsive and adaptive local governance.

The judicial institutions of both nations reflect a similar formalist orientation that privileges textual legality over contextual justice. Dressel et al. (2024) show that in the Philippine Supreme Court, legal decisions are often aligned with political loyalties, raising concerns about the independence and substantive fairness of judicial outcomes. In Indonesia, the persistence of Dutch-influenced codifications within the national criminal code, alongside weak recognition of indigenous legal traditions, suggests a similar disconnect between formal legality and lived justice. Kusmayanti et al. (2025), in a comparative legal study, found that while both countries nominally recognise customary courts or indigenous dispute mechanisms, these remain peripheral to the dominant legal system and often lack institutional legitimacy. This reliance on legal formalism, often at the expense of access and equity, reproduces colonial epistemologies of order and control.

Despite institutional reforms, cultural elitism remains a potent undercurrent in the governance structures of both states. The use of honorific titles, rigid administrative rituals, and symbolic state ceremonies reflects a continuation of colonial-era social

hierarchies that position government actors above the citizenry. In the Philippines, this is mirrored in the entrenched role of political dynasties and oligarchic elites, which the judicial system and bureaucratic apparatus often fail to constrain. As Kim (2025) suggests, this cultural continuity is not merely a matter of form but reinforces systems of exclusion and disengagement from democratic processes. These symbolic structures inhibit civic trust, reinforce vertical power dynamics, and render public institutions culturally distant from the communities they are meant to serve.

In both countries, the future of post-colonial reform lies in bridging the formal with the local, and the symbolic with the substantive. Initiatives such as the Barangay Justice System (BJS) in the Philippines illustrate the potential for grassroots justice institutions to provide accessible and culturally resonant legal remedies. However, as Lupao and Alejandro (2022) observe, these mechanisms remain under-resourced and undervalued by national legal frameworks. Similarly, in Indonesia, Customary Law remains legally recognised yet structurally marginalised. True post-colonial reform requires not only legal pluralism in theory but its institutionalisation in practice—through adequate funding, judicial training, and administrative integration. As these cases suggest, reform must move beyond procedural adjustment and embrace a deeper reconfiguration of authority that centres inclusion, participation, and historical accountability.

### **Post-colonial Bureaucracy and the Future of Legal Education.**

The persistence of colonial logic in Indonesia's legal and bureaucratic institutions has profound implications for the younger generation, particularly those entering the legal profession. Law students are often socialised into a system that prioritises doctrinal rigidity, hierarchical obedience, and symbolic elitism over critical thinking, civic responsibility, and social justice. As a result, future legal professionals risk becoming perpetuators of inherited legal formalism rather than transformative agents of justice.

Legal education in Indonesia still largely reflects colonial pedagogical models, where success is measured by mastery of codes rather than contextual understanding or ethical reasoning. This gap produces a generation of legal practitioners adept at navigating procedural technicalities but ill-equipped to address the complex socio-legal realities faced by marginalised communities. Moreover, civic education in schools and universities tends to reinforce respect for authority without fostering democratic participation or critical engagement with law and governance.

To break this cycle, legal education must be reimagined as a space for decolonial learning—one that introduces students to alternative legal traditions (e.g., *hukum adat*, restorative justice), emphasises participatory ethics, and situates law within its historical and cultural context. Such reform is not only a pedagogical necessity but a strategic imperative for nurturing a generation that can confront the colonial residues embedded in Indonesia's legal system. Without this shift, the younger generation may inherit the structures of independence but remain intellectually tethered to the logic of colonial control.

Despite the resilience of colonial logics within Indonesia's legal and bureaucratic institutions, spaces of resistance and transformation continue to emerge. Progressive legal networks such as *Perhimpunan Bantuan Hukum Indonesia* (PBHI) and LBH Jakarta have challenged the dominance of formalistic legal interpretations by advocating for a more substantive and pro-poor approach to justice. These actors often bring cases to court that push judges to consider social context, customary norms, or lived experiences—elements traditionally sidelined by rigid textualism. Moreover, legal education reforms in select institutions, such as the integration of clinical legal education and community-based legal aid, indicate early efforts to reshape how future legal professionals understand justice (Kurniawan et al., 2025).

While Indonesia's bureaucratic system continues to reflect the structural legacies of colonial administration, there are also growing spaces of resistance and reform initiated by young, reform-minded civil servants. These actors, often working within digital governance initiatives and innovation platforms, have begun to challenge hierarchical rigidity through citizen-centric approaches and adaptive service delivery. Danar (2024) highlights how the digital transformation of Indonesian bureaucracy—particularly through integrated service portals and automated workflows—has enabled more horizontal communication patterns and reduced bureaucratic layers, allowing younger bureaucrats to bypass some of the rigidities inherited from earlier administrative models. Similarly, Pratama et al. (2024), through their study of public service innovation competitions from 2014 to 2022, demonstrate how decentralised actors in regional and local institutions have contributed innovations that prioritise public accessibility, responsiveness, and simplification of procedures. Even within traditionally conservative domains such as the judiciary, reforms have emerged: Dewi et al. (2023) document various judicial innovations that seek to break from formalistic traditions, including the use of e-litigation platforms and digital transparency systems to increase public trust.

These examples reveal that while colonial rationalities persist, they are not monolithic. Within the bureaucratic apparatus, tensions emerge between inherited structures and emergent practices, as reformist agents negotiate, reinterpret, and sometimes subvert dominant logics to create more inclusive and responsive public institutions.

The persistence of colonial logics within Indonesia's bureaucratic and legal institutions can also be understood through the lens of Pierre Bourdieu's concept of *habitus* and *symbolic violence*. Bureaucratic actors—especially those shaped through formal education, legal training, and administrative apprenticeship—internalise a deeply hierarchical mode of reasoning and relational behaviour that reflects what Bourdieu (1990) describes as a “structured and structuring structure.” This *bureaucratic habitus* fosters an embodied sense of formality, obedience, and distance from the public, which then becomes misrecognised as natural or legitimate authority. Through rituals, language, and administrative protocol, the state enacts *symbolic violence*, a mode of domination that operates not through overt coercion but through the normalisation of elitist behaviours and legal formalism. Complementing this view, Loïc Wacquant (2012) argues that post-colonial states often reproduce paternalistic statecraft wherein bureaucracies function as instruments of social regulation, particularly over marginalised populations. The Indonesian state, in this sense, exemplifies a form of *neocolonial administrative habitus*, in which colonial modes of control are retained not only through laws and structures but through the everyday conduct, aspirations, and anxieties of its officials. These insights help explain why reform efforts often falter, not solely due to legal or institutional inertia, but because the very dispositions and symbolic capital of bureaucrats have been shaped to align with inherited logics of domination.

## CONCLUSION

Indonesia's post-colonial bureaucracy and legal system are heavily influenced by colonial legacies, promoting control over service and exclusion over inclusion. The *Dutch Binnenlands Bestuur* structure concentrates power, hindering local autonomy and innovation. Despite reforms like *reformasi birokrasi* and merit-based hiring under the ASN Law, bureaucracy still prioritises seniority, patronage, and symbolic hierarchies—evident in titles like *Bapak* and *Yang Terhormat*—creating barriers between officials and citizens. Additionally, the legal system's reliance on colonial codes, such as the Criminal Code (*KUHP*), reinforces procedural rigidity over substantive justice, marginalising those

who struggle with technical legal processes. These systems serve as instruments of exclusion, reflecting the Dutch colonial state's emphasis on order and elite control.

The persistence of colonial frameworks has a profound impact on governance and citizenship. Bureaucratic centralisation and legal formalism contribute to inefficiencies in public service delivery, as evident in local governments' struggles with region-specific challenges, such as healthcare disparities and land conflicts. Legal reforms, such as the 2023 revisions to the Criminal Code (*KUHP*), often replicate colonial logics by prioritising state authority over individual rights, while legal education produces "technicians of the law" unprepared for socio-legal complexities. Symbolic elitism—reinforced through rituals, language, and media—further alienates citizens, perpetuating a culture where state institutions seem unapproachable and authoritarian. It causes a discouragement of democratic engagement, as reflected in rural communities' reliance on informal mediators over formal courts, highlighting a systemic failure to bridge the gap between state and society.

To eradicate the lingering effects of colonialism, Indonesia must fully decolonise its institutions. *First*, bureaucratic systems should be revamped to emphasise decentralisation, participatory decision-making, and a service-oriented culture, enabling local governments to tailor policies that address the needs of their communities. *Second*, legal education must evolve from rigid doctrines to critical and context-aware training that includes diverse legal traditions, such as *hukum adat*, equipping lawyers to tackle real-world injustices. *Third*, administrative languages and practices need to become more democratic by replacing hierarchical titles with inclusive language and streamlining processes to improve accessibility. *Fourth*, civic education should empower citizens to engage with state institutions and promote critical accountability. *Lastly*, to enforce progressive rulings, such as the acknowledgement of indigenous land rights, systemic funding and political will are essential, as these rights often remain unfulfilled due to bureaucratic hurdles. By addressing the colonial mentalities that shape its institutions, Indonesia can evolve into a genuinely participatory and equitable democracy, realising the promises of independence that have yet to be met.

This study, however, has limitations. It primarily focuses on textual and institutional analysis, and does not incorporate empirical fieldwork or direct perspectives from marginalised communities. Future research could build upon these findings by employing ethnographic or participatory methods to explore how citizens, particularly

those in rural or indigenous communities, experience and contest bureaucratic and legal exclusion on the ground. Such studies would enrich the understanding of post-colonial governance by grounding theoretical critiques in lived realities and grassroots agency.

This study offers both practical and theoretical contributions for post-colonial governance reform in Indonesia and beyond. Practically, several immediate steps can be taken to deconstruct the lingering colonial logic within legal and bureaucratic institutions. *First*, legal education curricula should be revised to include critical jurisprudence, post-colonial legal theory, and socio-legal research methods, enabling students to engage with law as a tool for justice rather than domination. *Second*, bureaucratic language and procedures must be simplified to reduce symbolic hierarchy and improve public accessibility, such as replacing honorific titles in official communication with egalitarian alternatives. *Third*, reforming civil service promotion systems to emphasise merit, service orientation, and innovation over seniority and patronage is essential for reshaping the internal culture of governance.

On a broader theoretical level, this study contributes to post-colonial legal sociology in Southeast Asia by illustrating how colonial legacies operate not merely as historical remnants but as active rationalities embedded in institutional cultures. While similar continuities have been noted in countries like the Philippines, Malaysia, and India, this research highlights the specific configuration of colonial legalism, symbolic elitism, and procedural rigidity in Indonesia's post-independence statecraft. It invites further comparative studies that examine how different post-colonial nations negotiate inherited legal forms and how decolonial reforms can be grounded in local epistemologies and civic movements. In doing so, the study adds to a growing body of scholarship that calls for the regionalisation of post-colonial theory, anchored in the socio-political specificities of Southeast Asia rather than derivative from Western models.

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