

# THE INDONESIAN PERSPECTIVE AND EXPERIENCE ON THE TENSIONS BETWEEN THE PRINCIPLE OF POSTLIMINIUM VERSUS THE PROCLAMATION OF INDEPENDENCE IN THE POSTCOLONIAL PERIOD

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## **Abstract**

Indonesian diplomacy in the early postcolonial era succeeded in prevailing over its conflict with the Netherlands. In 1945 Indonesian citizens residing in the Middle East engaged in people-to-people diplomacy to support the nation's struggle for sovereignty. In 1946 diplomacy took the involvement of the British, United States, Soviet Union, and the United Nations Security Council. Later on, in 1947, the struggle was focused on gaining diplomatic support from Middle East countries. In 1948 a massive diplomatic struggle was carried out through the UN Security Council, resulting in support from Egypt, the United States, and the Soviet Union. In 1949 the final stage of the Indonesian diplomatic struggle was carried out with the aid of the Commission of Good Offices and the United Nations Commission for Indonesia (UNCI). The dynamics of the struggle were manifested in diplomatic relations with fellow nations. At that time whereas the incomplete status as a subject of international, Indonesia bore the legal right to send diplomatic representatives to other countries. On the other hand, Indonesia accepted foreign diplomatic representatives. Furthermore based on the UN Security Council resolutions, Indonesian diplomacy aimed to seek international recognition of sovereignty. The success of diplomacy at the beginning of the postcolonial period has become the fundamental capital of Indonesian diplomacy until now.

**Keywords:** Indonesia, diplomacy, postcolonial

## **1. INTRODUCTION**

Simultaneously with the end of World War II, with various conditions in each region, a process of decolonization took place, (Winter, 2015) including the proclamation of independence of the Republic of Indonesia. The conflict between Indonesia and the Kingdom of the Netherlands between 1945 and 1949 prompted a series of events resulting in two contradictory facts. In the struggle to retain its independence, Indonesia was inclined towards the need for diplomacy, not only to defend its rights before the Netherlands but also before other nations and subjects of international law. On the other hand, the Netherlands was determined to regain control of the Netherlands Indies and refused to recognize Indonesian sovereignty.

Between position for conquering or coexisting, (Griffiths, 2007) in the early postcolonial situation, the Netherlands thrived on any necessary attempt to annihilate the existence of Indonesia. Firstly, Potsdam Declaration and Civil Affairs Agreement were considered to be the legal instrument for regaining Dutch occupation in Netherlands Indies. Both legal instruments carried in them the postliminium and status quo ante bellum principles. Secondly, the Netherlands frequently made their interpretations of the agreement with Indonesia. Moreover, the Netherlands even broke the Linggajati Agreement. Thirdly, the Netherlands launched

Military Aggression I and II. Fourthly, the Netherlands brought the idea of federalism into Indonesia. Fifthly, the Netherlands forced economic and diplomatic blockades upon Indonesia. Lastly, before the United Nations Security Council summit, the Netherlands claimed that the problem of Indonesia was part of their internal affairs.

From 1945 -1949 Indonesia was not a member of the United Nations. Under the circumstances, Indonesia did not gain recognition from the United Nations yet. From the United Nations' viewpoint, Indonesia was considered not to have complete rights as a subject of international law. In other words, unless Indonesia became a member of the United Nations, Indonesia was liable to limited rights for being a subject of international law.

Based on van Mook's experiences and perspectives it was revealed the fact that the colonial government in exile was unprepared for the Indonesian declaration of independence. (Mook, 1949) Stikker's, Dutch Minister of Foreign Affairs, had a duty of diplomatic endeavors before the UN regarding the process of recognition of Indonesian sovereignty. (Jaquet, 1982) The process of the Renville Agreement, which is dated 17 January 1948 met the difficulties in carrying out the Renville Agreement within the process of Dutch-Indonesian negotiations. (Agung, 1991)The change in the territory during the struggle (1945-1949) did not conform to what has been stated in the Declaration of Indonesian Independence. (Suraputra, 1991) Based on the aforementioned facts and opinions, the research aims to analyze the following central issue. The Indonesian perspective of third world approach of International Law on the tensions between the principles of postliminium versus the proclamation of independence, especially in a study of diplomacy in the early postcolonial.

## 2. CONCEPTUAL APPROACH

To provide a comprehensive discussion of the problems formulated, the research applies the following concepts relevant to the issue forwarded. First, the right to self-determination, "since 1945 the principle of self-determination assumed a greater degree of importance as pressure grew for the transferring of independence to people subject to colonial rule."(O'Brien, 2001)The right to self-determination is the foundation of the establishment of a nation. A nation may be formed through a declaration of independence. Shared territory, language, and political goals are among the aspects that can be put into consideration for forming a new nation. Principally, there should be a shared territorial unit owned by people to whom the right to self-determination is transferred.

Secondly, the postliminium principle, from a postliminium point of view, international law imposes recovery of occupied territories. Occupation of an area during a war does not necessarily give the occupying ruler authority over the territory and the people. Authority over the territory and the people is inherent in the pre-occupation ruler. The postliminium principle is also recognized as the status quo ante bellum. Based on this principle, after Japan surrenders to the Allied Forces, the Netherlands regains control of its territory formerly occupied by the Japanese.

Third, the diplomacy of sovereign states, in Principles of International Law, Hans Kelsen

(Kelsen, 1952) states that equality and sovereignty are fundamental to a nation. Sovereignty, in particular, serves as an integral part of a nation's dignity and territorial integrity. (Dixon, 2000) Diplomacy is the activity of managing relations between different countries to establish mutual interests. Diplomacy carries in itself both the right to send out diplomatic representatives and the obligation to welcome those of other countries.

Fourthly, the resolution of the United Nations Security Council as a legal norm, in Article 25 of the Charter of the United Nations, the members of the United Nations agree to accept and carry out the decision of the Security Council under the present Charter. All stipulations subsisted in the Resolutions of the UN Security Council that are frequently used as the basis for Dutch-Indonesian conflict settlement are legal norms. Law, as it is defined, is a system of rules enforced through the external power of the related society. One of the universally accepted external powers is the UN Security Council. According to The Concept of International Law written by Philip Allott, (Philip Allott, 1999) Resolutions of the UN Security Council provide the reference to the rights and obligations of the members of the United Nations, which are binding.

Fifthly, recognition is defined as an acknowledgment of the admission of a new state into the international community by the political action of states that are already members. Between 17 August 1945 and 26 December 1949, the Netherlands refused to recognize Indonesian sovereignty, which meant that they did not recognize Indonesia as a member of the international community. On recognition, it is a political action instead of a legal action because it is a free-choice action involving a nation's political interests. The Netherlands in this case, refused to recognize Indonesia's independence because they simply wanted to regain control of its colonies.

### 3. METHODS

At a descriptive level, all data for the research are systematized and presented in chronological order in the period between 1945 and 1949. The subsequent step would be explaining and evaluating the data. The explanation aims to describe the causal relationship between independent and dependent variables. Diplomatic and political considerations at the given period are the basis for data evaluation.

The systematization, explanation, and evaluation of data aim to reveal the legally-accepted truth. The research adopts a deductive method to study the relation between *das Sollen* (what ought to be) and *das Sein* (what is or the existence). The objective is the implementation of the law. In this phase, the conformity of *das Sollen* with *das Sein* will be evaluated.

Further analysis which adopts the inductive method involves fact and power affecting the issuance of legal decisions, for example, the Dutch government's decision to transfer recognition of Indonesian sovereignty. The objective is the decision of law.

In addition, the research also applies legal comparison to contrast one *das Sollen* to another. The stipulations in international agreements, the Indonesian government decisions, the Dutch decisions, and UN Resolutions (Linggajati Agreement, Renville Agreement, 1974) effective in

1945-1949 are the materials for legal comparison. All those legal materials will be contrasted to the recognition of sovereignty transferred by the Netherlands.

From an international political point of view, the research adopts all the possibilities of analysis levels which include individual, group, nation-state, group of nations of the same region, and global system. In the analysis, the writer moves freely from one level of analysis to another level when necessary to give emphasize a certain level of analysis.

#### **4. DISCUSSION**

Essentially, the Declaration of Indonesian Independence is a manifestation of the right to self-determination. This particular right is under the protection of the Atlantic Charter dated 12 August 1941, and United Nations Charter dated 26 June 1945. The immediate implication following the Declaration of Indonesian Independence is that Indonesia was given the status of a subject of international law. Because territorial borders had not been decided yet, Indonesia was liable to a limited status as the subject of international law. However, this condition did not restrict Indonesian capacity for bearing its rights and obligation within the international community. This particular right manifested itself in the form of a diplomatic struggle between 1945 and 1949.

From a legal viewpoint, the Netherlands' attempts to annihilate the existence and regain control of the Republic of Indonesia were made based on the postliminium or status quo ante bellum principle. In positive law, the principle is mentioned in Potsdam Declaration and Civil Rights Agreement. Based on these agreements, Indonesia, especially the western region of Indonesia, was vulnerable to Dutch infiltration. The Dutch took the advantage of British Armed Forces coming to Indonesia for prisoners-of-war release and Japanese Army disarmament. On 30 November 1945, the British handed over their occupation to the Netherlands. In the meantime, the Netherlands managed to land in Eastern Indonesia under the aegis of the Australian Armed Forces and later regained the authority over Indonesia from Australia.

Under the Allied Forces command, Mountbatten gave an order to van der Plas to visit President Soekarno. The order was declined. When van Mook (Cheong, 1982) was given authorization from the Dutch government to visit the prominent community figures of all groups in Indonesia, the order to visit President Soekarno was later affirmative. It confirmed the fact that, according to international law, Indonesia had received international recognition as a sovereign state from the Allied Forces. Indonesian diplomatic struggle between 1945 and 1949 resulted in an establishment of cooperation between the British and President Soekarno having the main goal to provide the Allied Forces with any necessary aid when carrying out its duty in Indonesia. In addition, the two states played an equal role, (Adler-Nissen, 2012) Indonesia and the Netherlands, were successful to reach an agreement to seek for resolution of their conflict through negotiation. Under this circumstance, Indonesia had already gained de facto recognition of its sovereignty. By being played as "ungoverned" diplomacy using "ungoverned" spaces, (Constantinou, Costas M, 2016) In the meantime, the Indonesian diplomatic struggle for sovereignty in 1945 commenced with diplomacy carried out by Indonesian citizens residing in the Middle East to support the nation's struggle for sovereignty.

In 1946, the struggle against the Dutch rule was carried out under Sjahrir's leadership, who realized the necessity to give the impression that Indonesia was indeed a well-ordered and accountable nation, which was manifested in the 1945-1949 struggles and in the negotiations with the Netherlands to represent the nation's interest. Furthermore, the government should also be able to give the impression of being a moderate, rational, and competent nation. All of these could be effective ways to seek the British and the United States' sympathy. Indonesian diplomacy was carried out with the aid of the British, the Soviet Union, and the United States. If the British played the intermediary role in the negotiation, the Soviet Union and the United States played their role in the UN Security Council. During that period, the United States took the leading role in the Commission of Good Offices for Indonesia. Essentially, in 1946, the conflict between Indonesia and the Netherlands was settled through intermediary law. In 1946, the Netherlands' attempts to annihilate the existence of Indonesia were manifested in the strategy to form a Federal State (United States of Indonesia), which served as a legal instrument allowing the Netherlands to recapture Indonesian territory, especially those outside Java. The diplomatic struggle during 1946 was carried out chiefly through negotiations resulting in the ratification of the Linggajati Agreement. This fact reinforced the international de facto recognition of the existence of Indonesia.

In 1947, diplomacy was focused on gaining support from the Middle East countries, either from Arab League or other Middle East countries. Meanwhile, the Netherlands intensified its attempts to annihilate Indonesia, not only by resuming the strategy to form a federal state but also by forcing an economic blockade and Military Aggression I. In its diplomacy, Indonesia gained de jure and de facto recognition from several countries in 1947, especially those of Middle East countries. In addition, Linggajati Agreement was eventually ratified. What can be inferred from this is that Indonesia received even greater recognition from the international community, which allowed the nation to send out diplomatic representatives and receive ones.

The diplomatic struggle before the UN Security Council in 1948 was carried out more and more intensively with the support from Syria as a non-permanent member of the UN, and the United States and Soviet Union as the permanent members of the UN. Dutch Military Aggression II was the subsequent attempt to impede the struggle for Indonesian sovereignty. In the remnants of Dutch domination, (Dissanayake, 2017) The Netherlands insisted that a call for a ceasefire must be followed by a military retreat. Indonesia, in this case, refused to answer the demand. Van Mook, therefore, considered that such refusal was merely a sign of ignorance and denial to carry out the Linggajati Agreement. UN Security Council, on the other hand, considered the Netherlands taking the opportunity to prepare for a military assault upon Indonesia, mounting up political pressure against Indonesia, and falsely accusing Indonesia of breaking the treaty of peace. Besides, UN Security Council found that the Netherlands broke the Renville Agreement by taking unilateral action and forcing an economic blockade upon Indonesia. According to these facts, the conflict between Indonesia and the Netherlands had become an international conflict calling for a UN Security Council resolution. The result of the Indonesian diplomatic struggle manifested itself in the form of the US and Soviet Union demands that the conflict must be put to an end. Besides, the US government mounted diplomatic pressure upon the Netherlands to carry on the negotiation with Indonesia so that a

peace agreement would be finally reached.

In 1949, the Indonesian diplomatic struggle was carried out with aid from the US government and the United Nations Commission for Indonesia (UNCI). Indonesia requested all the US aid specifically earmarked for the Economic Cooperation Administration fund for the Netherlands be immediately canceled. All the efforts were carried out through UNCI as the legal instrument.

Yet, the Dutch government resumed the attempts to impede the Indonesian struggle for sovereignty. One of the attempts was inviting Indonesian leaders to attend the Round Table Conference ahead of schedule before they commenced new Indonesian governance in Yogyakarta. The invitation was turned down because obviously, that was a deceitful strategy to weaken the position of the Indonesian leaders before the international community. If they left the country not from Yogyakarta, the capital of Indonesia, they would not be considered to attend the conference on behalf of Indonesia.

The 1949 diplomatic struggle, which was supported by the Serangan Umum 1 Maret 1949 ('1 March Public Attack'), resulted in Rum-Royen Agreement and Dutch-Indonesian Round Table conference. Rum-Royen Agreement stated that Indonesia would send delegates to attend the conference and the Netherlands agreed on the reinstatement of the Indonesian government. In addition, Queen Juliana, in her closing remarks before the transfer of sovereignty ceremony on December 27, 1949, stated that "at the very moment and in the very place, I, with all the sincerity, convince you that the people of Netherlands has consented to the transfer of sovereignty". Since then, sovereignty was formally transferred and Indonesia gained a de jure recognition from the Netherlands. Staatsblad (Gezette) 1949 No. J 600 was the legal instrument for the circumstances.

## 5. CONCLUSION

The Netherlands was determined to take any necessary action to annihilate the existence of the Republic of Indonesia. Notwithstanding the incomplete status as a subject of international, Indonesia did not lose its existence and identity before the international law and continued its diplomatic struggle for sovereignty. Bearing a limited status within the international community, Indonesia remained capable of conducting diplomatic activities to defend its interests by seeking diplomatic support, either from the US or other fellow countries. As a result, Indonesia won the conflict with the Netherlands and gained its recognition of sovereignty.

The Indonesian diplomatic struggle for sovereignty in 1945 commenced with diplomacy carried out by Indonesian citizens residing in the Middle East, and an establishment of cooperation with the Allied Forces. In 1946, diplomacy took the involvement of the British, United States, Soviet Union, and the United Nations Security Council. Later on, in 1947, the struggle was focused on gaining diplomatic support from Middle East countries. In 1948, a massive diplomatic struggle was carried out through the UN Security Council, resulting in support from Egypt, the United States, and the Soviet Union. In 1949, the final stage of the Indonesian diplomatic struggle was carried out with aid from the United States and the United

Nations Commission for Indonesia.

Indonesian diplomatic struggle for sovereignty from 1945 to 1949 succeeded in prevailing over the Netherlands' attempts to annihilate the existence of Indonesia. The struggle was manifested in diplomatic relationships with fellow nations, Linggajati Agreement, and Renville Agreement. Indonesia bore the legal right to send diplomatic representatives to other countries. On the other hand, Indonesia should accept foreign diplomatic representatives. In addition, with the intermediary aid from the Commission of Good Offices for Indonesia and the United Nations Commission for Indonesia based on the United Nations Security Council resolutions, the Indonesian diplomatic struggle aimed to seek international recognition of sovereignty. On December 27, 1949, the Netherlands formally transferred its sovereignty to Indonesia.

The issue discussed in the research revolves around the conflict of interest between Indonesia and the Netherlands. From the Indonesian viewpoint, the struggle mainly aims to retain its independence and gain international recognition of sovereignty. The Netherlands on the other hand, claims their attempts as the legal action to regain control over their colonies in Netherlands Indies. Indonesia inclines to non-violent diplomacy, whereas the Netherlands prefers otherwise. The research concludes that the struggle toward the recognition of sovereignty, which is manifested in non-violent diplomacy under the protection of international law, proves itself to have a more promising result compared to the use of military forces.

The diplomacy at the beginning of the postcolonial not only succeeded in placing Indonesia's position in the international community of start but also became the fundamental basis of Indonesian diplomacy.

#### References

1. Adler-Nissen, R. (2012). Diplomacy as Impression Management: Strategic Face-Work and Post-Colonial Embarrassment", in Rebecca Adler-Nissen, *Diplomacy as Impression Management: Strategic Face-Work and Post-Colonial Embarrassment*, The Centre for Interna.
2. Agung, I. A. A. G. (1991). Renville, Pustaka Sinar Harapan. Renville – als keepunt in de Nederlands-Indonesische onderhandelingen.
3. Cheong, Y. M. (1982). H.J. van Mook and Indonesian Independence: A Study of His Role in Dutch-Indonesian Relations, 1945-48, Martinus Nijhoff, The Hague.
4. Constantinou, Costas M, and S. O. O. (2016). Engaging the 'ungoverned': The merging of diplomacy, defense, and development. *Cooperation and Conflict*, 51(3), 307–324.
5. Dissanayake, A. K. (2017). The Scope of Colonial Writing in Enhancing Sri Lankan Cultural Diplomacy. *CINEC Academic Journal*, 2(0), 55. <https://doi.org/10.4038/caj.v2i0.56>
6. Dixon, M. and R. M. (2000). *Cases and Materials on International Law B (Third Edit)*. Blackstone Press Limited.
7. Grenville, J.A.S. (1974). *The Major International Treaties 1919-1973: History and Guide with Texts*, Methuen & Co. Ltd., London.
8. Griffiths, M. (2007). Worldviews and IR theory: Conquest or coexistence?", in Martin Griffiths, *Routledge. International Relations Theory for the Twenty-First Century* London and New York, 1–10.

9. Jaquet, L. G. . (1982). Minister Stikker en de soevereiniteitsoverdracht. Nederland op de tweesprong tussen Azië en het Westen, Den Haag.
10. Kelsen, H. (1952). Principles of International Law. Rinehart & Company Inc.
11. Mook, H. J. van. (1949). Indonesië Nederland en de Wereld, de Bezige Bij.
12. O'Brien, J. (2001). International Law, Routledge-Cavendish.
13. Philip Allott. (1999). The Concept of International Law. *Verfassung in Recht und Übersee*, 22(3), 331–332. <https://doi.org/10.5771/0506-7286-1989-3-331>
14. Suraputra, D. (1991). *Revolusi Indonesia dan Hukum Internasional*. Universitas Indonesia Press.
15. Winter, T. (2015). Heritage diplomacy s. *International Journal of Heritage Studie*, 997–1015.