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TREATY CONCEPTIONS AND MISCONCEPTIONS: A CASE STUDY FROM SOUTH SULAWESI

An important and far-reaching precedent in international law was established by the International Court of Justice in The Hague in 1960. In passing judgement on a case between India and Portugal concerning right of passage over Indian territory, the Court confirmed the validity of the Treaty of Punem of 1779 between the Marathas and the Portuguese. It argued that:

The Marathas themselves regarded the Treaty of 1779 as valid and binding upon them, and gave effect to its provisions. The treaty is frequently referred to as such in subsequent formal Maratha documents, including the two *sanads* [decrees] of 1783 and 1785, which purport to have been issued in pursuance of the Treaty. The Marathas did not at any time cast any doubt upon the validity or binding character of the Treaty. (ICJ 1960: 37)

In a dissenting opinion one of the judges added that "... a cursory study of the situation shows that the exchange of documents — the Marathi text of 4 May 1779 and the Portuguese text of 17 December of the same year — was no doubt the expression of a common agreement creating mutual rights and obligations between two legal persons recognized as such in their international relationships." (ICJ 1960: 88)

C. H. Alexandrowicz, a scholar of international law, has concluded from the precedent established by this decision that, "It must also be considered as sufficient for the validity, in the law of nations, of all similar treaties concluded in the East Indies in the 18th century and earlier." (Alexandrowicz 1967: 163)¹ In *An Introduction to the History of the Law of Nations in the East Indies*, he attempts to dispel the widely-held opinion among European and Asian writers that interstate relations between a European and Asian power occurred within a legal or semi-legal vacuum in the 16th, 17th and 18th centuries. He asserts that in these centuries, unlike the 19th when a purely European legal system was applied, there was often a similarity of ideas of interstate

relations and a mutual adaptation of legal concepts between the European and "East Indian" traditions.¹ (Alexandrowicz 1967: 1-2)

In the statements of both the judges of the International Court of Justice and Alexandrowicz, there is an assumption that the European and the Asian contracting parties shared a common understanding of the meaning of a treaty, the type of relationship established, and the implicit mutual rights and obligations created by the whole treaty-making process. The Court speaks of "a common agreement creating mutual rights and obligations" and asserts that a treaty is valid when both parties accept it as such. Alexandrowicz himself posits the belief that there existed a type of "hybrid" law of nations, incorporating both Western and Eastern ideas of interstate relations. However, he did recognize the danger of extending his observation to what would appear to be its logical conclusion, that there was total and equal comprehension of the contract entered into by both sides. On this point, which is unfortunately relegated to a mere footnote, he warns that "treaty-making may have been used as an instrument of gaining advantages which the European contracting party (better acquainted with a systematic knowledge of law) was able to obtain from the Ruler relying mainly on customary and often undefined legal tradition." (Alexandrowicz 1967: 178, Note E) Such practices were not unusual and have been noted in treaties signed between Indonesian princes and the Dutch.²

Despite certain apparent similarities in principles of interstate relations between the European and Asian, there were sufficient differences in culture and treaty-making traditions to have made it extremely difficult for both parties to have approached any agreement on equal terms in a basically Western European law of nations. The Marathas may have acknowledged a treaty with the Portuguese as being valid and legally binding, but *what* was it that they believed to be valid and "legally" binding? If they were participants in a so-called "law of nations", what was their understanding of this law and how was it interpreted within their own treaty traditions? That such fundamental questions had been inadequately explored is evident in the impasse reached in the International Court of Justice on the significance of the Mogul word *jagir*, corresponding to the Marathi *saranjam*, which appears in one version of the 1779 Treaty of Punem. The inability of either party to agree on whether the term meant a granting of a fiscal revenue or a transfer of territorial sovereignty, which was a crucial point in the case, finally led one of the judges to declare that the term had no single and legally precise meaning. (ICJ 1960: 78-9) Despite one

judge's assertion that "a wealth of documentary evidence going back to the 18th century" had been furnished by both parties to support their claims (ICJ 1960: 88-9), the failure of the court to resolve a most basic problem of terminology reveals the absence of any *real* study of the Maratha cultural and pre-European treaty traditions which could have provided the basis for an accurate analysis of the claims.

The lack of adequate studies of treaty traditions in areas outside Western Europe prior to the 19th century is a major hindrance not only to legal experts but also to historians assessing the importance of agreements reached between European and non-European states in this period. Alexandrowicz called his work *An Introduction* because he recognized that the task of collecting and examining documents relating to pre-19th century Asian-European interstate relations required a facility in many languages as well as years of study in the relevant archives and libraries. He envisaged such a mammoth undertaking as being more appropriately the task for a team of researchers than for a single person. (Alexandrowicz 1967: 2) Such a goal, however, may be achieved by individual historians with the necessary language skills and with specialized knowledge of specific areas. Once such studies are made, it may then be possible to attempt a formulation of a law of nations as it existed outside Western Europe prior to the 19th century, or even a generalization on the consequences of conflicting treaty conceptions in assessing the impact of the European on other societies. This paper, it is hoped, will make a minor contribution toward this goal by examining the pre-European treaty tradition in South Sulawesi and the problems caused by the introduction of a European treaty conception by the Dutch East India Company in the 17th century.

Four principal groups occupy the southwest peninsula of Sulawesi (formerly known as Celebes) which forms the present-day Indonesian province of South Sulawesi: the Bugis with a population of 3,200,000; the Makassar with 1,500,000; the Toraja with 550,000; and the Mandar with 400,000. (Pelras 1975: 6) The Bugis and the Makassar people have traditionally dominated the affairs of this area as a result of their numbers and their settlement on the best agricultural lands. By the first decade of the 17th century, the Makassar kingdom of Goa succeeded in forcing its major rival Bugis kingdoms to acknowledge its overlordship to become the most powerful state in South Sulawesi. It remained unchallenged in the whole of East Indonesia until it was defeated in 1667 by the alliance of the Dutch East India Company and the Bugis. The Treaty of Bungaya signed on 18 November 1667 officially

ended the war and became the principal document defining subsequent relations between the Dutch and the local states in South Sulawesi.

An examination of the contemporary Dutch records of the Dutch East India Company, written by its officials in their new headquarters of Fort Rotterdam in the port of Makassar, reveals a readiness of not only the Dutch but also the native states to justify their activities based on what had been agreed upon in the Bungaya treaty. But they differed fundamentally in the manner in which they invoked the treaty as a legitimizing document. Whereas the Dutch would cite a particular provision within the detailed Bungaya treaty, the native states would simply refer to "the treaty" without mention of any specific clause. Often they rested their case on the fact of the existence of the treaty alone and dismissed out of hand any Company efforts to counter their arguments based upon the formal terms of the treaty. The frequency with which such cases occurred in South Sulawesi led the Dutch to characterize the natives as untrustworthy, cunning, and other now familiar epithets which used to flow freely from the pens of European colonial officials and historians when describing the local people. Except for certain exceptions, the difficulties stemmed basically from the conflicting South Sulawesi and European conceptions of treaties and treaty-making.

The importance of the treaty in South Sulawesi society is shown by the various words which may be used to signify the Western notion of a treaty.³ The very nature of these words indicates that the written treaty was basically an oral document transcribed on paper. Even after many of these treaties were copied on lontar palm strips (*lontara'*) and later on paper, the ritual-like repetition of certain phrases was maintained evoking the atmosphere of a not too distant past when the oral word stood alone, pre-eminent. The introduction of the written treaty in no way undermined the oral agreement but was seen simply as an extension of the latter. Understandably, therefore, the word most commonly used for entering into a treaty arrangement is *makkuluada* (*ma'ulukana* in Makassarese),⁴ which means "to give one's word of honour". The act of giving one's word of honour is equated with the word "treaty". Closely related to *makkuluada* are the words *mattaroada*, which again has the connotation of giving one's word of honour or of agreeing to something, and *ewai ada*, "to uphold or support one's word". Another term widely used in the chronicles for an agreement or treaty is *sitëlli* (*sitalli* in Makassarese). This word literally means "to swear mutual oaths", and appears to be stronger than *ma'janci* (*a'janji* in Makassarese) "to promise", which is also used to signify a treaty agreement between two parties.

Finally, there is the word *cěppa* (*cappa* in Makassarese), which is only infrequently encountered in manuscripts but which is the term used for the famous treaty of Bungaya of 1667. It means literally "to take part in something" or "to participate in the doing of something". Only the word *cěppa* appears to have no element of obligation imposed on the contracting parties who merely express a wish "to participate". The following translation of a Bugis sentence in one of the chronicles nicely captures the fine distinctions in the various words which are often translated as "treaties": "We will not abandon our sworn word of honour (*akkuluadangěmměng*) to participate in (*cěppa*) that which we have promised to one another (*assijancing*)." (Lontara' 3: 14)

The "treaty" is reinforced by a curse, *tanro* (*tunra* in Makassarese). In situations where a ruler agrees voluntarily or through coercion to recognize another as his overlord, the latter forces the vassal ruler to drink a fermented palm brew (*tuak* in Indonesian, *ballo'* in Bugis and Makassarese) stirred with the overlord's kris or sword of state. While the vassal drinks the *ballo'*, the overlord utters the following curse: "If you should break your word, may your descendants never rise in the eye of the needle." The "needle" is an allusion to leadership, hence kingship, since it is the needle which "leads" the thread. In this curse, which is an excellent example of the South Sulawesi penchant for allusions, a vassal ruler is threatened with the extinction of his dynasty if he should break his word. The stirring of the *ballo'* with a kris or sword belonging to the regalia of the overlord is believed to imbue the drink with the powers of this object. Anyone breaking his word is endangered by the supernatural forces immanent in these sacred instruments of state. Another curse which is often invoked by the Bugis rulers is: "May you be swept away like rubbish by the One God (*Dewata seuae*) if you break your word." (Lontara' 4: 289)

An alternative form of swearing an oath as a sanctioning force in a treaty is the *mallamumpatu*, or the burying of the stone. After the formal declaration of the terms of the treaty, a solemn oath is intoned at the end with the words: "If anyone should break this agreement, may the ground upon which he lives break into bits like porcelain and be smashed into pieces like an egg." Each ruler then takes a stone and throws it to the ground smashing an egg. The ceremony ends with the burying of the stone. (Noorduyn 1955: 252; Fihhr, n.d.: 12)

The *Dewata seuae*, or the One God, is called upon to witness the swearing of oaths and to punish those who break them. (Noorduyn 1955: 110-1) These oaths are greatly feared since they are made binding on

present as well as future generations. Because of the great importance which the Bugis and Makassar people attach to the survival of their line (Andaya 1976: 16), oaths were regarded with the gravest respect.

All treaties in South Sulawesi have a definite structure. They begin with a preamble which quickly establishes the relationship between the contracting states. It is followed by the actual terms of the treaty itself which are subdivided into a guarantee of sovereignty through non-interference in internal affairs and an expression of mutual assistance and cooperation. The third part proclaims that the treaty will be upheld not only by those present but by all future generations. All the proceedings then end with the swearing of an oath.

In the opening of every treaty, the precise relationship of the contracting parties is declared in purely conventional terms. It is an easily recognizable formula which conveys to the parties involved the entire set of rights and obligations which are attached to their relationship. It was superfluous to mention particular details which were already implied in the conventional phrases and in the established relationship. A treaty of equality begins with the words: "We are brothers, equally great, with none above and none below. We are slaves only to the *Dewatae*. We will not force one to submit to the other. We will walk together with arms swinging freely, equal in walking, equal in sitting." Only then are the more traditional terms of the treaty pronounced. In a treaty of inequality, the subordinate relationship of mother and child or master to slave is established by the words: "I speak, you assent"; or, "I am the wind and you are the leaves"; or, "I am the needle and you are the thread". Each of these phrases declares the willingness of child/slave to follow the mother/master in everything.

After the proper relationship of the contracting parties is decided by these all-important prefatory formulas, there then follows a recitation of the ritual-like "terms". The most important aspect of the treaty is the guarantee of sovereignty and mutual respect through non-interference in the internal affairs of the contracting states. This guarantee of sovereignty is expressed in the following way: Neither will uproot the other's plants; neither will plant on the other's territory; neither will cut down the other's woods; neither will pass judgement on the other's traditional laws; neither will interfere with the other's administration of justice (*bicara*); neither will destroy the other's regalia; each will expand outward and not inward against the other; neither will take part in the other's division of children;⁵ neither will make the other do what he does not want to do; and each will determine his own life without

outside interference. Mutual respect is expressed in such phrases as: I will consider you large not small; fat not thin; good not evil; good of hearing not deaf; and good of sight not blind.

The second principal element in a treaty is the expression of mutual assistance: Neither will practise deception toward the other; each will trust the other in speech; each will remind the other when in error; neither will contrive wars against the other; whosoever brings a false message to the other will be trampled to death by water buffaloes (*tedong*); if one should fall, the other would help him up; if one should be drowning, the other would save him; if one should be washed away, the other would bring him to shore; if one should covet the other's goods, he should be mindful; neither will hide the other's goods in his own house; neither will retain the other's refugees or wrong-doers; each will return the other's property found on the way; each will refrain from buying the other's slaves. Together they will cross the bridge and walk the narrow path, and together share fortune and misfortune, life and death.

Once the traditional terms are recited, the treaty is made binding upon the present generation and upon all generations to come. The words recall perhaps some earlier now forgotten ritual which accompanied all oath-giving: "Fire will not burn it [i.e. the treaty] away, nor disaster in the land take it away. No dead person will be able to take it away with him [i.e. the death of those who agreed to the treaty will not dissolve it]. Even if the Heaven should fall and the Underworld sink away, the treaty will not be undone." The treaty is then solemnized with the swearing of an oath while drinking *ballo* stirred with the sword or kris of state or while smashing an egg with a stone and then burying the stone.⁶

The treaties in South Sulawesi clearly classify the status of the participating parties with no possibility of ambiguity in the relationship. Among the Bugis the term *asseajingěng*, which may be translated as "brotherhood", refers generally to any alliance except that which is characterized as being between master and slave. At the very top of the *asseajingěng* hierarchy is the alliance of full equality, or an alliance of brothers who are "equally great" (*mappadaworoane senrajae*). More common are the alliances of brothers of unequal rank, where the more powerful is called the older brother (*kaka'*) and the weaker member the younger brother (*anri'*). In the treaty concluded by the Bugis states of Bone, Wajo, and Soppeng at Timurung in the 16th century, Bone is considered to be the eldest, Wajo the middle, and Soppeng the younger

brother (*uluai Bone ana'-tĕnngai Wajo' paccucunngi Soppeng*). (Noorduyn 1955: 190) Land was given to Soppeng by both Bone and Wajo to raise it to the status of "brother" to the others. A similar case occurred when another Bugis state Luwu gave land to Wajo so that the latter could properly be called a brother. In both instances the weakest or weaker member of the alliance had expressed reluctance in the beginning to agreeing to any brotherly relationship. Instead, it had requested that it be treated as a child to a mother since it felt that this was the relationship which was most appropriate and best mirrored their respective positions in the hierarchy of states. (Noorduyn 1955: 190, 250)

Below the status of *padaworoane*, or brothers, is that of mother (*ina*) and favoured child (*ana' makĕssing* or *ana' malĕ'bi*). In this relationship the overlord grants his vassal a more favourable status than the others in recognition of his performance of some unique service for the overlord. Sometimes special dress appropriate to well-born individuals (*todeceng*) is granted as a mark of favour. In 1667 Arung Palakka and Admiral Speelman presented the rulers of the Tĕllumpidange (Turatea) with fine raiments as a sign of special honour for their decision to join the Bugis-Dutch forces against their former overlord, Goa.⁷ (Lontara' 3: 48) When the ruler of Gilirĕng sacrificed his life for his overlord, the ruler of Wajo, the latter promoted Gilirĕng from a status of slave (*ata*) to that of favoured child of Wajo. (Noorduyn 1955: 238) According to Bugis sources, both Bone and Soppeng were taken as a child (*ala ana'*) by the Company after the Makassar wars of 1666-9 and became favoured children (*ana' malĕ'bi*) with a mother (*akkeina*) and a father (*akkeama*) in the Company. (Lontara' 3: 65)

The status of mother to child is a vassal relationship created either through force or mutual consent. In the latter case a state seeks "protection" (*ppa'daoi*) from another and thereby gains a more favourable vassalage position than a conquered state. Nevertheless, the state which is granted protection is still below that of a favoured child.

On the very bottom of the hierarchy of interstate relationship is that between a master (*puang*) and a slave (*ata*). A vassal state which wars against its overlord and is defeated loses its former status and is degraded to a position of slave to its overlord. While in this relationship the slave state is supposedly at the total mercy of the master, in reality it continues to retain its own rulers, traditional laws and customs (*adat*), and administration of justice (*bicara*).⁸

In South Sulawesi treaties, regardless of the relationship established

between the parties, the sovereignty of each state is guaranteed. When a powerful ruler of Bone in the late 17th century defeated the Toraja, the latter were considered to be "total slaves" of the "Golden Umbrella" [*Pajumpulawěng*, the royal umbrella, equivalent in a European context to saying "the royal crown"] of Bone. Nevertheless, the terms of the treaty guarantee the basic sovereignty of the Torajas: "Keep the land which is your land, the rocks which are your rocks, the rivers which are your rivers, the grass which is your grass, the water which is your water, the water buffaloes which are your water buffaloes, the *ipo* [a tree from which a sap is extracted to make the poison used for blow darts and arrows] which is your *ipo*, the weapons which are your weapons, the *adat* which is your *adat*, and the *bicara* which is your *bicara*." (Lontara' 3: 125) Even a "slave" state in South Sulawesi treaty traditions retains its identity and its self-esteem.

The spiritual element of the treaties was once as important as the political to South Sulawesi states. After a treaty was concluded between two powers, it was copied and preserved among the regalia.⁹ (Cense 1951: 47) The entire corpus of treaties became a kind of palladium of the state for it was the repository of sacred words solemnly sworn by generations of rulers. In the same way that a ruler went to his ancestral altar (*palakka atoriolong*) to implore his ancestors to help cure his personal illness (Matthes 1943: 510, 517-8), he consulted the treaties for guidance from the ancestors on the proper conduct and preservation of the state. To swear to uphold or renew a treaty involved past, present, and future generations and was not a matter entered into lightly. He never rejected a treaty unless agreed upon by all parties since it would have meant repudiating his ancestors; he merely allowed it to be superseded by another or to fall into abeyance until circumstances again brought it into prominence.

Local sources as well as contemporary Dutch reports show the intricate arguments used by South Sulawesi rulers to demonstrate that there was no rejection of a former treaty despite a change of alliance. A cynical modern-day Western observer may be tempted to see everything in terms of *Realpolitik*, but then he is a product of his culture and of an age which encourages secularism and praises "rationality". A South Sulawesi ruler prior to the 20th century was also a product of his culture and his time, and while he was mindful of the secular world, he was equally, if not more responsive, to the spiritual one. The words and oaths of the ancestors contained in the treaties became a moral and supernatural sanction which adumbrated all interstate

relations and guaranteed a degree of stability in the affairs of the area. Anyone who dared violate a treaty risked the wrath of the ancestors who gave their "word" and the punishment of the *Dewata* who witnessed the oath. These spiritual considerations deterred a rejection of a treaty or any excessive behaviour governed purely by political concerns. It was primarily this unique element in local treaty traditions which, despite the creation of several large kingdoms, enabled many little states in South Sulawesi to maintain their own rulers, regalias, histories, and traditions until well into the 20th century.

Once a treaty had been agreed upon, it remained a permanent agreement which could be resurrected and renewed or allowed to recede into the background in face of other superior political and spiritual forces. These enduring sacred documents were made but once. All subsequent agreements are referred to in the records as "renewals" (*ribarui*) of the original treaty and are essentially a recognition and affirmation by one state of a new political and spiritual status of another. The treaties, oaths, and the whole treaty making procedure were part of a continuing process of reassessment of political and spiritual affiliations to assure the establishment of a hierarchy of states which accurately reflected the power situation in South Sulawesi.

The idea of treaties, not as an instrument of oppression but as a means of establishing proper and peaceful relations with other states in the diplomatic sphere, was comprehensible in South Sulawesi because it resembled the concept of *siri'* in the sphere of personal relations. In this society each individual is governed by *siri'*, a term approximating our understanding of the English words "shame" and "self-respect" or "self-worth". A normal person attempts to maintain a fine balance of both shame and self-respect in his own being and in his relations with another. To possess *siri'* is to know oneself and one's ancestors, or in other words, to know one's status and place in one's society.¹⁰ (Errington 1976: 3) When an individual is "shamed" by feeling that he has been treated in a way inappropriate to his status, he will defend his self-respect to the death if necessary. The act of physically defending one's *siri'* (one's self-respect, one's status) is referred to as *jallo'* and is similar to the well-known Malay phenomenon known as the *amok*.¹¹ To die in defense of one's *siri'* is preferable to life without it, (Andaya 1976: 26-7) hence the *jallo'* becomes intelligible in terms of proper social behaviour.

A similar philosophy appears to have underlined the concept of treaties in South Sulawesi. A state's understanding of its proper status in relation to all other states was determined by the treaty. The efficacy

of the treaty lay, as with *siri'* in the universal acceptance in South Sulawesi of its legitimate function in preserving harmony in the society. With the establishment of a hierarchy of states through individual treaties, a particular state could easily seek "protection" (*ppa'daoi*) and avoid unnecessary conflict. In one of the Bugis chronicles, a ruler advises his troops "not to be excessive in fighting so that later negotiations would be easier". (Lontara' 3: 51) Neither conquest of territory nor control of a substantial population was the primary aim of warfare among South Sulawesi states, but the search for recognition of one's proper place in the interstate hierarchy.¹² Treaties thus became the accepted form in which this hierarchy was expressed and understood by all participants.

When a state believed that its treaty with another had been rejected, it regarded it as a rejection of the solemnly-sworn words of the ancestor who sponsored the original treaty. The status and self-respect of the state were considered to have been impugned, and the only course of action was to defend the treaty. If satisfaction were not forthcoming through peaceful means, that is through negotiation of a "renewal" of the treaty, then the other alternative was *jallo'*. The use of the word *jallo'* for relations both on the personal as well as interstate level suggests that these two planes of social intercourse may have been regarded as basically similar and governed by the same rules of behaviour.

The constant alignment and realignment of vassal states from one overlord to another was an expected phenomenon which was a result of an on-going process by which each state sought its proper level within the interstate hierarchy. In an episode recounted in the chronicles, one of the Bugis states realizes that its ally has been defeated and sends the following message to its vanquished "elder brother": "We are like birds sitting on a tree. When the tree falls, we leave it and go in search of a large tree where we can settle." (Noorduyn 1955: 216) When Goa was on the verge of defeat in 1667, it sent a message to its "child", the ruler of Berru, saying, "Go home and seek your own welfare because Goa is hardpressed and can no longer provide you the wings under which you can shelter." (Lontara' 3: 37) The responsibility of the "elder brother" or the "mother/master" is to spread her/his wings of protection over the "younger brother" or "child/slave". But when this protection can no longer be given, then the weaker is expected to look after his own welfare. On the other hand, the responsibility of a child or a younger brother was relatively light and is described simply in the homilies: "No child would deceive his mother", and "How could some-

one wish evil on his brother?" (Noorduyn 1955: 174, 224) Oftentimes a rising power would begin the process of reassessment by sending envoys to erstwhile allies and vassals "reminding" (*inngeŕrang*) them of former treaties. This was the point at which each ruler was forced to make the decision which would determine his state's status in the area.¹³ What may appear to an outsider to be an irreverent disregard of treaties and oaths among the South Sulawesi leaders in fact demonstrates their subtle understanding of the function of both in assuring the political as well as the spiritual welfare of their states.

The appearance of the Dutch in the 17th century introduced a new concept of treaties and treaty making to South Sulawesi. As was common with the Portuguese before them, the Dutch usually came armed with a draft treaty whenever negotiating with a native state. The draft provisions were carefully drawn up in the main Dutch East India Company headquarters in Batavia (present-day Jakarta). It was the envoy's job to explain the draft treaty to the local ruler, who then ordered to have it translated into Malay or into one of the local languages. When the translation was made, the ruler went over the points with his chief advisors, insisting on the inclusion or exclusion of certain articles. Both parties later met and discussed their various points, and some accommodation was usually reached. The Company envoy signed and sealed the Dutch version of the treaty, and the native ruler signed and affixed his seal to the version in the local language. An oath sworn on the Bible and the Koran ended the treaty ceremonies. According to Western European treaty practices at the time, once a treaty text had been formulated in the language of the parties concerned and had been signed and sealed, the provisions contained therein were considered to be binding on all signatories. The written treaty with its carefully worded articles became, for the Company, the legal weapon with which it justified its claims not only to the native rulers, but more importantly, to its European rivals in the Indonesian area.

Although the Company did not send any trained jurists to Indonesia until the 18th century, two of its leading officials in the 17th century, Cornelius Speelman and E. Padtbrugge were sufficiently versed in the legal implications of a treaty to know what rights they were acquiring for the Company at the expense of the native state. (Alders 1955: 111-2) The Company, furthermore, was not unaware of the existence of local treaty traditions in South Sulawesi, for it actually did become party to treaties which were formulated in the local fashion. On the few occasions that the Company submitted to the South Sulawesi treaty-

making methods, it did so because of weakness or because the native states were too insignificant to pose any danger to the Company's interests.

On 28 December 1655 the Company's envoy was instructed by his superiors in Batavia to make peace with the Makassarese rulers of Goa and Tallo at any cost. The resulting document clearly demonstrates the influence of local treaty-making traditions. While the framework of the treaty is borrowed from the Western European practice of including each new subject in separate numbered articles, the contents read like a typical South Sulawesi treaty. It begins: "... the Governor-General [of the Company] wants to make peace and is a great and strong man, whereas we are so much smaller and weaker. Would we make peace if no misdeeds were committed against our subjects?" (Heeres 1931a: 82) But the traditional formula is inverted so as to leave no doubt whatsoever in the minds of the native signatories that they were not vassals of the Company: (Article 6) The enemies of the Company shall not be the enemies of these rulers; (Article 7) if these rulers should have a quarrel with any state "below the winds", the Company will not interfere. Only in Article 8 does the treaty again revert to the precision of a European document but with the important difference that it is made in the form of a request rather than a provision. In this article the Company *asks* these rulers to prevent their subjects from going to certain proscribed areas. Although the Company has no right to such a request in traditional practice, it is not rejected outright but left unresolved. (Heeres 1931a: 82-4)

In a treaty between the Company and four minor states in South Sulawesi on 1 December 1671, the rulers of the four states promise to uphold their treaty with the Company by swearing on the Koran, making an oath, and drinking *ballo'* — all in the traditional fashion. They agree to recognize the Company as their overlord, take the Company's friends as their friends and the Company's enemies as their enemies, provide the same royal services to the Company as they had performed for the ruler of Goa, and give a small number of slaves to the Company. (Heeres 1931d: 441-2) All of these terms were in the traditional South Sulawesi treaty idiom, including the symbolic presentation of slaves to demonstrate one's submission to an overlord. (Noorduyn 1955: 176, 202, *passim*)

Such instances, however, were exceptional and there is little indication that any effort was made to understand the whole intent of local treaties. Almost the entire corpus of treaties between the Company

and the South Sulawesi states was framed in the Western European tradition of treaty-making with little or no attempt to accommodate local practices. This fundamental difference in cultural attitudes toward the treaty accounted for much of the misunderstanding and distrust which arose between the Company and the South Sulawesi states in the 17th and 18th centuries. Contrary to the Western European conception of treaties, the local states viewed the treaty not in its individual parts but as a total document. To them the treaty represented an open declaration of a shift in the spiritual and political power relationships in the area. When circumstances demanded it, the ruler felt free to re-examine his alternatives and to make the necessary realignments to reflect the new power situation and his state's position within it. Even those states which concluded what later scholars called "defensive" treaties were preoccupied first of all with establishing the proper relationship between themselves as "brothers". Once this relationship was determined, each party understood what its traditional rights and obligations were. Even to categorize a treaty as "defensive" was superfluous since all treaties contained within themselves the element of mutual assistance and cooperation.

The treaties between the Company and the native states were, furthermore, almost always basically commercial with the foremost aim being the acquisition and protection of trading advantages for the Company. Such a treaty whose central concern was trade was totally alien to the concept of treaties in South Sulawesi. While certain phrases within the native treaty formula contained references to economic practices, these were clearly subordinate and incidental to the primary intent of agreeing upon one's proper place in the hierarchy of states. When a South Sulawesi ruler was presented with a typical Dutch draft treaty full of intricate details about conditions of trade, he would often raise objections to those which were particularly outrageous but regarded the commercial aspect of the treaty as redundant. He entered into a treaty believing that once the diplomatic relationship between the two contracting parties had been established, all things would find their proper place according to well-known traditional practices. It was considered unnecessary to pore painstakingly over the commercial items in the treaty since it was expected that both parties would seek economic measures which would be of mutual benefit and which would not compromise each other's sovereign rights. What was deemed all important was sovereignty with the inalienable rights of a state to its own ruler, *adat* and *bicara*. But to the Company the commercial aspects of the treaty

received priority in any negotiations, and it was willing to concede much to acquire certain economic advantages.

The Treaty of Bungaya of 1667 provides an illuminating example of the kinds of problems which arose because of the conflicting conceptions of treaties and treaty-making between the Company and the local states. When the South Sulawesi rulers signed and affixed their seals to the Bungaya treaty, they had little experience with Western European treaty methods. Although the Portuguese had been present in Makassar since the early 16th century, there is no evidence that any treaty was ever signed between them and a South Sulawesi state. Only on three previous occasions did a South Sulawesi state, the kingdom of Goa, enter into a formal treaty arrangement with a European power. (Stapel 1922: 33-4, 53, 66-7) The first treaty of 26 June 1637 asserted the sovereignty and power of Goa in the traditional fashion despite being contained within a European treaty framework. It forbade the Dutch from continuing their hostilities against their enemies in the lands and seas belonging to the ruler of Goa and explicitly stated that the enemies of one would not become the enemies of the other. In conformity to local practices, the ruler of Goa inserted in Malay at the end of the treaty that the successors of the present Governor-General of the Company were also bound by the treaty. (Heeres 1907: 303-6) Neither in this treaty nor that of 28 December 1655, as has been discussed earlier, did Goa adopt the content or intent of the European treaty. Insofar as the 1660 treaty was concerned, a representative of Goa went to Batavia to sign the agreement (Heeres 1931b: 168-177; Heeres 1931c: 177-9) but the ruler of Goa subsequently ignored its existence.¹⁴ (KA 1123: 413v)

Goa's brief experience with the European concept of treaties appears to have made little impact on its own treaty ideas. What could have been more foreign to Goa than a treaty based on modern international law developed in the 16th century by and for Western European countries? (Anand 1962: 383) It is doubtful if Goa or any other South Sulawesi state would have attained such a level of sophistication in European diplomatic practices by 1667 to have understood the intent of a European treaty and the mutual rights and obligations created by it. Their initial response, understandably, was to interpret it in the only way they knew how — in the traditional manner of South Sulawesi treaties. Arung Palakka considered the Company to have acquired through conquest a degree of sovereignty in South Sulawesi which gave it the right to regulate internal and external navigation and to levy tithes and tolls over the produce and ownership of the land. (KA 1196:

162v) But subsequent events demonstrate that the Company's sovereignty was interpreted within traditional treaty practices and did not extend to certain precise rights which remained inalienable to all South Sulawesi states.

In 1695 the ruler of Goa told the Dutch that he did not care who was in power in Fort Rotterdam, even if he were a Javanese, "as long as the laws and customs of Goa were undisturbed". (KA 1446: 34r-v, 35r) When a delegation from Bone came to Fort Rotterdam in 1714 to inform the Dutch that a new ruler of Bone had been chosen, it was told that such a selection required approval from the Dutch leaders in Batavia. The delegation coldly retorted that it had come not to consult but *inform* them of Bone's decision. (KA 1469: 75-7) In both of these cases the local states viewed their treaty relations with the Company in terms of their own cultural assumptions of what the treaty entailed for both overlord and vassal, notwithstanding the existence of a European style treaty to which they had affixed their signatures and seals. One of the fundamental guarantees of any vassal state according to local treaty practices was the privilege of maintaining its own *adat* and *bicara* and of choosing its own ruler.

When Goa attempted to enlist the help of Arung Palakka and Bone against the Dutch by invoking an early treaty, Arung Palakka replied: "We are now under the 'protection' of the Company." (KA 1157: 332r-v) On 8 October 1681 Arung Palakka sent a letter to Admiral Cornelius Speelman, the newly-appointed Governor-General of the Company, which began: "Greetings from your brother the ruler of Bone to the Lord Admiral who *protects* the land of the Bugis..."¹⁵ (KA 1257: 461v) Behaving as any traditional South Sulawesi leader, Arung Palakka had assessed the situation and had obtained protection of the new power in the area, the Dutch East India Company. One of the Bugis chronicles commemorates this new relationship of Arung Palakka and Bone to the Dutch in purely local terms by putting the following words into the mouth of the Governor-General of the Company:

When you [Arung Palakka] first came to Jakarta you were certainly a favoured child (*ana' malē'bi*) of the Company, and now that you have come here again, this has not diminished. It has become stronger, firmer. You have a father and a mother in the Company. The Company and Bone are like the black and the white of the eyes which cannot be separated. If your mother and father, the Company, are poor, you too will be poor. Live below the winds, in your inheritance in Bone and Soppeng. You and your brother [Soppeng?] will have power, and you will rule in the lands below the winds.¹⁶ (Lontara' 3: 65)

Arung Palakka and the Bone-Soppeng allies of the Company would have thought along similar traditional lines in regarding their relationship with the Company now as one of favoured child to mother.

When the South Sulawesi states accepted their subordinate relationship to the Company in the Bungaya treaty, they fully expected the Company to accept its responsibilities as mother/master and guarantee the sovereignty of all its children/slaves in the traditional South Sulawesi overlord-vassal relationship. But this expectation turned to bewilderment and anger when the Company failed to adhere to the proper code of behaviour expected of an overlord. Ten years after the Bungaya treaty, Arung Palakka complained to the Company that Speelman had "promised" the Bugis allies that if they were successful in their war against Goa they would be allowed to "keep their old laws and customs as in the past". (KA 1208: 518r) One of the Bugis chronicles looking back on this period echoes this familiar complaint. It describes how the ruler of Soppeng warns Arung Palakka to be wary in his dealings with the Dutch in Batavia so that "the great men who rule there do not turn the treaty around because I have always said that the people above the winds are shrewd and intelligent".¹⁶ (Lontara' 3: 646)

In times of rulers such as Arung Palakka, shrewdness and intelligence were not the sole preserve of the Dutch. But Arung Palakka was an unusual South Sulawesi ruler. Few of his successors ever attained his intimacy with the Dutch and their methods which he had gained through long years as a faithful ally of the Company. Nevertheless, his letters to the Dutch, especially during the latter years of his reign in the late 17th century, occasionally criticize their activities as being in contravention of the Bungaya treaty. His criticism was to be repeated frequently by his successors in the following centuries. Although the South Sulawesi states were gradually forced to adapt to the European treaty, they never relinquished their traditional belief that any treaty guaranteed a state's right to its own ruler, *adat* and *bicara*.¹⁷ As a result treaties between the Company and a South Sulawesi state were characterized by conflicting expectations, leading to frustration, then mutual recriminations, and finally war. This feature of Dutch-South Sulawesi relations, which began in the period of the Company, was to persist under the Dutch Colonial government until the beginning of the 20th century.

The treaty experiences of the South Sulawesi states with a European power were not unique. They were shared by other states in Asia, Africa and the Pacific between the 16th and the 19th centuries. It is

hoped that many more studies will be made of treaty conceptions and practices in these areas, for only then will it be possible for international legal bodies and historians to provide a fair and balanced analysis of treaty relationships between European and non-European states prior to the 19th century.

NOTES

- ¹ Alexandrowicz uses the term "East Indies" to include the subcontinent of India, Ceylon, Burma, Thailand, and the Malay-Indonesian archipelago, and peripherally Persia and the Ottoman Empire.
- ² At the end of the 19th and the beginning of the 20th century, the Dutch government legally redefined the statuses of the various Indonesian states in order to forestall any ambitious designs on these states by outside powers. See Resink, 1968b: 327-9.
- ³ While the following discussion is based principally on the records of the Bugis, who are the numerically dominant group in South Sulawesi, these observations may be applied generally to the other major ethnic groups of the area.
- ⁴ Since there is no single officially recognized spelling of the Bugis and Makassar languages, I have adopted a suggestion by Dr. J. Noorduyn to use ' to indicate a glottal stop and thus avoid too great a difference in the spelling of the two languages. I have also used the *pepet* to indicate a short e.
- ⁵ This reference is probably to the practice of dividing children born of a slave and a freeman.
- ⁶ The terms of the treaties were taken from a number of Bugis manuscripts, especially from the *lontara'* recopied on 16 August 1972 (owned by I. Paliwengi Daeng Mangata of Sinjai), the *Lontara'na* H.A. Sumangerukka (owned by Professor Mr. Andi Zainal Abidin), *Lontara'na Sukku'na Tana Wajo'* (owned by Andi Makkaraka), and from the Makassar *Sedjarah Goa* edited by Abdurrahim and Wolhoff, and a Makassar contract signed between Bantaeng and the Dutch East India Company in Matthes, 1883: 217-220.
- ⁷ This was a widespread practice in the Malay world, and frequent references can be found in the *Sejarah Melayu*.
- ⁸ In the Makassar kingdom of Goa, there appeared to have been a deviation from this practice in the mid-17th century. After Bone was defeated by its overlord Goa in 1644, the Aruppitu of Bone, or the Seven Lords who determined who was to succeed to the Bone throne, asked the ruler of Goa to become the ruler of Bone as well. According to the chronicles of Goa, this request was refused because the *adat* was that "if we take a ruler the people of Bone may not interfere (*tanapantamai*), and if the people of Bone take a ruler we also may not interfere". Nevertheless, the Goa ruler appointed a Makassar prince to govern Bone through a regent who was a noble of Bone. See Abdurrahim and G. J. Wolhoff n.d.: 71. Although the Goa chronicles say that the noble from Bone was a *Kali*, or the religious leader of a state, the Bugis chronicles say he was a *jennang*, or regent.
- ⁹ In South Sulawesi the written word is treated with great reverence. Many written documents (*lontara'*) are preserved as sacred heirlooms which can only be exhibited after a proper appeasement of the guardian spirits of these *lontara'*. A similar attitude among the Javanese is described in Berg 1938: 14ff.
- ¹⁰ This belief is not peculiar to South Sulawesi but may be found in many parts

of the Malayo-Indonesian world. An interesting discussion of a similar concept called *maratabat* among the Maranao people of southern Philippines is found in Saber 1974: 219-224.

- 11 One of the earliest medical descriptions of the *amok* is found in Ellis 1893: 325-338. In his study he noted a common sequence of events with all those who went amuck. First they endured a real or imaginary slight. There then followed a period of humiliation (*sakit hati*). After a short or long period of brooding, they go amuck killing anyone around them including their own families and friends. When they recover they become perfectly lucid. They described to Ellis how their eyes turned dark and how they could no longer remember anything just before they ran amuck. Quoted in Errington 1975: 115.
- 12 In this regard South Sulawesi appeared to be different from powerful mainland Southeast Asian states where it was common practice for the victor to transport a subject population to his own realm to augment his power. For an interesting study of manpower in the late Ayuthia and early Bangkok period, see Rabibhadana 1969.
- 13 An interesting example of this process is described in one of the Bugis chronicles where Bone remembered its treaty with Goa and forsook that with Soppeng, only to do a complete turnabout some years later when Goa was clearly on the decline. See Lontara' 1: 32¹¹.
- 14 In the negotiations of the 1667 Bungaya treaty, the Dutch appeared to have benefited by their earlier experiences and demanded the ruler of Goa's personal presence in the talks and his signature on the treaty. See Stapel 1922: 184-5.
- 15 Italics mine. The Dutch translation of the letter reads "broeder" (brother), but since Arung Palakka wrote letters to the Company in Malay, the word used was most likely "saudara", which could mean both "brother" or "relative". It is apparent in later references in the letter that he was not demonstrating Bone's full equality with the Company in the South Sulawesi fashion (*padaworoane senraja*), but was probably indicating an intimacy with Speelman with whom he had fought in the Makassar wars of 1666-7, 1668-9.
- 16 The reference "below the winds" is commonly used among the native states in the Malay-Indonesian archipelago to refer to their world, as opposed to the lands "above the winds", which meant any of the lands to the west of the Straits of Melaka.
- 17 In 1904, the Dutch complained that the ruler of Bone "behaved like an independent raja" although he was supposed to be a vassal ruler of the Dutch government. See Resink 1968a: 206.

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