Paul Scholten and the Founding of the Batavia Rechtshogeschool

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Abstract

As a prominent legal scholar, Paul Scholten's works have been widely analyzed in the Netherlands, but his intellectual legacy in the founding of Batavia Rechtshogeschool in the Netherlands East Indies remains under-researched. I address this remarkable absence in two parts: First, I trace Paul Scholten's engagement with the dominant philosophy of his time, the two schools of Neo-Kantianism (Baden and Marburg), and how this engagement shaped his philosophical outlook for the curriculum and the pedagogy of the school. Second, I dissect how Scholten's outlook emerged in his proposals to drop Latin from compulsory courses and to nurture autonomy among the students. I argue that Paul Scholten decisively liberated legal education in the Indies from the confines of European elitism and from the classical-oriented education in the Netherlands. This liberating nature arguably made the school's graduates relevant in the upcoming upheaval in Indonesian history.

TABLE OF CONTENTS

1. Introduction

> De student van inheemschen oorsprong moet leeren in eigen taal wetenschappelijk te denken. (The student of native origin must learn to think scientifically in its own language, Paul Scholten, Report on Proposals for Batavia Rechtshogeschool, National Archive, Paul Scholten Collection)

As a prominent legal scholar, Paul Scholten's works have been widely analyzed in the Netherlands, but his intellectual DNA on legal studies in the Netherlands East Indies remains under-researched. This is a remarkable absence considering the role of colonial legal education in influencing cognitive categories of justice among elite Indonesians in the late 1920's.[1] In this article, I examine Paul Scholten's involvement in the founding of the Batavia Rechtshogeschool[2] in the East Indies. I do so in two parts: First, I trace Paul Scholten's engagement with the dominant philosophy of his time, the two schools of Neo-Kantianism (Baden and Marburg), and how this shaped his philosophical outlook for the curriculum and the pedagogy of the school. Second, I dissect how Scholten's outlook emerged in his proposals to drop Latin from compulsory courses and to nurture autonomy among the students. These two proposals were controversial because eliminating Latin allegedly would shake the very foundation of legal science, a major part of which traced back to Roman law, and nurturing autonomy was feared to stoke the threat of nationalism.

Drawing my data from various sources,[3] I argue that Paul Scholten, by his principled approach in designing the curriculum and by his deeply philosophical outlook in laying out the pedagogy for the Rechtshogeschool, decisively liberated legal education in the Indies from the confines of European elitism and from the classical-oriented education in the Netherlands. The liberating nature of Paul Scholten's intervention in the founding of the Rechtshogeschool arguably made the school's graduates relevant in the upcoming upheaval in Indonesian history.

In the first part of this article (2), I present a quick sketch of Dutch scholars' observation of Paul Scholten's engagement with Neo-Kantianism and I offer my reading of it based on Scholten's essay *Recht en Levensbeschouwing* (1915). This part lays out the intellectual and philosophical background that informed Scholten in his involvement in the founding of the School. In the second part (3), I explore the dynamics of Paul Scholten's work in the Indies. I start with the contrasting sentiments of Indonesians and Europeans in the Indies on the merit of Latin in the school curriculum, which set the mood in the colony. I then present an outline of Scholten's proposal to the School's founding committee and his ensuing discussion with the colonial officials in the Indies. Subsequently I examine Scholten's philosophy of science and pedagogy before wrapping up with several anecdotes that hint at his enduring influence. This last part of the second section demonstrates the intimate relation between Scholten's position and Neo-Kantianism with regard to his own philosophical conviction and the blueprint he prepared for the School. I finally conclude (4) by calling for thorough research on how the School's education formed the basis of conceptions of justice and law, the first being personally and the latter being collectively formed, among legal scholars in the early years of postcolonial Indonesia.

2. Paul Scholten, Neo-Kantianism, and philosophy of life

Dutch legal scholars in general agree that Paul Scholten was immersed in Kantian and Neo-Kantian[4] philosophy.[5] They differ, however, on which of the two Neo-Kantian philosophers influenced him more: Rudolf Stammler of Marburg School[6] or Heinrich Rickert of Baden School.[7] According to Hengstmengel, Dooyeweerd cites Recht en Levensbeschouwing [8](1915) as the writing of Scholten that is most influenced by the Baden School.[9] In an interview Dooyeweerd says

> [Paul Scholten] was strongly influenced by the neo-Kantian understanding of law, especially the Baden school: Rickert, Windelband, and Lask. And the philosophy of value [waardenfilosofie] was an essential part of that.[10]

Dooyeweerd hedges his claim, however, by saying that Scholten did not remain faithful to it.[11] After converting to Christianity at the age of 38, Scholten remained committed to Christian values in the rest of his life, with a personal religious interpretation of them, characterized by Bruggink as a "Protestant-Christian belief with an ethical-personalistic slant."[12]

Identifying Paul Scholten's philosophical outlook is needed in order to unpack the philosophical DNA in the foundation of Batavia Rechtshogeschool. Granted, he was a multifaceted person whose philosophical outlook cannot be reduced into one particular school, especially since he continued to engage with various ideas throughout his long career. But by focusing on notable works prior to 1924, the year Batavia Rechtshogeschool was founded, this complex task can somehow be made more manageable. I thus focus my effort on close reading Recht en Levensbeschouwing because in this essay Scholten engages himself with the ongoing debate in Europe about the nature of legal science[13], which was informed by the dominant philosophy at the time, Neo-Kantianism. In this essay, one can observe how Scholten discerns three elements in legal science: two theoretical (sociological and historical) and one practical (decision). My reading leads me to a four-pronged conclusion about Paul Scholten's outlook on the topic:

1. Scholten considers neither sociological nor historical legal science adequate to reach legal decisions.

2. He rejects Rudolf Stammler's critical methodology[14] in legal science; to Scholten a fully intellectual abstraction process to find a stable reference for justice is not possible. In other words, there is no theory of justice.
3. He leans theoretically towards the philosophy of value, in line with Heinrich Rickert of the Baden School.[15]
4. He insists that freedom of conscience is the ultimate base and boundary of the practice of law.

These positions, I argue, informed Paul Scholten's principled approach in designing the curriculum and in laying out the pedagogy of the Batavia Rechtshogeschool. I will elaborate this four-pronged conclusion in the following paragraphs.

2.1 Sociological versus Historical Legal Science

To contextualize his position, Scholten begins by comparing and contrasting two major streams of legal sciences at the time, the sociological with the historical legal science. He ascribes to sociological legal science a strict adherence to empirical methods due to its ambition to reach the exactness of the natural sciences (*natuurwissenschaften*), which, according to him, despite Rickert, many still regard as the highest ideal to be attained by science.[16] Scholten rejects the claim that sociology is unbiased, because to him a description of sociological facts[17] is always shaped by personal convictions. Every description implies appreciation and selection. By portraying sociological descriptions in terms of societal development, the author creates the condition for changes in society.[18] Scholten agrees with Menzel that this way elements of natural law are added to sociological legal science.[19] While sociology starts with the observation of social facts, historical legal science takes an abstract conception[20] of law as point of departure and its scholars cannot escape this conception. Scholten writes that the historian cannot describe the law without already having a conceptual idea of law and without ordering his material accordingly.[21]
In contrast to legal sociology, historical legal science focuses on what of the abstract norms has become practiced. In Scholten's consideration, in the description of the details of concrete historical events, the historian may possibly approximate objectivity. But what is the meaning of such practical knowledge? When the historians try to make these practical facts relevant for their society this is not without danger. Although more sympathetic to historical legal science than he was to sociological legal science, Scholten was equally dissatisfied with it, when it tried to have practical meaning. Then legal historians frequently forgot,

> that the rule of law is always the regulation of a specific concrete condition of a specific nation in a specific time, and it gave value overtime to what had meaning only for a specific period of time. People also forgot the coherence of the law with social conditions, with the whole culture. All this has to be thought about by the legal historian. (trans. ud) [22]

In light of these criticisms, Scholten argues that judges have a different task from the scholars of legal sciences: they have to make legal decisions for cases that are not specifically addressed by the law in force[23]; their works are not detached from people's everyday lives; people look to the laws for justice being implemented. Judges need to go on a journey of law-finding[24] to find justice. The question then becomes: How can judges find justice without being arbitrary? Is a theory of Justice possible? How do judges find a "standard" from which to evaluate their legal decision as indeed just? Scholten argues that judges have to rely on their conscience[25] that is informed by a philosophy of life[26] in making legal decisions, particularly in cases that are not specifically addressed by the written law. This is where Scholten begins to

express his rejection of Rudolf Stammler's critical methodology and to demonstrate an empathic leaning toward Heinrich Rickert's philosophy of value.

2.2 Rejection of Stammler's Critical Methodology

In many paragraphs Scholten rejects a number of Stammler's positions: his consideration to return to a modified natural law, his critical methodology to find a "stable standard", from which "the ought"[27] could be drawn, and his position about the universality of an ideal law drawn from his critical methodology. Scholten writes,

> In the mean time…we do not wish a return to natural law at all. In fact it would be impossible, because there is no single natural law—there were many different directions. But the opinion that there would be one set of rules, the perfect law that we could know through our reason or at least approach, and that should be laid down in our positive laws—and that idea is what people usually mean when they talk about returning to natural law—is certainly not ours . Further, also on natural law with changeable content,[28] changing with time and place, for which the first German legal philosopher of this time, Rudolf Stammler…I do not believe—at least not in the spirit as Stammler means. (trans. ud)[29]

Scholten continues, that he rejects first of all the

> conception of an ideal law[30] that can be discovered by rational thought,[31] which demands unconditional respect by all peoples and all times. A law that we would not be able to achieve—that is something which almost everyone admits—but can more or less approach.[32] For me the changeability of the law is an element without which I cannot think it. I accept the changeability, not only as something, which till now has always been observed, but also as something which cannot be overcome in the future. (trans. ud) [33]

On the other hand, Scholten also disagrees with Stammler's idea of a specific law that addresses specific people at a specific time:

> But I do not believe in the objective existence of a uniquely-possible, uniquely-proper law for a certain people and a certain time. If a judgment of right or wrong is given about a legal rule, then this can only happen as a last resort from a certain life- and world-philosophy, and it will therefore only be valid for those who are adherents of the same life-philosophy as those who gave the judgment. (trans. ud) [34]

Scholten acknowledges that it is possible to negotiate with other parts of the society who do not subscribe to the same philosophy of life to accept the law, but this law cannot be enforced upon to them. Scholten points out the inefficacy of Stammler's critical methodology in formulating an "infallible possible law" that satisfies a particular period and a particular group of people,

> Stammler believes that, if only all factual information is provided to him—and according to him that factual information concerns people's needs and desires, [while] their convictions about what law ought to be has no say in it—with his method by the effort of the intellect[35], the infallibly unique possible law for a certain time can be found. This, in my opinion, is an overestimation of what can be achieved through our reason, pure intellectualism. (trans. ud) [36]

Instead of relying on Stammler's critical methodology, Scholten leans more towards the philosophy of life for the search of the ideal factors of law. He acknowledges that this implies that judgments about law and about how law can be found will only be acceptable for people who share the same philosophy of life.[37]

2.3 Empathic leaning to Rickertian Philosophy of Value

Scholten reminds his readers that the search for law stems from conscience (judgments about one's own acts) and a sense of justice[38] (the legal reaction one wants for hurtful acts by others to others)[39]. The sense of justice might well be biased and there is therefore a tension between feeling and truth involved in the search for law. This tension will be more problematic for the judges in concrete cases than for the legislators in their search for legal norms.[40] For lawmakers the rational elements, which play a role next to intuitive elements such as the sense of justice, get more importance: the valuation of interests, the weighing of values, the testing of the various means by which a certain goal can be achieved. Even though they aim at legal rules, which abolish injustices, these rules pertain to general conditions, which consequently enable a more distanced approach. The lawmaker aims at achieving a certain purpose and this purpose can in turn be a means for another purpose. As one climbs in this chain of purposes, Scholten suggests, one reaches the ultimate purpose, a given, which flows from one'sphilosophy of life[41]. Scholten writes further:

> To become clearly aware of [our philosophy of life], to determine from it the meaning of its subordinate purposes, to appreciate the values of life: nature, beauty, art, science, can be an incalculable benefit for him who participates in the formation of the law. (trans. ud) [42]

Scholten pursues further the question of values by putting forward the question of who is responsible in promoting particular values.[43] He writes,

> Inseparable from the question of valuation is the question to what extent the community is called to promote these values, to what extent it remains better left to the individual. This is itself again a question of valuation. [In] [t]he opposition [of] individual-community, the community only for the sake of perfecting the individual or a value in itself, may not, as a young German writer, Radbruch argues, be the most fundamental opposition between different worldviews—for the law it is of eminent importance. [The choice for the one or the other worldview] determines the formation of the law more than any other valuation. (trans. ud) [44]

It is the dynamics of society and not rational arguments that will expand the sensibility about justice and injustice, and which in turn will put different value to various life experiences. On this Scholten agrees with the Rickertian philosophy of value. Thus, Scholten concludes that the idea of law[45] cannot be separated from a multiplicity of personal and societal philosophies of life. This demonstrates that Scholten leans more toward Baden school in his appreciation of the philosophy of value than he was leaning toward Stammler's ideas. Yet he was not faithful to it, as Dooyeweerd rightly suggests. Scholten insists there has to be an engagement between these abstract-level ideals and the concrete day-to-day life of the people in which the ideas of law are to become law in force. This is a departure from Rickert's theoretical approach, which studies the formal presupposition of each value-judgment claiming more than individual validity and thus develops a method to study values at a completely abstract and formal level that transcends the empirically detectable multiplicity of values actually developed in history Scholten distinguishes next to the ideal factors of law, the real factors and presents his position as follows:

1. For a conviction that is inspired by a philosophy of life to be also considered as law, it must always be directed to be implemented in a certain time for a particular people. That is the task of every idea about law, if it fails in this task, then it will ultimtely be proven to be not law at all.[46]
2. For rules to be recognized as law by the people involved, their legal conceptions of law must have been taken into account.[47]

Scholten summarizes his own take of philosophy of value in connection with law finding in the following sentences:

> The one who gives a legal judgment but is aware that the judgment will not be implemented anyway, will have to admit in the end that what he puts forwards surely is his conviction regarding the law, not law however. (trans. ud) [48]

2.4 Tolerance and Freedom of Conscience is the Ultimate Basis and Boundary of Law

Paul Scholten crowns his essay with his conviction that objective truth only emerges if one wants to accept some fundamental values that cannot be proved by intellectual reasoning nor be evident through sensory perception.[49]In other words, objective truth only emerges if one accepts a transcendental value that cannot be categorized as a-priori or a-posteriori knowledge. He acknowledges the increasing presence of agnostics who were inspired by a naturalistic philosophy of life[50] and how they stand against those who subscribe to religious-based philosophy of life[51]. Yet, he believes no one has the right to enforce a law unto others of different persuasion. He emphasizes that respect for the convictions of others has always been the goal and honor of true liberty.[52] When conflicts exist between following the law in force[53] and one's own legal convictions[54], he sides with conscience: Freedom of conscience is the ground and limit of law. The authority of law cannot affect it.[55]

My reading of Paul Scholten's Recht en Levenbeschouwing leads me to four key positions that in some ways helped shape his philosophical outlook on the founding of Batavia Rechtshogeschool. First, Scholten shied away from picking either sociological or historical legal science, and instead argued that judges had to rely on their conscience[56] that was informed by a philosophy of life[57] in making legal decisions. Second, by rejecting Rudolf Stammler's critical methodology in legal science—that is rejecting a possibility of an ideal law that is drawn solely from reason or rational thought, and a law that is universally applicable to all people at all times—Scholten accepted the reality that legal education in the Indies did not have to be blindly following that in the Netherlands. Legal education was necessarily linked with understanding and knowledge of local socio-cultural conditions. Third, Dooyeweerd was correct in suggesting that Scholten was in a way deeply engaged with Rickertian philosophy of value, but indeed was not faithful to it. To Scholten, philosophy of value was a key component in expanding inner experience—where conscience and legal norms[58] reside—which in turn shapes the sense of justice. However, he departed from Rickertian abstract universally valid values by insisting the importance of engaging with concrete, real world. And finally, Scholten was a big supporter of freedom of conscience, and considered it to be the ultimate base and boundary of law. He encourages tolerance between jurists and legal scholars who hail from different philosophies of life and methodology. As his philosophical outlook is laid out, we can now observe how they were related to the blueprint he prepared for the founding of the Rechtshogeschool.

3. Paul Scholten in the East Indies

3.1 Preparatory works: two commissions

The works to prepare the founding of the Rechtshogeschool began in 1919 when the Minister of Education, Arts and Science along with the Minister of the Colonies created the Commission to Reform the already existing *Rechtsschool*[59], henceforth "the Indies Commission"[60]. Colonial officials found it urgent to establish a college-level legal education because the Indies had experienced a shortage of jurists, which led to employing retired public officials of European origins to serve in the native courts.[61] Further, the pressure was mounting to unify the legal system, which presumably would grant the native population more legal certainty than the existing plural system.[62] The Indies Commission concluded it was necessary to establish an institution for college-level legal education in the Indies itself, a school that was designed with the Indies' specific needs and conditions in mind. Such a law college would provide a path to a modern legal system in the Indies, as it would train jurists—Indonesian, European and Foreign Orientals alike—to serve in a unified administration of justice. In 1924, the Minister of the Colonies[63] appointed Paul Scholten to finalize the founding of the Rechtshogeschool.[64]

Around the same time in 1920, the Netherlands appointed a separate commission to establish a legal training specifically designed for the Netherlands-Indies (henceforth "the Netherlands Commission[65]"), the views of which diverged widely from that of the Indies commission. No contacts seemed to exist between the two commissions until the end stage of the Indies Commission's assignment. The latter was disturbed by what they implied as the Netherlands Commission's presumptuousness.[66] They wrote that the commission in the Netherlands had not even considered whether college-level legal education in the Indies would be useful and necessary, but had immediately assumed that it must be acquired in the Netherlands.[67]

The lack of communication resulted in many disagreements between the two commissions, of which the most glaring was the Netherlands Commission's decision to drop Latin from the compulsory subjects and to replace it with Javanese—a language spoken by more than half the population in the Indies. The Netherland's Commission considered Malay unnecessary because the students' daily usage was sufficient to sustain their future professional career. The Indies commission disagreed. They argued that Javanese could not become a compulsory subject because other ethnic groups' mother tongue was not Javanese.[68] Further, the Netherlands Commission considered everyday Malay a gibberish, low Malay[69] that was insufficient for academic or professional work. Students who spoke the language fluently would not necessarily read Malay easily. The Indies Commission however concluded that a systematic study of Malay was absolutely necessary,[70] proven by the success in its implementation at the OSVIA.[71] The Indies Commission regretted Netherland's decision about Latin that risked the deterioration of law study in the colony.

The sharp divergence between the two commissions incited varied reactions in Indies newspapers. Articles in the local newspapers were surprisingly well informed on the inner processes in the preparatory works. Paul Scholten followed these public reactions, proven by newspaper clippings carefully preserved in his personal archive.[72]

3.2 Reactions from the Indies: about Latin and admission requirements

3.2.1 Neratja: Rechtshogeschool di Hindia, March 1st 1924

Only one clipping in the personal archives of Paul Scholten was written in Malay and published in Neratja.[73] Folded with the clipping was a typed translation in Dutch. On March 1st 1924 – when Scholten's proposal was yet to be finalized and presented to the Indies audience, the prominent Malay language newspaper Neratja published a compelling article that criticized an earlier plan on admission requirements and the role of Latin in the admission and in the curriculum. In this earlier plan that circulated in 1920,[74] admissions were in fact only given to graduates of the AMS in Bandung, where it was possible to take a classical learning track.[75] Neratja disagreed with this proposal. The author proposed that the future Rechtshogeschool should admit graduates of all secondary-level education in the Indies, such as AMS, the learning tracks with and without Latin, the HBS and also the Rechtsschool, the graduates of which were known as *rechtskundigen*. In fact, Neratja argued that the rechtskundingen should get priority admission.[76] Neratja pleaded with the government to follow Leiden University's policy to waive the *candidaatsexamen*[77] for the rechtskundigen, which had allowed them to graduate from Leiden University Faculty of Law and Letters in two years. Neratja pointed out how the earlier proposal would reduce the pool of students to a very low number, such that it would be difficult to justify running the law college. The author questioned the practicality to require proficiency of Latin for the Netherlands Indies law study:

> Does the Indies population need to study Latin because the judges speak in Latin, or do the judges need to have fluency in the plaintiff's native tongue? (trans. ud) [78]

This argument resonates with Scholten's view as exposed in Recht en Levensbeschouwing that for rules to be recognized as law by the people involved their legal conceptions of law must have been taken into account.[79] Through its article Neratja attempted to demonstrate how the requirement of Latin was based neither on relevance nor usefulness for practicing law in the Indies. Rather, Latin was a criterion for membership to a peculiar, elite club that separated the autochthonous population from what I term "authentic Europeans." Neratja found such a requirement and the limited admission to the school absurd; the acute shortage of jurists, the ineffective service of retired European officials at the native courts, and the cosmopolitan nature of the Indies, which clearly required a legal training specific to the Indies situation, were the reasons for establishing the college in the first place. In other words, Neratja signaled that what was urgent was legal certainty not formalities that slavishly followed the law curriculum in the Netherlands. Rather than knowledge of Latin, it was legal certainty that was highly valued by Indonesians.

As Neratja published the article on March 1st after Scholten's arrival in the Indies and before his meeting with the Indies' elites on March 19th, Scholten must have read a translation of this article before the meeting. He probably will have felt vindicated by the indigenous voice on the irrelevance of Latin in the Indies legal education.[80]

3.2.2 De Nieuwe Courant, 31 January 1924

An earlier article published in January 1924 by De Nieuwe Courant[81] represented a different segment of the Indies population: the White Europeans who demanded classical education.The article argued that there was no need for a law college that would "produce second-rate lawyers"; what was more urgent was a classical education. The government was responsible to provide a classical education for the European population which settled in the Indies. Such an education would lure Europeans to the colony who were "good workers, not second-rate workers."[82] The article went on,

> The so-called classical preparatory training is non-existent in the Indies; the Indies knows neither gymnasium nor lyceum. Yet, people want to establish a law college. Without the study of the classical languages. Don't they see that with such training the graduated jurists will never be equal to those that the universities in the Netherlands produce? That the better-situated portion of the European population prefer to send their children to the Netherlands than to let them acquire a degree [here] which only has value in the Indies and will bind the graduates to the Indies? That this way surrogate-jurists or second-tier scholars are created? (trans. ud) [83]

Surrogate-jurist, second degree scholars, these derogatory terms marked *De Nieuwe Courant*'s doubt that jurists in the Indies, which had been trained in Netherlands-Indies law, had the capacity to be "full-fledged" jurists like the ones trained in the Netherlands, particularly when they would lack classical training. That these jurists would not acquire the cognitive categories of justice of European graduates was both a racist and an elitist claim. The article in De Nieuwe Courant reveals, in my view, the desire for authenticity among certain members of the European population in the Indies and their belief that these qualities were capacitated through classical education. It voiced a longing for equality, prestige, and being on the same footing as what I term "authentic Europeans" coming from the Netherlands.[84]

The disagreements on the role of Latin clearly went beyond the confines of the two commissions. In fact it incited a debate among the Indies population about the proper training for Indies jurists. One side wanted a legal education that would produce lawyers who could serve the specific needs of the Indies, while the other side wanted a legal education that followed a strict concordance to the law curriculum in the Netherlands. In doing his job, Paul Scholten undoubtedly faced a tug of war between inclusivity versus exclusivity, context versus tradition, relevance versus "authenticity," true justice versus formality. His principled proposal to do away with Latin in particular and classical training in general was a liberating force: the longing and pursuit of justice are innate in every society, but the judges need equip themselves with conscience and a philosophy of life to guide them in making the most appropriate legal decisions, ones that also resonate with the community and society, which they serve. Latin did not serve this purpose. The pursuit of law does not depend on classical training or proficiency in Latin. In fact, Scholten explicitly stated this in his speech at the opening of the Rechtshogeschool:

> The need for law God himself has placed in our heart. (trans. ud) [85]

3.3 Paul Scholten's proposal

When Paul Scholten arrived in the Indies in 1924, he was received with some semblance of skepticism.[86] As Asbeck remarks, Scholten, quickly gained the Indies' respect due to his deep interest in the people, a warm love for the new country, an unshakable conviction about the role and value of science coupled with a vivid experience in higher education, and a deep faith.[87] Asbeck further records that Scholten was gracious and inclusive in preparing the school's founding: He talked to many segments of the Indies population; he traveled to Sumatra as well as Java to meet plantation operators[88]; he went to visit schools like HBS, AMS, Rechtsschool, STOVIA, and even the "wild" schools run by Taman Siswa[89]; he visited factories and hospitals; all this in order to gain insight into the best way the Rechtshogeschool could serve the Indies. Scholten's genuine interest in setting up a school that would truly benefit the colony won him the respect of many in the Indies.[90]

To implement his task, Scholten had complete access to the Indies and the Netherlands commission reports, as well as the Indies' newspaper articles published in Dutch and Malay discussed in the previous sections. These articles must have given him a good understanding of the dynamics as well as tensions within the Indies and between the Indies and the Netherlands. While he might have been unnerved by the feuding clamors, he kept this in check. The proposal he submitted to the Governor General exuded confidence, and he tackled skepticism diplomatically as recorded in the transcript of discussions he had with the Indies high-ranking officials.

In setting the curriculum, Scholten underlined his departure from the law curriculum in the Netherlands as set by the 1921 Academisch Statuut.[91] He thought the Netherlands' law curriculum too much of a compromise of various trends. Even though the Netherlands-Indies' law curriculum in the Academic Statute did consider Indies' specific needs, Scholten thought it neglected foundational courses such as a philosophical introduction to the principles of law[92] and national economics[93]. Agreeing with the Indies commission findings, he considered that the Indies curriculum must be developed independently of the Netherlands, with the Indies' unique conditions in mind. He laid out five principles that guided his proposed curriculum and pedagogy, which I summarize, as follows[94]:

1. In range and depth, the study must be equivalent with that in the universities in the Netherlands. It must concentrate on educating jurists for the practice of law in a scholarly manner.
2. Legal subjects/courses should stand in the foreground. Focus, and not unrelated sprawls of courses, is urgently necessary for the formation of the young mind[95].
3. A good legal study is not possible without a broad education in cultural studies. A good place must be given to those sciences in which the society where the law will be applied is itself the subject.
4. The dichotomy between Western- and Eastern-oriented topics must be disregarded. The school must focus on the law in force in the Indies, regardless of its origin.
5. The pedagogical approach should rely on two principles: from the simple and easy to the difficult and intricate, and from bondage[96] to freedom[97].

In contrast to the Indies Commission's suggestion, Scholten argued that Roman law should not be made a compulsory course—with significant consequences for the need to study Latin—because even in the Netherlands it was studied only as a part of a course on the legal system[98] that had formed Dutch law.[99] In the case of the Indies, Roman law was only relevant as a part of the world history. For those who decided to specialize in civil law[100], a specialization taken in the fourth year, he conceded that

an elementary understanding of Latin was necessary. Consequently, it was not necessary for all students to study Latin. Scholten openly acknowledged that his proposal would allow the flexibility to admit students graduated from the HBS and from the Eastern classic learning track of AMS, although students with a classical learning track would be prioritized.[101]

In contrast to Latin, Scholten underscored the importance of proficiency in the vernacular languages for reasons more profound than pragmatic. He wrote,

> Further one of Indonesian languages is included in the program. The students of indigenous origin must learn to think scientifically in their own language. For the others [non-Native students] at least the study of one language is necessary for an adequate knowledge of the native life…. It is important for students to understand the structure of the society in which the law is applied…but that of anthropological knowledge only becomes of greater importance provided it is not a list of curiosa but if it is accepted as a basis of the study of society. (trans. UD, also underlining) [102]

Scholten considered language an essential component in the conception of law as demonstrated in section 10 of the Algemeen Deel[103]. He writes,

> Language, the meaning of words according to usage, is the predominant of all aspects of the finding of law. Language is the medium par excellence by which people have dealings with one another; an order as realized by law is inconceivable without language. No law can exist without being formulated, people ask for Jurisdiction: a judgment about the law expressed in words; the judgment is founded on general formulas, which are again summarized in words. (General Method, 151)

Language proficiency is a key to understanding the society upon which certain laws were to be imposed. But in his report as quoted above he pushed further: the requirement to study Malay was not simply to facilitate these future (indigenous) officials to communicate with their fellow compatriots, but, more importantly, to encourage them to think scientifically in their own terms and referring to their own cognitive universe. Although the idea of teaching Malay or Javanese in the Indies school curriculum was not new, his reasoning was radically different from the earlier arguments. For example, General Dutch League[104] had proposed teaching Malay because Dutch was too difficult to become the lingua franca in the Indies.[105]

I suggest that herein lays the key point to Scholten's position: Proficiency in Latin in itself was not a helpful skill for judges and legal practitioners to go on a law-finding journey in order to make a just legal decision. More important, particularly for judges in the East Indies is a deep understanding of the society, its community, its structures and its philosophy of life. Vernacular languages were more valuable than Latin. They contain in themselves conceptions that have developed in historical conditions and in this sense are based on empirical facts. As elaborated by Scholten in Recht en Levensbeschouwing, legal conviction must be inspired by the philosophies of life, which are held in a certain time by a certain people, to avoid the risk of a legal idea becoming an impotent law. An idea of law becomes an important real and valid law, when its rules can be recognized as law by the people involved, because these rules have taken into account their actual legal conceptions of law.[106]Mastery of one or more Indonesian languages and being immersed in society by way of the knowledge of anthropology, sociology and other social sciences, were for jurists more important to Scholten than the knowledge of Latin. He further defended his proposal to drop Latin by arguing that Roman law was only relevant in its meaning for world history.[107] Although he acknowledged that in civil law there would be many references to Roman law, Latin accrding to him still lies too far from the sphere of thoughts in the Indies' society to make use of it as an introduction to legal study.[108]

3.3.1 Discussion with the indies commission

High-ranking officials in the colony questioned Paul Scholten's stance on Latin. In an important meeting on March 19th, 1924,[109] they were presented with a chance to challenge him.[110] The president of the Supreme Court, P.W. Filet argued that because indigenous students were already naturally familiar with Indonesian languages, providing academic training in Malay was unnecessary; lack of Latin, on the contrary, would handicap those who would later decide to pursue a career in criminal law. Judged by the value of a classical upbringing that Latin would provide[111] and the practical usefulness of knowing Latin, Latin was for Scholten of little relevant for the East Indies. He deemed classical education in the Indies something which was unattainable[112], even for the students of the AMS with a classical learning track.[113] This is a comment which begs for a further explanation, because it seems in contradiction with Scholten's general tendency to be generous.

In another article that touches upon Scholten, I suggested a possibility of racial prejudice in this statement.[114] After a careful reading of Recht and Levensbeschouwing, I would like to suggest a more charitable view here: First, Scholten most likely was unconvinced that the students would be able to overcome the spatial, geographical, and cultural boundaries they were confronted with and to imagine and to recognize symbols and values offered in a classical training. Further, Scholten must have been skeptical about knowledge of Latin being as effective as vernacular languages in leading Indies jurists to administer the law and to develop the law and legal science which would be relevant to the local condition. He considered a formal training facilitating a strong grasp of local languages urgent –not so much as a lingua franca—but in terms of linguistics and philosophical aspects as it would result in a legal jurisprudence that intimately responded to specific cultural, historical, and sociological contexts in the Indies. This echoes Scholten's position in rejecting Stammler's abstract, critical methodology. On top of that, Scholten was perhaps wisely aware that many of the students would not specialize in European commercial law where the fluency of Latin would be most needed. In fact Indonesian lawyers did not thrive in such a career specialization because most European companies in the Indies preferred to deal with European lawyers.[115]

In conclusion, Scholten argued that Latin was irrelevant to the study of criminal law; Latin language proficiency became necessary only when one wanted to do a deeper study of civil law and dig into its sources in Roman law. Thus, to require from all students to study Latin for the sake of appearance was according to him of questionable wisdom.[116] Scholten's credentials as a professor of Roman law made it especially hard to argue against his position. After all, he had taught Roman law in the University of Amsterdam for many years when he observed the lack of urgency of it for the Indies.[117]

In this section I have demonstrated Paul Scholten's principled approach in designing the curriculum for the Rechtshogeschool and the way it democratized legal education in the Indies. His proposal to push Latin to the background enabled him to expand the pool of eligible students to be admitted to the school beyond those who had attained a classical learning degree. His firm insistence in offering Malay or Javanese as a compulsory vernacular language to be mastered expanded the students' universe of reference beyond the western confines. Further, by forcing Indonesian students to master their own language and to think scientifically in it, he established that scientific knowledge was *not* a monopoly of European tradition. Scholten thus believed scientific pursuit to be innate in human beings directly based on and capacitated by their linguistic ability.

Paul Scholten came to the Indies twice totaling seven months. In May 1924, he went back to the Netherlands to coordinate with the Ministry of the Colonies, and—important to note—to recruit two members for the teaching staff. Out of the eight teachers needed for the proposed nineteen courses, Scholten specifically requested two teaching positions to be filled by recruits from the Netherlands: Civil Law and Civil Procedural Law, and Criminal Law and Criminal Procedural Law. A communication sent by the Department of Education and Religious Affairs to the Governor General stated that Prof. Scholten wanted that the most appropriate persons must be sought.[118] A.H.M.J. van Kan, a graduate of the University of Amsterdam who at the time was teaching Roman law at Leiden University, was selected to teach Civil Law and Civil Procedural Law. He became the chairman of the Batavia Rechtshogeschool after Scholten left for the Netherlands. For the other position, Scholten ended up recruiting a lawyer who already resided in the Indies, J.H.J. Schepper, who served as a consul between 1918 to 1922 at the Zendingsconsulaat[119] in Batavia. Schepper was also assigned to teach the foundational course, philosophy of law[120]. Schepper proved himself to have an independent mind: In 1927 he wrote a newspaper article that defended Soekarno in his famous trial in Bandung.[121] When he came back to Batavia in September 1924, Scholten was ready to launch the school. At the launch in October, he gave a profound speech that offered a window to his vision and philosophy of learning that undergirded the Rechtshogeschool's outlook for eighteen years before the Japanese put an end to it.

3.3.2 Scholten's philosophy of science and pedagogical outlook

Paul Scholten laid out his philosophy on science and his pedagogical outlook in his speech at the opening of the Rechtshogeschool. It was eloquently written. Scholten conveyed his respect for the autochthonous society—a society he acknowledged as honoring and recognizing that knowledge is power; his understanding of science that was inspired by a Kantian canon—science as a search to connect a priori concepts[122] and phenomena; his position that legal science requires values and personal convictions[123]; his take on the situatedness of a college of law in the crosscurrent between science and religious convictions, and between non-Western and Western cultures; and how the establishment of the Rechtshogeschool addressed the Indies's longing not only for knowledge, but also for law.[124] Scholten played down the argument that law and justice has become a mockery in the power struggle of peoples, classes, and individuals.[125] He remained assured that there was,

> an inner conviction that there is an ought which obligates people to certain things and that from this there necessarily flow certain requirements of law for society. (trans. ud) [126]

When Scholten describes his philosophy of science, his engagement with Kant is evident. He said,

> The science of science is one of the most difficult matters, but this is sure: Science wants something other than knowledge alone. Science wants comprehension, understanding; it seeks unity, a connection between ways of thinking and phenomena, laid out by the human intellect. (trans. ud) [127]

When Scholten asks what the importance is of the establishment of the Rechtshogeschool this leads him to questioning what one can know, and what one must do, two questions that lead to the deeper question for a religious man of how he stands before God. The first two questions are of the Kantian canon, while the third is a question infused by his Christian outlook, by which he links the Kantian ethical question to the way God has planted in every human being the consciousness that,

he is obligated to do certain things. Law and legal science concern touch both questions.[128]

Merely connecting ways of thinking and phenomena, which resulted in "understanding" in the Kantian sense of the term, was not enough for legal science.[129] The point of understanding is linked to the question of what one must do: Fulfillment of certain obligations means more than to know the rules. It means to manifest justice and to pursue legal science that would realize justice in concrete terms. Scholten drew—in contrast to Stammler's critical methodology—our attention to the urgency of law that grows organically from an intimate understanding of the people over which the law exercises authority. For Scholten,

> Only accurate knowledge of all data, ethnological, sociological, economical makes it possible to judge with a chance of success whether a rule will take effect. That knowledge can in general only be acquired in the country itself. (trans. ud) [130]

This philosophy of science was intimately related to Scholten's outlook on pedagogy, as demonstrated in his layout of what the Rechtshogeschool's objective should be: enlightenment for the students—in other words a process that leads to a capacity for self-reflection. For Scholten science and learning would only help students to think in scientific term, but legal science requires something beyond formal science. Legal science and the law that comes out of it have to spring forth from contextualized intellectual struggles. This explains Scholten's view that each country needed to have its own legal research center[131]. For students at the Batavia Rechtshogeschool, to become judges or scholars they needed the skills that would help them to capture the realities of the society they are serving. Knowledge of facts was not enough to draw a legal ruling: it needed to grasp the differences, the need for compromise, and the need to harmonize different interests, noting the immense diversity in the Indies. They needed to convince the society of the validity of their legal judgment, lest it would not be accepted as law.

Scholten summed up his conception of legal science and the pedagogy required for training legal practitioners as follows,

> Legal science does not only require comprehension of rules and knowledge or even comprehension of facts, it also requires an understanding of those for whom those rules are intended. That understanding is something other than just comprehending. It includes an element of emotion[132]. Whoever wants to illuminate a people in seeking law must be a good observer of that people. In this too, love is the most. (trans. ud) [133]

This position, a mirror of his philosophical outlook laid out in Recht en Levenbeschouwing, had already emerged in his proposal on the pedagogy of the Rechtshogeschool: The essence of good pedagogy is nurturing a transition from bondage to freedom, both in the method of teaching and in the outward design of the courses, which would help students find their vocation. He writes,

> As much as possible there must be a guard against the possibility that Higher Education would merely impart ready knowledge[134]. Only education that forces independent thinking[135] is formative. If anywhere, then specifically regarding law. This is only possible by inspiring the student and respond to his concerns, by giving him a large measure of freedom. That freedom does not mean licentiousness; on the contrary, more than is common in Holland the student should be more monitored in his work.[136] The student should not be free not to work, neither is it possible to leave him a choice in the subjects he wants to study because he has to become fit for a specific office. But in the domain of these obligatory subjects the students should be free to develop his own feeling for what is important, his own way of doing things. Therefore, each lecture should have an interactive set up [137]. In the fourth year of study self-motivation[138] will have to take a predominant place in the seminars[139] which will be set up. In this year the student will be given a free choice concerning the direction in which he wants to move and the components on which he wants to focus. (trans. ud) [140]

It was Scholten's firm belief that students should be given freedom in choosing their legal specialty. They could not evade hard work nor be left to choose the subject they would practice without guidance. But, in the domain of these subjects he should follow his own interest as much as possible, he must be self-engaged in making

decisions.[141] Scholten reiterated the importance of critical thinking, self-efficacy, the capacity to reflect, to ponder, and to be constantly asking questions. At the end of the day, students must master the subjects themselves through this process. In his view the days in which it was the goal of the students to memorize industriously penned lecture notes were gone.[142]

Scholten's outlook on the pedagogy is captured in the following paragraph of his opening speech,

> The students should know that searching, that struggling with the problems out of their own personal experience, they must labor upon it, if only by their willingness to accept the ideas of their teacher, or by their criticism with which they confront him. That opens something in their mind, they see something that used to be strange to them, something awakens in them, and their minds grow. This is what counts and not ready knowledge[143]. Ready knowledge is useful and necessary, without it science is not possible, but only if the student at the college has seen some of the scientific method, he will take with him something from it that will become a value for his life. (trans. ud) [144]

The moment something in them was awakened and their mind opened would be the beginning stage for the students to find their footing in the world, their conscience, the value for their life, and—in turn—their philosophy of life.

Beyond the students, Scholten also underscored the importance of an intellectually active teaching staff. He said that what distinguished higher education was that the professor himself was a researcher, who did not only reproduce, but really elaborated his discipline, even during his lectures.[145] Despite having read an advice by C. Nieuwenhuis on the increasing belligerence towards the colonial government by the youth and students,[146] Paul Scholten remained firm on his position to teach vernacular languages and to encourage autonomy in the Rechtshogeschool. Nieuwenhuis' letter to Engelenberg, a staff member at the Department of Education and Religious affairs, expressed his concerns on the state of young, educated Indonesians.[147] Nieuwenhuis blamed it partially on the education system: limited access to higher education at a post secondary-level and to outlets such as sports and other extracurricular activities made the youth look elsewhere for stimulation. They ended up exploring politics and writing nationalist articles in newspapers for a sense of fulfillment. To counter this, Nieuwenhuis urged an expansion of teaching Dutch to ensure the youths' loyalty to the Netherlands. According to Nieuwenhuis language politics is real politics, because Dutch was now competing with English and Malay as a result of cultural propaganda from the nationalist camp. This advice, however, failed to deter Scholten.

Paul Scholten aimed for an education that transformed bondage to freedom through a particular teaching method and an outward design of the courses. His vision for the Batavia Rechtshogeschool was oriented to an education that encouraged searching, conscience, autonomy, and a solid grounding in a philosophy of life, which he considered foundational for judges and legal practitioners in finding a law that was just. His vision aimed at an education that prioritized immersion in vernacular language—instead of Latin—and in different social and cultural milieus in order that when they later would make legal rulings these would resonate with the people over whom they had authority.

3.3.3 A peek into student life in the rechtshogeschool

On October 21, 1924, *De Javasche Courant*[148] published the Rechtshogeschool's bylaws from the Staatsblad of the Neth. Indies[149] No. 85, 1924.[150] It laid out rules for admission, the calendar of study, costs, vacation time, courses, and examinations. As Scholten had directed, Latin was demanded only for fourth year students who had no classical background and who opted for specializing in civil law (Article 21). For the *candidaatsexamen*[151]Javanese and Malay became elective languages to study, an obligatory subject for all students regardless of their specialty. In 1928, students from the Rechtshogeschool, along with students from other colleges, organized the second Youth Congress. They proclaimed the historical "Youth Oath," where for the first time in the Indies' history, ethnic identity was superseded by a national identity: they pledged to be one nation, Indonesia; to speak one language, Indonesian; and to consider one motherland, Indonesia.[152] Learning Malay in a formal, academic setting must have spurred the students' confidence in the language's unifying potential. Resink underlines the significance of the education of the Rechtshogeschool in establishing the foundation for this vision among its students.[153] Nowhere else in higher education in the Indies, only at the Rechtshogeschool students were taught the value of language, culture, and *adat* (indigenous law of the indies). The roles played by students like Soegondo Djojopoespito and Mohammad Yamin in the Youth Conference 1928 reflected the pedagogy of the school.

I have reported anecdotes of the Rechtshogeschool's student daily life elsewhere.[154] Here I briefly recount several to drive home the argument that in line with Scholten's outlook, the Rechtshogeschool professors did encourage autonomy and independent thinking among their students: Students were addressed as "Mister" and treated as adults. They basked in the respectful treatment they received from the professors, director of the dorm, and fellow students.[155] Extensive selections of newspapers were made available in the school dormitory's library, Oei Tjoe Tat reported, such as *Nieuws van de Dag, het Bataviaasch Nieuwsblad, de Java Bode, De Locomotief, Sin Po,* and *Matahari van Semarang,* as well as nationalist-oriented Indonesian-language newspapers like *Nationale Commentaren*.[156] An article by a nationalist member of the Volksraad, Sam Ratulangie, published in *Nationale Commentaren* awakened a sense of Indonesian-nationalism in Oei, whose legal status at that time was "Foreign Oriental." Teaching staff did not shy away from encouraging students to attend Volksraad sessions to familiarize themselves with the nuts and bolts of running a state, which many did. Relations between professors and students were warm and respectful, to the point of father-to-son/daughter intimacy; Resink recounts how Prof. Schepper was especially close to Amir Sjarifuddin and Ani Abbas Manoppo, while Prof. Logemann had also a close relationship with Sjafruddin Prawiranegara and Djokosutono—who both for a time served as his teaching assistants. These students came to visit their professors' house to discuss ideas, listen to music, and even dine.[157] Finally, a particularly shining anecdote was the encounter between Prof. Logemann and Hamid Algadri: Logemann, testing Hamid Algadri's resolve, allowed Algadri after a 'tense exchange' to reschedule his oral exam on constitutional law so that he could attend his party's rally in Cirebon.[158]

Through his deeply philosophical outlook, Paul Scholten instituted in the Rechtshogeschool a pedagogical tradition that nurtured autonomy and facilitated independence among the students to think for themselves. The professors embraced his idealism on encouraging freedom wholeheartedly, such that it elevated their relations with their students to collegial, mutually respectful relations. The liberating nature of Paul Scholten's intervention in the Rechtshogeschool's founding made the school's graduates relevant in the upcoming upheaval in Indonesian history, as has been reported in many historical narratives.[159]

In his conviction, at an awkward juxtaposition to the colonial ideology of control over mind and body of the colonized, Paul Scholten stood tall in quiet defiance.

4. Conclusion

Paul Scholten's curriculum and pedagogical outlook, which left profound marks in the Rechtshogeschool, were not shaped randomly. They were formulated from a deep thinking process and a solid personal philosophy. Noting his character as a deep thinker, it is unimaginable to consider that he took such a position without contemplating the consequences.

Anecdotal records demonstrate how his intellectual legacy underpinned daily life of the students and teachings at the Rechtshogeschool. These anecdotes are nevertheless not yet adequate; we need more research to gain deeper insights into how Rechtshogeschool—and Paul Scholten by implication—have shaped the cognitive categories, values and principles of law of Indonesia's early leaders. This is an urgent research to undertake because to orient Indonesian legal education, it is imperative to understand how the nation's founders engaged themselves with it. If their four years of education brought the seismic 1928 Youth Conference, perhaps one can hope for Indonesia's contemporary legal education to bring about "small earthquakes" that bring to the surface the nation's shared philosophy of life.

Paul Scholten gave us teaching moments: a direction for legal education cannot be left to chance. It is imperative that it is outlined out of deep philosophy and clear conviction.

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Glossary

English-Dutch

- a priori concepts, ways of thinking. “denkvormen",
- believer. “gelovige,”
- bondage. “gebondenheid,”
- civil law. “privaatrecht,”
- conception. “denkbeeld,”
- conscience. “geweten,”
- effort of the intellect. “verstandsarbeid,”
- element of emotion. “gevoelselement,”
- facts. “gegevens,”
- freedom. “vrijheid,”
- gibberish, low Malay. “brabbeltaaltje, laag-Maleisch,”
- ideal of law. “ideaal-recht,”
- independent thinking. “zelf denken,”
- law-finding. “rechtsvinding,”
- lecture with an interactive set up. “responsiecollege,”
- legal conviction. “rechtsovertuiging,”\legal norms. “rechtsnormen,”
- legal research center. “rechtswetenschappelijk centrum,”
- legal science. “rechtswetenschap,”
- legal system. “rechtsstelsel,”
- national economics. “staathuishoudkunde,”
- naturalistic philosophy of life. “naturalistische levensbeschouwing,”
- philosophical introduction to the principles of law. “wijsgeerige inleiding in de rechtsstudie,”
- philosophy of law. “wijsbegeerte van het recht,”
- philosophy of life. “levensbeschouwing,”
- plantation operator. “ondernemer,”
- ready knowledge. “parate kennis,”
- self-motivation. “zelfwerkzaamheid,”
- seminars. “werkcolleges,”
- sense of justice. “rechtsgevoel,”
- something which is unattainable. “iets onbereikbaars,”
- the law in force. “geldend recht,”
- the ought. “het behoren,”
- view of law. “rechtsidee,”

- young mind. “jeugdigen geest,”

Dutch Institutions

- Candidaatsexamen. “exam after two years of studying law. In 2000 replaced by the Bachelor-Master system.,”
- Collectie Paul Scholten. “personal documents regarding Paul Scholten’s life and work in the National Archives in The Hague with the number of access: 2.21.3.319,”
- Gymnasium. “secondary school which includes Latin in all its learning tracks.”
- Hogere Burgerschool (HBS). “secondary school which excludes Latin from all its learning tracks.”
- Lyceum. “secondary school which has learning tracks with and without Latin.”
- Academisch Statuut. “Statute, which formulates the requirements for the different academic studies.”

Institutions of Neth-Indies and Indonesia

- Algemene Middelbare School (AMS). “secondary school which like a HBS can have only learning tracks without Latin, but also like a Lyceum can offer a choice between a learning track with or without Latin. AMS is open for pupils of the HIS, HCS and the Schakelschool.,”
- De Javasche Courant. “Colonial State Gazette,”
- De Locomotief. “Progressive newspaper in the Neth. Indies,”.
- De Nieuwe Courant. “Newspaper in the Neth. Indies,”
- Europese Lagere School (ELS). “European primary school (for Dutch, Javanese and Chinese elite),”
- General Dutch League. “Algemene Nederlands Verbond (ANV),”
- Hollands Chinese School (HCS). “Dutch-Chinese school of seven years,”
- Hollands Indische School (HIS). “Dutch-Native school of seven years,”
- Indies Commission. “commission established in Indonesia (1919) to reform the rechtsschool (commissie tot hervorming van de inlandsche rechtsschool),”
- Landraad. “Native Court,”
- Neratja. “Newspaper in the Neth. Indies,”
- Netherlands Commission. “commission established in the Netherlands (1920) to develop a legal training in the Netherlands, which was specifically designed for the Netherlands-Indies (commissie voor de hervorming van de opleiding van Indische rechterlijke ambtenaren),”
- Opleidingsschool voor Inlandsche Ambtenaren. “institute for professional training at secondary level (vocational school) of civil servants,”
- Raad van Indië, “Counsel of the Indies.”
- Rechtshogeschool. “Institute for professional training of jurists at university level,”
- Rechtsschool or Opleidingschool voor Inlandsche Rechtskundigen (OSVIR or OVIR). “institute for professional training at secondary level (vocational school) of legal practitioners.,”
- Schakelschool. “Switchschool: after having finished the fourth year of the Indonesian native standard school, pupils could switch to the Schakelschool, which would bring them in five years on the level of the HIS or HCS.”
- Staatsblad voor Ned. Indië. “publication medium of the government for colonial rulings,”

- Taman Siswa. “Indonesian organization that established a network of private schools for Indonesians. In 1923 the Wild School Ordonnance (Wilde Scholen ordonnantie) was promulgated by the government and was applicable to these schools.,”
- zendingsconsulaat. “Dutch Protestant missionary institution.”

Websites

- http://www.delpher.nl/nl/kranten/view?identifier=ddd%3A010220130%3Ampeg21%3Aa0129&coll=ddd#ocr
- http://www.gahetna.nl/archievenoverzicht/pdf/NL-HaNA_2.21.319.ead.pdf
- http://resources.huygens.knaw.nl/zendingoverzeesekerken/RepertoriumVanNederlandseEnMissie-archieven1800-1960/gids/organisatie/2657766143
- http://staffweb.hkbu.edu.hk/ppp/ksp1/KSPglos.html

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[1]Lev, “Origins of the Indonesian Advocacy”, 1976.; Lazarus-Black, “After Empire: Training Lawyers as a Postcolonial Enterprise.”; Massier, *The Voice of the Law in Transition*.; Djalins, “Re-Examining Subject Making,” 2013.

[2]“Institute for Professional Training of Jurists at University Level.”

[3]These include primary and secondary sources. The primary sources are from the “Personal Documents Regarding Paul Scholten’s Life and Work, Archived in the National Archives in The Hague Access Number 2.21.3.319.” The Paul Scholten Collection is described in a pdf document which can be found online: http://www.gahetna.nl/archievenoverzicht/pdf/NL-HaNA_2.21.319.ead.pdf The collection comprises VIII Sections. Section VI includes a collection of folders with the inventory numbers 62-79, which each contain various documents from the period Scholten spent in Batavia on account of the establishment of the Rechtshogeschool. Some of these documents have a title and pagenumbers. The folder with the inventory number 62 (NL-HaNA, Scholten, P., 2.21.319, inv.nr. 62) consists of the documents regarding the establishment itself. The folder with the inventory number 77 (NL-HaNA, Scholten, P., 2.21.319, inv.nr. 77) includes various Dutch- and Malay-language newspapers discussing the Rechtshogeschool.

[4]Samantha Matherne describes the Neo-Kantian philosophy that emerged in mid-19th century Germany as a counter to the increasing dominance of science and positivism. It reached its apex of influence in Western Europe between 1870s and 1920s through two major schools of thought: the Marburg School and the Baden School.While the Marburg School emphasized logic, mathematical and natural sciences (*natuurwissenschaften*) in its inquiry into how the human mind grasps the world of objects, the Baden School pursued questions from the cultural sciences (*geistenwissenschaften*), sciences that encompassed history, sociology, and the arts, among others. Matherne, “Marburg Neo-Kantianism as Philosophy of Culture A Novel Assessment.”

[5]Bruggink, “Paul Scholten.”; Bruggink, “Wat zegt Scholten over recht.”; Dunné, Boeles, and Voss, *Acht civilisten in burger.*; Jansen, Smits, and Brouwer, *16 juristen en hun filosofische inspiratie*.

[6]Jansen, Smits, and Brouwer, *16 juristen en hun filosofische inspiratie*. do not offer any reference in their assignation of Stammler’s influence to Scholten. (See page 13)

[7]Hengstmengel, “Paul Scholten en Herman Dooyeweerd.”, 17; In Andrea Staiti’s words, “Rickert’s Kant is primarily a philosopher of human culture at large, interested in questions about the meaning and value of our life in the world,” while the Marburg

School's Kant is mainly a philosopher of the natural sciences. Staiti, "Heinrich Rickert."

[8]Scholten, "Recht en Levensbeschouwing."

[9]Hengstmengel, "Paul Scholten en Herman Dooyeweerd." footnote 30.

[10]Dunné, Boeles, and Voss, *Acht civilisten in burger.* 43-4 ; Translation by J. Glenn Friesen, https://jgfriesen.files.wordpress.com/2016/12/interview.pdf.

[11]Hengstmengel, "Paul Scholten en Herman Dooyeweerd.", footnote 30. According to Natàlia Cantó-Milà, the Baden School gained fame for its signature inquiries into the question of values (Axiology) and its universalizability. It deems certain values as belonging to a priori categories, which exist without the need of experience and consequently are logically deducible. Mila, *A Sociological Theory of Value*.; See also Oakes, "Rickert's Value Theory." Heinrich Rickert is known to be the protégé of Wilhelm Windelband who pioneered the value theory. He developed the theory to its maturity. I suggest it is this universalizability that Scholten disagreed with, hence Dooyeweerd's observation.

[12]*Protestants-christelijk geloofshouding met een ethisch-personalistisch inslag.* Bruggink, "Paul Scholten.", 98; Hengstmengel, "Paul Scholten en Herman Dooyeweerd." points out that Philip Kohnstamm, who was a Baden school Neo-Kantian scholar, also deeply influenced Scholten,10.

[13]"rechtswetenschap."

[14]See Sabine, "Rudolf Stammler's Critical Philosophy of Law." for an accessible summary of his foundational works, including his critical theory for legal science.

[15]Staiti, "Heinrich Rickert." offers a concise introduction to Heinrich Rickert and his philosophy of values and is valuable to contextualize Scholten's engagement with Neo-Kantianismas elaborated in Recht en Levensbeschouwing.

[16]Scholten, "Recht en Levensbeschouwing.", 133. (block 28)

[17]"gegevens."

[18]Scholten, "Recht en Levensbeschouwing.", 134. (block 31 and 32)

[19]Scholten. ,136. (block 35)

[20]"denkbeeld."

[21]Scholten, "Recht en Levensbeschouwing.", 137. (block 37)

[22]Scholten., 137. (block 38): "En het was niet zonder gevaar ook — men vergat, dat het rechtsvoorschrift altijd de regeling is van een bepaalden concreten toestand van een bepaalde natie in bepaalden tijd en ging waarde boven den tijd toekennen aan wat enkel voor een zeker tijdvak beteekenis had. Men vergat ook den samenhang van het recht met maatschappelijke toestanden, met de geheele cultuur. Dit alles heeft de rechtshistoricus te bedenken."

[23]"geldend recht."

[24]"rechtsvinding."

[25]"geweten."

[26]"levensbeschouwing."

[27]"het behoren."

[28]See Sabine, "Rudolf Stammler's Critical Philosophy of Law.", 330, for a quick information on Stammler's support for a revived, but changeable, natural law.

[29]Scholten, "Recht en Levensbeschouwing.", 141. (block 45) "Intusschen, wat daarvan zijn moge, een terugkeer tot het natuurrecht begeeren wij geenszins. Hij zou trouwens onmogelijk zijn, omdat er niet een enkel natuurrecht bestaat — er waren velerlei richtingen. Maar de meening, dat er één stel regelen zou zijn, het volmaakte recht, dat wij door onze rede zouden kunnen kennen of althans benaderen en dat zou neergelegd moeten worden in onze positieve wetgevingen — en die voorstelling meent men meestal, als men van terugkeer tot het natuurrecht spreekt — is stellig

niet de onze. Ik ga verder, ook aan het natuurrecht met wisselenden inhoud, wisselend naar tijd en plaats, waarvoor de eerste Duitsche rechtsfilosoof van dezen tijd, Rudolf Stammler, met zooveel kracht is opgekomen en waarvoor hij, eigenaardig genoeg voor een Duitscher, onder de jongere Franschen zoo warmen aanhang heeft gevonden, geloof ik niet — ten minste niet in den geest zooals Stammler het bedoelt."

[30]"ideaal-recht."

[31]Scholten is referring to Stammler's critical methodology here. See Sabine, "Rudolf Stammler's Critical Philosophy of Law.", 336.

[32]Cf. Sabine., 337 for Stammler's conception of "reference point," "a guiding star," that "No society will ever reach.

[33]Scholten, "Recht en Levensbeschouwing.",141. (46) "… de voorstelling van een voor het redelijke denken te vinden ideaal-recht, dat onvoorwaardelijk eerbiediging van alle volken en alle tijden vraagt. Een recht dat wij wel niet zouden kunnen bereiken — dat geeft haast ieder toe — maar toch min of meer benaderen. Voor mij is de veranderlijkheid van het recht een element zonder welke ik het niet kan denken. Die veranderlijkheid aanvaard ik, niet alleen als tot heden altijd geconstateerd verschijnsel, maar als ook in de toekomst niet te overwinnen."

[34]Scholten., 142. (block 47) "Maar ook aan het objectief eenig-mogelijke, eenig-juiste recht voor een bepaald volk en een bepaalden tijd geloof ik niet. Wordt een oordeel van juist of onjuist over een rechtsregel gegeven, dan kan dit in laatste instantie alleen geschieden van uit een bepaalde levens- en wereldbeschouwing en zal het dus alleen gelden voor hen, die van dezelfde levensbeschouwing zijn, als hij die het oordeel gaf."

[35]"verstandsarbeid."

[36]Scholten, "Recht en Levensbeschouwing.", 142. (block 48) "Stammler meent, dat, als hem maar alle feitelijke gegevens worden verschaft — en die feitelijke gegevens bepaalt hij tot behoeften en begeerten der menschen, hunne overtuigingen omtrent wat recht behoort te zijn, spreken niet mee — met zijn methode door verstandsarbeid het onfeilbaar eenig mogelijke recht voor een bepaalden tijd kan worden gevonden. Dit is dunkt mij, overschatting van wat door onze rede kan worden bereikt, zuiver intellectualisme."

[37]Scholten. 142. (block 47)

[38]"rechtsgevoel."

[39]Scholten, "Recht en Levensbeschouwing.", 143 (blockl 49) and 146. (block 55)

[40]"rechtsnormen." See Scholten, "Recht en Levensbeschouwing.", 145 .(block 53)

[41]Scholten, "Recht en Levensbeschouwing.", 146-147. (block 56 and 57)

[42]Scholten., 147. (block 57) "Zich deze klaar bewust te worden, van haar uit de beteekenis van haar ondergeschikte doeleinden te bepalen, de waarden van het leven: natuur, schoonheid, kunst, wetenschap te schatten, het kan voor hem, die aan de rechtsvorming deelneemt, van onberekenbaar nut zijn."

[43]This is in conversation with Stammler's argument that law can shape society, as opposed to the Marxian argument that it is (capitalist) society that shapes the value to benefit the powerful. See Sabine, "Rudolf Stammler's Critical Philosophy of Law.", 1933-1932.

[44]Scholten, "Recht En Levensbeschouwing.", 147. (block 57 and 58) "Onafscheidelijk van de waardeeringsvraag is de vraag in hoeverre de gemeenschap geroepen is die waarden te bevorderen, in hoeverre het beter aan het individu blijft overgelaten. Zij is zelve weer een vraag van waardeering. De tegenstelling individu-gemeenschap, de gemeenschap enkel ter wille van de vervolmaking van het individu of een waarde in zich zelf, moge niet, gelijk een jong Duitsch schrijver, Radbruch beweert, de meest principieele tegenstelling tusschen onderscheiden wereldbeschouwingen zijn — voor

het recht is zij wel van eminent belang. Meer dan andere waardeeringen beheerscht zij de rechtsvorming."

[45]"rechtsidee."

[46]Scholten, "Recht en Levensbeschouwing.", 149-150. (block 60) "We hebben thans te bedenken, dat die overtuiging om als recht ook maar te kunnen worden gedacht altijd gericht moet zijn op een verwezenlijking in een bepaalden tijd voor een bepaald volk. Dat is de taak van iedere rechtsgedachte, slaagt zij daarin niet, dan zal zij ten slotte blijken ook geen recht te zijn." cf Sabine, "Rudolf Stammler's Critical Philosophy of Law.", 330.

[47]Scholten., 153. (block 68) "Tot de realiteiten, voor het zoeken van het recht van belang, reken ik eindelijk ook de macht den gevonden regel in de werkelijkheid te doen eerbiedigen. Wat voor den tegenwoordigen tijd in vele gevallen neerkomt op de mogelijkheid, dat de regel door de betrokkenen als recht zal worden erkend, met andere woorden: ook met hunne rechtsopvattingen zelve moet worden gerekend."

[48]Scholten., 154. (block 69) "Wie een rechtsoordeel afgeeft, met het bewustzijn dat dit toch niet wordt gevolgd, zal ten slotte moeten toegeven, dat het wel *zijn* overtuiging omtrent recht, niet recht is wat hij verkondigt."

[49]Scholten., 157. (block 74)

[50]"Naturalistische Levensbeschouwing."

[51]believer, "gelovige."

[52]Scholten, "Recht en Levensbeschouwing.", 157. (block 74) I suggest that this means that when there is a gap between the majority who subscribes to one philosophy of life and the minority, whose legal convictions are not included in the law, the abstract formulation of law a la Stammler may widen the gap (159) (block 77). Yet, the law still has to be implemented. Judges should maintain respect for the law decided by the legislators in their attempt to find law. And in Scholten's opinion, the "fight" to decide the "philosophy of life" that inspires law should be done at legislative institutions. (block 78)

[53]"geldend recht."

[54]"rechtsovertuiging."

[55]Scholten, "Recht en Levensbeschouwing.", 160. (block 80) "De gewetensvrijheid is grond en grens van het recht. Haar kan de macht van het recht niet aantasten."

[56]"geweten."

[57]"levensbeschouwing."

[58]"rechtsnormen."

[59]Rechtsschool or Opleidingschool voor Inlandsche Rechtskundigen (OSVIR or OVIR), "Institute for Professional Training at Secondary Level (Vocational School) of Legal Practitioners." The Rechtsschool was a six-year secondary and tertiary vocational school that aimed to train its Indonesian students to become legal clerks who would serve the Landraad, "Native Court.".

[60]"Commission Established in Indonesia (1919) to Reform the Rechtsschool (Commissie Tot Hervorming van de Inlandsche Rechtsschool)." See for a detailed narrative about the Rechtsschool and the main findings of the Indies Commission Djalins, "Re-Examining Subject Making," 2013.

[61]Massier, *The Voice of the Law in Transition*.

[62]Cornelis van Vollenhoven, a prominent *adat* law professor at Leiden University, thwarted this attempt. He argued that a unified legal system would put the indigenous population at a disadvantage with respect to the Europeans, see Burns, *The Leiden Legacy*.

[63]In numerous primary documents, the name of the minister is never mentioned.

[64]Some information on the Dutch situation may be helpful here. In 1863 in the Netherlands the first HBS (Hogere Burgerschool) was established, a school for secondary education of citizens to capacitate them for higher functions in commerce and industry. The curriculum contained subjects such as bookkeeping, commercial knowledge, modern languages, mathematics, natural science and chemistry. The school had a 3 and a 5 year's learning track. The 5 year's learning track was meant to be preparatory for the school of polytechnics which was established in Delft in 1864, as a continuation of the Royal Academy for the training of civil engineers for military service and industry and for commercial training. In 1905 the school got the new name Technische Hogeschool van Delft and got the status of university (PHD track). From 1917 on the five years learning track of the HBS gave admission to the science learning tracks of all universities. In 1924 a new 5 year's learning track of languages and economics (HBS A) was adopted next to the already existing HBS B. Only after 1937 the HBS B and A gave admission to many university learning tracks of the humaniora. Latin language proficiency however was in the Netherlands till the nineteen sixties thought necessary for the study of law at the university. To this end the possibility for a complementary course in Latin was created for HBS students, who wanted admission to the study law.

[65]"Commission established in the Netherlands (1920) to develop a legal training in the Netherlands, which was specifically designed for the Netherlands-Indies (Commissie voor de hervorming van de opleiding van Indische rechterlijke ambtenaren)." Snouck Hurgronje was the chair and Cornelis van Vollenhoven the secretary.

[66]Carpentier Alting was a member of a commission that Snouck Hurgronje chaired in 1911 to reform the study of Indology in the Netherlands. See Fasseur, *De indologen*. This fact makes the 'rift' even more interesting to dissect.

[67]Nationaal Archief, Den Haag, "NL-HaNA, Scholten, P., 2.21.319.", inv. nr. 62,1: Aanvullingsverslag van de Commissie tot Hervorming van de Inlandsche Rechtsschool.

[68]This opinion resonated with the ongoing debate in the Netherlands and in the Indies at the time about the role of Javanese vs. Malay in colonial education, see Groeneboer, *Gateway to the West*.

[69]"brabbeltaaltje, laag-Maleisch."

[70]Nationaal Archief, Den Haag, "NL-HaNA, Scholten, P., 2.21.319.", inv.nr. 62,1: Aanvullingsverslag van de Commissie tot Hervorming van de Inlandsche Rechtsschool, 15-16.

[71]Opleidingsschool voor Inlandsche Ambtenaren, "Institute for professional training at secondary level (Vocational School) of Civil Servants."

[72]"Personal Documents Regarding Paul Scholten's life and work in the National Archives in The Hague with the number of access: 2.21.3.319." The folder with the inventory number 77 consists of various Dutch- and Malay-language newspapers discussing the Rechtshogeschool.

[73]"Newspaper in the Neth. Indies."

[74]NL-HaNA, Scholten, P., 2.21.319, inv.nr. 62. See mailnr. No 891/22. 6-7. The idea that the only students to be accepted into a future law college were graduates of AMS in Bandung who took the Western-classic track, had been circulated since 1920. The author of this archived letter to the Governor General quoted the record of Volksraad general assembly, Handeling Volksraad 1e gewone zittinge, 1920, p. 626-627.

[75]The educational situation in the Indies at this time was as follows: Indonesian native primary education included three schooltypes:1. desa/folk school of three years; 2. standard school of five years; 3. A school with a continued course of three years for pupils, who had finished the dessa school, to get them qualified on the

same level as the standard school. Dutch primary education included four types: 1. Europese lagere school (ELS), “European primary school (for Dutch, Javanese and Chinese Elite).”; 2.Hollands Chinese school (HCS), “Dutch-Chinese school of seven years.”; 3. Hollands Indische School (HIS), “Dutch-native school of seven years.” 4. Schakelschool, “Switchschool: After Having Finished the fourth year of the Indonesian native standard school, pupils could switch to the schakelschool, which would bring them in five years on the level of the HIS or HCS.” Secondary education in the Indies was only available for pupils who had finished Dutch primary education. There were three possibilities: 1. Preparatory secondary schools for higher education which were identical to the schools in the Netherlands (Hogere Burgerschool (HBS), “Secondary school which excludes Latin from all its learning tracks.”; Lyceum, “secondary school which has learning tracks with and without Latin.”; Gymnasium, “secondary school which includes Latin in all its learning tracks.”; 2. Algemene Middelbare School (AMS), “Secondary school which like a HBS can have only learning tracks without Latin, but also like a Lyceum can offer a choice between a learning track with or without Latin. AMS Is open for pupils of the HIS, HCS and the Schakelschool.”; 3. Vocational schools such as medical schools (Nias and Stovia), schools for civil servants (Osvia), de rechtsschool (Osvir or Ovir), schools for teachers at the primary schools and technical schools.

[76]The article noted that the draft proposal virtually dismissed the waiver policy at Leiden University Faculty of Law and Letters by not allowing rechtskundigen to apply. A number of native jurists who graduated from the Rechtsschool successfully finished their legal studies at Leiden, a proof that the Rechtsschool provided an excellent preparation for a Meester in de Rechten degree. Pompe, “A Short Review.” and Massier, *The Voice of the Law in Transition*.

[77]candidaatsexamen, “Exam after two years of studying law. In 2000 Replaced by the Bachelor-Master System.”

[78]Nationaal Archief, Den Haag, “NL-HaNA, Scholten, P., 2.21.319.”, inv.nr.77: Newspaper Clippings.

[79]Scholten, “Recht en Levensbeschouwing.”, 153. (block 68)

[80]The article was clearly written by someone well versed in the nuts and bolts of the education at the Rechtsschool and in the policy of higher education both in the East Indies and in the Netherlands. It was undoubtedly penned by an Indonesian author—noted by the fluid Malay used—who was aware of the exam waiver for native rechstkundigen at Leiden University, of proposed rules of admission to the Rechtshogeschool and of the state of legal uncertainty in the native courts. The author’s real identity remains a mystery.

[81]“Newspaper in the Neth. Indies.”

[82]Ironically, it was convenient for the author to forget the fact that the only school with an gymnasium track which ever opened in Batavia, the Koning Willem III School in 1867, had to shut down its classical education section within 4 years due to low enrollment, see Nasution, *Sejarah Pendidikan Indonesia*.

[83]“Voorbereidend hooger onderwijs, de zoogenaamde klassieke vooropleiding ontbreekt geheel. Indië kent noch gymnasia noch lycea. Toch wil men een rechtsgeleerde Hoogeschool gaan stichten. Zonder studie van de oude talen. Ziet men dan niet in, dat de op die manier gevormde rechtsgeleerden *nooit* gelijkwaardig kunnen zijn aan die, welke de Nederlandsche universiteiten afleveren? Dat het beter gesitueerde deel der Europeesche bevolking *toch* haar kinderen naar Nederland zal zenden liever dan hen een graad te doen behalen, welke alleen in Indië waarde heeft en de aan de afgestudeerden aan Indie bindt? Dat zoodoende surrogaat-rechstkundigen, tweede-rangs geleerden ontstaan?” “NL-HaNA, Scholten, P., 2.21.319.” inv.nr. 77.

[84]Drawing from Jean Gelman Taylor, Ann Stoler explores this anxiety for authenticity further through her interrogation of racial relations and dynamics in the East Indies. Taylor, *The Social World of Batavia*.; Stoler, *Carnal Knowledge and Imperial Power*.; Fasseur made a note of the same anxiety playing a role in the closing of a government training school in 1913 in Batavia after 50 years of service because "a candidate for European civil service—thus runs the argument—should study exclusively in Europe." Fasseur, *De weg naar het paradijs en andere Indische geschiedenissen*. 61.

[85]"De behoefte aan recht heeft God zelf in ons hart gelegd." Scholten, "Rede uitgesproken bij de opening van de Rechtshoogeschool te Batavia op 28 April 1924.", 323.

[86]Asbeck, *Gedenkboek op 28 October 1949*.

[87]Asbeck, *Gedenkboek, Uitgegeven Ter Gelegenheid van Het Vijf En Twintig Jarig Bestaan van Het Rechtswetenschappelijk Hoger Onderwijs in Indonesië Op 28 October 1949*., 1

[88]"ondernemer."

[89]"Indonesian Organization that established a Network of private schools for Indonesians. In 1923 the Wild School Ordonnance (Wilde Scholen Ordonnantie) was promulgated by the Government which was applicable to these schools."

[90]Asbeck, *Gedenkboek, Uitgegeven Ter Gelegenheid van Het Vijf En Twintig Jarig Bestaan van Het Rechtswetenschappelijk Hoger Onderwijs in Indonesië Op 28 October 1949*. 2.

[91]"Statute, which formulates the requirements for the different academic studies."

[92]"wijsgeerige inleiding in de rechtsstudie."

[93]"staathuishoudkunde."

[94]Nationaal Archief, Den Haag, "NL-HaNA, Scholten, P., 2.21.319." inv. Nr. 70. 13. "Aan Zijne Excellentie den Gouverneur Generaal van Nederlandsch-Indië," 2-4.

[95]"jeugdigen geest."

[96]"gebondenheid."

[97]"vrijheid."

[98]"rechtsstelsel."

[99]Nationaal Archief, Den Haag, "NL-HaNA, Scholten, P., 2.21.319.", inv.nr.*70.*13.

[100]"privaatrecht."

[101]Nationaal Archief, Den Haag, "NL-HaNA, Scholten, P., 2.21.319." inv.nr. 70. 13. For the difference between HBS and AMS, see Groeneboer, *Gateway to the West*.

[102]Nationaal Archief, Den Haag, "NL-HaNA, Scholten, P., 2.21.319." inv.nr. 70. 13. "Voorts is in het programma een der Indonesische talen opgenomen. De student van inheemschen oorsprong moet leren in eigen taal wetenschappelijk te denken. Voor de overigen is voor een behoorlijke kennis van het Volkslevenstudie van tenminste een taal noodzakelijk… Voor den student is het noodig de structuur der maatschappij te kennen, waarin het recht geldt, dat hij beoefent. … doch die volkenkunde krijgt eerst grootere beteekenis als zij niet is een opsomming van curiosa, maar indien zij wordt beschouwd als grondslag voor de leer der maatschappij." 9-10

[103]"General Method of Private Law. English Translation of the First Chapter of the General Volume of the Asser-serie on Dutch Civil Law, written by Paul Scholten."

[104]"Algemene Nederlands Verbond (ANV)."

[105]Groeneboer, *Gateway to the West*.

[106]Scholten, "Recht en Levensbeschouwing." 153 (block 68) Recall this statement in Recht en Levensbeschouwing, which I quoted in part I, as one of key concepts that infused Scholten's outlook on designing the curriculum and pedagogy for the Batavia Rechtschool.

[107]Nationaal Archief, Den Haag, “NL-HaNA, Scholten, P., 2.21.319.”inv.nr. 70.13.

[108]Nationaal Archief, Den Haag.inv.nr. 70.13. “Stellig zal ook bij het burgerlijk recht telkens naar het Romeinsch recht worden verwezen, maar het ligt te ver van de gedachtensfeer van de Indische maatschapij om het nog als inleiding te benutten.”

[109]Nationaal Archief, Den Haag. inv.nr. 70, Notulen van de Vergadering Ten Paleize Ryswyk.

[110]Among those present were the Governor General M. Fock, Prof. Scholten himself, a member of the Indies Council K.F. Creutzberg, president of the supreme court Mr. P.W. Filet, Secretary General Ch.J.I.M. Welter, the director of the Department of the Interior (*Binnenlands Bestuur*) L.J. Schippers, the director of Department of Justice Mr. F.J.H.Cowan, the director of the Department of Education and Religious Affairs J.F.W. van der Meulen, and his assistant J. Hardeman, and senior official at the General Secretary Mr. Ed. Broens.

[111]Scholten did not mention it explicitly here, but I suggest that what he meant by the “value of upbringing” was its impact on the worldview of the student.

[112]“iets onbereikbaars.”

[113]NL-HaNA, Scholten, P., 2.21.319, inv.nr.*70.*“Notulen van de Vergadering Ten Paleize Ryswyk”*, 5. See also footnote 33 this article.*

[114]Djalins, “Re-Examining Subject Making,” 2013. See footnote 103.

[115]Lev, “Origins of the Indonesian Advocacy.”, 144.

[116]Creutzberg, a member of the Raad van Indië, “Counsel of the Indies.” suspected that criminal law students would end up teaching themselves Latin. He deemed that facultative placement of Latin for the criminal jurists was a good way to judge if the practice was feasible. Scholten agreed, but still insisted that it should be gradually let go. Nationaal Archief, Den Haag, “NL-HaNA, Scholten, P., 2.21.319.” inv.nr.70 “Notulen van de Vergadering Ten Paleize Ryswyk” 4-5.

[117]A month after the meeting in March 1924, De Locomotief—a progressive newspaper—published a series of articles that supported the process and was defensive of Paul Scholten’s appointment. By this time, a revised draft must have circulated among elite residents in the Indies, hence the knowledgeable article that quoted some of the draft text. Agreeing that the Indies should be more independent from the Netherlands in its higher education system, De Locomotief supported the idea that knowledge of Latin should not be obligatory for admission.

[118] Nationaal Archief, Den Haag, “NL-HANA, Openbaar Verbaal, 2.10.26.04, Inv.Nr. 3660.”, Bestanddeel 2652, V 03.07.1924 # 1 Verbaal Oprichting van der Rechtshogeschool. Mail No. 1504/i4.

[119]zendingdconsulaat, “Dutch Protestant Missionary Institution.” The consul office of zending was established in the Indies in 1905 and closed down in 1942. http://resources.huygens.knaw.nl/zendingoverzeesekerken/RepertoriumVanNederlandseZend EnMissie-archieven1800-1960/gids/organisatie/2657766143

[120]“wijsbegeerte van het recht.”

[121]Anonymous, "De Rechtshogeschool," in Het Nieuws van Den Dag Voor Nederlandsch-Indië.” http://www.delpher.nl/nl/kranten/view?identifier=ddd%3A010220130%3Ampeg21%3Aa0129&coll=ddd#ocr Other professors assigned students to read this article as a part of their course syllabus. See Djalins, “Re-Examining Subject Making,” 2013.

[122]“denkvormen.”

[123]Scholten, “Rede uitgesproken bij de opening van de Rechtshoogeschool te Batavia op 28 April 1924.”, 323/324.

[124]Scholten., 322.

[125]Scholten., 322.

[126]Scholten., 323. [Sterker echter dan deze overweging zegt ons] onze innerlijke overtuiging, dat er een behooren is, dat den mensch tot zekere dingen verplicht en dat daaruit voor de samenleving de eischen van recht noodzakelijkerwijze voortvloeien.

[127]Scholten.320. “De wetenschap van de wetenschap behoort tot het allermoeilijkste, maar dit is wel zeker, wetenschap wil iets anders dan weten alleen. Ze wil begrijpen, verstaan. Zij zoekt naar eenheid, naar een verband tusschen denkvormen en verschijnselen, dat de menschelijke geest legt.” Ways of thinking “Denkvormen.” here refers to the a priori concepts of Kant.

[128]Scholten, “Rede uitgesproken bij de opening van de Rechtshoogeschool te Batavia op 28 April 1924.”, 320

[129]Kantian “understanding” according to the Glossary of Kantian terms written by Prof. Stephen Palmqvist of Hongkong Baptist University, http://staffweb.hkbu.edu.hk/ppp/ksp1/KSPglos.html is defined as follows (original italics): **Understanding**: in the first *Critique*, the *faculty* concerned with actively producing *knowledge* by means of *concepts*. This is quite similar to what is normally called the mind. It gives rise to the *logical perspective*, which enables us to compare concepts with each other, and to the *empirical* perspective (where it is also called *judgment*), which enables us to combine concepts with *intuitions* in order to produce empirical knowledge. The first *Critique* examines the form of our cognitions in order to construct a system based on the *faculty* of understanding (=the *theoretical standpoint*). (Cf. *sensibility*.)

[130]Scholten, “Rede uitgesproken bij de opening van de Rechtshoogeschool te Batavia op 28 April 1924.”, 324. “Alleen nauwkeurige kennis van alle gegevens, ethnologische, sociologische, economische maakt mogelijk met eenige kans van slagen te beoordeelen of een regel ingang zal vinden. In het algemeen kan die kennis slechts in het land zelve worden verworven?

[131]“rechtswetenschappelijk centrum.”

[132]“gevoelselement.”

[133]Scholten, “Rede uitgesproken bij de opening van de Rechtshoogeschool te Batavia op 28 April 1924.”, 326. “Rechtswetenschap eischt niet alleen begrip van regels en kennis of zelfs begrip van feiten, zij vraagt ook een verstaan van hen, voor wie die regels zijn bestemd. Dat verstaan is nog iets anders dan alleen een begrijpen. Het sluit een gevoelselement in zich. Wie een volk bij het zoeken naar recht wil voorlichten, moet een goed verstaander van dat volk zijn. Ook hierin is de liefde de meeste.”

[134]“parate kennis.”

[135]“zelf denken.”

[136]See Djalins, “Re-Examining Subject Making” on the independent nature of the study at the university in the Netherlands, where students at the United Faculty of Law and Letters in Leiden had to navigate practically on their own. Scholten and the Indies Commission considered a more involved teaching by the professors preferable for the Indies.

[137]“responsiecollege.”

[138]“zelfwerkzaamheid.”

[139]“werkcolleges.”

[140]Nationaal Archief, Den Haag, Collectie prof. mr. P. Scholten [levensjaren 1875-1946], nummer toegang 2.21.319, inventarisnummer 70. “Aan Zijne Excellentie den Gouverneur Generaal van Nederlandsch-Indië.”3-4. “Er moet met alle macht tegen gewaakt worden, dat het Hooger onderwijs zou worden een bijbrengen van parate kennis. Alleen dat onderwijs vormt, dat tot zelf denken dwingt. Zoo ergens, dan geldt dat in het recht. Dit kan alleen door de belangstelling van den student te wekken en

te volgen, door hem een groote mate van vrijheid te geven. Die vrijheid wil echter niet zeggen ongebondenheid; integendeel, de student zal meer dan totnogtoe in Holland gebruikelijk is, in zijn werk moeten worden gecontroleerd. Het moet hem niet vrij staan niet te arbeiden en evenmin kan hem, wil hij voor een bepaald ambt geschikt zijn, de keus van de vakken, die hij zal beoefenen, worden overgelaten, maar op het gebied dier vakken zal hij zooveel mogelijk eigen belangstelling volgen, zelf werkzaam moeten zijn. Daarom zal ook ieder college responsie-college moeten zijn. In het 4e jaar zal die zelfwerkzaamheid een overwegende plaats moeten innemen op in te stellen werkcolleges. Daar zal hem ook vrijheid worden gegeven in de keus van de richting, waarin hij zich bewegen wil en van de onderdeelen, waaraan hij zijn aandacht wil wijden."

[141]NL-HaNA, Scholten, P., 2.21.319, inv.nr.*70. Ibid. 5.*

[142]Scholten, "Rede uitgesproken bij de opening van de Rechtshoogeschool te Batavia op 28 April 1924." 321.

[143]"parate kennis."

[144]Scholten, "Rede uitgesproken bij de opening van de Rechtshoogeschool te Batavia op 28 April 1924.", 321-322. "De studenten moeten dat zoeken, dat worstelen met de problemen uit eigen aanschouwing kennen, zij moeten daaraan mede arbeiden, al was het alleen door hunne bereidheid de meeningen van hun leermeester te aanvaarden: of door hun critiek, die zij er tegenover stellen. Dat opent iets in hun geest, zij zien iets wat hun vroeger vreemd was, er wordt iets in hun wakker, hun geest groeit. Daarop en niet op parate kennis komt het aan. Die kennis is nuttig en noodig, zonder haar is wetenschap niet mogelijk, maar slechts indien de student op de hoogeschool iets van de wetenschappelijke methode heeft gezien, neemt hij iets van haar mede, dat tot een waarde voor zijn leven is geworden."

[145]Scholten, 321; Resink, "Rechtshoogeschool, Jongereneed, 'Stuw' En Gestuwden." 130 BKI 428 which recounts concrete expressions of the professors' commitment to this principle. See also Bruggink, "Paul Scholten." Bruggink., fn. 17, a report by one of Scholten's own students on how he put this didactical insight into his own lecture.

[146]Nationaal Archief, Den Haag, "NL-HaNA, Scholten, P., 2.21.319.", inv. nr. 62. "De Stemming onder de Studeerende Inl. Jongelui."

[147]NL-HaNA, Scholten, P., 2.21.319, inv.nr. *62.*

[148]"Colonial State Gazette."

[149]"Publication medium of the government for colonial rulings."

[150]https://www.delpher.nl/nl/kranten/view?coll=ddd&identifier

[151]"Exam after two years of studying law. In 2000 replaced by the Bachelor-Master System."

[152]See also Moeliono, "Re-Appraising Paul Scholten.", ftn. 73.

[153]Resink, "Rechtshoogeschool, Jongereneed, 'Stuw' En Gestuwden."

[154]Djalins, "Re-Examining Subject Making," 2013.

[155]Agung, *Kenangan Masa Lampau*.

[156]Beynon, *Verboden Voor Honden En Inlanders*.

[157]Resink, "Rechtshoogeschool."

[158]Algadri, *Mengarungi Indonesia*.

[159]For example, see Lev, "Origins of the Indonesian Advocacy".

Acknowledgements

Revised version of the keynote speech delivered at the Third Paul Scholten Symposium concerning New Perspectives on Law and Reality of 27 November 2015. This final version benefits much from the conversations with the DPSP-editor Liesbeth Huppes-Cluysenaer. Mistakes remain my own. Unless otherwise stated , all

translations from the original texts in the block quotes are my own. In conformance with the editorial policy of the Digital Paul Scholten Project for block quotes, I include the original Dutch texts (or a link to these) in the notes and put my initials in the translation.

Reviews

Bas Hengstmengel

Upik Djalins has done a great job in exploring an under-researched part of Paul Scholten's work: his role in the founding of the Batavia Rechtshogeschool. I have to admit I knew little about it and I think I am not the only one. Scholten proves to be a man of practical wisdom with cultural sensitivity. The historical (second) part of the article is the strongest and most innovative part, in my opinion. It is based on thorough archive research. The philosophical (first) part however needs more elaboration, I think. I will focus on this philosophical part, partly because I think I am insufficiently qualified to criticize the second part, but also because there is less to comment on in the second part. Scholtens essay Recht en levensbeschouwing is taken as more or less representative for his work. Of course, it is wise to have some focus, but one has to keep in mind that Recht en levensbeschouwing (1915) is the first legal-philosophical essay Scholten has ever written. His thought has strongly developed since then, especially in a personalistic direction. It developed through Recht en liefde (1917), Gedachten over macht en recht (1917), Gerechtigheid en recht (1918) and Recht en billijkheid in 1924, the year Scholten was involved in the founding of the Batavia Rechtshogeschool. However, in his opening speech there are again some remarkable Kantian (although not specifically neo-Kantian) elements popping up. Rickert is mentioned only twice in Scholten's Verzamelde Geschriften, both times in Recht en levensbeschouwing (1915, volume I). Only his name is mentioned, not a specific work. The only other Baden neo-Kantian author mentioned in Scholten's work is Emil Lask. Lask is mentioned three times in the Verzamelde Geschriften, each in De structuur der rechtswetenschap (1942, volume I). All three references are to his small work Rechtsphilosophie (1905). The number of mentions is not so significant however in Scholten's work. Scholten is quite sparing in mentioning the sources of his thought. His thought is also quite eclectic, or 'multifaceted' if you like. Therefore, it is not easy to trace the influence of diverse authors and schools of thought in Scholten. It is true there are clearly neo-Kantian elements in Recht en levensbeschouwing. However, the emerging study of the sociology of law (e.g. Eugen Ehrlich, Grundlegung der Soziologie des Rechts, 1913) may be at least as important as neo-Kantianism to Scholten. Notice that Scholten prominently mentions authors like H.J. Hamaker and H. Krabbe who are also characterized by a sociological (or psychological) approach to law. The link between the first and the second part of the article seems to be the influence of Scholten's philosophical outlook on the curriculum and the pedagogy of the Batavia Rechtshogeschool. Unfortunately, Scholten is not very explicit about this himself. It seems to be insufficiently substantiated in the article how the neo-Kantian influences inform Scholten's pedagogy. There may for example very well be a personalistic influence in Scholten's emphasis on the need to develop a certain amount of autonomy in judgment. One is born with personhood, but one has to become a Person. Conscience has to be developed, although Scholten's work in general does not offer much text about how this development has to take place. One point in the article needs correction in my opinion. Scholten's emphasizing of the importance of tolerance and freedom of conscience is explicitly informed by his Christian and personalistic persuasion, not by the neo-Kantian influences on his thought. It is

essential to study his Gedachten over macht en recht (1917) to understand his position. My suggestion is to disconnect both parts of the article and make two separate articles of them. The historical (second) part of the article can very well stand on its own and be a valuable contribution in itself. The philosophical (first) part of the article can be a separate and more elaborated article, going into more detail.

Hendrik Wagenaar

In hindsight Paul Scholten's efforts towards the creation of the Batavia Rechtshogeschool are a remarkable example of what in today's academic parlance would be called a postcolonial attitude. As described in Upik Djalins' important article, Scholten not only went against the grain of his Dutch colleagues in providing a rationale for the curriculum and philosophy of an Indies law school, he also showed remarkable sensitivity to the specific knowledge needs – and perhaps I should add, knowledge claims - and cultural environment of local jurisprudence – in this way trying to compensate for some of the structural epistemic injustice (Fricker 2007) that the Dutch colonial elite inflicted upon the population of the Indies. Djalins also shows that Scholten engaged in what we would now call anthropological 'field work' – visiting "many segments of the Indies population" – before he formulated a philosophy of law that he deemed suitable for the Indies and designed a law curriculum on the basis of this. In using the term postcolonialism I do not want to engage in concept stretching. My purpose in using the term is to indicate a sensibility on the side of Scholten that is remarkably similar to the postcolonial sensibility as a willingness to understand the way of life of the indigenous population from their own perspective instead of that of the coloniser. How did Paul Scholten come to occupy such a presciently progressive position towards the lifeworld and culture of the Indies? Here Djalins' article shows some of the ambiguity that characterizes much of the literature on Paul Scholten. Djalins commences to explain Scholten by evoking his philosophical position. She delves into the finer points of Scholten's neo-Kantianism. Much can be learned from this exercise in philosophical genealogy. Most importantly for our purposes, Scholten concluded that there are no universal legal principles, to be attained by a careful process of rational reasoning, that will function as the foundation of law. Law is not the application of such timeless principles to concrete cases. If legal reasoning is not rule application, then what is it? According to Scholten legal decision making is inherently contextual. That is, the legal agent is compelled to take the situation at hand into account to arrive at just and fair decisions (Djalins 2020, 6). That doesn't mean that legal reasoning can be reduced to sociology or history. Law needs a conception of law that is guided by values. In the end, according to Scholten, the legal actor needs to be immersed in a 'form of life' to be able to arrive at satisfying legal decisions. In effect, the legal actor is the agent for the "engagement between … abstract-level ideals and the concrete day-to-day life of the people in which the ideas of law … become law in force." (Djalins 2020, 7) - today we would say 'law in action'. This process of reconciliation between a concrete form of life and abstract values is guided by the actor's conscience (ibid.) We owe Djalins a great debt for her careful analysis of Scholten's philosophical position, and it adds greatly to our understanding of Scholten's progressive position towards the creation of a law school for the Indies. Yet, as Rogier Hartendorp and I argued in an article on Scholten's theory of legal judgment ("rechtvindingstheorie") there is something awkward in the language of Scholten's supporters and critics (Hartendorp and Wagenaar, 2004). On the one hand, and despite the status of Scholten magnum opus Algemeen Deel (Scholten 1931), Scholten's pragmatist and realist stance was largely interpreted in a positivist way by Dutch legal scholars (Hartendorp and Wagenaar, 2004, 63). On the other hand, we argued that Scholten's own language, with its frequent referrals to "conscience", unavoidable "irrational factors" and the "leap"

between argument and action to arrive at a legal decision, was antiquated. What was wholly modern was Scholten's insistence that in legal judgement and decision making we should never confuse argument with action, or knowledge about objects with the object itself. That is, we tend to project the structure of our knowledge of the world onto the world and assume that the two are identical and then valorize the first over the second. This is a central theme in pragmatist philosophy (Hildebrand 2003, 64) which Hartendorp and I used to reframe Scholten's theory of legal judgement in terms of practice theory. Using insights from practice theory as developed in the policy sciences (Wagenaar 2002; Wagenaar 2004), we concluded in our article that there were many similarities between Scholten's theory of legal judgement and a pragmatist understanding of practice and knowing (2004, 66). I do not want to rehearse the argument of our earlier article, in which we reframed central planks in Scholten's theory of legal judgement (such as the ius in causa positum, the leap from judgment to legal decision, and the primacy of values) in terms of a pragmatist derived practice theory (Hartendorp and Wagenaar, 2004, 67). I just want to draw one implication from our pragmatist re-interpretation of Scholten that is beautifully illustrated in Djalins' article and that goes a long way in explaining Scholten's "postcolonialist" attitude in setting up a law curriculum for the Indies. A key concept in pragmatist philosophy is 'experience'. Experience is not conceived as an ephemeral, exclusively personal, psychological phenomenon, but instead as an ongoing, purposeful and value-laden relationship between the organism and the world in which both undergo modification through their responses (Hildebrand 2003, 36; see also Wagenaar and Cook 2011). While Scholten was somewhat captured by the subjectivist language of 'conscience', he simultaneously embraced the notion of life form and drew the correct implication that this required detailed attention to the empirical context of the issue at hand. Djalins' article is full of references to Scholten's attention to the specific "socio-cultural conditions" and the "concrete real world" of the Indies, with regard to their need for a relevant and effective law system (2020, 8, 9). This deep immersion in the culture of the Indies allowed him to chart an independent, pragmatic course in the "tug of war between inclusivity versus exclusivity, context versus tradition, relevance versus "authenticity," true justice versus formality" that surrounded the founding of an autochthonous Indies Rechtshogeschool. In particular Scholten's insistence that the curriculum in the new Rechtshogeschool be based on one of the Indonesian languages, instead of Latin, follows from his at heart pragmatist conception of law. Legal judgment requires an immersion in the life forms of a particular society. This, in turn, requires proficiency with the local language as these are an expression or carriers of such life forms. For law to become living, functioning, authoritative law and not a dead letter or an empty elite ritual, it has to be rooted in the everyday world of its subjects (Djalins, 2020, 14). When we conceived our 2004 article, our purpose was to make Scholten's legacy more accessible and resolve some of its internal inconsistencies by emphasizing its pragmatist roots. In this way we wanted to demonstrate the continuing relevance of Paul Scholten for the contemporary theory of law. We could not have foreseen that our re-interpretation would be confirmed in the story of Scholten's involvement in creating a law curriculum for the Indies. Upik Djalins is to be recommended for her detailed and sensitive reconstruction of that history that allows contemporary readers to appreciate the relevance and foresight of Scholten in his interaction with the Indies. In this he is a lasting example for a humane, empathic and respectful interaction with our colonial past. **References.** Cook, S.D.N. & Wagenaar, H., 2012, Navigating the Eternally Unfolding Present; Toward an Epistemology of Practice". American Review of Public Administration, (42) 1: 3-38 Djalins, Upik., 2020 "Paul Scholten and the Founding of the Batavia Rechtshogeschool." DPSP-Annual, III: Research, Volume 1. Fricker, M., 2007. Epistemic Injustice. Power and the Ethics of Knowing. Oxford: Oxford University Press Hartendorp, R.C. and Wagenaar, H., 2004, "De Praktische Rechter.

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author's response

I am grateful to Hendrik Wagenaar and Bas Hengstmengel for their thoughtful and insightful reviews. Their comments help expand my understanding of Paul Scholten's philosophical position pre-1924; the references provided offer a basis for a further research—and debate—on Scholten’s outlook and relevance for our contemporary conditions. Wagenaar accurately points out the ambiguity in the literature on Paul Scholten. The direction of my article was shaped partially by this ambiguity and partially by my frustration about the oft-repeated but hardly proven claims that Paul Scholten was influenced by Marburg Neo-Kantianism. Only Herman Dooyeweerd offered some references that Paul Scholten leaned more towards Baden school, which became a starting point in my project. Perhaps this ambiguity is caused by the difficulty of pinpointing Paul Scholten’s philosophical genealogy that Hengstmengel acknowledges, due to the former’s sparing use of references and his engagement with eclectic strands of philosophy. Precisely because of these two-pronged challenges, I saw that my task was to bring to the foreground and make explicit the philosophical elements that are subtly woven into his ideas. Response to Hengstmengel: In light of this challenge, my strategy was to focus on only one article while putting on hold other no-less influential articles. Using this strategy, I’d like to think I have achieved one of my goals, that is to identify which of the two Neo-Kantian schools was more meaningful to Scholten. By providing comparative references and by teasing out how Baden school’s philosophy of value was interwoven in Paul Scholten’s outlook, I demonstrated that Paul Scholten was not a Marburg Neo-Kantian; rather, he was leaning more towards Baden school Neo-Kantian, but that indeed he was so much more than just a Baden-school philosopher, as Dooyeweerd has rightly argued, and which I agreed with (see my article section 2.4 paragraph 2). I presented Scholten’s engagement with Baden school philosophy of value and how it colored his work on Batavia Rechtshogeschool in section 4.2 of my article. The first paragraph of the section offers a summary of his approach, which –if not explicit— linked back his approach to Baden school’s underscoring of value and culture. My defense notwithstanding, Hengstemengel’s critique and references will undoubtedly enable a deeper and richer exploration of Paul Scholten’s philosophical outlook that informed his engagement with Batavia Rechtshogeschool founding. I do think that this would be a valuable project to pursue. Response to Wagenaar: When I first unearthed an archival treasure trove of Paul Scholten’s work on Batavia Rechtshogeschool, I hardly knew who he was. Cornelis van Vollenhoven was more of postcolonial Indonesia hero courtesy of his works on adat law. As I delved more into Scholten’s work, he emerged as a no less important figure than van Vollenhoven; a sympathetic, relatively progressive scholar who was sensitive to the conflicting needs of the colony. It was thus a delight to learn that my findings support an earlier argument that Wagenaar and Hartendorp proposed about Scholten’s approach being parallel to “pragmatist derived practice theory.” I am struck by yet another facet of Scholten represented in pragmatist philosophy, and how foundational it is for theory of legal judgment to spring forth from “experience” per Hildebrand. Looking back into Batavia Rechsthogeschool curriculum and pedagogy, and looking into contemporary

Indonesia legal education, I come to understand how Scholten indeed offered a point of deep reflection for the latter. Bas Hengstmengel and Hendrik Wagenaar have generously presented us with more angles to observe Paul Scholten. It is my hope that their responses and my paper can become a springboard for a continued research on Scholten's thoughts and ideas, particularly those that touch upon colonial and postcolonial Indonesian legal education.