Asian treaties and the history of international law

The prominence of Southeast Asia in the history of international law dates back to the beginning of the 17th century, when the Dutch East India Company co-led the first joint seaborne expeditions to the region and sought to establish a legal framework for its settlements. Over the succeeding centuries, Southeast Asia has been a source of legal innovation for international law.

In its early modern period, the history of international law can be traced back to the time of the Dutch and other European powers during the 17th century. This is the period during which treaties were used as a legal basis for European colonial rule and the restoration of land to indigenous nations for justice and the restitution of land. The term ‘unequal treaties’ has been used to characterize treaties concluded during the colonial period

From the early 17th to the mid-20th century, international treaties were a key instrument for European colonial rule and domination. Among the regions of the world that were affected by Western imperialism, Southeast Asia stands out for its long history of treaty-making between indigenous rulers and colonial powers. In recent years, researchers have begun to explore many hitherto unknown facets of this history, thereby throwing new light on how colonial rule was established and implemented through a myriad of treaties and written agreements.

Historians rediscover treaties

Colonial officials put great emphasis on treaties with indigenous rulers and the documents were copied and kept in different parts of the administration, both in the colonies and in the metropoles. During the 19th and early 20th centuries, collections of treaties were also printed for the use of colonial administrators. However, whereas the original treaties generally were drawn up in two or three languages – those of the Asian and the European treaty-parties as well as, frequently, a lingua franca, such as Malacca or maritime Southeast Asian – it was almost invariably only the European texts that were copied and printed [Fig. 1]. This bias in favour of the European texts is still visible in the colonial archives and in published and digitized collections of treaties. An important task for historians is thus to consult the original treaties, documents, which often are preserved in Asian archives, and compare the translations and different versions of the texts. Sometimes these differed significantly, indicating that the involved treaty parties understood their agreements differently. Encouragingly, since the early 2000s, historians have begun to rediscover the importance of treaties for understanding the colonial period in Southeast Asia, as well as other parts of the world that were affected by European imperialism. The importance of Southeast Asian and other non-European actors and practices for the development of international law has become more widely recognized. Moreover, historians have begun to turn to treaties and treaty-making as sources for understanding the heterogeneous, complex, and contingent nature of colonialism and imperial expansion and to move beyond the homogenizing discourses of both imperial propaganda and much post-colonial history-writing. These research efforts are ongoing and have produced unexpected results in the coming years and to throw new light on how colonial rule was constituted and maintained in Southeast Asia and elsewhere.

Notes
2 Salha Balsamosoux, “The Paradox of an Empire by Treaty”, in idem (ed.), Empire by Treaty: Neo-colonialism in Southeast Asia (Brussels: Mémoires d’Histoire, 2016), 153–177. Email: stefan.amirell@lnu.se

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Fig. 1. Signatures and seals of a treaty between Sultan Hanggolubawang II of Jajupaten and the Governor of the Dutch East Indies (Indonesia), Leonard du Bois de Gisignies, from 1826. The left column is written in Javanese and the right in Dutch. (National Archief, The Hague. Photo by the author)