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Limitations in Applying State Recognition Theory to Post-Colonial States: The Case of Indonesia

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Abstract: This research asserts limitations regarding the applicability of constitutive and declaratory statehood theory, as well as this theoretical dichotomy itself, to the realities of post-colonial states' struggles for recognition. It selects Indonesia's 1945-1950 struggle as its case study, which entails political discretion and the pursuit of legal statehood criteria – characteristic of constitutive and declaratory recognition theories respectively. It utilises historical and doctrinal methods, analysing legal texts, academic works on statehood recognition theory, and historical records for consistencies and discrepancies between the theories above and the timeline of Indonesia's struggle for recognition. It finds that despite claiming to be dichotomous, evidence of both constitutive and declaratory statehood recognition theories are present in Indonesia's case. Constitutive recognition theory is affirmed insofar as the Netherlands' use of Eurocentric standards of civilisation to contest Indonesian statehood through invasions and diplomacy, and the US "big stick diplomacy" to coerce the Netherlands into recognising Indonesia. Yet, the same case also affirms declaratory recognition theory, including Indonesia's pursuit of recognition from Arab League nations and implication as a state via admission into United Nations Security Council meetings. This research concludes Indonesia's recognition struggle displays how the constitutive-declaratory dichotomy itself has limitations, as evidence of both theories "paradoxically" coexist and overlap. Indonesia's case is one of a former colony's struggle for statehood by any means, regardless of the theories it proves or disproves. It exemplifies how elements from both theories affected, or were strategically employed as legal-diplomatic leverage towards and against a country's recognition.

Keywords: Indonesian Independence; Statehood; Recognition

1. Introduction

As states are central actors of international politics and law, legal theory on what constitutes a state is important and has long been disputed. This includes legal theory regarding necessary criteria to determine an aspiring country's 'statehood'. The question is critical, for it determines whether a political entity can enjoy the privileges of being a state and be subjected to international law.[1]

Central to these debates is the question of whether *recognition* by another state is essential to statehood. Over time, the international community has transitioned between two opposed schools of statehood recognition theory: that state recognition is either *declaratory* or *constitutive*. These two theories specifically 'disagree radically about the legal significance of recognition' upon statehood.[2]

The currently dominant 'declaratory' statehood recognition theory was codified in the 1933 Montevideo Convention.[3] Montevideo posited that a state's political existence is *independent* of recognition,[4] excluding it as prerequisite to statehood. Recognition merely signifies states' acknowledgement of "the personality of the other with all the rights and duties of international law".[5] The convention determined other statehood criteria: permanent population; defined territory; government; and capacity to enter relations with other states.[6]

Opposite is the 'constitutive' statehood recognition theory, wherein a political entity's appeal for statehood *legally requires* other countries' recognition. Proponents of constitutive theory emphasise how in practice, states with less widespread recognition struggle to persist regardless of fulfilling Montevideo requirements, and doubt the status of self-declared states when few countries treat them as so.[7] Though declaratory theory is currently somewhat dominant, theoretical debates persist and several states nonetheless confer or withhold recognition with political discretion. The "contingency of world politics and the preferences of great powers" undeniably also affect decisions of state recognition, rather than just "box ticking" of legal criteria under declaratory theory.[8]

Amidst these debates between constitutive or declaratory theories of statehood, some scholars have explored intersections between recognition, statehood, and the reality of post-colonial states.[9] This intersection is critical, as the majority of younger

1. Gëzim Visoka et al., eds., *Routledge Handbook of State Recognition*, 1st ed. (London: Routledge, 2020), 1.
2. Rowan Nicholson and Thomas D. Grant, "Theories of State Recognition," *in Routledge Handbook of State Recognition*, 1st ed., edited by Gëzim Visoka et al. (London: Routledge, 2020), 25.
3. Jan Klabbers, *International Law*, 3rd ed (University Press, 3rd ed, 2021): chap. 4 [21]; Rose Parfitt, *The Process of International Legal Reproduction: Inequality, Historiography, Resistance* (University Press, 2018) 82-3.
4. Montevideo Convention, art 3.
5. Montevideo Convention, art 6.
6. Convention on Rights and Duties of States (Montevideo Convention), December 26, 1933, 165 LNTS 19, art. 1.
7. Jan Klabbers, *International Law,* 3rd ed. (Cambridge: Cambridge University Press, 2021), chap. 4; Matthew Craven and Rose Parfitt, "Statehood, Self-Determination, and Recognition," in *International Law*, ed. Malcolm D. Evans, 5th ed. (Oxford: Oxford University Press, 2018), 204–5.
8. Victor S. Mariottini de Oliveira, "Statehood for Sale: Derecognition, 'Rental Recognition', and the Open Flanks of International Law," *Jus Cogens* (Cham) 5, nos. 2–3 (2023): 277–95, https://doi.org/10.1007/s42439-023-00075-y.
9. Mohammad Shahabuddin, "Post-Colonial Boundaries, International Law, and the Making of the Rohingya Crisis in Myanmar," *Asian Journal of International Law* 9, no. 2 (2019): 340.

states today are former European colonies. Among these states is Indonesia – one of the earliest countries that proclaimed post-colonial independence after World War II (WWII)[10] – whose statehood was challenged by its European coloniser: the Netherlands.

This research uses the case of Indonesia's struggle for statehood recognition between 1945-1950 to argue that both constitutive and declaratory statehood recognition theories face limitations when applied to post-colonial countries. The Indonesian case particularly illustrates how elements of both constitutive and declaratory recognition theories "paradoxically" coexist, challenging both theories and the notion that they are dichotomous.

This research investigates consistencies or discrepancies between the state recognition theories above and the realities of Indonesia's independence struggle. It selects Indonesia's 1945-1950 recognition struggle as its case study because it entails both political discretions and pursuit of legal statehood criteria – characteristic of constitutive and declaratory recognition theories respectively, which claim to be opposed or dichotomous. The findings of this research may provide further insights and lessons learned for contemporary analyses of post-colonial states' independence other than that of Indonesia. Furthermore, these findings may also enrich investigations into the nature of statehood recognition prompted by struggles of aspiring states today or in the future.

2. Methodology

Historical and doctrinal research methods were utilised to conclude that the Indonesian struggle for recognition exposes limitations in applying the "opposed" constitutive and declaratory theories to post-colonial states.

Historical approaches are used insofar as assembling a timeline of Indonesia's struggle for independence and recognition between 1945-1950. Primary and secondary sources are used to assemble this timeline, including speeches and recordings of relevant historical figures and international meetings, as well as scholarly works regarding Indonesian independence history.

Doctrinal methods are applied via the analyses of statehood recognition legal theories, including international treaties that codify them and reputable scholarly materials on international law. These analyses identify characteristic elements of both declaratory and constitutive statehood recognition theory.

The research then combines these methods by analysing the timeline of Indonesia's struggle for recognition between 1945-1950 for historical events that exhibit characteristics or elements of constitutive or declaratory statehood recognition theories.

3. Indonesia's Struggle for Independence, Statehood and Recognition (1945-1950)

10. Soekarno, "Proclamation of Indonesian Independence," August 17, 1945.

Applying statehood recognition theories to Indonesia first requires establishing a historical background or timeline of Indonesia's struggle between declaring independence until its admission into the United Nations (UN) General Assembly between 1945 and 1950.

Indonesia's independence was declared in 1945, two days after Japan's surrender in WWII.[11] A war to maintain independence soon erupted as the Netherlands did not recognise this statehood declaration and sought to forcefully control Indonesia.[12]

In 1946, under international pressure to negotiate, both sides concluded the Linggadjati Agreement. Here, the Netherlands recognised the Republic of Indonesia exercising only *de facto* "authority" over certain islands (Java, Madura and Sumatra), and both agreed to form a 'United States of Indonesia' including Dutch-controlled states.[13]

This initial recognition of Indonesia by the Netherlands was conditional, only entailed a recognition of an Indonesian Republic insofar as it also included Dutch-controlled territory than a solely sovereign Indonesia – illustrating the difficulty of a colonial state attaining statehood recognition from its coloniser state. Despite being an extremely limited recognition of its political independence, the agreement was pragmatically accepted by Indonesia. Nonetheless, the Linggadjati Agreement was eventually violated by both sides as the Netherlands' deployed soldiers into Indonesian territory *en masse* while Indonesia pursued overseas recognition by other countries.

Demanding the withdrawal of Dutch troops, Indonesia was invited to the UN Security Council and its 184th and 185th meetings in 1947. There, the Netherlands attempted to dissuade the international community from proposals by Indonesia and other countries for a UN-appointed committee to oversee the Indonesia-Netherlands conflict. Instead, the Netherlands proposed for an inquiry over the conflict by designated 'impartial states'.[14]

Between its initial 1945 independence proclamation and 1949, Indonesia was extended statehood recognition by several countries. These included Egypt, Syria, Lebanon, Iraq and Saudi Arabia in 1947; and Yemen in 1948.

In 1947, after the Linggadjati Agreement's failure, the United States of America (US) proposed a UN Security Council resolution to offer its good offices to the dispute which was adopted. This Good Offices Committee and the Security Council brokered the 1948 Renville Agreements which entailed a ceasefire.[15] When the Netherlands continued its military operations in Indonesia, violating the ceasefire, the US

11. Soekarno, "Proclamation of Indonesian Independence"; Kahin, George McT., "Sukarno's Proclamation of Indonesian Independence," *Indonesia*, no. 69 [2000]: 1-3.
12. Soekarno, "Proclamation of Indonesian Independence," August 17, 1945; George McT. Kahin, "Sukarno's Proclamation of Indonesian Independence," *Indonesia,* no. 69 (2000): 1.
13. Justus M. van der Kroef, "Dutch Policy and the Linggadjati Agreement, 1946–1947," *The Historian* 15, no. 2 (1953): 165.
14. UN Audiovisual Library, "184th and 185th Meetings of Security Council," accessed October 24, 2023, https://www.unmultimedia.org/avlibrary/asset/2066/2066066.
15. Theodore Friend, *Indonesian Destinies* (Cambridge, MA: Belknap Press of Harvard University Press, 2003), 35.

pressured the Dutch to quickly resolve the conflict with threats to cease military support from the Marshall Plan and proceed North Atlantic Treaty talks without them.[16]

After four years of military and political dispute, in 1949, both Indonesia and the Netherlands held a conference at The Hague with the UN Commission for Indonesia. This resulted in the ratification of the Charter of Transfer of Sovereignty, wherein complete and unconditional sovereignty over Indonesia was handed to the 'Republic of the United States of Indonesia',[17] becoming the Republic of Indonesia again in 1950. That same year, Indonesia was fully admitted into the UN with both Security Council and General Assembly resolutions.[18]

The Netherlands for decades only acknowledged 1949 as the year of Indonesian independence. In June 2023, the Dutch Prime Minister acknowledged that Indonesian independence began since 1945 but sovereignty was only transferred since 1949.[19]

4. Post-Colonial and Great Power Influence: A Case For Constitutive Recognition Theory?

Having established a timeline of Indonesia's struggle for recognition of its statehood between 1945-1950, this research next analyses that timeline for historical events that demonstrate characteristics of either constitutive or declaratory statehood recognition theory.

This research posits two instances in the Indonesian case above where elements of constitutive recognition theory were evident and influential. First is the Netherlands' use of 'Eurocentric standards of civilisation' to justify invasions and delegitimise Indonesia's proposals in the 1947 UN Security Council meetings. The second is the role US "big stick diplomacy" and political coercion against the Netherlands had on the outcome of Indonesian statehood.

Recalling constitutive statehood recognition theory, Klabbers argues the theory's strength in practice because states struggle struggle to survive without other countries' recognition in reality.[20] Klabbers adds, "recognition is, essentially, a political act; state X decides whether it recognises entity Y as a state, and may do so for a host of reasons".[21] Therefore, "legal criteria offer some guidance… but decisions on whether to recognise or not are… predominantly guided by political motivations".[22] Constitutive theory more embraces the influence of political discretion on decisions to recognise statehood.

16. Cees Wiebes and Bert Zeeman, "United States' 'Big Stick' Diplomacy: The Netherlands between Decolonization and Alignment, 1945-1949," *The International History Review* 14, no. 1 (1992): 51-2.
17. Homer G. Angelo, "Transfer of Sovereignty Over Indonesia," *The American Journal of International Law* 44, no. 3 (1950): 569–70.
18. UN Security Council, Resolution 86, "Admission of New Members to the United Nations," S/RES/86 (September 26, 1950); UN General Assembly, Resolution 491(V), "Admission of the Republic of Indonesia to Membership of the United Nations," A/RES/491(V) (September 28, 1950).
19. Yvette Tanamal, "Dutch PM Recognizes 1945 as Indonesia's Independence," *The Jakarta Post,* June 16, 2023, https://www.thejakartapost.com/paper/2023/06/16/dutch-pm-recognizes-1945-as-indonesias-independence.html.
20. Klabbers, *International Law*, chap. 4 [23].
21. Klabbers, *International Law*, chap. 4 [23].
22. Klabbers, *International Law*, chap. 4 [23].

When applied to the Indonesian case, such political discretion was evident in the Netherlands' utilisation of Eurocentric 'standards of civilisation' to contest Indonesian statehood on the battlefield as well as in diplomacy and law. Eurocentric "standard[s] of civilisation" are arbitrary requirements designed to *deny* non-European countries statehood with political discretion,[23] historically used by European empires and associated with constitutive recognition theory.[24]

These standards are observable within the Indonesian case in the paternalist, Eurocentric, and racist rationales adopted in the 1945-1949 military invasions by the Netherlands,[25] which they called *'politionele acties'* (police actions) than incursions.[26] To the Dutch, Indonesia remained a legitimate Dutch colony after WWII. Hence, their invasions were "reformulated" as peace-keeping rather than "the colonial pacification mission it really was".[27] Moreover, the prevalence of Eurocentric standards among soldiers are evidenced in their memoirs exaggerating Indonesian Republican soldiers as merely "a robber, a bandit, a murderer of extreme cowardice, obsessed with power, an egotist without higher ideals".[28] Politically, Netherlands soldiers were taught not to perceive Indonesian resistance as a nationalist movement but as mere crime.

Eurocentric rationales were not limited to soldiers but were also wielded by Dutch diplomats in the presence of the UN. After four years of war, the Netherlands opposed Indonesia at Security Council meetings in 1947 where Indonesian diplomat Soetan Syahrir pleaded the Dutch troops' withdrawal,[29] and the legitimacy of the Republic's resistance. In response, Dutch diplomat van Kleffens exclaimed to the UN, "whom now do you want to help [regarding the Indonesia-Netherlands conflict]? 'These people' [referring to Indonesians]? Or the 'decent citizens' [referring to Dutch and European people]?"[30]

Kleffens' statements also resonate with constitutive theory and Eurocentric standards to delegitimise Indonesia in legal-diplomatic avenues. Kleffens refers to Indonesians as a less-good 'people' than Europeans 'citizens', inherently deserving less favour from the Security Council and international community. The intentional exclusion of Indonesians as 'citizens' alludes an exclusion from the rights and obligations of belonging to an Indonesian state. Despite this meeting occurring *after* the 1933 Montevideo Convention, Dutch diplomats still deployed language emphasising Eurocentric standards to object Indonesian UN proposals that aid its claims.

23. Wanshu Cong, "Classroom Class 4: Subjects/Participants – State" (lecture, LAWS8182: Principles of International Law, Australian National University, Canberra, September 11, 2023), https://echo360.net.au/lesson/98a1a7da-5c17-4881-8e7d-1e67edc48285/classroom.
24. Parfitt, *The Process of International Legal Reproduction,* 82.
25. Gert Oostindie, Ireen Hoogenboom, and Jonathan Verwey, "The Decolonization War in Indonesia, 1945–1949: War Crimes in Dutch Veterans' Egodocuments," *War in History* 25, no. 2 (2018): 269.
26. Adrian Vickers, *A History of Modern Indonesia (*Cambridge: University Press, 2005); Robert Cribb, *Historical Atlas of Indonesia* (London: Routledge, 2013), 99.
27. Oostindie, Hoogenboom, and Verwey, "The Decolonization War in Indonesia, 1945–1949," 269.
28. Oostindie, Hoogenboom, and Verwey, "The Decolonization War in Indonesia, 1945–1949," 269.
29. UN Audiovisual Library, "184th and 185th Meetings of Security Council."
30. UN Audiovisual Library, "184th and 185th Meetings of Security Council."

Later in the timeline, the influence of Western political discretion regarding Indonesian statehood manifested again. That is, how the Netherlands' stance on Indonesia suddenly flipped, legally recognising Indonesia and transferring sovereignty in 1949. This was not done out of mere benevolence but political considerations of US 'big stick diplomacy'.

The US had multiple political interests in Indonesia, including not leaving it to the Netherlands to better contain Soviet regional influence, and maintaining Indonesian trade of natural resources like rubber and tin.[31] Most importantly, the US leveraged the Netherlands to expedite resolving the Indonesian conflict by using political threats to cut them from Marshall Plan military aid and North Atlantic Treaty negotiations.[32] These threats were materialised by resolutions passed in the US Senate in early 1949, "demanding that the Netherlands cease all hostilities and withdraw its troops, release Republican leaders and start serious negotiations."[33]

Despite the Netherlands' considerations to try and resist US diplomatic pressure, even briefly considering not signing the North Atlantic Treaty:[34] "the United States cajoled, warned and threatened the Dutch to push them towards complete independence to Indonesia. In the end, they were *successful* because the Dutch granted (almost complete) independence to Indonesia on 27 December 1949".[35]

The US, anticipating the Netherlands' gesture, also recognised Indonesia a day later on the 28th of December 1949.[36] Therefore, the Indonesian struggle for statehood is inseparable from political discretion and elements of constitutive theory, as Klabbers posits, influencing decisions to recognise Indonesia regardless of any legal criteria. The Netherlands employed Eurocentric standards of civilisation to justify military force in Indonesia and delegitimise its diplomacy as well as pleas in UN Security Council meetings. Additionally, the Dutch demonstrably heavily considered US political pressure in recognising Indonesia in 1949.

One may counterargue that ultimately, the Netherlands *declaratorily* recognised Indonesia, and perhaps there can be a semantic argument regarding this contention. Yet, one would be hard-pressed to deny the unique *constitutive* power Dutch *de jure* recognition had on Indonesian statehood, the first among Western states, due to being Indonesia's coloniser. It is also clear the Netherlands employed imperial-colonial elements associated with constitutive theory to constrain Indonesian statehood.

Nonetheless, in the next section, this research will demonstrate limitations in the exclusive application of constitutive statehood recognition theory to Indonesia's independence struggle. Namely, the research will illustrate how other historical events in the same timeline above also support the opposite declaratory recognition

31. Wiebes and Zeeman, "United States' 'Big Stick' Diplomacy," 68.
32. Wiebes and Zeeman, "United States' 'Big Stick' Diplomacy," 52.
33. Harry A. Poeze, Gert Oostindie, and Ireen Hoogenboom, *Merdeka: The Struggle for Indonesian Independence and the Republic's Precarious Rise, 1945–1950* (Amsterdam: Amsterdam University Press, 2024), 329.
34. Wiebes and Zeeman, "United States' 'Big Stick' Diplomacy," 59.
35. Wiebes and Zeeman, "United States' 'Big Stick' Diplomacy," 68.
36. U.S. Embassy & Consulates in Indonesia, "History of the U.S. and Indonesia Relations," accessed October 25, 2023, https://id.usembassy.gov/our-relationship/policy-history/io/.

theory. In doing so, the constitutive-declaratory dichotomy of statehood recognition theory is inherently challenged.

5. Indonesia's Foreign Relations Capacity and UN Admission: A Case for Declaratory Recognition Theory?

The limitations of the constitutive-declaratory dichotomy become more visible as this research next highlights how the Indonesian independence struggle also contains multiple instances where declaratory state recognition theory is affirmed. Specifically, the simultaneous applicability of declaratory theory to the case is evidenced by Indonesia's pursuit of recognition declarations despite provoking Dutch offensives, and its implicit recognition via admissions into the UN Security Council before the General Assembly.

To reiterate, the 1933 Montevideo Convention provided legal criteria for entities to be recognised as states. This research essay finds that the convention's criteria of permanent population, defined territory and government,[37] were not heavily contested in the Indonesia-Netherlands conflict. Instead, the more material criteria to the Indonesia-Netherlands conflict was proving Indonesia's "capacity to enter into relations with [the] other states," also codified in Montevideo.[38] That is, the criterion where in a country's claim to its recognised statehood is strengthened by demonstrating its ability to manage relations with other states independently from, for instance, its coloniser state.

This 'international relations-capacity' criterion to statehood was especially designed to oppose colonial rule, as colonising states typically denied their colonies from entering foreign relations "without consent from the metropolitan state".[39] This research finds that the Indonesian case exhibits a struggle to prove its own capacity to manage foreign relations without Dutch intervention or supervision, while the Netherlands acted to constrain it.

Evidence of the Netherlands' efforts to diminish the Republic of Indonesia's capacity in independently conduct foreign relations is within the 1946 Linggadjati Agreement. While the agreement offered the Indonesian Republic *de facto* authority over some of the archipelago as part of a larger 'United States of Indonesia' (USI) with Dutch-controlled states,[40] it officially shrunk the Republic's ability to engage in foreign relations. Linggadjati proposed the USI and a 'Netherlands Indonesian Union', where foreign relations were a "joint interest" which could *only* be promoted by organs of the Netherlands and the *wider* USI.[41] This conveniently excluded the Indonesian Republic. The Republic was further denied freedoms to pursue foreignrelations as "decrees and resolutions concerning the joint interests" could only be issued under the Netherlands Queen's name as "head of the Netherlands Indonesian Union".[42] Despite the treaty-obstacles imposed by the Netherlands, the Republic of Indonesia acted to resist and circumvent them.

37. Montevideo Convention.
38. Montevideo Convention.
39. Klabbers, *International Law*, chap. 4 [17].
40. Agreement between the Netherlands Commission-General and the Delegation of the Republic of Indonesia (Linggarjati Agreement), November 15, 1946, art. 1.
41. Linggarjati Agreement, art 7.
42. Linggarjati Agreement art 8.

Indonesia unilaterally pursued and gained *de jure* recognition from Arab League states including Egypt, Iraq, Lebanon, Saudi Arabia and Syria between March to May 1947.[43] It may be considered as a violation of the Linggadjati Agreement. On the other side, this may be seen as a significant achievement because previously Indonesia was only *de facto* recognised of its "authority", and not as a statehood.[44] Indonesia re-demonstrated its independent foreign relations when it attained Yemen's declaration in May 1948. However, this attainment was considered as a violation of the Renville Agreement.[45]

Indonesia's success in obtaining declaratory recognitions of its statehood by other countries contributed to provoking Dutch military offensives. These recognition declarations were cited as justifications for the Netherlands' so-called "police actions" to gain territorial control via use of force.[46] The Dutch's first police action occurred July-August 1947, which coincides soon after the Arab League's declarations recognising Indonesia in May, and is attributed to disagreements regarding Linggadjati.[47] Thus, the Indonesian case also describes a struggle to prove a legal criterion of statehood under the Montevideo Convention that most opposed colonisation.

Declaratory theory's role in the Indonesian case is also evidenced in Indonesia's admission into the UN. This includes *both* Indonesia's 1947 admission into the Security Council and 1950 admission into the General Assembly. Obtaining membership into the UN as a form of recognition also affirms declaratory theory, because to "accept a state to be a member of the UN would be seen as a… collective recognition of the statehood of an entity".[48]

While it opponents argue UN admission is a separate issue or an after-effect of statehood,[49] it is also argued that "admission to the United Nations became the essential determinant of statehood for many of the newly decolonised countries [after 1955]".[50] This essay argues the latter position is true in Indonesia's case, *despite* both admissions occurring before 1955.

As mentioned in the timeline above, the Republic of Indonesia attended the 184th and 185th UN Security Council meetings in August 1947 to argue its legitimacy and the withdrawal of Dutch troops. Indonesia's invitation to occupy a seat at the Security Council was the result of complaints and resolutions by India and Australia.[51]

43. Alastair M. Taylor, Indonesian Independence and the United Nations (Westport, CT: Greenwood Press, 1960), 33.
44. Taylor, *Indonesian Independence and the United Nations*, 29-31
45. Taylor, *Indonesian Independence and the United Nations*, 119.
46. Taylor, *Indonesian Independence and the United Nations*, 33-38.
47. Vickers, *A History of Modern Indonesia*; Robert Cribb, *Historical Atlas of Indonesia*, 99.
48. Cong, "Classroom Class 4."
49. Cong, "Classroom Class 4."
50. Christopher Greenwood, review of *Recognition and the United Nations*, by John Dugard, *Cambridge Law Journal* 46, no. 3 (1987): 551–53.
51. Jennifer L. Foray, "The Republic at the Table, with Decolonisation on the Agenda: The United Nations Security Council and the Question of Indonesian Representation, 1946–1947," *Itinerario* 45, no. 1 (2021): 124, 134–37.

Indonesia's invitation invoked or was authorised by several UN Charter articles that imply its statehood. The Security Council was authorised to invite Indonesia in 1947, without vote, as a "*state* which is not a Member of the United Nations, if it is a party to a dispute under consideration by the Security Council".[52] While Security Council invitations can be *ad hoc*, they may only be afforded to *states*, and therefore was a powerful boon for Indonesia's statehood claims despite not yet joining the General Assembly until 1950. Besides General Assembly membership, Indonesia enjoyed rights and accepted responsibilities *equal* to other states at the 1947 Security Council meetings.

Additionally, India and Australia invoked articles 34 and 39 of the United Nations Charter when proposing Indonesia's invitation. While not directly contributing to its statehood, these articles helped prolong Indonesia's struggle by reaffirming the Security Council's purpose and authorisation to investigate the Indonesian-Dutch conflict as a dispute "which might lead to international friction or… endanger the maintenance of international peace and security".[53] Collectively, these articles and the Security Council's invitation amplified Indonesia's statehood claims and denied Dutch objectives to limit the conflict as a national or regional affair.[54]

In the end, Indonesia successfully repelled Dutch military and diplomatic offenses until its 1950 admission into the General Assembly traditionally authorised by UN Charter article 4.[55] These resolutions conclude the Indonesian case as final confirmations of its recognised statehood.[56] So far, evidence that supports recognition's declaratory nature are demonstrably present *alongside* evidence supporting constitutive recognition theory. Still, the fact there remains proof of the relevance of constitutive recognition theory to the same Indonesian case challenges both theories' applicability, and therefore strain the notion of their theoretical dichotomy. Explaining Indonesia's recognition of statehood evidently cannot be limited by either one of these explanations alone.

6. Conclusion

In summary, by constructing a chronological timeline of events and assessing it against characteristics of constitutive and declaratory statehood theories, this research has demonstrated how the Indonesian struggle for recognition as a post-colonial state evades sufficient explanation under either theory alone. Instead, elements of both theories "paradoxically" coexist, challenging the idea that they are entirely opposed or mutually exclusive.

On one hand, it is difficult to fully refute constitutive theory in the Netherlands' use of standards of civilisation to delegitimise Indonesia's statehood, and their eventual turnaround due to political discretions regarding US big-stick diplomacy. Yet it is also difficult to completely dismiss Indonesia's demonstration of international relations capacity as a legal statehood criterion under the Montevideo Convention

52. UN Charter, art. 32.
53. UN Charter.
54. Foray, "The Republic at the Table," 124, 134–37.
55. UN Charter.
56. "Admission of the Republic of Indonesia"; "Admission of New Members."

with declarations from the Arab League, and implication as a state vis-à-vis its 1947 Security Council invitation.

Neither theory is without limitations, nor deny the opposite from also being instrumental to the outcome of Indonesia's statehood recognition. This essay finds some validity in both positions simultaneously, but questions: 1) declaratory theory's denial of recognition's legal consequence, *and*; 2) constitutive theory's insistence that recognition is *sine qua non* over other legal criteria.

Declaratory theory excludes political discretion from international law determining statehood. However, without acknowledging recognition's inherent political nature and consequence, the laws within the Montevideo Convention would be self-executory with no means for application.[57] In reality, the declarations Indonesia obtained between 1945-1948 created real pressure against the Dutch in the battlefield and legal-diplomatic avenues. These effects far exceed mere 'acknowledgements of personality' as Montevideo claims. Meanwhile, constitutive theory's dismissal of legal criteria is irreconcilable with the obvious struggle between Indonesia and the Netherlands in proving or constraining the Republic's capacity to manage its international relations independently from the Netherlands. It cannot deny Indonesia's placed importance in obtaining the Arab League's declarations and the Netherlands launched military offensives in *response* to those declarations. Therefore, declarations of Indonesia's legal personality and pursuit Montevideo criteria must *also* have more significance than constitutive theory posits.

This dichotomy is further limited in informing the Indonesian case because elements of constitutive theory arguably survive in declaratory theory. Namely, Eurocentric statehood standards – characteristic of constitutive theory – survive in declaratory theory-based international law, as aspiring new states are often pressured to haphazardly adopt Western capitalist-style governance and ideals.[58] This is evident in the proposed United States of Indonesia under Linggadjati and Kleffens' implicitly-racist remarks in the 1947 Security Council Meetings to oppose Indonesian proposals.

Ultimately, this research concludes both constitutive or declaratory legal theories of statehood recognition run into limitations when applied to the Indonesian case of statehood recognition alone. Indonesia's case was one of a restless former-colony's existential struggle for statehood by any means, regardless of what theories it proves or disproves. Elements from both theories simultaneously affected, or were even strategically employed for legal-diplomatic leverage towards and against a post-colonial state's recognition. This research anticipates this is unlikely exclusive to the case of Indonesia, and may likely be shared with other post-colonial countries that attained statehood by a combination of political discretions and pursuit of legal criteria to statehood. Further research into this notion may be beneficial to enriching knowledge on the nature of statehood recognition itself.

57. Craven and Parfitt, "Statehood, Self-Determination, and Recognition," 204-205.
58. Parfitt, *The Process of International Legal Reproduction,* 82-3; Shahabuddin, "Post-Colonial Boundaries," 334-56.

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