

IN MEMORIAM: BESAR MARTOKOESOEMO S.H.
1894-1980

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Besar Martokoesoemo died on February 22, 1980 at nearly eighty-six years of age. Outside the circles of older generation political leaders and lawyers, family friends, and the many people he had helped during his long life, he was not a very well-known public figure. He was a quiet man, physically slight, without pretense, always intellectually alert and curious, who bore his considerable personal authority with ease, good taste, and humor. Many young lawyers have forgotten, or never knew--which is too bad, given the fine example he set--that Mr. Besar was the first Indonesian private lawyer, who in 1924 dismissed all opposition and opened his own law office in Tegal after completing his legal studies at Leiden. Politically he is remembered mainly for his momentary role in the Tiga Daerah Affair, early in the revolution, when he was Resident of Pekalongan. Thereafter, in 1947, he became secretary-general of the Ministry of Justice, in which position he remained until his retirement in 1959. His career was steady, hardworking, and productive, but it attracted few spotlights and he sought none. He wrote no books and gave no speeches that anyone can remember. There is nothing dramatic in his life that I know of to suggest that some great cultural theme worked itself out there. His family has always been close and devoted, filled with able, decent, and accomplished people. In just about all respects, Besar Martokoesoemo lived a good life, which is remarkable enough anywhere, though not the material from which histories are usually written.

There are good reasons, other than personal ones, to write about him. (For me personally he was exceedingly important, and still is, not only for what he taught me about law in Indonesia, but much more, and to him and to his marvelous wife, who survives him, I want to record affectionately an enormous debt.) For one thing, his career merits public recognition. For another, Pak Besar's special qualities as a man deserve more than passing attention.

I have written about his career as an advocate in this journal ("Origins of the Indonesian Advocacy," *Indonesia*, 21, April 1976). As the first Indonesian lawyer to take up private practice, against great odds and with little moral encouragement, the young Besar needed more than courage to break out of the bureaucratic channel for which he had been raised and trained. He needed also a true sense of personal independence, confidence in his own abilities, and a reasonably adventuresome spirit. With all this he was, like some of the others whom he encouraged to follow in his tracks, something of a new kind of figure in Indonesian social and economic history. He was a successful advocate, with the skills and style that would make him immediately familiar to the best professional lawyers anywhere in the world. After the start of the Japanese occupation, Besar moved into the bureaucracy, partly because there was not much space in which to practice as an advocate any more, but also perhaps because he felt, in the midst of crisis, that it was time to assume public responsibility. Among professional lawyers, however, many never stopped thinking of him as an advocate, really a lawyer's lawyer, to whom they went for legal and sometimes political counsel until long after his retirement.

The professional lawyer in Pak Besar greatly influenced his political attitudes, more so, in many ways, than was true of the others who returned from Leiden or graduated from the Rechtshogeschool in Jakarta. He was a devout nationalist, who would not work for the colonial government, but he was nearly alone in that first generation of Indonesian advocates, most of whom flocked to the PNI, in refusing to join a political party; Budi Utomo, which he joined very early, was his limit. He had political sympathies, of course, but he distrusted grand ideologies and probably felt uncomfortable with movement politics of any sort. He was neither a social revolutionary nor a political conservative, but a progressive rationalist in a lawyerly mode, constantly seeking means of negotiating differences and avoiding unnecessary pain, conflict, or, worst of all, bloodshed. I suspect this may help to explain his part in the Tiga Daerah Affair, which undoubtedly dampened whatever enthusiasm he had for public politics; none of his professional instincts prepared him for what happened then, and he was always a bit puzzled by it.

As secretary-general of the Ministry of Justice, Besar had to get along with some difficult ministers while beginning the work of developing the judicial system of independent Indonesia. His major accomplishment was the unification of the national judiciary, which involved the elimination of the old adat courts. His approach, typically, was even-handed and careful. At a time, during the 1950s, when some leaders were prepared to extend the authority of the national government at any cost, Besar also worried about local sensitivities and problems. One of his solutions, which he personally negotiated in several areas of the country, was simply to transform adat judges into government judges, thus satisfying the symbolic demands of Jakarta and the practical concerns of the provinces.

Besar's reputation as a good lawyer and a good man, his principled self-assurance and common-sense, derived at least in part, I think, from the fact that he survived the mashing together of Javanese upbringing and Dutch education with some fundamental values intact. Like many in his generation of the elite, he drew from both cultures, unavoidably, but in his case it all fitted together comfortably. The principles he took seriously were to his mind--though he never talked about this sort of thing in the abstract--much the same everywhere. If there were different cutting edges to these principles, he somehow fused them.

In his scale of values, responsibility seems to have stood above all, but his notion of responsibility amalgamated two traditions. One was certainly legal, the other Javanese patrimonial, for lack of a better term. Pak Besar loved the law, as only a really skilled lawyer can, but it was not everything for him. He never thought it enough for a good society; there also had to be caring and virtuous leaders. In one tradition, such leaders must have primary responsibility for the welfare of the people. In the other, however, they were not to be trusted too much and had to be held accountable.

Pak Besar's own sense of responsibility was often evident. (Not his alone in that household; a favorite memory, from years ago, is of Ibu Besar sitting in the dining room teaching a shy but assiduous young boy from a warung across the street to read, as if this were an obvious thing to be doing at a given hour every day.) Almost to the end of his life, he represented the interests of the national pensioners' association, demanding work for a man his age. He was forever doing favors and giving advice, which many clearly valued. Pak Besar's counsel, typically, was sympathetic and considered, but mainly dispassionate and honest: *sepi ing pamrih*, as any responsible lawyer would understand.

As responsible *bapak* and as responsible lawyer, Pak Besar resented what happened under Guided Democracy and thereafter in the New Order. He had contempt for corruption as a failure of virtue and of law. He was depressed by the

decline of lawyers under Guided Democracy, not simply because this was his profession, but because it meant less protection for people who had no other influence. Under the New Order, as professional advocates grew active again and multiplied, he was distressed by stories about low standards of practice and particularly about the miseries of trying to defend clients in the courts. Again it was not merely the law that was at stake, but fairness and justice for people whose only recourse was the law. During the 1970s he was honored by invitations to join the honorary councils of the Advocates' Association (PERADIN) and the Legal Aid Institute (LBH) in Jakarta. Both groups kept his attention, but the LBH especially interested him for its work with the poor and its willingness to challenge the government.

It would be utterly false to his memory to romanticize Pak Besar. Never did he romanticize himself or anything else. A good lawyer, he was courageous, but not given to unnecessary risk. He had no illusions about power, which he used on occasion. He had some prejudices, not unusual ones, though none that were hateful or untempered by honest sympathy for human weakness and force of circumstance. Pak Besar took it for granted that the world is imperfect and imperfectible, and that one did--must do--what one could. He was the sort of capable, humane, and responsible man who has to be available for the sake of decency in any society.

