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BETWEEN RECOGNITION AND RESTRICTION: MUSLIM MARRIAGE IN LEGAL POLITICS AND COLONIAL ADMINISTRATION IN THE DUTCH EAST INDIES, 1882–1942

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Abstract
This article examines the changes in the position of Muslim marriage in the legal politics and administration of the Dutch colonial in the Dutch East Indies in 1882–1942. The research problem departs from colonial policies that did not completely abolish the practice of Islamic marriage law, but gradually incorporated it into the institutional and administrative structure of the government. This study aims to analyze the changes in the legal position of Muslim marriage, the relationship between institutional recognition and administrative supervision, and the interaction between Islamic law, customary law, and colonial law. The research gap lies in the unintegrated discussion of the institutionalization of religious courts since 1882, the administrative arrangement of marriage in 1895–1933, and the change in jurisdiction in 1937 as a series of colonial legal politics. This research uses historical methods through heuristic stages, source criticism, interpretation, and historiography. The main sources include the

various Staatsblads that regulated religious courts, marriage, divorce, and the authority of Islamic legal institutions in the period. The results of the study show that colonial politics towards Muslim marriage formed a pattern that can be termed as "controlled recognition". Recognition of Islamic legal institutions and practices took place simultaneously with the standardization of administration, supervision of religious officials, and restrictions on the authority of religious courts. Thus, colonial legal pluralism did not take place in an equal position, but rather in a hierarchical legal structure. These findings show that the history of Muslim marriage was part of the negotiation process between Islamic law, society, and colonial power.

Keywords: *dutch east indies; legal history; legal politics; muslim marriage;*

Abstrak

Artikel ini mengkaji perubahan kedudukan perkawinan Muslim dalam politik hukum dan administrasi kolonial Belanda di Hindia Belanda pada 1882–1942. Permasalahan penelitian berangkat dari kebijakan kolonial yang tidak sepenuhnya menghapus praktik hukum perkawinan Islam, melainkan secara bertahap memasukkannya ke dalam struktur kelembagaan dan administrasi pemerintahan. Penelitian ini bertujuan menganalisis perubahan kedudukan hukum perkawinan Muslim, hubungan antara pengakuan kelembagaan dan pengawasan administratif, serta interaksi antara hukum Islam, hukum adat, dan hukum kolonial. Kesenjangan penelitian terletak pada belum terintegrasinya pembahasan mengenai pelembagaan peradilan agama sejak 1882, pengaturan administratif perkawinan pada 1895–1933, dan perubahan yurisdiksi pada 1937 sebagai satu rangkaian politik hukum kolonial. Penelitian ini menggunakan metode sejarah melalui tahapan heuristik, kritik sumber, interpretasi, dan historiografi. Sumber utama meliputi berbagai Staatsblad yang mengatur peradilan agama, perkawinan, perceraian, dan kewenangan lembaga hukum Islam pada periode tersebut. Hasil penelitian menunjukkan bahwa politik kolonial terhadap perkawinan Muslim membentuk pola yang dapat disebut sebagai “pengakuan yang terkontrol”. Pengakuan terhadap lembaga dan praktik hukum Islam berlangsung bersamaan dengan standardisasi administrasi, pengawasan pejabat agama, serta pembatasan kewenangan peradilan agama. Dengan demikian, pluralisme hukum kolonial tidak berlangsung dalam kedudukan yang setara, melainkan dalam struktur

hukum yang hierarkis. Temuan ini menunjukkan bahwa sejarah perkawinan Muslim merupakan bagian dari proses negosiasi antara hukum Islam, masyarakat, dan kekuasaan kolonial.

Kata Kunci: *hindia belanda; perkawinan muslim; politik hukum; sejarah hukum.*

INTRODUCTION

Marriage in Muslim society is not only related to the relationship between men and women, but also related to religion, family, religious authority, and social recognition. Therefore, when the Dutch colonial government built a system of government and law in the Dutch East Indies, Muslim marriage became one of the fields that brought together religious norms with the administrative interests of the state. Islamic law had been practiced in the archipelago before the formation of the modern colonial government. *Penghulu*, *ulama*, and religious leaders had a role in regulating religious and family issues. The entry of the colonial government did not directly eliminate the practice, but gradually placed it within the framework of colonial law and administration (Hisyam 2000; Islamy 2020).

The relationship between Islamic law and colonial law is therefore not sufficiently understood through the dichotomy between acceptance and rejection. The colonial government provided a certain space for the enactment of Islamic law, especially in the issue of marriage and family affairs of the Muslim community, but this space was within the structure of the colonial government. One of the important points was Staatsblad 1882 No. 152 which provided an institutional basis for the establishment of Priesterraden in Java and Madura. The establishment of these institutions showed that the legal needs of the Muslim community gained a place in the government structure, as well as making the practice of Islamic justice within an institutional framework that could be supervised by the colonial government. In subsequent developments, the existence of Islamic legal institutions was not only related to the settlement of cases, but also to the position of the penghulu as an official who linked religious interests with government administration (Hisyam 2000; Muttaqin and Zaini 2020).

These changes were increasingly evident through the administrative arrangements of marriage and divorce. Staatsblad 1895 No. 198 became part of the development of Muslim marriage administration, while Staatsblad 1929 No. 348, Staatsblad 1931 No. 467, Staatsblad 1932 No. 482, and Staatsblad 1933 No. 98 show the development of arrangements for officials, procedures, and administration of marriage and divorce. Muslim marriage thus no longer took place only as a religious and social practice, but was increasingly concerned with administrative procedures under government supervision. The position of the penghulu became important because he was at the meeting between religious authorities and state administration. Research on penghulu shows that the colonial government and religious officials had a relationship that needed each other, but at the same time the authority of the ruler changed when it was increasingly placed in the colonial government structure (Hisyam 2000; Fauzi 2019; Islamy 2020).

This context took place in the Dutch East Indies society which had a pluralistic legal system. Colonial law, Islamic law, and customary law developed and interacted in the same social space. In the life of Muslim communities, marriage could be carried out based on religious norms while being influenced by local customary customs and practices. This condition made the colonial government have to determine the limits of the authority of various legal systems and institutions related to indigenous peoples. The debate on the position of Islamic law and customary law then became an important part of colonial legal politics. Studies on reception theory show that changes in the politics of colonial law also affect the space for the enforcement of Islamic law in Muslim societies, especially when customary law is increasingly placed as the basis for the applicability of certain laws (Rifqi 2021; Pebrianto, Asasriwarni, and Matondang 2022).

The difference in arrangement also shows that the politics of colonial law were not applied through a uniform institutional pattern throughout the Dutch East Indies. Staatsblad 1882 No. 152 was specifically concerned with the establishment of Priesterraden in Java and Madura. Meanwhile, in other regions, different institutional forms developed according to the structure of government and the

conditions of the local community. Staatsblad 1937 No. 638 and No. 639, for example, became an important basis for the regulation of religious courts in parts of South Kalimantan and its surroundings. These differences show that the institutionalization of Islamic law took place through adjustments to the colonial administrative structure in each region. Thus, the history of Muslim marriage law is not only related to changes in norms, but also to institutional changes and legal administration (Staatsblad van Nederlandsch-Indië 1937b, 1937c).

Previous studies provide several important perspectives to understand these developments. Muhammad Hisyam shows that the relationship between the colonial government and the penghulu in Java was not It is merely a relationship of domination, but also a relationship that is mutually needy. The colonial government needed the penghulu to manage the problems of the Muslim community, while the penghulu obtained institutional space through government recognition (Hisyam 2000). This perspective then received a more critical reading from Entol Zaenal Muttaqin and Ahmad Zaini. They saw the recognition of the Islamic marriage system as part of legal dualism that could be used to maintain colonial hegemony. Thus, the existence of the Islamic marriage system in the colonial structure does not necessarily mean legal freedom, because its sustainability remains within the framework of colonial supervision (Muttaqin and Zaini 2020).

Fachrizal A. Halim expands the discussion by showing that colonial intervention can also take place through changes in judicial procedures. Changes in the oaths procedure in Islamic justice show that control is not always carried out by abolishing an institution, but can be done through the structuring of the institution's procedures and work procedures (Halim 2013). Meanwhile, the research of Pebrianto, Asasriwarni, and Matondang shows the relationship between L.W.C. van den Berg's thought, the theory of receptie in complexu, and the political development of colonial law towards religious justice (Pebrianto, Asasriwarni, and Matondang 2022). Rifqi then shows how reception theory is related to strengthening the position of customary law in certain fields, thus showing a change in the political direction of

colonial law towards Islamic law (Rifqi 2021). More recent studies have also emphasized the process of adapting Islamic law in the face of colonial structures, so that Muslim communities are not only seen as policy objects, but also as parties who have space to maintain and adapt their legal practices (Zaini et al. 2025).

Previous research still tends to discuss the institutionalization of religious courts, the administration of the penghulu, the politics of Islamic law, customary law, and the colonial marriage system in separate discussions. In fact, if placed in a series of times, there is a relationship between the institutionalization of the religious courts in 1882, the development of marriage administration in 1895–1933, and the change in the authority of the religious courts in 1937. The historiographical gap of this study lies in The attempt to link the three processes as a series of political changes in colonial law towards Muslim marriage. This approach allows the changing position of Muslim marriage law to be seen not only as a matter of the enactment of Islamic law, but also as a process of institutionalization, administration, supervision, and restriction of authority.

Based on this framework, this study uses the concept of "controlled recognition" as an interpretive knife. This concept is not intended as a theory that has been established by previous research, but rather as an analytical term to explain the patterns of change found in historical sources. Controlled recognition refers to a situation in which Islamic legal institutions and practices continue to gain space in the colonial system, but the space is accompanied by administrative standardization, supervision of religious officials, and jurisdictional restrictions. Thus, recognition and restriction are not placed as two contradictory circumstances, but rather as two processes that can take place simultaneously in the political development of colonial law.

This research therefore answers three main questions. First, how did changes in the politics of colonial law affect the legal position of Muslim marriage in the Dutch East Indies in 1882–1942? Second, how did institutional recognition of Islamic law go hand in hand with administrative supervision and jurisdictional restrictions? Third, how did the interaction between Islamic law, customary law, and colonial

law shape changes in Muslim marriage law in that period? This article argues that the politics of colonial law on Muslim marriage were not entirely in the form of rejection or full recognition. The colonial government tended to provide space for Islamic law institutions and practices as long as they could be placed within the state's administrative structure. This process resulted in a pattern that in this article is referred to as controlled recognition, namely the recognition of the Islamic legal space that goes hand in hand with administrative standardization, supervision of religious officials, and restrictions of authority.

Thus, the contribution of this research lies in the connection of the history of Muslim marriage, the history of religious justice, the administration of the penghulu, and legal pluralism in a single historical flow of 1882–1942. This approach shows that changes in family Islamic law in the colonial period took place in an unlinear manner. Institutionalization can result in recognition, but at the same time open up space for supervision; administration can maintain Muslim marriage practices, but also limit the way in which these practices are carried out; while the development of customary law also affects the limits of Islamic legal authority. Therefore, the history of Muslim marriage in the colonial period can be understood as the history of negotiations between religious authorities, society, and colonial power in a pluralistic and hierarchical legal order.

RESEARCH THEORIES AND METHODS

This article uses the political concepts of colonial law and legal pluralism as a framework of analysis to understand the changing position of Muslim marriages in the Dutch East Indies in 1882–1942. The politics of colonial law are used to look at how colonial governments determined the institutional form, the space for the enforcement of the law, the authority of officials, and the relationship between Islamic law and state law. In the colonial context, the establishment of judicial institutions and the regulation of marriage cannot be separated from the administrative and political interests of the government. The placement of Islamic law in state-recognized institutions can provide institutional space for the practice of Islamic

law, but at the same time allow the government to regulate its authority and implementation (Muttaqin and Zaini 2020). Meanwhile, legal pluralism is used to explain the existence of Islamic law, customary law, and colonial law in the same social space. The existence of these various legal systems does not show a completely equal position because the colonial government determined the limits of the applicability and relationships between systems through legal and population classifications (Hariri and Babussalam 2024). Based on these two concepts, this study uses the term "controlled recognition" as an interpretive concept to summarize the pattern of change found in historical sources, namely institutional recognition that takes place alongside administrative institutionalization, supervision, and jurisdictional restrictions.

This research is a legal history research with the main approach of legal history and legal politics. Legal history approach was used to trace the changes in regulations, institutions, and authorities related to Muslim marriage during 1882–1942. The political and legal approach was used to analyze the policy direction of the colonial government in determining the form of recognition, regulation, and restrictions on Islamic law. The social history approach was used as a support to understand the relationship between legal institutional changes and the position of Muslim penghulu, clerics, religious courts, and society. The approach allowed the study not only to explain the change in rules chronologically, but also to analyze the changing relationship between religious authorities and the colonial government structure.

The heuristic stage is carried out by tracing and collecting historical sources related to Muslim marriage law, religious courts, and colonial government policies. Primary sources are the basis of research because the research focuses on legal and institutional changes in that period. The main sources are in the form of Staatsblad van Nederlandsch-Indië, especially Staatsblad 1882 No. 152, 1895 No. 198, 1929 No. 348, 1931 No. 467, 1932 No. 482, 1933 No. 98, and Staatsblad 1937 No. 116, No. 638, and No. 639. These sources are used to trace the development of religious justice, marriage, divorce, the position of penghulu, and changes in the authority of Islamic legal institutions. In addition to colonial regulations,

the research searches government documents, administrative reports, legal publications, and contemporary newspapers to the extent that they are available and relevant. Secondary sources in the form of journal articles, books, and scholarly works on the politics of colonial law, religious courts, Islamic marriage law, and legal pluralism are used to strengthen the context and place primary sources in the development of historiography. Secondary literature is prioritized in the 2016–2026 publication without ruling out previous works that have an important position in the study of the history of colonial law.

Source criticism is carried out through external and internal criticism. External criticism is used to ascertain the identity, year, number, and position of the legal document used. The Staatsblad is treated as an official document of the colonial government that has important value for Know the legal policy formally. Internal criticism is carried out by paying attention to the purpose of publication, legal terms, administrative importance, and limited perspective in colonial documents. Colonial documents are not treated as an objective picture of the entire legal life of Muslim society because they mainly show the way the colonial government classified, regulated, and administered society. Therefore, the reading of primary sources is complemented by research on the rulers, ulama, religious courts, and the development of Muslim society.

Interpretation is carried out by linking historical facts that have been verified through criticism of sources with changes in colonial regulations, institutions, legal actors, and administrative structures. Each change in regulations is not only read based on the content of its provisions, but is also placed in the context of colonial politics and administration. Staatsblad 1882 No. 152 is interpreted as an important point in the institutionalization of religious courts, while the development of rules in 1895–1933 is analyzed as a process of structuring and strengthening the administration of colonial law. The 1937 regulation is then analyzed in relation to the division of jurisdiction and changes in the authority of religious courts. Colonial legal politics is used to read the direction of policy and changes in the space of authority of Islamic law, while legal pluralism is used to understand the relationship between Islamic law, customary law, and

colonial law. The interpretation also pays attention to the continuity and changes as well as the relationship between the colonial government as the holder of administrative power and the rulers, ulama, religious courts, and the Muslim community. From this process, the change in Muslim marriage law is understood as the sustainability of the practice of Islamic law that takes place in an increasingly organized and limited space of authority.

The historiographic stage is carried out by compiling the results of interpretation into a chronological, analytical, and contextual historical narrative. The narrative is compiled based on the development of Muslim marriage law and religious justice institutions from 1882 until the end of the Dutch colonial rule in 1942. Chronology is used to show continuity and policy changes, while political analysis law and legal pluralism are used to explain the relationship between regulations, administrative interests, judicial institutions, and Islamic legal actors. Developments in Java and Madura are placed in the broader political and legal and administrative context of the Dutch East Indies, including the institutional development of religious courts in other regions. Thus, historiography not only presents the order of the Staatsblad, but also describes the process of change from institutionalization, administrative arrangements, supervision, to restrictions on authority. The entire process is the basis for the argument that the legal position of Muslim marriage in 1882–1942 shows a pattern of "controlled recognition", which is the recognition of Islamic legal institutions and practices that take place simultaneously with the regulation, supervision, and restriction in the colonial legal structure.

DISCUSSION

Before the formal establishment of the Religious Court in 1882, Muslim marriage law had already been practiced in the Indonesian archipelago. Marriage for the Muslim community is not only understood as a relationship between a man and a woman, but also as part of the implementation of religious teachings related to the family, social status, and religious life. In practice, the ruler and ulama have an important position in regulating marriage issues, divorce,

religious advice, and social problems of the Muslim community (Islamy 2020). The existence of these actors shows that the Muslim community had a mechanism for regulating family life before the colonial government formally established religious justice institutions.

This is important to emphasize because the establishment of religious justice institutions in 1882 is often understood as the beginning of the existence of Islamic law in the legal structure in Indonesia. In fact, 1882 is more accurately understood as an important point in changing the relationship between Islamic law and colonial administration. Islamic law had a social and religious basis before obtaining a formal institutional form in the colonial government. Thus, the colonial government did not create Islamic marriage law from scratch, but entered a legal space that already had its own norms, actors, and practices.

Prior to 1882, the relationship between Islamic law and the colonial government had been seen through several provisions that provided room for the settlement of certain cases based on Islamic religious law. Staatsblad 1820 No. 22 and Staatsblad 1835 No. 58 showed that the colonial government had paid attention to the legal problems of the Muslim community. The existence of these provisions shows that the relationship between Islamic law and the colonial government had existed before the institutional formalization in 1882. Therefore, Staatsblad 1882 No. 152 is more accurately understood as a development of the previous process, rather than as an absolute starting point for the existence of Islamic law.

In addition to religious norms, people's married life is also influenced by customary law. Marriage can be carried out based on religious provisions while maintaining social customs that develop locally. The relationship between Islamic law and customary law is not always contradictory because the two can coexist in people's lives. This condition shows that the colonial government entered a society that already had a plurality of legal norms. Islamic law, customary law, and colonial law then interacted with each other in people's lives, while colonial governments tried to determine boundaries and relationships between these systems.

The development of Muslim marriage law in the colonial period needs to be placed in the context of legal pluralism that has developed since before the establishment of the Religious Court. It is also important to distinguish the existence of Islamic law from the state's recognition of Islamic law. Before 1882, Islamic law had gained legitimacy from the Muslim religion and society. After 1882, the law acquired the form of institutional recognition in the colonial government structure. The year 1882 thus became an important point because it marked a change in the position of Islamic law from the practice of law that had lived in society to an institutional form that was increasingly connected to the colonial state.

Early Phase: Institutionalization of Muslim Marriage Law, 1882–1895

The initial phase of the institutionalization of Muslim marriage law in the colonial administration can be placed in 1882, when the colonial government established the Staatsblad van Nederlandsch-Indië 1882 No. 152 which regulated the existence of Priesterraden or Raad Agama in Java and Madura. The provision originated from the decree of King Willem III dated January 19, 1882 No. 24 and came into force on August 1, 1882 (Staatsblad van Nederlandsch-Indië 1882 No. 152). The regulation became an important basis for the establishment of religious judicial institutions in the colonial government structure.

The establishment of the Priesterraden cannot be understood as the creation of Islamic law. Prior to 1882, the practice of settling cases based on Islamic law had developed and gained space in some of the previous colonial provisions. Staatsblad 1820 No. 22 jo. Staatsblad 1835 No. 58 showed the recognition of the settlement of certain cases among the Muslim community based on Islamic religious law (Staatsblad van Nederlandsch-Indië 1820 No. 22; Staatsblad van Nederlandsch-Indië 1835 No. 58). Thus, the main change in 1882 was not the emergence of Islamic law, but the formalization and reorganization of institutions that carried out the functions of Islamic law.

Staatsblad 1882 No. 152 gave a clearer institutional form to Raad Agama and placed it in relation to the colonial judicial structure.

The institution was placed next to the landraad so that the religious issues of the Muslim community obtained a clearer place in the colonial governance. In this structure, the penghulu became one of the important actors because it had a position in the implementation of the religious and judicial functions of the Muslim community. The institutionalization of Islamic law thus became a process of meeting between the colonial administrative structure and the religious authorities that had developed before (Pristiwiyanto 2014).

From the perspective of legal history, these changes have two sides. On the one hand, the establishment of Raad Agama provides formal recognition of the existence of Islamic legal institutions and provides a clearer place for the practice of Islamic law in the system of government. On the other hand, the institutionalization makes Islamic legal institutions enter the administrative structure that was under the control of the colonial government.

The formalization of Islamic law in 1882 cannot be directly understood as an increase in Islamic legal autonomy. When religious institutions gain a place in the system of government, they also become part of a structure that can be regulated by the government. This relationship shows the dual character of colonial policy, which is to provide institutional space while opening up the possibility of administrative supervision. Institutional recognition is thus different from recognition of full autonomy.

The establishment of the Religious Raad also affected the position of the penghulu. Before formal institutionalization, the legitimacy of the penghulu mainly came from his religious position in society. After entering the colonial structure, the position was increasingly related to administrative positions and functions. The penghulu continued to carry out religious functions, but his implementation was increasingly related to the colonial government framework (Islamy 2020).

The 1882–1895 phase thus shows the beginning of a pattern that developed in the following period. The colonial government provided space for Islamic legal institutions because they were needed to manage the lives of Muslim communities. However, these spaces were placed within the colonial administrative structure.

Institutional recognition from 1882 onwards became the basis for the development of increasingly administrative arrangements for Muslim marriages.

Administrative Arrangement of Marriage and Consolidation of State Supervision

After the institutionalization of the religious courts in 1882, the relationship between Muslim marriage law and the colonial administration developed further and further. One important development was seen through the Staatsblad 1895 No. 198 relating to the administration of Muslim marriage. The regulation indicated that the colonial government's attention was no longer limited to the existence of religious justice institutions, but began to include administrative mechanisms related to marriage.

Registration has an important meaning in changing the relationship between religious law and the state. Previously, the sustainability of marriage was mainly determined by religious provisions and social recognition of society. As registration and administrative officials became more necessary, marriage began to become an event that must be recognizable by the state. These changes did not necessarily change the entire substance of Islamic marriage law, but changed the way the state gained knowledge and control over the implementation of marriage.

The Penghulu has a strategic position. The Penghulu is at the meeting point between the Muslim community and the colonial government. He remains has a religious function, but at the same time it is related to the administrative procedures set by the government. Fauzi shows that marriage registration in the colonial period is related to the relationship between the penghulu, modin, and the administrative interests of the state (Fauzi 2019). The position of the penghulu has thus changed because religious authorities are increasingly integrated into the administrative mechanism.

Subsequent changes were seen through the Staatsblad 1929 No. 348. The regulation showed the colonial government's growing concern for the administration of Muslim marriages. Marriage was not only viewed from the aspect of religious validity, but was also

associated with the notification, recording, and involvement of officials with certain authority. The state gained space to ensure that marriages were recognized in the administrative system.

These changes were made clear through the Staatsblad 1931 No. 467 which amended the provisions in Huwelijksordonnantie Staatsblad 1929 No. 348. The regulation on Muslim marriage and divorce in Java and Madura shows the increasing involvement of marriage officials in the Muslim family process. The provisions on the notification of divorce and the revocation of divorce show that the state administration is not only present when the marriage takes place, but also in the change in the status of the marital relationship.

These developments show that colonial forms of control do not have to be done by abolishing Islamic law. The government can maintain certain religious norms while regulating its implementation mechanisms. Records, notifications, officials, and procedures become instruments that allow the government to supervise the practice of marriage without having to eliminate its religious basis. In other words, control develops through administrative and institutional aspects.

Staatsblad 1932 No. 482 shows that the arrangement of Muslim marriage also developed in areas outside Java and Madura, while Staatsblad 1933 No. 98 relates to the Vorstenlanden. These differences show that colonial administrations did not always use identical institutional patterns throughout the Dutch East Indies. The government adapted the arrangements to different territorial and government structures.

These regional differences show that colonial standardization does not necessarily mean absolute uniformity. Standardization can take place through the application of different supervisory principles according to the administrative character of the region. Muslim marriage laws are placed within different regulatory frameworks, but they have the same tendency, namely the stronger the involvement of government administration.

These administrative changes also affect the position of the penghulu. The penghulu is no longer only a religious figure who gains legitimacy from the community, but also becomes part of the state's mechanism in recognizing and administering Muslim marriage. This

condition results in a dual position: carrying out religious functions while following government administrative procedures (Fauzi 2019). Nevertheless, the family, modin, religious leaders, and society remain part of the social process of marriage. This shows that colonial rule does not automatically erase social practices that have developed before.

Thus, the period 1895–1933 shows a shift from institutionalization to administrative law of Muslim marriage. If 1882 shows the recognition of Islamic legal institutions, then the following period shows how religious institutions and actors are increasingly placed in the administrative mechanisms of the state. This change reinforces the pattern of controlled recognition as recognition of the practice of Islamic law goes hand in hand with an increase in the state's ability to regulate its implementation.

Islamic Law, Customary Law, and Negotiations with Colonial Law

The change in Muslim marriage law cannot be separated from the legal pluralism of the Dutch East Indies. In colonial society, Islamic law, customary law, and colonial law lived together. However, The existence of these various legal systems does not mean that they all have the same position. The colonial government had the authority to determine population classification, limits on the applicability of the law, and relations between institutions.

Islamic law has a certain scope of application for Muslim societies, while customary law still plays a role in the lives of indigenous peoples. On top of these relationships, colonial law provides an administrative framework that determines how a legal institution and practice gains recognition. Therefore, colonial law pluralism can be understood as pluralism that has a level of authority (Hariri and Babussalam 2024).

The debate on receptie shows how the relationship between Islamic law and customary law became part of colonial legal politics. When customary law is placed as the basis that determines the applicability of Islamic law in a certain field, the space of authority of religious institutions can undergo changes. Rifqi shows that Snouck Hurgronje's thinking on the relationship between customary law and

Islam is related to the restriction of the applicability of Islamic law, especially in the field of inheritance (Rifqi 2021).

Although the study focuses on inheritance, the pattern is relevant for reading the history of family law more broadly. The colonial government could maintain religious institutions in certain areas, but at the same time limited the areas of law that could be addressed. Thus, the existence of the Religious Court did not automatically mean that Islamic law gained full autonomy.

In the field of marriage, the relationship shows a different character. Marriage still gains a strong space in religious institutions, but its implementation is increasingly related to state administration. The state does not have to determine the entire substance of marriage law in order to be able to strengthen control. By regulating officials, records, notices, and procedures, the government can influence the way Islamic marriage law is conducted.

The response of the Muslim community to these developments is also not unique. There is acceptance, adjustment, compromise, and rejection of various colonial policies. Arif points out that Scholars are not always in a position to respond to colonial marriage rules. Some see colonial rule as a threat to the authority of Islamic law, while others may consider acceptance or compromise according to the conditions of society (Arif 2025).

The diversity of responses shows that Muslim societies have agency. They not only became objects of colonial policies, but also became actors who responded and adapted. Penghulu and ulama were able to maintain the practice of Islamic law while following certain administrative procedures, while still maintaining the social norms that had evolved.

Thus, the intersection of Islamic law, customary law, and colonial law resulted in a negotiation process in an unbalanced state of power. The colonial government had the formal authority to set rules, but Muslim communities still had room to maintain practices and shape responses to those policies. It was this relationship that allowed Muslim marriage laws to survive while undergoing institutional changes.

1930s to 1942: Consolidation and Jurisdictional Restrictions

In the 1930s, the relationship between Islamic law and the colonial state entered a consolidation stage. If the previous period was marked by the establishment of institutions and the strengthening of the administration of marriage, then in this period the government's attention was increasingly visible on the limits of the authority of religious institutions. Staatsblad 1937 No. 116 became one of the important regulations in this change.

One of the important developments in 1937 related to the change in the jurisdiction of the Religious Courts in Java and Madura. Authority in certain areas, especially inheritance, underwent changes and was directed to the general court (Rifqi 2021). These changes showed that the colonial government not only regulated procedures, but also determined the legal fields that could be under the authority of religious institutions.

Jurisdictional restrictions need to be distinguished from the abolition of institutions. The Religious Courts were not abolished, but their authority was determined more limitedly. This again shows a pattern of controlled recognition. The state maintains religious institutions because they still have a function in regulating the problems of the Muslim community, but the state at the same time determines the limits of the legal fields that can be handled.

These changes also affected the position of the penghulu. The authority of the penghulu, which previously covered various religious and social issues, gradually experienced a narrowing in the colonial structure. Islamy shows that the authority of the penghulu during the colonial period was increasingly directed to certain matters in family law, especially marriage and divorce (Islamy 2020). Thus, colonialism not only regulates institutions, but also reshapes the space of authority of religious officials.

Staatsblad 1937 No. 638 and No. 639 show the development of religious justice institutions in certain areas outside Java and Madura. These regulations show that the colonial government continued to establish and regulate Islamic legal institutions in areas with certain administrative needs. However, the establishment of these institutions

took place within the framework of the colonial government which established the structure, authority, and inter-institutional relations.

This condition shows a seemingly paradoxical relationship. On the one hand, Islamic legal institutions are increasingly gaining institutional and administrative foundations. On the other hand, their authority is increasingly determined by the colonial government. Thus, institutional development is not always synonymous with increasing the autonomy of Islamic law. On the contrary, institutionalization can be a means to maintain and regulate the existence of Islamic law.

By 1942, this pattern had resulted in a relatively clear legal structure. Muslim marriages gained institutional and administrative space, the penghulu retained an important function, and the Religious Court continued to exercise certain powers. However, all of these elements operated within the limits determined by the colonial government. The end of Dutch rule in 1942 did not simply abolish the structures that had been formed, as some institutions And these administrative practices became part of the legal legacy that later underwent changes in the next period.

The 1930s cannot be solely read as a period of decline in Islamic law. The period is more accurately understood as a phase of consolidation that at the same time resulted in restrictions on authority. The colonial government maintained the institution of Islamic law in certain areas, but clarified the limits of its jurisdiction. This condition further strengthens the argument that the politics of colonial law against Muslim marriage law took place through recognition accompanied by supervision and restrictions.

Historiographic Analysis: The Institutionalization of Muslim Marriage Law in the Historiography of Islamization, Legal Pluralism, and Community History

The findings regarding the development of Muslim marriage law in 1882–1942 can be placed in a broader historiographical issue regarding Islamization, legal pluralism, and the history of Muslim society in the colonial period. From the perspective of Islamization, this study shows that the existence of Islamic law did not begin with the recognition of the colonial government. Before 1882, Muslim

society already had legal norms, actors, and mechanisms related to marriage and family life. Therefore, Staatsblad 1882 No. 152 is more appropriately seen as a momentum for institutional formalization of Islamic legal practices that had developed before. The establishment of these institutions shows that the development of Islam does not only take place through da'wah, education, trade, marriage, and a network of scholars, but also through the sustainability of Islamic legal institutions (Mas'ud 2018).

These findings broaden the way of understanding the history of Islamization in Indonesia. Islamization not only produced a Muslim society, but also an institution that governed social and family life. When the colonial government incorporated these institutions into the administrative system, there was a change in the form of the institution without eliminating all its religious functions. Thus, the history of law became one of the entrances to see how Islam is rooted in the social structure of society.

From the perspective of legal pluralism, this study shows that Islamic law, customary law, and colonial law are not in a completely equal position. The colonial government provided a certain space for each system, but at the same time determined the limits of applicability and relationships between systems. Ali shows that legal plurality in the colonial context developed in a formalization process related to the colonial power structure (Ali 2016). This can be seen in the establishment of Religious Courts, marriage arrangements, and jurisdictional changes in 1937.

The existence of the Religious Court therefore cannot be read as evidence that the colonial government accepted Islamic law. The institution did provide formal space for Islamic law, but the space was within the structure of colonial law. The state has the authority to determine the fields that can be handled, the officials who carry out their functions, and the procedures that must be followed. Legal pluralism in these conditions is hierarchical because there is power that determines the limits of the applicability of each system.

The historical perspective of the community gives another dimension to these findings. Legal changes are not only the result of colonial government policies, but also involve penghulu, ulama,

religious courts, and the Muslim community. Cammack and Feener show the importance of understanding Indonesia's Islamic legal system by paying attention to the relationship between legal institutions and the social actors that run them (Cammack and Feener 2012). In the context of this study, penghulu is not only an official who implements colonial regulations, but also a religious actor who has a relationship with the Muslim community.

This position shows that the integration of the penghulu into the colonial administration does not automatically remove his religious authority. The penghulu performs a dual function: following state procedures while maintaining his position as a religious figure. This condition shows the existence of negotiations between structures and agencies. The colonial government formed an institutional structure, while Muslim actors seeks to maintain the sustainability of religious functions in the structure.

If these three perspectives are linked, the development of Muslim marriage law in 1882–1942 shows a pattern of institutionalization, administration, supervision, and jurisdictional restrictions. The 1882 constitution provided a formal basis for Islamic legal institutions. The 1895–1933 regulations strengthened the relationship between Muslim marriage and state administration. The changes in 1937 further clarified the limits of the authority of religious institutions. This series shows that institutional recognition and restriction of authority are not two independent processes, but can take place over the same period.

These findings broaden the reading of the relationship between colonialism and Islamic law. Colonialism does not always work through the abolition of local institutions. In the case of Muslim marriage laws, the colonial government can actually maintain existing institutions and use them in administrative systems. However, this sustainability is accompanied by the arrangement of authority so that religious institutions can function in a predetermined field. This pattern is in line with research that sees Islamic law in the colonial period as a system that has adapted to situations of colonial domination (Zaini et al. 2025)

Based on this series, the term "controlled recognition" is used in this study as an interpretive concept. The term is not an established theory, but is the result of a reading of the relationship between institutional recognition and the restriction of authority. Recognition can be seen from the existence of Religious Courts, heads, and rules governing Muslim marriage. Control is seen through recording, official supervision, administrative procedures, and jurisdictional changes. These two processes take place simultaneously and form the legal character of Muslim marriage in the colonial system.

The historiographical contribution of this research lies in the attempt to connect the history of Muslim marriage law with the history of Islamization, legal pluralism, and the history of society. This research does not place colonialism solely as a force that abolished Islamic law, but also does not look at institutionalization as evidence of full acceptance. Instead, the relationship is understood as a process of negotiation within an unbalanced power structure. The colonial government had the authority to determine the institutional forms and boundaries of jurisdiction, while the Muslim community retained room to maintain and adjust its legal practices.

In the end, the development of Muslim marriage law in 1882–1942 shows that legal change took place through dynamic relationships between the state, religious institutions, and society. Islamic law remained, but the space for its implementation changed. The Religious Court remained, but its authority underwent restructuring. The Penghulu continued to carry out religious functions, but was increasingly connected to the state administration. Muslim society continued to practice marriage based on religious norms, but increasingly faced with administrative procedures. Therefore, the history of Muslim marriage law in the colonial period can be understood as a history of sustainability as well as change, which shows how Islamic law was negotiated in the structure of colonial law pluralism.

CONCLUSION

This study concludes that the legal position of Muslim marriage in the Dutch East Indies between 1882 and 1942 was shaped by a

continuous process of institutional recognition, administrative supervision, and jurisdictional restriction. The colonial government did not simply reject Islamic law or grant it full autonomy. Instead, it incorporated Muslim marriage practices and religious institutions into the colonial legal system while retaining the authority to determine their institutional forms, administrative procedures, and jurisdictional boundaries. This pattern answers the central question of how colonial legal politics affected Muslim marriage: Islamic law continued to function, but the conditions under which it operated were increasingly shaped by colonial governance.

The relationship between recognition and restriction is central to the concept of controlled recognition proposed in this article. The formal establishment of religious courts provided institutional space for Islamic law, while subsequent marriage regulations strengthened administrative supervision through the regulation of officials, registration, and procedural requirements. Changes in judicial authority further demonstrated that institutional continuity did not necessarily mean an expansion of legal autonomy. Recognition allowed religious institutions to remain part of Muslim social life, but it also made their activities more accessible to state regulation. In this sense, recognition and restriction were not opposing policies. They were interconnected aspects of the same colonial legal process.

The interaction between Islamic law, customary law, and colonial law also reveals that legal pluralism in the Dutch East Indies was hierarchical rather than equal. The colonial government possessed the formal power to determine the relationship between different legal systems and the scope of their authority. Nevertheless, Muslim communities, penghulu, and ulama were not merely passive recipients of colonial policy. They continued to maintain religious practices and adapt to administrative requirements. The history of Muslim marriage therefore involved negotiation within an unequal structure of power, rather than a straightforward process of colonial domination or religious accommodation.

The historiographical contribution of this study lies in bringing together the institutional history of religious courts, the administrative history of Muslim marriage, and the changing authority of Islamic legal

institutions within a single analytical framework covering 1882–1942. Rather than treating these developments as separate regulatory episodes, the article demonstrates how they formed a connected pattern of colonial legal politics. It also challenges interpretations that equate institutional recognition with either the full acceptance or the marginalization of Islamic law. The persistence of Muslim marriage institutions must instead be understood alongside the restrictions that shaped their operation.

Ultimately, the history of Muslim marriage in the Dutch East Indies illustrates how colonial power could preserve existing religious institutions while reorganizing their relationship with the state. The concept of controlled recognition offers a way to understand this process without overlooking either the continuity of Islamic legal practices or the unequal conditions under which they survived. It also provides a historical perspective for examining the relationship between religious authority, state administration, and legal pluralism in Indonesia.

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