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## SHEEK YUSUF AL-MAKASSARI'S THOUGHTS ON IMPLEMENTATION OF ISLAMIC LAW THROUGH INDIA

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### ABSTRACT

*This research is a case study on the thoughts of Sheikh Yusuf al-Makasari. This study aims to analyze the thoughts of Sheikh Yusuf al-Makasari about the application of Islamic law and its application through the judicial institutions of the Dutch East Indies colonial period. This study uses qualitative methods which include library research studies, namely reviewing literature related to Sheikh Yusuf and studies relevant to Sheikh Yusuf. The results of this study are that Sheikh Yusuf's accommodationist attitude vis-a-vis the Netherlands is solely in order to prevent political disturbances and disturbances that harm society and maintain the continuity of Islamic law as desired in the political understanding of the Ahl al-Sunnah wa al-Jama'ah; In his efforts to implement Islamic law effectively in the archipelago, this Betawi cleric has also succeeded in compiling Islamic family law materials (marriage, divorce, and inheritance).*

### KEYWORDS

Sheikh Yusuf Al-Makasari, Islamic Law, Dutch East Indies



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### INTRODUCTION

Talking about the figure of Sheikh Yusuf al-Makasari is not a foreign issue, especially for the people of South Sulawesi. Because he has works and services of international class reputation, for his services and work he was named a national and international hero (Ambary, 1998) . In plain view of the common people, perhaps the figure of Sheikh Yusuf is not yet known in detail about his essence and existence, especially in the City of Tangerang and Banten, this is a natural thing because half of his life was spent studying religion and expanding in political views so that on his side he was a scholar. also an actor in defending and fighting for the Indonesian nation from the Dutch colonialists (Anderson, 1956) .

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Syekh Yusuf al-Makassari's clericism and morality have become the spearhead for the Muslim community to get to know Islam and Islamic law further, both in the chapter of worship, especially in matters of muamalah or associating with fellow human beings (Azra, 2002) .

In the understanding of most Indonesian Muslims, Islamic law is a living law because it has been practiced since the royal era as a commitment to the creed they made when they embraced Islam (Azyumardi, 1999) . Whereas the study of the history of Islamic law in Indonesia in particular, and the history of Islam and Indonesia in general, has always been influenced by three superficial historical approaches (Azra, 2002) .

Each one is; first, the history of the Islamic empire which shows more aspects of the continuity of Islamic law in the life of the elite court community than the practice of Islamic law among the general public. The Sultanate of Aceh, which has been used as a barometer for the continuity of Islamic law in the archipelago, turns out that in addition to adopting the principles of Islamic law, it also maintains customary provisions. A similar condition also occurred in Java, until the nineteenth century, although the people had long embraced Islam, very few understood the teachings of Islam. Fungsen explained that Islamic law has never been widely implemented among the Javanese people, except in the case of circumcision, fasting, the prohibition of eating pork, and a number of celebrations of Islamic holidays, especially the birthday of the Prophet Muhammad SAW. Likewise with the religious judiciary, although since the time of the Islamic empire in the archipelago, a judicial institution has been established, but the settlement of problems among Muslims adheres to an arbitration system (*tahkim*) (Bisri, 1997) .

Second, colonial history which has a point of view on Islam and Islamic law based on racist political interests. In the sense of the word that nothing is better than what they already have. Islam and its law itself are considered as competitors so they need to obscure the influence of Islam and its law in the legal unification process (Bustamam-Ahmad, 2007) . According to HJ Benda, in the nineteenth century, many Indonesians both in their own country and in the Dutch East Indies hoped that they would soon be able to eliminate the influence of Islam from most Indonesians in various ways, including through the process of Christianization, especially by (Berg, 1974) . The hope to eliminate the influence of Islamic law is partly based on the assumption of the superiority of Christianity over Islam. In addition, the Dutch government also wanted to enforce the codification that existed in the Netherlands in 1838 for reasons that European law was better than Islamic law.

Third, the history of nationalists who think that Indonesia is separated from the outside world, including Islam and its laws. Therefore, customary law is often considered as an authentic legal heritage institutionalized by and from the internal potential of the community, without considering that the religion adopted by the community also greatly affects the continuity of adat (Bustamam-Ahmad, 2007) .

However, it is undeniable that Islamic law is one of the legal entities that live in society. Indonesian Muslims not only practice Islamic rituals but also carry out Islamic law, although not in totality (Dobbin, 2016) . Islamic law is also

sought to be enforced by the Islamic elite even though they do not fully understand the material aspects of Islamic law.

As an illustration of the penghulu , this institution has been known since the Majapahit era. Precisely in one of the pardikan lands of Majapahit, namely Ampel Denta. In Muhammad Hisham's writings it is stated that the person who bears the title of penghulu is a Jipang official, a figure as well as a scholar who teaches Islamic law in the Ampel Denta area which at that time was still under the rule of Majapahit (Christelow, 2014) . He played the role of the penghulu when he first married his son to Sultan Gading from Pasai, known as Maulana Nurul Yaqin (Sunan Giri's father). Along with the emergence of new areas based on Islam during the Majapahit kingdom, such as Gresik, Surabaya, Demak, and Kudus, to meet the needs of "spiritual leaders" in the area, the position of penghulu was held.

The kepenghuluan institution grew stronger with the transition of power from Majapahit to the Islamic kingdoms of Demak, Pajang, Cirebon, Banten, and Mataram, with several name changes . As in Banten as Pakih Najmudin. In general, the penghuluan institutions are more represented from the legacy of the Mataram royal system in Java, where the competence of the penghulu occupies the religious field as part of the general government. As explained by Abdulmu'thi Handipiningrat, that religious office starts from the lowest level, namely the village. Religious positions at the village level are called people, amil, modin, kayim, lebai and so on. At the sub-district or kawedanan level there is always a naib leader. At the district level there is always a penghulu (Coulson, 2017) . At the central government level there is a person who serves as kanjeng penghulu or penghulu ageng. During the time when the Mataram kingdom was still sovereign, the kanjeng penghulu or district chief also served as a judge.

After the Dutch East Indies Government succeeded in conquering the Mataram kingdom, this system was still applied. During the leadership of Governor-General Daendels (1808-1811) an ordinance was issued in 1808 for the northern coast of Java, which stipulates that the penghulu must act as an advisor in a general court when the litigants are Muslims. Then when Java was under British rule in 1811 as a consequence of the Napoleonic wars, Raffles was elected Lieutenant Governor of the Dutch East Indies. He adopted Daendels' system and extended it to cover all of Java. In the "Regulation to make the administration of justice more effective in the provincial courts in Java," which was promulgated in 1814, Raffles referred to the penghulu as a member of the judiciary in his capacity as an advisor (Dobbin, 2016) .

After the Dutch returned to control Indonesia from the British on August 13, 1814, Raffles' successor maintained the legal tradition that had existed in society. Regulations that emerged in 1819 provided that indigenous Indonesians would remain subject to their own laws while a penghulu would remain a listener at a trial in his advisory capacity. This regulation differs from the previous one, namely that customary law will be applied to the natives except in the cities of Batavia, Semarang and Surabaya (Federspiel, 2009) . Moreover, the exception to the population in these big cities was officially abolished in 1824, so that the function of the penghulu as a translator of Islamic law was practically abolished.

There is one thing that needs to be noted behind the function of the penghulu as an advisor to the general judiciary, namely regarding the religious

court which is run by the penghulu and its members in an institution called the religious rad, religious landjrat, mosque rad, or soerambi court. As stated by Daniel S. Lev, that the Government of the Netherlands East Indies until 1880 never intervened in matters of religious courts (Feener & Sevea, 2009). When Governor General Daendels issued an ordinance in 1808 concerning the administration of courts for the northern coast of Java, it was precisely in article 73 that it was determined that; "...the right of their clergy to decide on some differences regarding marriage and inheritance must be left completely unchanged."

Likewise Raffles in the 1814 regulation regarding the administration of justice, he did not refer to the administration of religious law even though he was aware of the existence of the "Penghulu Court." The Governor-General who replaced Raffles also followed his lead and did not want to intervene directly in this religious court system (Haji, 1989).

The year 1820 marked the beginning of the Dutch awareness of the need for a special system for dealing with religious courts, although at that time the duties of the penghulu were not clearly defined. In article 13 of the "Instructions for Regents" (Regenten Instructie) the Netherlands provides a stipulation that disputes arising in inheritance issues between Muslims must be resolved by the penghulu. The regents were thus required to let the penghulu perform their duties in accordance with the customs and customs of the Javanese people in cases of marriage, inheritance and so on (Hakim, 2016).

Based on this instruction, it appears that even though the Dutch East Indies Government was concerned with the religious courts, the authority to appoint a penghulu was still left in the hands of the regent. Penghulu before the issuance of Stbl 1882 No. 152 was still an integral part of the Javanese pangreh-praja, although he was also appointed as an advisor to the general court (Hallaq, 1994).

This is very likely to happen because the Indonesian version of the Indische Staatsregeling (IS) translation manipulated by KF Holle (1870s) has not yet been born. The colonial constitution still applies the notion of *hoofden der godsdienst*, that the regent is the head of religion, so that the appointment of the penghulu who is tasked with administering Islamic law is still maintained in the hands of the regent. KF Holle did not want to use this literal translation with the Malay and Sundanese versions, because he considered this text too positive for the role of the bupati in Islamic matters (Hisyam, 2001). According to him the translation is: "Regents must supervise religious officials for security and order." Finally the translation of KF Holle's version won victory, not only in the IS translation but also in the political reality in Indonesia.

In 1834, differences of opinion arose between the general court in Semarang and the Dutch East Indies Supreme Court when the general court recognized the judicial rights of the penghulu under the provisions of the 1820 Instruction, while the Supreme Court rejected this recognition. As a way out of this conflict, the Dutch East Indies Government then tried to revise the provisions of the 1820 Instruction.

Based on an order from the Governor-General in 1835, a provision was issued that the regulation in question must be interpreted that "whenever differences arise regarding the Javanese in matters of marriage, inheritance, and

the like, what must be decided by Islamic law must be the duty of the penghulu". to solve these problems (Hisyam, 2001) .

Then in the same year, the government issued Stbl 1835 No. 56 which stipulates that disputes arising over marriage, inheritance, or other cases in Islamic law between Muslims in Java and Madura must be resolved by the penghulu, while cases relating to payment (money) issues must be brought to court general.

With the issuance of Stbl 1835 No. 56 This marks a new chapter of the religious court, in which it is placed under the supervision of the general court, the landraad. Only this landraad has the power to order the implementation of religious court decisions in the form of executoir verklaring, so that the religious courts are not authorized to confiscate goods or money. The competence of the religious courts since then has only dealt with individual and family law matters (Hobsbawm, 1968) .

However, in general, the Dutch East Indies government still recognized that the law that applied to indigenous peoples was Islamic law, provided that their customary law also applied. The application of this understanding continued until the end of the nineteenth century, with the issuance of Stbl 1882 No. 152.

One of the drafters who gave birth to Stbl 1882 No. 152 is LWC Van Den Berg, the pioneer of the Receptie in Complexu theory which assumes that the law that applies to native Indonesians is Islamic law. Therefore the decision of the king of the Netherlands (Koninklijk Besluit) namely King Willem III dated January 19, 1882 No. 24 contained in 1882 No. 152 that the philosophical basis is the recognition and application of Islamic law through an institution called priesterraaden (Hourani, 1971) .

Priesterraaden is the official name for the religious judiciary which began to be implemented in Indonesia on August 1, 1882. With this regulation, the Dutch East Indies government intended to reorganize the religious judicial system, namely by establishing new religious courts in addition to each landraad with a separate legal area. the same, the average area of the district. This is in accordance with the provisions of Article 1 Stbl 1882 No. 152 (Hurgronje, 1993) .

Judges in every religious court are collegial, chaired by a penghulu. Article 2 Stbl 1882 No. 152 explained, "The Raad of Religion consists of a chairman, namely the penghulu who is appointed for the landraad, and at least three and a maximum of eight experts on Islam as members. These members in the gubernatorial areas in Java and Madura were appointed by the resident and in the areas of the Javanese kingdoms by the governor."

However, this regulation is considered by historians as an attempt to control the administrative control of Islamic law. In addition, this regulation is also considered to be political in nature in order to loosen the ties between religious officials and the Javanese pangreh-praja, because in practice the Dutch East Indies Government was finally washing their hands (Izzuddin, 2007) . Under the pretext that basically the Dutch East Indies Government did not interfere in religious matters, so that the judges in the religious courts were not provided with salaries or education costs. As a result, the judges play a lot of corruption by charging additional fees that are not based on regulations. This lasted until the early 20th century. In this case, the author will take a correlation between the thoughts of Sheikh Yusuf in his various writings with the application or

application of Islamic law in the Dutch colonial era, in this case its application to the Religious Courts (Izzuddin, 2015) .

The concept of delivering the mission and vision of Islamic law by Sheikh Yusuf uses his understanding of Sufism which is applied in conveying an Islamic law by means of at-Thakahoouq bi Akhlaqillah, meaning that what he conveys to the people of Tangerang and Banten uses the speaker taught by the Prophet Muhammad. namely trying to imitate and practice the attributes of Allah (asmaul husna), except for the nature of al-Kibr (Kahin, 2005) . Delivering the vision of Islamic law like this is very significant so that ordinary people can accept and develop. In addition, Sheikh Yusuf is very adaptive in developing an understanding of Islamic law with the conditions of the pluralistic society of Banten and Tangerang and this is supported by Sheikh Yusuf's mastery of aspects of Islamic law both physically and mentally. His very comprehensive understanding makes the teachings of Islamic law da'wah without any element of coercion.

In delivering the teachings of Islamic law, he always associated it with Sufism, because the fact is that a servant is able to understand between Sufism and Islamic law running simultaneously. al-Mubtadi, Risalah Ghayat al-Ikhtishar wa nihayat al-intizaer (Kaptein, 1997) .

On that basis, the author is interested in conducting research on the thoughts of Sheikh Yusuf al-Makasari, a historical figure who has a great interest in the study of Islamic law in Indonesia during the Dutch colonial period . As a cleric, he has special attention to the continuity of Islamic law in Indonesia, especially regarding Islamic family law, which at that time was widely practiced by the community to replace customary law (Laffan, 2011) . In addition, he also contributed many thoughts in the context of enforcing Islamic law by structuring religious court institutions and compiling Islamic family law.

## RESEARCH METHOD

Based on the research objectives and the research problem, the blue print of this research leads to a form of normative research. Because this research focuses on legal studies in the context of law-in books to find or find legal principles and doctrines in the works of Sheikh Yusuf al-Makasari. This research includes qualitative research which includes library research studies, namely reviewing literature related to Sheikh Yusuf as well as studies relevant to Sheikh Yusuf.

Based on these considerations, the author "chooses" to limit this research to the works of Sheikh Yusuf which discusses aspects of the enforcement and application of Islamic law that are relevant to reconstructing the history of Islamic law at the end of the 19th century. This selection does seem subjective , but as stated by Taufiq Abdillah - every researcher has the full right to determine the subject-matter he wants to study.

Self-aware that the author is not a philologist, this legal research with primary data in part in the form of a manuscript is carried out by emphasizing how to edit the text. The consideration is because the initial stages of research on Sheikh Yusuf's manuscripts have been carried out by national and international librarians.

From the results of this search, the writer finds that the majority of Sheikh Yusuf's works are in the form of letographs from the results of duplicating a single manuscript (codex unicus) whose whereabouts are unknown. Thus, based on the inventory of manuscripts and descriptions of manuscripts carried out by these catalogues, the authors conclude that the manuscript is the work of Sheikh Yusuf. This conclusion is also based on findings in the form of general characteristics of Sheikh Yusuf's writings, namely: First, if it is matched with the six classical writings (al-aqlam al-sittah ) then Sheikh Yusuf's work uses khat naskhi writing. Second, most of them are comments on fragments of ta'bir (expressions) from various books written by well-known scholars. So Sheikh Yusuf's work is not just translating or adapting but has come to review the branch of the problem from the subject matter contained in the ta'bir of a reference book.

The author then applies an intuitive method by taking a manuscript that looks better and the oldest based on the number of years listed in the manuscript. Coincidentally, most of Sheikh Yusuf's works provide information on the year of writing, making it easier for writers to choose them. From this selected manuscript, the writer then conducts diplomatic criticism , by reproducing the text as it is. Including when found bayadh (words/sentences/paragraphs that are vague or not printed), in this case the author leaves it as it is. Meanwhile, if there is something that needs to be justified or explained, it is made in a separate note.

The author admits that the textological study not to mention the philology that is being carried out is still very simple. Apart from the reason for the limited knowledge of philology, the textological study that the author did was only limited as a tool in legal research. The main form of legal research used is normative-historical research.

## RESULTS AND DISCUSSION

As a *mufti*, Sheikh Yusuf in addition to issuing many *fatwa* products is also very concerned with the development of Islamic legal institutions, the Raad Religion, namely the *penghulu*, *muftis*, and *muhakkam*, and mosque imams, both before and after 1882. He termed Islamic legal institutions as using Arabic terms as *ahl al-majalis al-hukmiyyah* (experts of the syara' legal assembly).

Raad Religion is another name for the institution of the fellowship of religious experts or the council of scholars. These religious institutions generally consist of 3 to 8 Muslim scholars, one of whom acts as a leader while the other becomes a member. The leader of the council is usually called the *penghulu*, while the members are dubbed by the Dutch term, namely *lid* and sometimes *liden* which means the accomplices of the *penghulu*. Each has the right to voice, although in practice many are dominated by the voice of the *penghulu*. This institution played a role in running the Islamic justice system in the Dutch colonial period (Haji, 1989) .

According to Daniel S. Lev, during the Dutch colonial period, Islamic courts were referred to by indigenous peoples with semi-Dutch terms, namely; religious road, religious landjrat or mosque road. There is also a soerambi court, but it is not very popular. Of the many titles, Sayyid Uthman used to refer to the judiciary run by the *penghulu* as Raad Religion, as a translation of the term *al-majalis al-hukmiyyah* (Liebesny, 1975) .

Sheikh Yusuf's attention to the existence of Raad Religion was driven by his experience as a Betawi *mufti* who often interacted with mosque leaders and imams from Java, Sumatra, and Kalimantan. They come to the residence of Sheikh Yusuf or vice versa Sheikh Yusuf is invited to come to their place to ask questions or resolve various problems of Islamic law they face (Muchsin, 2017) .

From his experience interacting with these ahl al-majalis al-hukmiyyah, in particular he first presented a work entitled *Kitâb al-Qawânîn al-Shar'iyah li-Ahl al-Majalis al-Hukmiyyah bi-Tahqîq al-Masâ'il li -Yatamayyaza la-hum al-Haqq min al-Batil* (1881). He wrote this book in Malay with Arabic letters with the aim of making it easier for the readers. According to Snouck Hurgronje, the book that was printed by Sheikh Yusuf himself quickly sold out, thus proving that his publication had succeeded in filling a void of handbooks for the penghulu and other ahl al-majalis al-hukmiyyah (Muzainah, 2016) .

This book, written by Sheikh Yusuf, contains the methods that should be applied by the penghulu and other ahl al-majalis al-hukmiyyah in quoting the opinions of scholars and determining Islamic law. In addition, it also discusses the answers of Islamic law on problems that are often submitted to other leaders and ahl al-majalis al-hukmiyyah, such as marriage and divorce. The discussion of Islamic law conducted by Sheikh Yusuf in this book uses the approach of the Shafi'iyah school, in accordance with the school he adheres to and the society at that time in general (Observed, 1968) .

Although the first version of the *Kitâb al-Qawânîn al-Shar'iyah* has been published, Sheikh Yusuf is still frequently asked for consultation by the leaders and other ahl al-majalis al-hukmiyyah regarding the new problems they face. In addition, since the Dutch East Indies government issued Statblad 1882 No. 152, Sheikh Yusuf views that there are many things that need to be criticized regarding the position of the penghulu and other ahl al-majalis al-hukmiyyah. Therefore, he took the initiative to republish *Kitâb al-Qawânîn al-Shar'iyah* by revising and adding the necessary discussion. This book was published under a new title, namely; *Kitâb al-Qawânîn al-Šar'iyat li ahl al-Majâlis al-Hukmiyyah wa al-Ifta'iyah* (1312/1894).

In this revised edition of *Kitâb al-Qawânîn al-Šar'iyat*, Sheikh Yusuf adds a discussion on the concept of Islamic justice, the code of ethics for the penghulu and other ahl al-majalis al-hukmiyyah, and the way of litigation. In addition, he also included the discussion of Islamic law, which had previously been written and published in the form of a brochure, into the discussion of his new book. This is to complete the answer to the problem of Islamic law which is often complained of to other leaders and ahl al-majalis al-hukmiyyah. In this book, Sheikh Yusuf also includes new terms of Islamic legal institutions, Rad Religion and Lid, which were not previously mentioned in the first version of *Kitâb al-Qawânîn al-Šar'iyat* (Rusyd, 1989) .

Therefore, in order to obtain Sheikh Yusuf's thoughts on the comprehensive institutionalization of Islamic law, it is necessary to make a special presentation on every aspect of Islamic legal institutions. This is because the study conducted by Sheikh Yusuf in his work uses an aspectual assessment model.

The social and political conditions at the end of the 19th century and the beginning of the 20th century greatly influenced the style of Sheikh Yusuf's



thinking so that he was known as the most controversial figure in the history of Islam in the archipelago. During his lifetime there was no Islamic government because in fact the entire archipelago was under Dutch colonial rule. In this condition, Sheikh Yusuf was accommodative to the Dutch East Indies. However, the author does not agree that this Betawi cleric is called an accomplice of the Dutch based on the facts, among others, he strongly criticized the natives who imitated the way of dress and lifestyle of the Dutch people, and he supported the establishment of the Sarikat Islam which was very hostile to the Dutch. In the opinion of the researcher, his accommodationist attitude vis-a-vis the Netherlands was solely in order to prevent political chaos and disturbances that would harm society and to maintain the continuity of Islamic law as desired in the political understanding of the Ahl al-Sunnah wa al-Jama'ah. Among other things, such as the statement of Ibn Jamaah which states that a government even though it is evil and despicable is better than no government at all. On this basis, he also refused the invitation to jihad to fight the Dutch. That is what causes Sheikh Yusuf to seem closer to the Dutch authorities than the indigenous people (SH, 2010) .

As a follower of Sunni fiqh, Sheikh Yusuf views that the institutionalization of Islamic law refers to the theistic subjectivism paradigm. That is, Islamic law is a divine law because Allah alone determines whether human actions are legal or not. Meanwhile, the product of fiqh as a result of ijihad, according to Sheikh Yusuf, is part of the Islamic shari'a because the role of the mujtahid is basically in charge of revealing (izdhar) and conveying (tabligh) the law from its source. On this basis also Sheikh Yusuf views fiqh as a qath'i provision that must be followed by Muslims. Even though the application of Islamic law there are differences between one school of thought and another, between the Muslims of one country and another , for him, it is also God who actually gives the category of human action: and it is not the mujtahids or jurists who determine it. The difference in Islamic law (on the issue of furu'iyah) shows that Muslims always try to enforce Islamic law as a living ordontie. The creed or the expression of the shahada has bound every Muslim personally to acknowledge the truth of Islamic teachings and the validity of Islamic law in any place and condition. In addition, so that Islamic law can be applied effectively in the archipelago, this Betawi cleric has also succeeded in compiling Islamic family law materials (marriage, divorce, and inheritance) as a guide for legal officials (the penghulu and their lids) in carrying out court duties (Shahab, 2014) .

Sheikh Yusuf chose to place the qadi (judge) or penghulu in particular, and generally the religious court institution (Raad Agama) which became the office of religious judges, as the focal point for the institutionalization of Islamic law because of concession-accommodative considerations. The reason was that at that time there were no Muslim rulers in his country, and instead there were non-Muslim leaders. In the realm of Islamic political thought, the power of the wali al-amr (kings, sultans, etc.) should be institutionalized in Islamic law, including its obligation to appoint judges. Sheikh Yusuf chose a concessional-accommodative attitude because of the consideration that colonialism was a symbol of political power, while colonialism politics could not support Islam. In fact, as adherents of Islam, they must carry out the Shari'ah of their religion. Based on these considerations, he was interested in improving the practice of Raad Religion as a guardian of the continuity of Islamic law as well as a

maximum meeting point between religious and political interests, according to Staatsblad 1882 No. 152. His consistent attitude is evidenced by his opinion that a qadi appointed by a non-Muslim government is legitimate to be a religious judge. This is the form of accommodation achieved between the state and Islam in the most populous Muslim areas as a result of their struggle with Western values through colonialism (Sumitro & Hasan, 1994).

This study found a correlation between Sheikh Yusuf's thoughts, especially in his book with the Dutch East Indies government's policy of reorganizing the religious judiciary through Staatsblad 1882 No. 152. His idea of having to form a formal religious court institution with a clear area of competence is in line with the political philosophy of Staatsblad 1882 No. 152. This is because the existence of religious courts before the reorganization policy in Indonesia was seen as obscure. The function of the judge, which at that time was supposed to be attached to the figure of the penghulu, seemed ambivalent because there was no clear area of competence and administration. Penghulu who should have the position as qadi but is positioned more as a companion or advisor to his superior officials, rather than as an independent judicial official. Meanwhile, the penghulu in non-royal areas are generally the personification of the imam of the mosque who is appointed voluntarily by the community as muhakkam or arbitrator in socio-religious affairs among them. On this basis, Sheikh Yusuf supported the Dutch East Indies government's efforts to reorganize the religious judiciary. However, he disagreed with the composition of the judges consisting of a presiding judge and three to eight members as stipulated in Staatsblad 1882 No. 152. Moreover, the composition of the panel of judges was assumed by the Dutch to be priesterraden, a kind of council of priests. Sheikh Yusuf reasoned that in Islam there is only a single judge system, not a collegial court. Although there is a model of a conciliation of judges in Islam, according to Sheikh Yusuf, their position is limited to being fatwa experts, and not as member judges. Unfortunately, although Snouck Hurgronje also advised his superiors to pay attention to Sheikh Yusuf's views, his idea was never implemented in Indonesia.

This study resulted in the conclusion that Sheikh Yusuf agreed that the implementation and application of Islamic law in Indonesia during the Dutch East Indies colonial period was limited to Islamic family law, which includes marriage, divorce, and inheritance. The reason is; First, because it is in this area of law that the Indonesian Muslim community often faces problems, in addition to the practice of worship such as the problem of ta'addud al-Jum'atan and the determination of the beginning of fasting, as evidenced by the many problems that have been reported to the Raad Agama. Even Sheikh Yusuf dared to prove that the issue of Islamic inheritance was slightly brought to justice because generally people consider inheritance to be permanent and cannot be distributed as an inheritance or family property. This is because of the influence of the community's communal thinking which considers heirlooms as supplies to meet the material needs of all family members. Even if there is a dispute, the main issue shifts to the case of grants or wills. The absence of religious judges' rights to execute disputed assets caused Sheikh Yusuf not to question this kind of case as the absolute authority of the landraad, after the Dutch East Indies government carried out a policy of reorganizing the Religious Raad in 1882. Second, the

implementation and application of Islamic law in Indonesia during the Dutch East Indies period was not yet complete. The pretext that Islamic law has long been applied and applied by Muslims along with the entry of Islam and the adoption of Islam by the community and the establishment of the Islamic empire is only a superficial argument. In this case, the point of view of the study shows more aspects of the continuity of Islamic law in the life of the elite court community or people around power, rather than the practice of Islamic law among the general public. According to Sheikh Yusuf, there are still many practices of Islamic law that are mixed with customary law. In this case, there are stages of assimilation and internalization of values, both from Islam to local law or vice versa, which can also be accepted by orthodox Indonesian scholars. By using the *al-ibahah al-ashliyah* or *masyru'iyah* approach, a compromise is sought through the disbursement of concessions in the form of coexistence. This is evident from the legal issues of marriage, divorce, and inheritance studied by Sheikh Yusuf. Even in these three aspects of law, Sheikh Yusuf is much concessional to the rule of Islamic law with its social realities, such as cases of proposals, marriage *tahkim*, *ta'liq talaq*, *rapaq* in the sense of *rasakh not khulu'*, *gono-gini* property, and heirlooms.

If it is related to the continuity of the religious judiciary which is considered a meeting point of religion and politics in the context of the nation state, Sheikh Yusuf's thoughts are very meaningful in the history of the development of religious courts in Indonesia. In other words , even though Indonesia adheres to the Nation State system, which is supposed to be a secular state, based on the concession considerations, Muslims are entitled to special services such as religious courts, the Ministry of Religion. Through this study, it can also be understood that Sheikh Yusuf's writings and thoughts on Islamic law can be the opening key to clarify the context and content of the application and application of Islamic law in the Dutch East Indies colonial period. So far, many understand the implementation and application of Islamic law in Indonesia, as theorized by LWC Van den Berg, namely *receptio in complexu* or as theorized by Snouck Hurgronje, namely *receptie*. In fact, as understood by Sheikh Yusuf, in terms of the rules of Islamic law, concessions or coexistence between Islamic law and *adat* are possible, as long as they do not conflict with the basic provisions of Islamic law. As a figure who was born as an Islamic jurist, Sheikh Yusuf avoided considering which elements influenced (*muatstsir*) and which were influenced (*muatstsar*) because the effectiveness of the implementation and application of Islamic law was not only determined based on the accuracy of voicing the law (*tabligh*) but also the wisdom of determining the law. (*istinbath*). In this context, the system of application and application of Islamic law adopted by Sheikh Yusuf, as practiced by most Islamic societies, is similar to the common law system. Even if there is a book of Islamic law as a result of unification, it is only a reference for law enforcers and not to establish law. The consideration is that the role of judges is not merely to be law enforcement, but the most important thing is to provide legal justice for litigants. Thus the contextualization of Islamic law in modern Indonesia should not only depend on the neatness of making laws but more importantly the existence of practitioners of Islamic law who have high capacity and competence so that their status will not be questioned again, as stated by

Sheikh Yusuf, as an emergency qadhi or amtsal. fa amtsal i.e. both have low credibility

### CONCLUSION

Based on the formulation of the problem and the results of the research that the author conducted on Sheikh Yusuf's thoughts on the application of Islamic law and its application through the judiciary during the Dutch East Indies colonial period, this study concluded that Sheikh Yusuf's accommodationist attitude vis-à-vis the Netherlands was solely in order to prevent chaos and political disturbances that harm society and maintain the continuity of Islamic law as desired in the political understanding of the Ahl al-Sunnah wa al-Jama'ah; In his efforts to implement Islamic law effectively in the archipelago, this Betawi cleric has also succeeded in compiling Islamic family law materials (marriage, divorce, and inheritance) as a guide for legal officials (the penghulu and their lids) in carrying out court duties; Sheikh Yusuf chose a concessional-accommodative attitude because of the consideration that colonialism was a symbol of political power, while colonialism politics could not support Islam. In fact, as a follower of Islam, you must follow the Shari'ah of your religion; Sheikh Yusuf agreed that the implementation and application of Islamic law in Indonesia during the Dutch East Indies colonial period was limited to Islamic family law, which included marriage, divorce, and inheritance; The application of Islamic law adopted by Sheikh Yusuf, as practiced by most Islamic societies, is similar to the common law system.

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