

teşkilâtından kapukulu ocakları, Ankara 1943-4; M. Z. Pakalın, *Tarih deyimleri ve terimleri sözlüğü*, İstanbul 1946-54, ii, 766-9.

(Ed.) **PENGHULU** (Indonesian and Malay), literally, "headman, chief, director", used in Southeast Asia as a title for secular and religious leaders. In areas where Malay was the common language the word has often been used for chiefs of tribes and clans. In older Malay writings it is also used as an honorific title for the prophet Muḥammad, indicating him as "leader of all the prophets" (*penghulu para nabi*). In more Javanised areas the word indicated the highest religious officials, both at the central courts of the various sultanates and at places where the authority was exercised by a provincial governor (*regent, bupati*). In these places the *penghulu* exercised authority in all religious affairs, with the implementation of Islamic jurisprudence as his first and the administration of the mosque as his second task. The common Javanese and Sundanese term for this functionary was also *pangulu*. Here will be discussed several developments in the role and position of the Islamic judges in Indonesia through history and also the role of judges in areas outside Java even if they had other names such as, *inter alia, hakim, hukum, serambi* (after the place of the religious court: in the *serambi* or front veranda of a mosque), *qadhi, mufti, syarat* or even "priest" and "chief priest" (*hoofd-priester*) by the Dutch colonial government.

In Malay historical writings since the 16th century, religious functionaries under a rich variety of colourful titles took a position at the court of the sultanates. Very often these religious dignitaries also received important tasks in the general administration of the country. Shams al-Dīn al-Samatranī (ca. 1605-30) as well as a later successor Nūr al-Dīn al-Ranīrī (1637-43) served the Achehnese court not only in religious affairs, but also as a Minister of Foreign Affairs. Collections of Malay law show a clear awareness of the differences between customary law and Islamic law, with priority given in most cases to customary law and only verbal respect to the latter. Only in matters of family law and inheritance was the judgment of the Islamic officials to be taken as the final decision. (Cf. Liaw Yock Fang, *Undang-undang Melaka: the laws of Malakka*, The Hague 1976.)

Classical Islamic Javanese literature since the 17th century depicts the *penghulu* as the court official assigned to execute Islamic regulations, as being often in conflict with mystical wanderers and teachers. In masterpieces of this literature such as the *Serat Jatiswara* and the *Serat Centhini*, the *penghulu* (sometimes together with his following called *kaum*) is depicted as a stubborn official and as being not reliable as a guide for religious matters. Also, in the poetical genre of *suluk* (shorter mystical poems) we find many descriptions of the *penghulu* as a stupid and ridiculous figure, clearly of a lower standard than the mystical teacher, *kyahi* or *guru*, living in his *pondok* or *pertapaan* (hermitage, outside the towns), centres of real spiritual life. At the end of the 19th century Snouck Hurgronje found a cleavage between the *penghulus*, closely related to the realm of politics, and the *kyahis*, religious teachers at *pesantren* [q.v.], independent of, neglected or sometimes even opposed by the "administrative" religious leaders. Snouck Hurgronje felt that there was a clear preference for the independent leaders on the part of the Indonesian population. He related a number of cases where the *penghulus* urgently needed the scholarly advice of good leaders of the *pesantren* [q.v.] (*Verspr. geschr.*, iv/1, 281; idem, *Adviezen*, 's-Gravenhage 1957, 762-97). Still, at

several Javanese courts the *penghulu* held a high position. In many cases he was a member of the family of the ruler. Several *penghulus* are also well known for their literary skills and are also known as authors of *babad*, traditional Javanese history-writing.

The rich variety of Islamic administration in the dozens of Muslim kingdoms in the vast Malay archipelago became more centralised after the tightening of colonial rule in the 19th and early 20th centuries. The Dutch administration in the 19th century recognised the Islamic courts in the traditional fields of family law and inheritance, while a *penghulu* also was nominated as adviser to the higher law-courts. The various editions of the basic colonial legislation (*Regeringsreglement*, 1815, 1830, 1836, 1854) recognised the indigenous rulers (sultans and *regents*) as "head of religion", with the task to supervise and control the "Islamic priests" (i.e. *penghulus*, *hajis* and religious teachers). The *penghulu* then was only nominated by the Governor-General in his function as adviser to general law-courts. In 1882 the first law on religious courts was promulgated. This law made the "priest" (i.e. *penghulu*) the chairman of a judiciary council. After many debates (started between L.W.C. van den Berg, the main author of the 1882 law, and Snouck Hurgronje, who denied the "priesthood" of Muslim judges and the collegial character of Islamic courts), the 1931 regulation on *penghulu* courts corrected this law. An effect of the 1882 law was the diminishing influence of the local native rulers on Islamic courts because the *penghulu* as religious judge became nominated by the Governor-General. This tendency became stronger after C. Snouck Hurgronje was nominated as "Adviser for Native Affairs" (1889-1906). Snouck and his successors were deeply involved in the functioning of the *penghulu*, especially as religious judges. They gave advice for nominations, reprimanded corrupt and ignorant *penghulus* and finally even organised formal examinations of candidates (a number of examples in G. Pijper, *Stuđien over de geschiedenis van de Islam in Indonesia, 1900-1950*, Leiden 1977, 63-96). The various activities of this colonial office created a climate of centralised administration in the field of religion, taken over by the Indonesian government and its Ministry of Religion since January 1946.

In 1895 the colonial government issued a Regulation of Marriages (*Huwelijksordonnantie*), which enhanced the position of the Islamic officials, because on the islands of Java and Madura, for which this Regulation was promulgated, the *penghulu* and his local staff now also received an (often indirect) jurisdiction at village level.

In January 1931 a new regulation introduced the term *penghulu* court for the religious courts as a substitute for the former term of *priesterraad* (lit. "council of priests", used in the 1882 regulation). The acknowledgment of the *penghulu* as a sole judge was considered a recognition of Islamic law. For the islands of Java and Madura, however, cases of inheritance were taken out of the religious courts, which meant a loss of importance for the religious administration versus *adat* or customary law. Still, decisions of the *penghulu* courts were bound before and after to an approval of general courts of justice in order to become effective, a regulation that was considered as a subordination of the religious courts to the secular courts. The 1931 Regulation also prescribed the foundation of an Islamic Court of Appeal, which took effect only in 1938 because of the economic crisis of the 1930s. A fixed salary to be paid by the central government, in place of presents from clients