



Resistance to the Authority of the Penghulu in Islamic Marriage

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Abstract

This research aims to understand the resistance of the community, especially the Government Officials group, to the authority of Penghulu as a State Official in terms of Islamic marriage. The type of research used in this research is a literature review or literature study and descriptive analysis type. The result of this research is that resistance to the authority of the penghulu is widely practiced by other government officials. The existence of penghulu is isolated from the association with other government officials. Penghulu's authority is minor and unique in government, and Penghulu is not part of the Sub-district Leadership Consultative Forum.

Keywords: *Resistance; Penghulu; Government*

Introduction

Penghuluan through the position of Penghulu in the District Religious Affairs office is one of the positions that represent Muslims in the Government structure. In general, Penghuluan can be defined as all affairs concerning the Government in Islamic Affairs both in terms of Islamic Politics, enforcement of Islamic law, Islamic justice, and Islamic Education. There are not many historical government positions such as Penghulu in the government system of our country whose existence crosses various eras, from the era of various Islamic kingdoms, the era of Western colonialization both British and Dutch, to the modern Republic of Indonesia (Ismail: 1997).

Penghulu is synonymous with marriage, following the duties and functions of Penghulu in the Regulation of the Minister of Administrative Reform Number: Per/62/M.PAN/6/2005 is Planning Penghuluan activities. Supervision of marriage/referral registration; Marriage/referral services (Leading the implementation of marriage/referral contracts, Receiving and implementing taukil wali nikah /tauliyah wali Hakim, Giving sermons/advice/marriage/referral prayers); Counseling and marriage/referral consultations; Monitoring violations of marriage/referral provisions; Munakahat law fatwa services and Muamalah Guidance, Development of Sakinah Families, Monitoring and evaluating Penghuluan activities, Penghuluan Development.

Ismail (1997) in his book entitled *Kiai Penghulu Java, its Role in the Colonial Period* provides an overview of the history and struggles of the Penghulu in Java during the Dutch East Indies. The first mention of Penghulu as a title of the position of Islamic religious minister was in the Demak Kingdom, Penghulu had important authority as an extension of the Sultan for Islamic affairs which continued to be sustainable until the Islamic Mataram sultanate. The Dutch East Indies Government saw the position of Penghulu in the Governorate land area on Java Island (an area administratively ruled and managed by the Dutch Colonial Government) as a traditional position that must be included in the official State Government, after a long debate among government officials, a statute was issued in 1882 which brought the Penghulu Position into the modern government system under the Dutch colonial government.

Husin Rahim (1998) in his research entitled *Islamic Authority and Administration System, Study of Religious Officials of the Sultanate and Colonial Period in Palembang*, describes chronologically how the Religious Official led by Penghulu was present in the Palembang sultanate and the challenges he faced after the Palembang sultanate was dissolved by the Dutch Colonial. Rahim expresses his view of the existence of a triangular relationship that mutually influences the Muslim community, Penghulu as a Religious Official and political power in this case the Palembang Sultanate which was then the Dutch Colonial Government in the struggle for Islamic Religious authority.

The problematic position of Penghulu arises from the resistance to Penghulu in Islamic marriages that are predominantly carried out by certain groups of society. There are many complaints about the "uncomfortable" interactions felt by Penghulu with many people from the background of Government Officials, the sense of discomfort comes from the consistent behavior of obedience, resistance, pressure, and intimidation that they do against Penghulu every time they deal with an Islamic marriage, clearly what is done by some Government Officials can be categorized as resistance behavior to the authority of Penghulu.

Resistance is an attitude of inhibiting, resisting, holding back, or questioning something that comes to him. Authority itself according to Marbun (1996: 33) means a legitimate or legal authority as an extension of power, where it demands obedience and obedience to its object. If resistance is brought together with authority, it will look like two opposing things where authority is like a flowing river and resistance is a dam that blocks and inhibits the flow of the river.

According to the Penghulu, the resistance encountered is difficult to guess its form in every stage of marriage, but every resistance requires extra energy to break it, must be full of caution, and quite tiring, especially when the resistance consistently occurs and in a lot of intensity. For the penghulu, a marriage that begins with resistance also has the potential to damage the sacredness of marriage.

The main purpose of this research is to understand the resistance of the community, especially the Government Officials, to the authority of Penghulu as a State Official in terms of Islamic marriage. From there, what happens to the Penghulu position can become the most representative object of new research discourse to see other authorities in other government positions within the framework of government organizations.

Methods

The method is a theory to show how the tools used in this research paper. The type of research conducted by the author is literature review research or known (literature study) as one of the concepts in solving the problems to be studied in this study both conceptually, and theoretically (Sukmadinata, 2012: 76). The type of this research is descriptive analysis, which critically examines, especially about community resistance to the authority of the penghulu.

Results and Discussion

Today, Penghuluan is no longer a government system in Indonesia, but its authority is still recognized so its institutions still exist. Seeing Penghulu as part of the Indonesian government system is the gateway to understanding the problems of Penghuluan today.

Alfarabi (2013) suggests findings in his thesis that in the community there are terms Penghulu Negara and Penghulu Non-Negara, both of which are seen by the community as carrying out the same function in Islamic marriage, the difference is that Penghulu Negara is considered an official Penghulu as part of the government, and on the other hand Penghulu non-Negara is considered unofficial and not from the government.

What we can see is that although the community is ambivalent in seeing the Penghulu, there is still community recognition that the official Penghulu is part of the government, and that is an important note. This means that both the State as a symbol of power and a source of authority for Penghulu on the one hand and the community as an object of power to be ruled by Penghulu, on the other hand, both recognize the existence of Penghulu as part of the government.

Penghulu Is Part of the Government

Penghulu is a Government Position in terms of Islamic Religion. Today the Penghulu is a Civil Servant in the position of a Marriage Registrar who is given full duties, responsibilities, authorities, and rights by the Minister of Religious Affairs or a designated official under applicable laws and regulations to supervise marriage/reconciliation according to Islam and Penghuluan activities (PMA No. 30 of 2005). The position of Penghulu is assigned to the Office of Religious Affairs or KUA Kecamatan in almost the entire Republic of Indonesia.

In the history of the Modern Republic of Indonesia, the position of Penghulu was first mentioned in government edict No. 2 of 1946, that: first, the agency that takes care of Religious matters in the region or Shumuka (karesidenan level) which during the Japanese occupation was included in the power of the Resident to become the Regional Religious Djawatan which is under the authority of the Ministry of Religion. Secondly, the appointment of the Landraat Penghulu (Penghulu at the Religious Court) Chairman and Members of the Religious Council (Court) which is the right of the Resident is transferred to the right of the Ministry of Religion. Third, the appointment of the head of the mosque, which was under the authority of the Regent, was transferred to the authority of the Ministry of Religious Affairs. Furthermore, Regulation of the Minister of Religious Affairs Number 1885/K.I Year 1946 dated November 20, 1946 concerning the Structure of the Ministry of Religious Affairs stipulated.

The position of Penghulu is a position that was taken back from the official position during the Islamic Sultanate period, during the Dutch East Indies Government, and during the Japanese Occupation. At the beginning of independence, the position of Penghulu at the lower level still existed but then disappeared, replaced by the term marriage registration officer with the same functions and duties as Penghulu, the disappearance of name of the Penghulu position and replaced by the Marriage Registration Officer (PPN) was seen in Law No. 22 of 1946.

Decades later, the functional position of Penghulu was revived in 2005 after the issuance of the Minister of PAN Regulation Number: Per/62/M.PAN/6/2005. Although the position of Penghulu was lost, the mention of Penghulu was still attached informally to the Nikah Registrar or PPN or the Assistant Marriage Officer (P3N), both of which carried out the duties of Penghuluan in terms of Islamic marriage.

Authority of Marriage Registration in Islam

Quoting Marbun (1996) that Max Weber came up with 3 theories regarding authority: 1) Rational authority or formal legal authority or commonly referred to as formal authority, the basic foundation of this authority comes from a system of authority in a country where people submit and obey legally-formally to the State; 2) Traditional authority, this authority is based on traditional rules derived from traditional sources of custom, culture, and history; and 3) Charismatic Authority, which relies on the extraordinary traits or characters possessed by a person, such as those possessed by Prophets, war heroes, supernatural figures.

Authority is an extension of power, namely the State itself, authority is used as a tool to run the government and ensure obedience to the governed with characteristics that avoid coercion and pressure as much as possible. In a country, authority or authority is usually broken down and divided into various positions to avoid the accumulation of power in one person or group, so that the wheels of government can run well, this form of authority is usually clarified as Rational or formal authority.

Penghulu is the main official given the authority of Islamic Marriage, this authority can be traced in the 1974 Marriage Law Article 2 paragraph 1 states that marriage is valid according to each religion. This principle is the opening part of the marriage law and is the basis for marriage registration. Islamic marriage is a marriage performed by people who are Muslims.

Marriage in Islam itself is an act of worship and a very important legal provision, so it is regulated in such a way with strict and clear laws in Islamic law. A marriage to be considered an official marriage by the State must be recorded in the state gazette, for Islamic marriages the recording is carried out at the District Religious Affairs Office, while for religions other than Islam it is recorded at the District Civil Registry Office.

Seeing the complexity of Islamic marriage and its societal impact, it is necessary to present an official with the authority to examine, assess, determine, and decide whether an Islamic marriage is valid or not and record it in the State gazette. The official is the Penghulu who is expected to combine two laws between Islamic law to determine whether an Islamic marriage is valid or not and State Law to be recorded in the State gazette so that it is considered valid in the eyes of the State.

Penghulu's Relationship with Other Government Institutions

The Central Government as the highest executive authority gives some of its authority to the Regions in the Regional Autonomy system through the 2014 Law on Regional Government which divides Government Affairs into three types, namely; Absolute Government Affairs, Concurrent Government Affairs, and General Government Affairs. Absolute Government Affairs is an absolute authority consisting of foreign policy, Defense, Security, Judiciary, National Monetary Fiscal, and Religion.

The implementation of absolute authority can be given by the Central Government to Vertical Government Agencies or partly to the Provincial government, some fields such as Religion, Defense, and Security are carried out by the Central Government up to the District level. Penghulu is the representation of the Central Government in terms of Islamic Religion which is present up to the Kecamatan level at the Religious Affairs Office or KUA, including the TNI presenting Defense at the Koramil Office and the Police presenting Security at the Polsek office.

The picture above shows that the Government at the Sub-district level is not carried out or run alone by the Regional Government, but there are also representatives of the Central Government represented by Penghulu, TNI, and POLRI who carry out their respective Government authorities. Furthermore, Law No. 23/2014 on Regional Government mentions the FORKOPIMDA or Regional

Communication Forum from the provincial level to the sub-district level, FORKAMDA members are local leaders as well as leaders of the Police and TNI, the Prosecutor's Office. For the Kecamatan level, it is chaired by the Camat and its members are the Head of the Police Station and the Koramil Commander from the Police and TNI elements. Unfortunately, the Penghulu as the head of the KUA is also not part of the Forum.

The position of Penghulu is a subject or Government Actor who receives the authority of the Central Government in matters of Religion, especially in Islamic Marriage, which in exercising its authority is given the rules of the game which become the legal basis for every Penghulu action. These rules of the game are coordinated formally and non-formally both with the Kelurahan or Village Government which is part of the Regional Government structure, as well as with other Central Government Agencies such as the Police, TNI and Religious Courts, and others.

Formal interaction with various other government institutions has been regulated in various Regulations on the authority possessed by Penghulu, in the administration of Islamic marriage, for example, there is a division of authority between Penghulu, Kelurahan, Puskesmas, District Office, and even the Religious Court at the Regency level, although the final determinant in Islamic marriage remains in the hands of Penghulu. In certain other conditions, for example, during the Covid-19 pandemic, the marriage ceremony led by the Penghulu must coordinate with the local Polsek and Koramil offices.

Resistance to Penghulu's Authority in Islamic Marriage

Penghuluan is an ancient system of Islamic governance in several Islamic kingdoms in the archipelago, Islamic governance is based on Islamic laws and morality, which for hundreds of years were implemented in government to organize and exercise power and manage the people.

During the Dutch colonial era, although Islamic law was not the main law, it was still given a place by the Colonial Government, and Penghulu remained an important official. Similarly, today in modern Indonesia, Penghulu remains part of the government system and Islamic law is still accommodated in the modern Indonesian legal system with several laws and derivative regulations that are determined to have elements of Islamic Law, including the Marriage Law and the Waqf Law, and the Compilation of Islamic Law or KHI which is used as a reference for Islamic Law based on Presidential Instruction. Penghulu and several other appointed positions are authorized to enforce the Law with their respective sections, this confirms that Penghulu is part of the government structure just like other positions in the government of this country.

The authority of Penghulu in Islamic marriage does not only have formal authority but also non-formal authority. The formal authority cannot be avoided by Penghulu due to the long history of the position of Penghulu itself and the object of authority regarding Islamic marriage is deemed insufficient if only with formal authority. Furthermore, we also find the institutional problematics of Penghulu which has its own problem space.

Resistance itself means a defensive attitude toward something, further, we can understand it as an action to inhibit, survive, fight, hold back, or block something that suppresses, regulates, influences, commands, or has power over them. Forms and levels of resistance according to James Scott's study as quoted by Andi Suriadi revealed that the form of resistance is divided into two, namely closed resistance and semi-open resistance, and the level of resistance according to Madyasti Putri Puspaseruni and Lisa Widawati is divided into four levels, namely first Acceptance, second Indifference, third Passive Resistance, fourth Active Resistance. (Wahyuni: 2018: 9).

The causes of resistance in society as quoted by Ria Christyani from Kreitmer and Kinicki are dislike of change, surprise, and fear of the unknown, a climate of distrust, fear of failure, loss of status or job security, and immersion in uncertainty (Wahyuni, 2018: 11).

In looking at the resistance to Penghulu's authority in Islamic marriage is to recognize the classification of the community dealing with Penghulu, where it is found that the Government Apparatus is the most dominant in resistance, to explore this we will look at Penghulu's relationship with other government agencies and the isolation of Penghulu in associations between other government officials which is indicated by Penghulu's position which is only in the Sub-district, Penghulu's minor and unique authority in the government, and Penghulu is not part of the Sub-district Leadership Consultative Forum.

Conclusions

The position Penghulu is a subject or Government Actor who receives the authority of the Central Government in Religious matters, especially in Islamic Marriage, which in exercising its authority is given the rules of the game which become the legal basis for every Penghulu's action. Formal authority is unavoidable for the Penghulu due to the long history of the Penghulu position itself and the object of authority regarding Islamic Marriage is deemed insufficient if only with formal authority.

The most dominant resistance to the authority of the Penghulu is carried out by government officials. Especially seen in the Penghulu's relationship with other government agencies and the isolation of the Penghulu in the association with other government officials. Penghulu's authority is minor and unique in the government, and Penghulu is not part of the Sub-district Leadership Consultative Forum.

References

- Al Farabi, 2013, *Penghulu Negara dan Penghulu Non-Negara: Kontestasi Otoritas dalam Penyelenggaraan Perkawinan di Desa Sinar rancang, Mundu, Cirebon, Jawa Barat*, Tesis. Yogyakarta: UIN Sunan Kalijaga.
- Fauzi, Muhamad Latif. "Registering Muslim Marriages , Pengulu, Modin, and The Struggle For Influence." *Al-Jami'ah: Journal of Islamic Studies*, Vol 57, No 2 (2020), doi : 10.14421/ajis.2019.572.397-424.
- Fauzia, Amelia. 2014. Antara Hitam dan Putih: Penghulu pada Masa Kolonial Belanda. *Studia Islamika*. 10.15408/sdi.v10i2.634.
- Hisyam, Muhamad, 2001. *Caught Between Three Fires: The Javanese Pangulu Under the Dutch Colonial Administration (1882- 1942)*, Jakarta-Leiden: INIS.
- Husin Rahim. 1998. *Sistem Otoritas dan Administrasi Islam, Studi Tentang Pejabat Agama Masa Kesultanan dan Kolonial Di Palembang*, PT Logos Wacana Ilmu, Jakarta.
- Isma'il, Ibnu Qoyim. 1997. *Kiai Penghulu Jawa, Peranannya di Masa Kolonial*. Jakarta: Gema Insani Press.
- Marbun, S. (2016). *PEMERINTAHAN BERDASARKAN KEKUASAAN DAN OTORITAS. Jurnal Hukum IUS QUIA IUSTUM*, 3(6), 28–43. <https://doi.org/10.20885/iustum.vol3.iss6.art4>.
- Nana Syahodih Sukmadinata. 2012. *Metode Penelitian Pendidikan*. Bandung: PT Remaja Rosdakarya Ofset.



- Nor Razinah Mohd Zain , Faisal Ahmadi, *Traditional Roles Of Penghulu in Resolution Of Disputes: A Comparative Study From Pasir Mas, Kelantan (Malaysia) And Indragiri Hilir Riau (Indonesia)*, Journal of Asian and African Social Science and Humanities, Vol. 2, No. 2, 2016.
- Nugraha, Ginanjar, 2018 . *Bimas Islam Mengabdikan*, Direktorat Jenderal Bimas Islam, Kementerian Agama Republik Indonesia, Jakarta .
- Rais, Halili. 2020. *Penghulu di Antara Dua Otortias Fiqih dan Kompilasi Hukum Islam*, Penerbit Lingkaran.
- Velde, Jan Johannes van de, *De godsdienstige rechtspraak in Nederlandsch- Indië*, staatsrechtelijk beschouwd, , Rijksuniversiteit Groningen, 1928.
- Wahyuni, Wahyuni. "*Identifikasi Pola Psikologi Komunikasi Resisten dalam Masyarakat.*" *Jurnal Peurawi*, vol. 1, no. 1, 2018, doi:10.22373/jp.v1i1.2765.

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