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The *Penghulu* Court, Islam, and Customary Law: Critical Analysis of the Handling of Murder Case in Cirebon in 1794

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Abstract: This article examines three letters from Governor General Willem Arnold Alting to Sultan Sepuh and Sultan Anom of Cirebon, dated July 4 and December 1, 1794. It explores the contested role of the *Penghulu* Court in the Cirebon Sultanate during late 18th century under Dutch colonial rule, a period marked by the overlap of Islamic, customary (*adat*), and colonial legal systems. A key episode occurred when Governor General Alting criticized the court's discharge of two murder suspects, alleging a failure to uphold Islamic or customary law. This study employs a qualitative historical legal methodology and codicological analysis, to examine three unpublished VOC-era manuscripts from the National Archives of the Republic Indonesia (*Arsip Nasional Republik Indonesia*/ANRI). It reveals that the Penghulu Court's decision was grounded in Islamic procedural law, particularly evidentiary rules regarding confession and denial. The findings highlight how local Islamic courts negotiated legal legitimacy under growing colonial oversight. This study contributes to academic discourse on legal pluralism by illustrating how Islamic judicial authority was preserved, adapted, and eventually constrained under colonial governance. It underscores the historical foundations of Indonesia's contemporary legal hybridity, where state law, *sharīʿa*, and *adat* remain deeply interconnected within the national judicial system.
Keywords: Manuscript; Cirebon Sultanate; *Penghulu* Court; Willem Arnold Alting; *Raad van Justitie*; Islamic law (*fiqh*); Customary law.

Introduction

Recently, in 2024, the case of Vina and Eky's deaths in Cirebon--originally occurring in 2016-- has resurfaced in public discourse, as it remains unresolved even after eight years. Various irregularities continue to emerge, particularly concerning the police's handling of the investigation. Despite nearly a decade having passed, the case remains legally and socially contentious, marred by allegations of police misconduct, coerced confessions, and contradictory witness testimonies (Rahmawaty, 2024; Sutrisna & Ramadhan, 2024). Growing public demands for judicial transparency and procedural accountability--including calls for special case reviews and witness reexaminations at the National Police Headquarters (Herawan, 2024; Tim tvonenews.com, 2024), underscore persistent public distrust toward the judiciary, especially in high-profile criminal cases.

These contemporary anxieties echo a lesser-known yet historically significant criminal case from the late 18th century in the Cirebon Sultanate. This earlier case, initially adjudicated by the *Penghulu* Court--a key institution within the Sultanate's Islamic and customary legal system--was ultimately overruled by Dutch colonial authorities and transferred to the *Raad van Justitie* in Batavia. Governor General Willem Arnold Alting's dissatisfaction with the indigenous court, which he believed had failed to adhere to *sharīʿa* principles, prompted his direct intervention. This historical episode offers a compelling parallel to

contemporary crises involving legal authority, institutional independence, and the complex intersection of religion, culture, and state power. Historically, the *penghulu*, as head of religious affairs, embodied Islamic legal authority while also serving as an agent of political sovereignty. Originating from the Demak Sultanate (established in 1475), the office of *penghulu* evolved into a crucial judicial institution across various Javanese sultanates, including Cirebon (Hazmirullah et al., 2019; Hisyam, 2001, 2005; Steenbrink, 1995).

Although several studies have examined the institutional history of Islamic courts in Java and beyond, a significant research gap remains regarding the criminal jurisdiction of the *Penghulu* Court in Cirebon--particularly through empirical analysis of VOC correspondence and judicial manuscripts. This gap is especially notable given Cirebon's unique status as a prominent Islamic comprising four sultanates, situated at the crossroad of VOC legal pluralism (Carey, 2012; Satibi, 2014). While existing studies has generally addressed the authority of the *penghulu* in Java, West Sumatra, or Aceh (Anggraeni, 2023; Hisyam, 2000; Isma'il, 1997; Ravensbergen, 2018a), this study investigates how the *Penghulu* Court in Cirebon handled criminal cases amid colonial intervention. It offers new insights into the resilience and adaptability of Islamic legal institution in the face of VOC legal hegemony. This research provides a novel perspective by focusing on the legal reasoning in this case and the nuanced application of law within a hybrid legal system.

The main objectives of this study are threefold: 1) to investigate how the *Penghulu* Court in Cirebon interpreted and applied Islamic criminal law under VOC rule; 2) to explore the socio-political factors that shaped judicial outcomes in these hybrid courts; and 3) to assess the long-term implications of these legal transformations for the contemporary Islamic judicial institutions in Indonesia.

By addressing these objectives, the significance of this study lies not only in its historical contribution but also in its contemporary relevance. As modern Indonesia continues to navigates legal dualism, religious conservatism, and ongoing demands for judicial reform (Bell, 2011; Hoesein, 2012; Omara, 2022), historical insights from institutions such as the *Penghulu* Court offer valuable lessons on managing legal pluralism (Butt, 2018; Crouch, 2013; Tamanaha, 2008). Moreover, revisiting VOC-era legal documents--particularly Governor Alting's letter and judicial records from Cirebon--enhances our understanding of how Islamic legal epistemologies were shaped, adapted, or constrained under colonial rules. In this context, the study bridges historical inquiry with contemporary legal discourse, contributing to broader conversations on the intersection of *sharī'a*, *adat*, and state law in postcolonial legal systems (M. Fauzi, 2022; M. L. Fauzi, 2021; Lukito, 2000; van Huis, 2019).

Literature Review

The term *Penghulu Court* is an important conceptual element in this study, particularly in understanding the institutional complexity of Islamic legal authority in colonial Indonesia (Ravensbergen, 2018b, p. 55). While it is frequently used in academic literature to denote Islamic judicial institutions, its historical and regional specificity, especially in Cirebon, requires further clarification. David S. Lev (1972b) positions the *penghulu* as a religious official with judicial authority, primarily in family law. However, Lev's analysis focuses more on institutional structures than on the operational nuances of the courts in specific regions such as Cirebon. Similarly, Hooker offers a theoretical framework of legal pluralism in colonial contexts, identifying *Penghulu* Courts as critical nodes within the triadic legal system comprising Islamic, customary (*adat*), and colonial law (Hooker, 1975). Nonetheless, Hooker pays limited attention to the contested jurisdiction of these courts.

During the Dutch colonial period, the *Penghulu Court* operated within a milieu of legal pluralism, where Islamic, *adat*, and colonial norms intersected and at the times competed for legitimacy. Ravensbergen (2018b, p. 55) notes that "By 1765, the *Penghulu* Court of Cirebon had become more important than the *jaksa* court. It not only decided over cases with a religious connotation, such as family law cases, but also over serious crimes involving the death penalty." His observation highlighting the shifting authority toward Islamic courts within the colonial hierarchy. Hazmirullah et al. (2019) further demonstrate that *penghulu* were not only involved in civil matters--such as marriage, divorce, and

inheritance--but also, in certain contexts, assumed roles in criminal adjudication, particularly in areas where Dutch legal enforcement was minimal or negotiated.

This finding aligns with van Huis (2019), who argue that religious courts in Indonesia functioned as semi-autonomous institution shaped by political negotiation. Over time, these courts were gradually integrated into the colonial administration, evolving from Islamic institutional of moral and legal guidance into regulated arms of the colonial judicial apparatus. The transitional nature of this institutional identity is underscored by Ergene (2013), who highlights the broader tension between preserving Islamic legal traditions and the colonial imperative to impose European legal rationalities. Ergene's insights are especially pertinent in cases where Islamic courts, such as those led by the *penghulu*, were required to modify or suspend doctrinal practices under administrative pressure.

The dilemmas faced by the *penghulu* in navigating these competing demands are well documented. Fitri (2011) emphasizes the moral and legal burden placed on judges operating with colonial systems. The *penghulu* had to reconcile Islamic ethical commitments with external expectations shaped by colonial political interests. Suryani et al. (2023) also discuss how Islamic courts, particularly in regional contexts, had to negotiate the boundaries between autonomous Islamic reasoning and colonial directives. These tensions were not only juridical but also ideological, reflecting an epistemic struggles over authority, legitimacy, and the purpose of law in colonized Muslim societies.

Ravensbergen's works, *Anchors of Colonial Rule* (2018a) and *Courtrooms of Conflict* (2018b), provide a comprehensive mapping of pluralistic legal institutions in colonial Java, with particular attention to the ways Dutch rule utilized and suppressed Islamic and customary legal systems. However, a detailed analysis of how *penghulu* engaged with or resisted these transformations, particularly in Cirebon, remains limited. This gap is critical, especially when considering colonial correspondence such as Governor General Willem Arnold Alting's letters, which suggest a degree of "reluctance" among Cirebon's *penghulu* to enforce Islamic criminal law.

It is also essential to consider the interaction between Islamic and customary law. Lukito (2000, 2012) has extensively examined the tensions and synergies between these two systems, especially in postcolonial contexts. Rifqi (2021), building on Snouck Hurgronje's reception theory, explains how *adat* was often privileged over Islamic law under colonial rule, a tendency that shaped legal policy and influenced normative hierarchies. Duhriah et al. (2024) offer a more grounded example of this interplay through their study of *Hak Langgeih* in Aceh, demonstrating how Islamic and customary legal norms coalesce in contemporary legal practice. Similarly, Anggraeni (2023) highlights structural tensions between Islamic and customary law within Indonesia's plural legal order, tensions rooted in colonial legal experimentation

Despite this rich scholarly terrain, several conceptual and empirical gaps remain. *First*, although much of the literature acknowledges the role of the *penghulu* in broader colonial legal transformations, little focused analysis exists on their specific function in handling criminal cases, such as in Cirebon during the late 18th century. *Second*, while the erosion of Islamic legal authority is widely recognized, less is known about the subjective and institutional rationales behind the *penghulu*'s decisions to defer or deviate from Islamic legal norms. Governor Alting's letters suggest a moment of institutional hesitation or constraint that warrants deeper examination. *Third*, previous studies have not sufficiently engaged with the extensive corpus of primary documents, including VOC records and local texts such as manuscript letters housed at ANRI or *Pepakem Jaksa Pipitu*, which could illuminate these dynamics.

By addressing these lacunae, this study contributes both to the micro-historical reconstruction of legal practice in Cirebon and the broader theoretical discourse on legal pluralism, Islamic jurisprudence under colonial rule, and the institutional transformation of Islamic law. It not only recovers the nuanced agency of *Penghulu* Courts in negotiating colonial legal orders but also situates their experiences within global conversations on the resilience, adaptation, and regulation of religious legal authority.

Method

This study employs a qualitative historical legal-methodology utilizing philological and codicological approaches to examine three 18th century manuscripts from the Cirebon Sultanate, that

document judicial practices within the *Penghulu* Court. The research method combines codicological analysis, intertextual comparison, textual interpretation, and socio-historical contextualization to provide a layered understanding of how Islamic legal authority was negotiated within a colonial legal framework. Codicology serves as the analytical foundation, treating the manuscripts as both material artifacts and juridical instruments. Physical features such as paper, ink, script, colophons, and marginalia are examined to trace authorship, provenance, and institutional function (Baried et al., 1994; Déroche, 2006; Mulyadi, 1994). These material element may reveal legal and theological priorities and reflect localized adaptations of Islamic law in manuscript form (Fathurahman et al., 2010; Mulyadi, 1994).

The manuscripts are analyzed with the socio-political context of late 18th century Java. During this period, the *Penghulu* Courts operated at the intersection of Islamic, customary (*adat*), and colonial legal systems, often producing hybrid and contested legal outcomes. In this context, colonial correspondence, particularly from Governor General Alting, offers valuable insight into Dutch effort to standardize legal authority through institutions such as the *Raad van Justitie* (Breman, 2014; Hazmirullah et al., 2019). This interdisciplinary framework draws from Islamic legal studies, legal anthropology, and manuscript historiography. It is informed by foundational theories of legal pluralism developed by Hooker (1975), Tamanaha (2008, 2021), and Lukito (2012), who conceptualize law as a site of negotiation rather than merely layered institutional. Within this framework, the *penghulu* positioned not only as judicial figure but also as cultural mediator, operating between *sharīʿa*, *adat*, and colonial law. Studies by Yakin (2015), Sumanto (2018), and Awwaliyah et al. (2023) further underscore the value of codicological inquiry in reconstructing the evolving roles of religious authority in Islamic Southeast Asia.

Results and Discussion

Manuscript Description

The object of this research is three letters from the National Archives of the Republic of Indonesia (ANRI), catalogued as ID-ANRI K66a, File 3587, Folio 819-820; ID-ANRI K66a, File 3587, Folio 837-838; and ID-ANRI K66a, File 3587, Folio 849-852. The letters are part of larger archival collection titled "Archives of the Governor General and the Council of the Indies (Supreme Government) on the VOC (*Verenigde Oostindische Compagnie*) and its successor officials, 1612-1812." This bundle comprises approximately 500 linear meters of documents, with inventory numbers ranging from 1 to 4,631. The descriptions of the three manuscript letters are detailed below.

Manuscript A

The first manuscript, coded ID-ANRI K66a, File 3587, Folios 819-820, is a letter from the Governor General and *Raad van Indie* to the Sultan of Cirebon, Sultan Sepuh VII of Cirebon, Sultan Tajul Ngaripin Muhammad Syamsuddin (r. 1791-1816) (based on the letter of Sultan Sepuh VIII to Raffles dated 1 Jumadilakhir 1744 Java/29 April 1816), as contained in the manuscript coded Add MS 45273, f. 32-33 in the British Library collection). This document is an official letter dated July 4, 1794, from Governor General Willem Arnold Alting of the VOC to Sultan Sepuh VII of Cirebon: "*Punika serat saking Kangjeng Tuwan Guvernur Jenderal sarta Para Rat van Indiyah sadhaya dhateng Kangjeng Sultan Sepuh ing Gragè*" ("*This letter is issued by His Excellency the Governor-General and the Members of the Raad van Indie, addressed to His Royal Highness the Sultan Sepuh of Grage.*

The colophon confirms its Batavian origin, accompanied by a Dutch legalization stamp "*Accordeert met der origineele*" signed by a VOC official, affirming its authenticity (a duplicate exists in Folios 843–844) due to its archival reliability. "*Sinerat ing Kitha Batawiyah atas ing Puloh Jawa Gedhè, ing dhinten sakawan saking sasi Juli, ing tahun 1794*" (*Written in the city of Batavia, on the island of Great Java, on the fourth day of the month of July, in the year 1794.)*

Written in Javanese *Carakan* script over two folio pages in 22 and 17 lines respectively, the letter blends European formatting with indigenous scibal traditions. Overwritten corrections reflect administrative diligence and suggest increasing literacy among court scribes. The Dutch annotations—such as the heading "*Aan Sulthan Suppoe te Cheribon*" and folio numbers "819"/"820" further confirm its formal character.

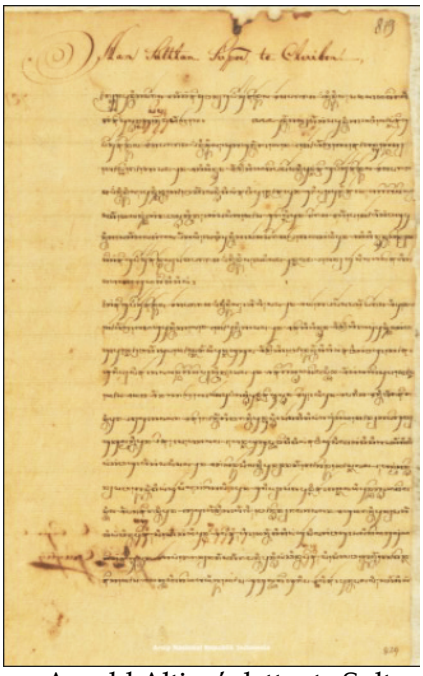

Figure 1. The front page of Willem Arnold Alting's letter to Sultan Sepuh VII Cirebon, July 4, 1794 (collection: National Archives of the Republic of Indonesia)

In this letter, Alting criticizes the *Penghulu* Court's decision to release two of four suspects, arguing that their actions were deemed non-criminal under *adat* law. Based on a report by Petor Johan Lubbert Umbgrove, the case was transfered to the *Raad van Justitie* in Batavia. This intervention illustrates the tension between colonial legal rationality, Islamic-*adat* jurisprudence, and the VOC's aspiration for centralized legal control (Hooker, 1975; Lev, 1972b). By branding the local ruling as based on "unregulated customary law," Dutch authorities sought to justified colonial legal supremacy.

This manuscript exemplifies the colonial bureaucratization and epistemic contestation of Islamic legal authority. Its hybrid form, European materials and Javanese script with Dutch annotations, signals a judicial crossroads where multiple legal systems were negotiated under colonial rule (Ravensbergen, 2018b; Setyawan et al., 2024). Furthermore, it embodies what Benda (1980) conceptualized as "bureaucratic Islam," where colonial governance subsumed Islamic institutions to administrative ends (Cf. Idri, 2009).

Manuscript B

The second manuscript, coded ID-ANRI K66a, File 3587, Folios 837-838, is also a letter from Governor General Willem Arnold Alting, addressed to the Sultan of Cirebon, Sultan Anom IV (Abukaeri Muhamad Keridin, r. 1733–1798). This letter also dated July 4, 1794, mirrors Manuscript A in both content and form as indicate on the same beginning: "*Punika serat saking Kangjeng Tuwan Guvernur Jenderal sarta Para Rat van Indiyah sadhaya, dhateng ingkang Kangjeng Sultan Anom ing Gragè*" and also the same colophon: *Sinerat ing Kitha Batawiyah atas ing Pulo Jawa Gedhè, ing dhinten sakawan saking sasi Juli, ing tahun 1794.* Its existence underscores Cirebon's dual sultanate structure and the VOC's strategy of issuing parallel communications to reinforce accountability and ensure unified compliance across both power centers.

This letter was presented in *Carakan* script on two folio pages in each 22 and 17 lines. This manuscript illustrates editorial corrections and paragraph breaks that highlight emerging administrative sophistication. The top heading "*Aan Sulthan Anom te Cheribon*" and penciled folio identifiers "837"/"838" also confirm its bureaucratic authenticity. Its Dutch legalization stamp further underscores the VOC's intention to claim official judicial authority.

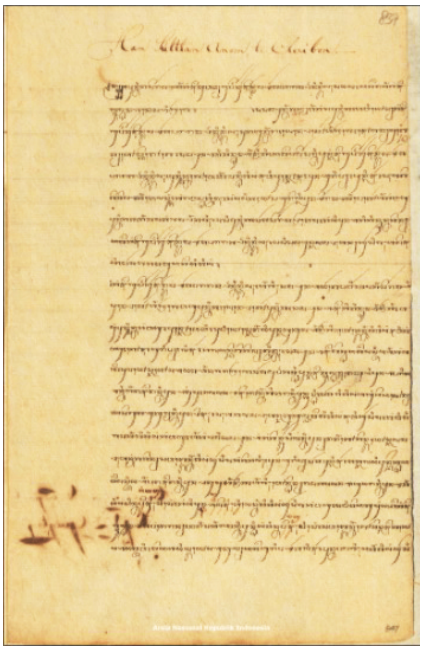

Figure 2. The front page of Willem Arnold Alting's letter to Sultan Anom IV Cirebon, July 4, 1794 (collection: National Archives of the Republic of Indonesia)

The letter warns against the *Penghulu* Court's discretion in releasing two suspects based on *adat,* and mandates the transfer of their case to the *Raad van Justitie* in Batavia. This response reflects the VOC's unease with indigenous legal agency and its preference for formal procedural uniformity (Cf. Ravensbergen, 2018a). The duplication of identical letters to both sultans constitutes a deliberate colonial tactic of legal containment, influencing local political structures for administrative oversight, a same method observed in other colonial contexts like Malaya (Peletz, 2002). This Manuscript B reinforces the institutional hybridity of Dutch colonial legal governance. It documents the VOC's direct interference in Islamic judicial processes, illustrating the broader themes of legal centralization and religious marginalization that would shape the late colonial period (Harisudin, 2015; Hazmirullah et al., 2019; Hooker, 1975).

Manuscript C

The third manuscript, coded ID-ANRI K66a, File 3587, Folio 849-852, is a letter from Governor General Willem Arnold Alting to Sultan Anom IV of Cirebon. It is written on the first page "*Aan den Cheribonsche Sulthan Anom*" (*For the Sultan Anom of Cirebon*), and the information on the beginning of the letter (f. 849) as bellow:

"*Punika ingkang serat sarta ingkang tabè akathah-kathah miyos iklas manah ingkang suci lning saking Kangjeng Tuwan Mèster (Willem Arnold Alting) Gurnadhur Jendral sarta Para Rat van Indiya sadha(ya) ingkang apalenggah ing Panagari Batawiyah, sayogya kahatur ing Kangjeng Sultan An(o)m ingkang apalenggah ing Nagari Gragè*" (*This letter, composed with utmost reverence and sincere intentions, is presented by His Excellency Mr. Willem Arnold Alting, the Governor-General, along with the esteemed Members of the Raad van Indie, who are presently residing in the capital city of Batavia. It is respectfully addressed to His Royal Highness the Sultan Anom, sovereign of the kingdom of Grage.)*

This manuscript dated December 1, 1794, as it is informed on colophon: *Sinerat ing Kitha Batawiyah, atas Pulo Jawi Ageng, 1 Dèsember, Tahun 1794.* (*Written in the city of Batavia, on the island of Great Java, on December 1, in the year 1794).* It is a bilingual Dutch–Javanese letter from Governor General Willem Arnold Alting to Sultan Anom IV of Cirebon, uniquely formatted in *Carakan* script and Dutch on four folios, evidence of intentional communication tailored for layered audiences and legal messaging. Its structure, parallel languages with separate columns, underscores a calculated assertion of Dutch juridical authority alongside local Islamic discourse. The folios bear archival identifiers ("849", "852") and are officially validated with "*Accordeert*" inscriptions and VOC signatures, confirming their bureaucratic legitimacy.

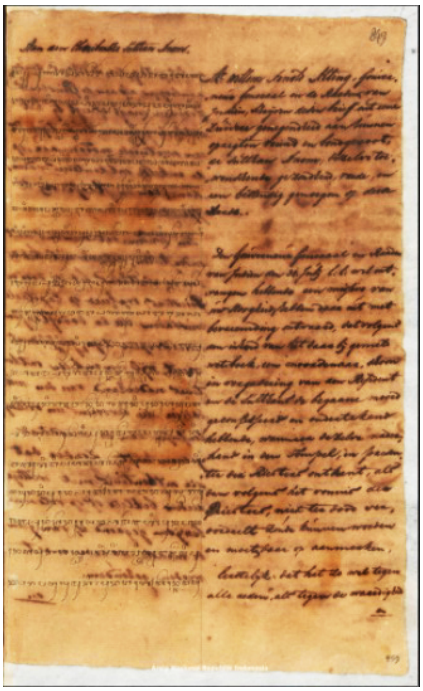

Figure 3. The front page of Willem Arnold Alting's letter to Sultan Anom IV Cirebon, December 1, 1794 (collection: National Archives of the Republic of Indonesia)

In this letter, Alting criticizes the court on three matters: *firstly*, he claims that inconsistent and lenient rulings erode the Sultan's dignity and authority; *secondly*, he demands acknowledgment that the release of a proven murderer was a grave legal error; *thirdly*, invoking divine and human law, he insists on capital punishment for homicide and signals future transfer of cases to the *Raad van Justitie*, directly challenging local judicial autonomy. The letter reflects a strategic colonial intervention that appropriates Islamic or legal lexis, not to preserve *sharīʿa* in its own right, but to discipline indigenous rulers within colonial administrative frameworks (Merry, 1988; Tamanaha, 2008). This "legal translation" underscores how VOC governance sought legitimacy through religious forms while subordinating them to colonial standards.

This document marks a turning point in the centralization of colonial legal authority. Traditional *Adat* authorities were pushed aside, that is the *Penghulu* Court faced institutional marginalization under Dutch procedural formalism (Hooker, 1975; Lev, 1972b; Ravensbergen, 2018b). By relocating adjudication from palace courts to European tribunals, VOC fundamentally reshaped Java's judicial landscape.

These colonial dynamics confirm contemporary judicial tensions. Modern Indonesian religious courts continue to grapple with legal pluralism, navigating between Islamic jurisprudence and state regulations. Current reform trends, in areas like nikah registrar functions and *maqāṣid* based reasoning, reflect echoes of historical hybridity and struggle (Azhar, 2024; Dikuraisyin et al., 2024; Wirastri & Van Huis, 2024). Yet tensions persist in balancing religious authenticity with national legal coherence, mirroring colonial era struggles to reconcile text, power, and procedure (Sulthon, 2020).

Case Handling Chronology

The three letters examined in this study offer critical insight into the chronology of case handling, the judicial authority, and the process of handling legal cases. The sequence of letters from July to December 1794 offers critical insight into how legal authority and jurisdiction were exercised, contested, and ultimately restructured under Dutch colonial oversight in the Cirebon Sultanate. These documents track the procedural unfolding of a murder and persecution case as well as highlight the interplay of Islamic, customary (*adat*), and colonial legal frameworks.

The case began with a report dated July 2, 1794, from Petor Cirebon Johan Lubbert Umbgrove to Governor General Willem Arnold Alting. Umbgrove reported that five suspects had been apprehended. One of them, a Chinese individual named Kouw Tjien, was to be tried in Batavia under VOC jurisdiction. The remaining four indigenous suspects were referred to the *Penghulu* Court at the Cirebon Grand

Mosque, reflecting the continued role of Islamic adjudication in criminal at the time (Hazmirullah et al., 2019; Ravensbergen, 2018b).

On July 4, 1794, Governor Alting issued parallel letters to both Sultan Sepuh VII and Sultan Anom IV. In these letters, he expressed dissatisfaction with the *Penghulu* Court's acquittal of two suspects, which the court justified on the grounds that their actions were not explicitly prohibited by *adat* law. Alting endorsed Umbgrove's intervention and authorized the case's transfer to the *Raad van Justitie* in Batavia, signaling a critical assertion of colonial authority over indigenous legal mechanisms (Hooker, 1975; Lev, 1972a).

Sultan Anom replied on July 31, affirming that the court had relied on procedural norms within Islamic jurisprudence, namely, that a denial (*inkār*) could nullify a prior confession without corroborating evidence or testimony (Ergene, 2013; Satibi, 2014; Setyawan et al., 2024). There is no surviving reply from Sultan Sepuh, which may suggest either a lost document or strategic silence.

The final correspondence, dated December 1, 1794, came once again from Governor Alting and was addressed only to Sultan Anom. Alting criticized the court's handling of the case, warning that such rulings undermined the Sultan's legitimacy and invoking both divine and human law as justification for stricter sentencing, particularly capital punishment. He further announced that future legal irregularities would prompt direct VOC intervention, effectively bypassing local courts and accelerating the centralization of judicial authority under colonial control (Benda, 1980; Ravensbergen, 2018b).

This sequence of events illustrates the systematic erosion of the *Penghulu* Court's authority. Through rhetorical appeals to justice, procedural rationality, and religious fidelity, VOC officials framed Islamic legal discretion as a liability. The growing preference for centralized adjudication through the *Raad van Justitie* reflects a broader colonial agenda to standardize legal systems and marginalize indigenous institutions across the archipelago (Hooker, 1975; Lev, 1972b; Ravensbergen, 2018b).

The chronology of the handling of the murder and persecution cases can be illustrated through the following chart:

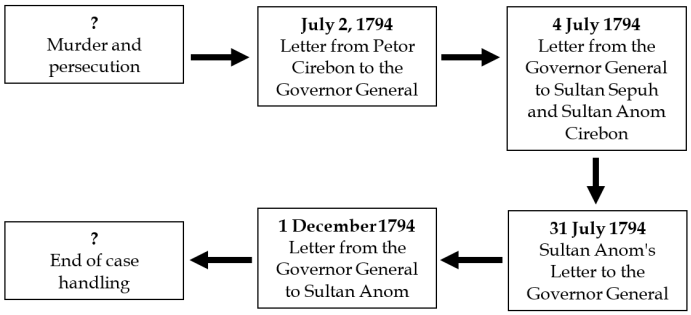

Figure 4: The chronology of the handling of the murder and persecution cases

Authority of the Judiciary

The three Cirebon manuscripts provide a critical lens into the complex legal pluralism of late 18th century Java, revealing how Islamic, customary (*adat*), and colonial legal systems coexisted, overlapped, and often clashed. This complexity is especially evident in the case of Kouw Tjien, a murder suspect whose trial was escalated to the *Raad van Justitie* in Batavia by Petor Cirebon Johan Lubbert Umbgrove. This move foreshadowed formal legal reforms under Thomas Stamford Raffles, whose *Kitab Hukum* (1814) codified provisions, such as Article 143, mandating that legal matters involving Europeans, Chinese, and other non-natives be handled exclusively by Dutch courts in key colonial cities (Hazmirullah et al., 2019: 185).

In contrast, the simultaneous trial of four indigenous suspects by the *Penghulu* Court at the Cirebon Grand Mosque demonstrates the persistence of Islamic legal institutions. This dual jurisdictions exemplifies legal pluralism, wherein multiple normative orders interact within a single political landscape framework (Merry, 1988; Tamanaha, 2008).

Raffles (1830: 308-312) observed the presence of two primary legal tracks in Java: one administrated by public prosecutors for criminal matters, and another led by religious figures such as the *penghulu* for

civil and moral disputes. In Cirebon, this duality was formalized through the *Karta* Court, comprised of seven prosecutors (*jaksa pipitu*), and the *Penghulu* Court, with the Sultan as final arbiter (Satibi, 2014, pp. 125–126; Setyawan et al., 2024). Despite colonial encroachment, this system highlighted the enduring influence of royal and Islamic authority. Ravensbergen (2018b) describes such courts as "anchors of colonial rule," coopted rather than dismantled by the Dutch. Lukito (2012) interprets this as a transitional phase where Islamic and adat courts operated with constrained autonomy. Manse (2024) expands this view, characterizing judicial practice during this period as "situational Islamic jurisprudence," shaped by local contexts rather than strict adherence to *fiqh* or *adat*.

Originally tasked with enforcing *sharīʿa* and offering moral guidance under Sultan Raden Patah of Demak, the *penghulu* role evolved into a colonial legal intermediary, particularly during the administration of Daendels and Raffles (Hazmirullah et al., 2020; Hisyam, 2000, 2001). By the 1882 Royal Decree, the Dutch had institutionalized this transformation by incorporating *penghulu* into the colonial bureaucracy as state-appointed official within the *Raad Agama*, thereby subordinating their authority to the colonial legal system (van Huis, 2019).

M. Fauzi (2022) and Duhriah et al. (2024) emphasize how the colonial state allowed *penghulu* authority to continue, so long as it did not threaten Dutch legal primacy. This legacy continues in Indonesia's Religious Courts (*Peradilan Agama*), which reflect historical compromises between Islamic norms and national law (Safa'at, 2022). The impact of this fragmented legal evolution remains visible today. Butt (2018) observes that Indonesian courts still reflect these layered traditions, particularly in regions like Aceh, where Islamic criminal law operates alongside state codes. Similarly, Alam et al. (2022) argue that Islamic legal tools, such as asset seizure, may provide normative contributions to modern anti corruption efforts. Thus, the Cirebon manuscripts affirm that legal pluralism in colonial Java was not an anomaly, but a foundational feature of governance. The coexistence of the *Raad van Justitie*, *Penghulu* Court, and royal adjudication illustrates how legal authority was shaped through ongoing negotiation and contestation across religious, customary, and colonial lines.

The Existence of the Penghulu Court

The origins of the penghulu institution in Java can be traced to the reign of Raden Patah, the first Sultan of Demak (1475), where it functioned as a religious judiciary deeply embedded within Islamic governance. Tasked with implementing *sharīʿa*, overseeing family law and religious rituals, and advising the sultan, the *penghulu* represented the fusion of moral, legal, and religious authority in precolonial Java (Breman, 2014, pp. 42–43; Hazmirullah et al., 2019).

Over time, particularly after the fragmentation of the Mataram Sultanate in the mid 18th century, the role of the *penghulu* underwent significant transformation. It evolved into a politically strategic office, often held by members of the *menak* (nobility), and became a tool for consolidating royal authority (Breman, 2014, pp. 106–107; Carey, 2012, pp. 450–451). At the village level, *penghulu* (or *lebé/amil*) served in multifunctional roles, including tax collection, land documentation, civil registration, and even public health campaigns, such as cowpox vaccination during the Priangan system (Breman, 2014, p. 44; Satibi, 2014, p. 127; Wilde, 1830, pp. 179–180).

Under the VOC and early colonial rule, particularly during the administrations of Daendels (1808-1811) and Raffles (1811-1816), the *penghulu* was increasingly absorbed into European-controlled judicial structures. No longer autonomous legal authorities, they became intermediaries tasked with interpreting Islamic law within colonial frameworks (Hazmirullah et al., 2020). Daendels, based on indirect reports, valued the participation of *penghulu* in institutions such as the Itinerant Land Court and Peace Assembly (Hisyam, 2001). Raffles codified their functions in his 1814 *Book of Law*, where they were recognized as consultative figures across the Regency, Residency, and Mobile Courts (Hazmirullah et al., 2019, pp. 185–186), although always subordinate to European legal authority, especially in the Mobile Courts (Article 165).

This incorporation reflects what M. Fauzi (2022) terms the "instrumentalization of Islamic law," a process through which religious authority was co-opted to support bureaucratic governance without

surrendering colonial legal supremacy. The *penghulu*'s symbolic role persisted, but their jurisdiction was gradually constrained by Dutch administrative rationality (M. Fauzi, 2022; Hisyam, 2000).

The 1882 Royal Decree formalized this subordination, transforming the *Penghulu* Court into the *Raad Agama* (Council of Priests). No longer appointed by local rulers, *penghulu* became salaried civil servants under direct Dutch control (Hisyam, 2000, 2001; Isma'il, 1997). Their formerly central role in communal religiosity and jurisprudential authority was reduced to administrative functionaries. This colonial restructuring continues to shape Indonesia's Islamic courts system today, which, although constitutionally recognized, still operates within a framework that limit its normative independence (Safa'at, 2022).

Despite this bureaucratization, the *penghulu* retains cultural and legal relevance. Today, the term denotes religious officials authorized to conduct Islamic marriages under the 2005 Regulation of the Minister of Religion (Hazmirullah et al., 2019, pp. 177–178). Moreover, regional systems maintain the legacy of religious–*adat* hybridity. For example, Duhriah et al. (2024) describe *Hak Langgeih* in Aceh, where Islamic and customary norms are interwoven in state supported legal practices.

Contemporary Islamic legal reasoning, especially in domains such as anti-corruption, where *fiqh*-based principles like asset seizure are reactivated, demonstrates the ongoing relevance of Islamic jurisprudence within national legal discourse (Alam et al., 2022). These patterns reveal not only the resilience of Islamic legal traditions but also the evolving negotiation between *sharīʿa*, state law, and postcolonial governance. The endurance and transformation of the *penghulu* institution across centuries is not merely an institutional shift but a dynamic negotiation of legal pluralism, colonial subordination, and religious moral authority. It continues to shape how Islamic law is practiced, administered, and understood in contemporary Indonesia.

***Penghulu*, Islam, and Customary Law**

The three Cirebon manuscripts document a pivotal moment in the evolution of judicial authority within the Cirebon Sultanate. Central to the case is the *Penghulu* Court's decision to release two suspects in a murder trial, despite earlier confessions made before Sultan Anom and Petor Cirebon. Governor General Willem Arnold Alting's intervention, motivated by concerns that neither Qur'anic law nor *Yudhanagara* (customary codes) had been upheld, exposes the contested authority of Islamic legal institutions within a shifting colonial legal order.

Although localized, this episode reflects broader patterns in Java's colonial legal structure. Raffles (1830, pp. 308–313) observed that Islamic references were present in Javanese legal texts, yet often filtered through *adat*, resulting in hybrid jurisprudence marked by moral and doctrinal ambiguity. The *Manuscript Surya Alam*, from the Demak Sultanate, illustrates this hybridity. Though celebrated for codifying Islamic influenced law, it was inconsistent in applying religious, moral, and customary codes (Hoadley, 2009, pp. 14, 398). Raffles states: "The body of regulation, compressed in these codes is curious, from the laborious refinement of their distinction, from the mixture of moral maxims and illustrations with positive law, from the most incongruous combination, and from their casuistical spirit." (Raffles, 1830, p. 312)

Islam in Java, scholars argue, was introduced gradually, blending rather than replacing *adat*. This syncretism produced a flexible legal system in which discretionary rulings could reconcile Islamic principles with social norms, emphasizing harmony over retribution (Hoadley, 2009; Lukito, 2000). A 1717 case from Parakanmuncang exemplifies this pragmatism: although Islamic legal texts like *al-Muḥarrar* were available, the decision was based on local "geni script" codes (Hoadley, 2009, p. 399). This legal fluidity also appeared in Banten's *Qadi* courts, where penalties like *ḥudūd*, *qiṣāṣ*, and *diyah* were seldom enforced after VOC dominance in 1682. These courts leaned toward conciliatory judgments rooted in Javanese Islamic sensibilities (Yakin, 2015, pp. 473–474).

The 1768 *Pepakem* of Cirebon further exemplifies this pluralist tradition. While incorporating Islamic evidentiary principles, such as *iqrār* (confession), witness testimony, and oaths, it simultaneously affirmed Dutch oversight by reserving final authority for Company officials in Batavia (Halim, 2013; Satibi, 2014, pp. 127–131). Such arrangements preserved indigenous institutions not to empower them, but to facilitate colonial control (Hooker, 1975). From a pluralist legal perspective, the interaction between the *penghulu*, Islamic law, and *adat* in Cirebon represents a classic instance of "layered legality" (Merry, 1988; Tamanaha,

2008). In this framework, *penghulu* acted less as strict Islamic judges and more as intermediaries balancing competing legal mandates. Manse (2024) supports this view, noting that their rulings adapted pragmatically to shifting social and political pressures rather than rigidly adhering to *fiqh* or *adat*.

These dynamics have long term consequences. While modern *penghulu* primarily function as marriage registrars, their constrained legal authority reflects historical compromises shaped by colonial bureaucratization and *adat* Islamic entanglements (Anggraeni, 2023; M. Fauzi, 2022). Even in regions with formal Islamic autonomy, such as Aceh, hybrid systems like *Hak Langgeih* continue to demonstrate the enduring relevance of legal pluralism (Duhriah et al., 2024).

Sultan Anom's letter dated July 31, 1794, which explained the court's refusal to impose the death penalty due to insufficient evidence, exemplifies the Islamic legal principle of *in dubio pro reo*, favoring acquittal in the absence of definitive proof. Rather than acting arbitrarily, the *Penghulu* Court appeared to apply a rigorous hybrid of Islamic procedural law and customary discretion.

From these manuscripts of Cirebon, the position of the *penghulu* was not as passive enforcers of scriptural law, but was as active legal agents negotiating among Islamic jurisprudence, *adat*, and colonial authority. Their decisions highlight, however, the complexity of localized legal reasoning and reveal how indigenous legal systems adapted to, and at the same time resisted, the homogenizing pressures of colonial legal rationality.

Revisiting the *Penghulu* Court in the Era of Legal Pluralism and Institutional Reform: A Lesson Learned

The judicial experience of the *Penghulu* Court in the Cirebon Sultanate offers valuable insights for navigating Indonesia's contemporary legal landscape, particularly at the intersection of state law, Islamic jurisprudence, and customary law (*adat*). These historical dynamics continue to influence current debates concerning judicial independence, legal legitimacy, and the evolving role of religious adjudication.

Colonial interventions, such as Governor General Willem Arnold Alting's override of the *Penghulu* Court's decision, exemplify how judicial autonomy was historically subordinated to political authority. This legacy still resonates today. In politically sensitive cases, such as the controversial Vina and Eky murder trials, concerns over judicial independence and political interference have been widely expressed (Ismanto & Suparman, 2020). The autonomy of Islamic courts in Indonesia has long been contingent on their alignment with state interests (Cammack & Feener, 2012; Lev, 1972a). Nowadays, these courts operate within the bureaucratic framework of the Ministry of Religious Affairs, navigating the tension between Islamic principles and administrative control (Sarkowi & Susilo, 2020; Wirastri & Van Huis, 2024; Yasa, 2015).

Under colonial rule, the lack of procedural transparency often undermined public trust, particularly when legal decisions clashed with community expectations grounded in *sharīʿa* and *adat*. Similar skepticism persists in modern cases involving opaque investigations or coerced confessions, such as in the Vina-Eky case, where legal processes have come under intense scrutiny (Anggraeni, 2023; Ergene, 2013).

To address such deficits, contemporary legal reform should prioritize procedural clarity, community based dispute resolution, and equitable access to justice. The *Penghulu* Court, despite its historical limitations, offered culturally embedded, locally accessible justice, a model still underdeveloped in many state-run courts (Duhriah et al., 2024; Hisyam, 2000). The hybridity of Cirebon's judicial framework, which integrated Islamic legal reasoning, *adat*, and colonial administration, parallels modern Indonesia's ongoing challenge in managing legal pluralism. Centralization efforts have often sidelined localized and religiously informed practices (Lukito, 2012; Salim, 2015). Regions like Aceh, however, and some of West Sumatera region show how *sharīʿa* based courts can operate within the national framework while maintaining local legitimacy (Duhriah et al., 2024; Fithri et al., 2023; Salim, 2015).

The *Penghulu* Court's decision to acquit defendants due to insufficient evidence, despite after prior confessions, demonstrates a commitment to procedural justice. This aligns with the Islamic legal maxim *in dubio pro reo,* better to release the guilty than punish the innocent, a principle often overlooked in coercive or politicized justice systems (Hazmirullah et al., 2019; Hoadley, 2009). In an era where coerced confessions and inadequate legal representation remain concerns, Islamic legal ethics, if institutionally supported, can offer a valuable corrective to punitive excesses (Alam et al., 2022).

Notably, historical capacity of the *Penghulu* Court to mediate among competing legal systems underscores the need for adaptive and inclusive judicial institutions. Indonesia's legal system must be responsive to the country's legal diversity while aligning with international standards of justice and human rights (Crouch, 2013; Isra et al., 2017). This necessitates a principled approach to legal pluralism, one that recognizes Islamic and customary legal institutions not as relics, but as integral partners in reform and justice delivery. The Constitutional Court's rulings reveal the enduring complexity of harmonizing Islamic law within a secular constitutional framework (Safa'at, 2022). Thus, the legacy of the *Penghulu* Court offers more than historical reflection, it also presents a programmatic vision, that is a legal system that is pluralistic, participatory, and principled, capable of addressing the needs of a diverse and evolving society.

Conclusion

The study on three Cirebon manuscripts from 1794 exemplifies the interpretation and implementation of Islamic law in the *Penghulu* Court of Cirebon Sultanate, particularly in a murder case during the period of Dutch VOC rule. It sheds a light on a critical moment in the evolution of legal pluralism in colonial Indonesia. This study reveals that judicial authority in Cirebon was differentiated based on ethnolegal lines: namely Chinese suspects, such as Kouw Tjien, were processed by the *Raad van Justitie*, while indigenous defendants were adjudicated by the *Penghulu* Court. This legal junction reinforced colonial administrative hierarchies and exposed the *Penghulu* Court to heightened inquiry, particularly when its verdicts deviated from VOC expectations. However, the study demonstrates that the court's acquittal of two indigenous suspects was not the result negligence or judicial failure. On the contrary, the decision was rooted in Islamic legal procedure (*fiqh*), which, when interpreted through *adat*-infused jurisprudence, required stronger evidentiary standards, especially in capital cases. The reluctance to convict, despite prior confessions, illustrates a principled commitment to procedural justice and the Islamic maxim *in dubio pro reo*. Therefore, the criticisms levied by Governor General Willem Arnold Alting may reflect more about colonial priorities than genuine legal failings on the part of the Cirebon judiciary.

As evidenced by the manuscripts, the *Penghulu* Court functioned as a complex legal institution that simultaneously embodied religious, customary, and political simultaneously, negotiating its legitimacy within a volatile landscape of colonial intervention and indigenous sovereignty. Its rulings reveal the adaptability of Islamic legal thought in hybrid legal contexts and the subtle ways in which Islamic judges balanced theological fidelity with political pragmatism. This legacy continues to shape Indonesia's contemporary religious courts, which still contend with bureaucratic constraints and the tension between Islamic legal norms and national legal frameworks.

Nevertheless, this study has limitations. It is based on three manuscripts, from single period and single region. Although these sources rich in detail, this specific focus limits broader generalizations about *Penghulu* Courts across both longer period and broader regions. Furthermore, the absence of indigenous voices, that is the litigants or lower-level court officials, leaves certain interpretive gaps in deep understanding the lived experience of Islamic justice under colonial rule. In due of these limitations, further research should expand the temporal and geographical scope of archival analysis, incorporating, if available, oral histories or local court records, and by comparing the Cirebon case with other Islamic jurisdictions in Java and beyond. The comparative studies with regions like Aceh, Minangkabau, or Banten could further enlighten the diversity of Islamic legal practices under colonial pressure and could enhance the understanding of legal continuity and its transformation in broader range, particularly in Southeast Asia. Despite its limitations, this study contributes to the growing body of knowledge that critically rethinks Islamic legal institutions not as static and not also peripheral, but they were dynamic actors in the making of both colonial and postcolonial legal orders. By tracing the intertwined histories of *fiqh*, *adat*, and colonial law, the Cirebon manuscripts offer a compelling reason of how Islamic courts have survived, adapted, and then negotiated their authority in times of overwhelming legal and political change.

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Conflict of Interest

The authors declare that this article has not a conflict of interest.

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