

Qadhi legitimization: shifting roles of the Penghulu in Ternate and Tidore Sultanates, Indonesia

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The aim of this study is to analyze the shifting roles of penghulu in Ternate and Tidore Sultanates with a focus on the legal, social, and administrative changes influenced by government regulations and societal dynamics. A sociological-legal method was adopted with the data collected from penghulu, law enforcement officers, and local community members through in-depth interviews. Moreover, a purposive sampling strategy was used to ensure the inclusion of diverse relevant perspectives. The data were analyzed qualitatively by integrating two main theories. The first was M. Friedman's Legal System Theory applied to examine the legal foundations associated with the shifting roles of penghulu. The second was Shlomo Eisenstadt's Theory of Social Change which was used to understand the social change patterns due to the implementation of state regulations. The results showed that changes in the performance and discipline of the legal structure, as well as the legal substance and culture within the Ternate and Tidore Sultanates weakened traditional legal legitimacies. This shift led to a transformation in the social role of the penghulu who previously played a central role in marriage and inheritance law but no longer holds primary responsibility. The trend reflects a shift in societal orientation from adherence to Sultanate rules to compliance with state administration. The formal role of the penghulu diminished but the functions were continued informally in unregistered (*sirr*) marriages and remain recognized as a legal authority within the community. These results offer important insights into legal pluralism in postcolonial Islamic societies of Indonesia.

Penelitian ini bertujuan untuk menganalisis pergeseran peran penghulu di Kesultanan Ternate dan Tidore, dengan fokus pada perubahan hukum, sosial, dan administratif yang dipengaruhi oleh regulasi pemerintah dan dinamika masyarakat. Pendekatan hukum sosiologis digunakan, dengan data yang dikumpulkan melalui wawancara mendalam dengan penghulu, aparat penegak hukum, dan anggota masyarakat setempat. Strategi pengambilan sampel *purposive* digunakan untuk memastikan inklusi perspektif yang beragam dan relevan. Data dianalisis secara kualitatif dengan mengintegrasikan dua teori utama: Teori Sistem Hukum M. Friedman untuk mengkaji dasar hukum yang mendasari pergeseran peran penghulu, dan Teori Perubahan Sosial Shlomo Eisenstadt untuk memahami pola perubahan sosial yang dihasilkan dari penerapan regulasi negara. Hasil penelitian menunjukkan bahwa perubahan dalam kinerja dan disiplin struktur hukum, serta substansi dan budaya hukum dalam masyarakat Ternate dan Tidore, telah melemahkan legitimasi hukum tradisional. Pergeseran ini menyebabkan transformasi peran sosial penghulu, yang sebelumnya memainkan peran sentral dalam hukum pernikahan dan warisan, namun kini tidak lagi memegang tanggung jawab utama tersebut. Hal ini mencerminkan pergeseran orientasi masyarakat dari ketaatan terhadap aturan Kesultanan menuju kepatuhan terhadap administrasi negara. Meskipun peran formal penghulu telah berkurang, mereka tetap berfungsi secara informal dalam pernikahan tidak terdaftar (*sirr*) dan tetap diakui sebagai otoritas hukum dalam komunitas. Temuan ini memberikan wawasan penting mengenai pluralisme hukum dalam masyarakat Islam pascakolonial di Indonesia.

Keyword: *penghulu; role shift; social change; Ternate-Tidore Sultanate*

Introduction

Role of the penghulu (chieftain) in Indonesia is observed to have changed over an extended period. The trend was identified from the fact that the penghulu was responsible for Islamic justice in Java (Cribb and Kahin, 2004). The individual had the freedom to decide on religious matters by becoming a spiritual advisor to the ruler during the reign of the Islamic Kingdom in the Archipelago. The penghulu is also responsible for the application of religious teachings to political issues. However, role shifted during the colonial period when the power was limited to religious affairs with restrictions on the right to political freedom. It was further limited to matters of marriage and divorce during the independence period (Islamy, 2020; al-Dawsari and Nasser, 2020).

The penghulu was originally a local figure or cleric with the capacity for religious knowledge as observed in different eras and stories. Several religious figures in the community directly acted as penghulu and were legally used as references in handling family law and marriage management. Moreover, the government regulated the professionalism and administrative affairs of the penghulu, starting from the selection process to the duties. This led to the change of the term from penghulu to Marriage Registrar as stated in Law Number 22 of 1946 (Fauzi, 2019) and the duties are to provide guidance, advice, and information about marriage, divorce, and reconciliation to communities, individuals, and groups (Fadillah and Nasution, 2024).

Role of penghulu as a local religious authority has profound significance in the historical context of the Ternate and Tidore Sultanates. This was identified from the fact that the function extended beyond being a Marriage Registrar to serving as a guardian of customary and spiritual values binding the community. However, role was shifted due to social, political, and legal dynamics. The trend was observed through the shift from local clerics such as the *qadhi*, mufti of the Sultanate, and Bobato Akherat holding the position to the selection of a professional to work based on state regulations (Abubakar et al., 2024).

The reduction in the authority provided to the Sultanate chief reflected in the influence of local clerics in Java who were known as the 'Kyai'. The complete trust initially placed in the Kyai by the community started to decline due to increased legal awareness and the modernization of the socio-economic system. For example, the kyai was considered a

legitimate facilitator of secret marriages and several other relevant laws. However, complex implications were associated with unregistered marriages at the Office of Religious Affairs such as the possibility of serving as an alibi for social pathology in the form of human trafficking (Mutaqin and Sopyan, 2024; Subeitan, 2022). This motivated the community to have a more logical consideration for legal guarantees by registering marriages at the Office of Religious Affairs. The decline in the influence of kyais as well as the increasing public awareness about government regulations regarding marriage registration have been explained in a previous study (Nasir et al., 2023).

The limitation in role of the local clerics led to the development of two types of penghulu which were classified as official and unofficial ulama by Ibn Qayim Isma'il (Isma'il, 1997). In reality, there are formal or state and non-formal penghulu working together to join registered or unregistered couples (Farabi, 2020). The current study is conducted to analyze different literature sources due to the limited focus on the history of the shifting roles of penghulu in the Ternate and Tidore Sultanates. Moreover, reality was observed not to be in line with the results of the study conducted by Nasir et al., (2023) which reported a decline in the influence of kyai due to the increase in public awareness about legal obedience to the state in terms of marriage registration at the Office of Religious Affairs in the Ternate and Tidore Sultanates. The trend observed showed that the decline in the authority of the penghulu was not due to the awareness about marriage registration. This is because marriage registration has been an obligation for the communities since the time of the Ternate and Tidore Sultanates as stated in the Sultan's Plaque "Kie Se Kolano Regulation" Tidore 3 Days of the Month of Muharram 1285 H.

Method

This qualitative study explores the legal impact on sociological life (Ariftha and Azhar, 2023) by offering a novel perspective on the interplay between Islamic law, the customary governance system of Eastern Indonesian sultanates, and the legal framework of the Indonesian state. It also contributes to understanding the changing role of customary leaders, the relevance of formal leadership in the contemporary era, and the implications for Islamic legal policy in Indonesia. Primary data were obtained through interviews with

sultanate officials and staff from the Office of Religious Affairs. Meanwhile, secondary data were retrieved from library resources, including prior writings and studies on related themes.

The shifting role of the penghulu in the Ternate and Tidore sultanates was analyzed based on Friedman's (1975) theory of the effectiveness of legal systems with the three key components of 1) legal structure, 2) legal substance, and 3) legal culture. Moreover, the ability of laws to cause social change motivated the adoption of Shlomo Eisenstadt's theory of social change (Ritzer, 2007). Eisenstadt argued that the three key indicators of social change were the changes in institutional patterns (differentiated institutions), shifts in previously established roles (crystallized roles), and transformations in cultural orientations (cultural orientations).

Penghulu and Religious Leadership in Ternate-Tidore

The arrival of Islam in the North Maluku region during the 15th century AD led to the introduction of followers of Islam known as "bobato". Several religious roles such as modin, imam, and *batibi* (khatib) were also present in the Ternate and Tidore sultanates such as a figure known as the Kalim (Leirissa, 1990). Moreover, the term *qadhi* became popular during the Samudra Pasai Kingdom (Wibowo, 2022; Yakin, 2021) as a legal reference for the Kingdom and Society. Another *qadhi* was also important to the process of translating Arabic books into Malay-Javanese (Yahaya, 2020). *Qadhi* or penghulu had several roles as *ustadz*, khatib, prayer leader, marriage guardian, judge in divorce cases, inheritance distribution, wills, and often in politics (Fauzia, 2023) or the Parampara council as the high advisor to the Kingdom (Islamy, 2020). During the Dutch era, penghulu was included in the elite government circle as part of the plan to separate Muslims from politics (Hafizd, 2021).

The penghulu had distinct designations in the Ternate Sultanate system due to the unique governance structure. Mr. Zulkiram reported that the Jou Gugu or Prime Minister replaced the Sultan during absence or upon death and was supported by key figures such as the Minister of Internal Affairs (Jou Hukum Soasio), Minister of Foreign Affairs (Jou Hukum Sangaji), Minister of State Secretariat (Tulilamo), and the Commander of the Armed Forces (Kapitalao). This structure is known as Dopolongaruha or the Ngaruha

Commission. Moreover, the legislative body known as Bobato 18 which was composed of 18 clans was responsible for selecting, appointing, and dismissing the Sultan. The body also had the responsibility of formulating policies to be approved by the Sultan (Zulkiram, 2024).

The special term for the penghulu in the context of the Ternate Sultanate was “Bobato Akherat” which was the work structure tasked with managing religious rituals and activities. This was explained further by Zulkiram as follows:

“In Bobato Akherat, there is Jou Kalem, who is assisted in carrying out his duties by the Bularaha priest. The Bularaha priest consists of the Jiko priest, the Sangaji priest, the Moti priest, and the Javanese priest. In addition, there are also the national priest (part of the sultanate family), the Ngofa priest, the Khatib, and the Modim.” (Zulkiram, 2024)

Bobato Akherat is an organizational structure responsible for managing religious rituals and activities within the Ternate Sultanate. The leader is the Jou Kalem who is assisted by different religious figures such as the Jiko, Sangaji, Moti, and the Javanese priests. There are also the Ngofa priest, Khatib, and Modin who are considered important in the process of performing religious duties. The structure is divided into different sections and each member has specific responsibilities related to religious ceremonies and the regulation of social and family life. This is necessary because the Ternate Sultanate has a comprehensive system that covers several legal matters concerning the religious, social, and familial affairs of the community. The organization reflects the structure of the religious duties within the governance system of the Ternate which is similar to the pattern in Tidore.

The state is very important in regulating the duties of the penghulu as observed in the provisions of the Minister of Religious Affairs Regulation No. 1 of 2023. According to Mr. Rafli Umar from the South Ternate Religious Affairs Office, the penghulu is responsible for managing and registering marriages with a requirement to provide notification at a minimum of ten days in advance. However, several individuals notify only three or one day before the wedding with the report accepted and marriage certificate issued later despite the lack of strict compliance with the requirement. The penghulu is assisted by Marriage Registration Officers (PPN) for administrative tasks but solely performs wali hakim (witness) which cannot be delegated (Umar, 2023). The regulations that serve as the legal

foundation for the duties and responsibilities do not rule out the possibility of violations. This is evident from the following interview excerpt:

“As for violations of the regulations, there has not been a specific rule on this matter so far. There are only employment regulations. For example, if the penghulu fails to meet the required credit points within two years, he may be reassigned from a functional position to a structural one” (Umar, 2023).

The informant reported that there was no specific set of regulations on the violations by penghulu except for some employment-related rules. An example is that the penghulu can be transferred from a functional to a structural position when the required credit points are not fulfilled within two years. This shows that the sanctions imposed are adjusted based on the severity of the violation committed.

The trend confirmed that the religious responsibilities in both the Ternate and Tidore Sultanates were generally handled by the penghulu and the duties were divided into several specific tasks. There is a clear structural resemblance to the modern Office of Religious Affairs even though roles of religious figures within this system differ. This comparison shows the need for a deeper analysis of the change in role of the penghulu over time by examining how Islamic traditions, local customs, and colonial or postcolonial influences shaped the development of the institution.

Shifting roles of the Qadhi: from Customary to State

The Ternate and Tidore Sultanates historically had governmental systems that included religious officials known as penghulu or Bobato Akherat. However, the systems changed after the Sultanates became part of the Indonesian state. This was reflected in the status explained as the set of rights and responsibilities required to be fulfilled by an individual and role that was used in representing the dynamic aspect (Ritzer, 2004). The trend led to the explanation of the dynamic aspect as the form of attitude or behavior enabling an individual to act based on the status assigned.

Role of the penghulu in officiating marriages has shifted over time. For example, Mr. Hidayatussalam reported that marriages were officiated by the khatib (preacher) before the establishment of the KUA (Religious Affairs Office). It is currently officiated by KUA officers and marriage registration is mandatory. The khatib remains important in

addressing issues such as inheritance or lineage disputes despite the changes. An example was a case when Mrs. Nita wanted to adopt a child and the request was denied due to the differences in their lineage. The trend shows that the KUA records marriages for legal validity but the khatib is continuously important in resolving specific cultural and familial matters (Hidayatussalam, 2023).

Marriage registration was important in the Ternate Sultanate and the Tidore Sultanate but the responsibility had been shifted to the KUA. This is observed from the following excerpt:

“In the customary society of the Tidore Sultanate, marriage registration is now done at the KUA. However, roles of qadhi and mufti no longer exist in the Kedaton Tidore. When the Sultan of Tidore held power, all events were recorded (as stipulated in the regulations), and there was even a practice known as *nikah tangkap* (capture marriage).” (Farook, 2023).

The explanation shows that individuals within the cultural realm of the Tidore Sultanate have now become accustomed to registering marriages at the KUA and the process leads to the extinction of roles associated with the qadhi and mufti. According to Mr. Farook, the awareness of registering marriages has become a decree for individuals in the Tidore Sultanate.

The functional position of the Penghulu was reinstated in 2005 with the issuance of the Regulation of the Minister of Marriage Registrar Number: Per/62/M.PAN/6/2005. The official role disappeared but continued to be informally associated with the Marriage Registrar or Marriage Assistant who was fulfilling the duties of Penghulu in Islamic marriages (Fauzi, 2019). The professionalization made local clerics to become assistants to the Marriage Registrar with the legitimacy established through Law Number 8 of 1985 concerning Mandatory Marriage Registration. The law provided a legal foundation for local clerics to perform and record marriages or act as Marriage Registrars. However, the implementation of a new regulation issued on January 26, 2015 by the Director General of Islamic Community Guidance in Instruction Letter Number Dj.II/I of 2015 restricted the duties of the Marriage Registrar to specific areas. The law specifically recommends VAT employees for Office of Religious Affairs types D1 and D2 (Decree of the Minister

of Religion of the Republic of Indonesia Number 713 of 2019) and this leads to the marginalization of local clerics (Saleh, Suleman and Adhim, 2022).

The shift in role of Penghulu was primarily due to issues related to marriage registration. This was evident in several legal regulations starting from the colonial era as observed in (1) *Staatsblad* 1937 No. 610 which established Marriage Registrars, (2) Law Number 22 of 1946 concerning Marriage Registration, Divorce, and Reconciliation, (3) Government Regulation (PP) Number 9 of 1975 concerning the Implementation of Marriage Law No. 1 of 1974, (4) Regulation of the Minister of Religion Number 30 of 2005 concerning Registrars, and (5) Regulation of the Minister of Religion Number 20 of 2019 concerning Marriage Registration implemented to revise Regulation Number 19 of 2018. The most significant is Article 1, Points 7 and 8 of the Regulation Number 20 of 2019 that requires the Head of the Sub-district Office of Religious Affairs to serve as the Penghulu with additional duties while the Assistant Marriage Registrar who is a civil servant or community member assists in conducting marriage events.

The Regulation of the Minister of Religion Number 20 of 2019 states that the authorized Marriage Registrar recognized by the government is an official responsible for registering marriages and holding additional duties as the Head of the Sub-district Office of Religious Affairs. The individuals tasked with the responsibility of assisting the registrar in marriage registrations are called Marriage Registrars. Point 8 of the regulation also states that Marriage Registrars can be either “civil servants or members of the assigned community” and this allows local leaders, clerics, or traditional or sultanate figures to represent leadership in marriage registrations or attend wedding ceremonies. According to Friedman, the regulation reflects the interaction between political, economic, and social forces with each having distinct interests and objectives (Halim and Amni, 2023).

Several government regulations regarding officials authorized to register marriages show that the legal structure includes different institutions or law enforcement officers within the system (Mujiburohman et al., 2023). The institutions comprise courts, police, prosecutors, religious courts, and other related agencies working together to ensure the law is applied and enforced effectively (Azni et al., 2025). Moreover, the legal substance is related to the body of rules in a system, including written aspects in the form of laws and

unwritten aspects such as customary law or traditions. The trend reflects the values and norms in society designed to provide justice and clarity.

The legal substance in this study is related to Islamic family law regulations which focus on marriage, divorce, reconciliation, and inheritance. It is established by the government through laws, regulations, ministerial decrees, and presidential instructions. Moreover, legal products are required to be legally and sociologically accountable and the situation shows the need for lawmakers to meet specific criteria. Islamic family law is considered legitimate when approved by the President and the Ministry of Religion with the effectiveness depending on the credibility of the lawmakers. This has motivated the government to set qualifications for individuals responsible for implementing legal products, including the penghulu. Legal provisions outline the qualifications and duties of Marriage Registrars, particularly within the Religious Affairs Office. Furthermore, some regulations such as Law Number 5 of 2014 and Ministerial Regulations define the administrative requirements for becoming a Marriage Registrar, including the educational qualifications and career paths for penghulu. The effectiveness of the law can be realized when the requirements are fulfilled to ensure proper implementation by registrars and provision of benefits to the Indonesian public.

The law is defined as a set of rules enforced to control a specific condition towards achieving a goal. In this case, the existence of law is due to the dynamics of interaction between political, economic, and social forces. Friedman further argues that each force has its interests and goals, and the interaction serves as part of a network to provide norms, rules, and order to form “legal acts” (Halim and Amni, 2023; Nelli et al., 2023).

The assessment of several sources of law shows that the definition of penghulu is no longer neutral. The term cannot be used to culturally or immediately refer to an individual with religious knowledge because the meaning is now based on the functional role of the position as outlined in the Regulation of the Minister of State Apparatus Empowerment Number: Per 62/M. PAN/6/2005 regarding the Penghulu Functional Position and its Credit Points. Article 1 Paragraph (1) of the regulation states that:

“The Registrar is a Civil Servant as a Marriage Registrar who is assigned full duties, responsibilities, authority, and rights by the Minister of Religion or an appointed official,

as per the applicable laws and regulations, to oversee marriages according to Islamic law and related supervision activities.”

The provision shows that the current penghulu is used to describe civil servants working according to government regulations. The duties are also determined through the Decree of the Ministry of Religion which is regulated based on the rules enforced. Moreover, legal culture refers to the understanding of the attitudes, perceptions, and public awareness about applicable laws or regulations (Rohman and Rifqi, 2024). It also reflects the level of support provided by the public to the existing legal system. The concept is necessary because laws are considered effective when relevant parties such as the officers, implementers, and targets obey the existing rules, and vice versa.

Regulations are very important elements in the process of running a business (Evriyenni et al., 2025). However, there is a possibility of violations due to specific reasons such as internal factors, individual negligence, or external conditions. Penghulu can also experience the issue but the information from Mr. Subhan and Idhar in the Central Ternate Office of Religious Affairs environment shows that no violations have been recorded. Some penghulu commit offenses and possible sanctions vary from rank pending to demotion by one level, dismissal as penghulu, and the most severe is being sacked as a civil servant. The sanctions are certainly not evenly distributed and depend on the lightness or severity of the violations committed. This is possible because violations are categorized into compliance, deviation, and avoidance.

The state has role in regulating the duties of the penghulu by providing sanctions for violators. According to Mr. Abbas and Mr. Jaib, the regulations governing the penghulu are implemented based on existing conditions. The penghulu is tasked with significant responsibilities and is assisted by Marriage Registrars or local mosque imams. The results showed no violation had been recorded in the Central Ternate Religious Affairs Office. The possible sanctions for violations include rank suspension, demotion, and dismissal as penghulu or civil servant (Abbas, 2024; Jaib, 2024).

Legal practices have different impacts which include (1) sanctions, threats, and promises, (2) positive or negative social influences, and (3) internal values such as conscience and personal attitudes toward what is considered legitimate. The regulations provided by the state

in relation to the duties of the penghulu are based on prevailing conditions. Moreover, the consequences of violations reflect the broader impacts of legal practices on individuals and society. The condition motivates individuals to consider the positive impacts of compliance with the law (Friedman, 2023) because of the punishment to be imposed on violators.

The three aspects of the legal system including 1) structure, 2) substance, and 3) culture are interrelated in determining the effectiveness of the law. A strong legal structure, clear legal substance, and a legal culture that supports the implementation of rules based on the development and needs of society can assist in ensuring the effectiveness of the law. In the context of the shifting role identified, several changes in regulations need to be balanced with an improvement in the institutional structure of the Office of Religious Affairs and official duties of the penghulu. This can be achieved by improving the substance of the law and increasing public awareness about the importance of legally valid marriage registration (Zainuddin, 2022). Moreover, the legal structure needs to be strengthened because the Office of Religious Affairs is the vanguard for the implementation of different marriage laws (HM et al., 2024).

The government institutions in the Ternate and Tidore Sultanates need to be strengthened in addition to ensuring there is no significant gap or conflict between the formal and traditional roles of the penghulu. This can be an opportunity to realize the effectiveness of the law in terms of marriage registration. The process is also capable of ensuring that family law generally includes existing parties, values, and customary norms of the Ternate and Tidore Sultanates.

Implications of the shifting role of the Penghulu

The religious heads in the Ternate and Tidore Sultanates are not immediately recognized as officers or penghulu in the Office of Religious Affairs (Abubakar, 2023). However, the charisma and religious abilities possessed by these individuals are the reason the community is often used as a source of legal reference. The trend is identified in several cases observed in the field and presented as follows:

Officiant in the Sirri Marriage

Secret marriages are often typically conducted for specific reasons. Islamic law defines adulthood based on physical signs such as menstruation which marks the end of puberty (Ibrahim, 2023). Mr. Irham also reported that legal maturity was often assessed based on physical signs such as menstruation. The perspective is not in line with the marriage law which recognizes adulthood at 16 or 17 years and individuals at this age are granted the legal right to marry but the marriage cannot be officially registered. The minimum age was initially set at 16 and later increased to 19 years in order to ensure stability, happiness, and family welfare (Iwan et al., 2024; Yetta, Rajafi, and Subeitan, 2024; Sakirman and Amanda, 2022), 2022. This discrepancy between religious and state definitions of maturity has been a subject of debate (Abubakar, 2022).

The practice of secret marriages is typically justified by the desire to prevent adultery or khalwat in society (Lawang et al., 2024). Unregistered marriages can complicate legal matters for children born outside formal marriage both in religious and statutory terms (Zuhriah et al., 2024). In some cases, the marriages serve as a “silent agreement” driven by the principle of benefit found in the *maqāṣid al-sharī’ah* (Nofaldi et al., 2023; Dikuraisyin et al., 2024). This is in line with the principle of *hifdz an-nasl* (protection of lineage) in Islamic tradition which supports the continuation of religious practices (Haris et al, 2024). The trend shows the need for the law to be formulated with due consideration for sociocultural factors and diversity (Makka, Bukido, and Hasan, 2020; Setiawan et al., 2024).

Local religious leaders officiate Sirri marriages to ensure validity and prevent adultery. Moreover, individuals of legal age can apply for a marriage certificate (Safari, 2023). This reflects the tension between state regulations and religious concerns which further leads to the alternative of submitting a dispensation for secret marriages in order to reconcile both views. However, judges often reject dispensations for underage marriage for reasons of welfare (Syukrawati et al., 2024) such as the possibility of divorce due to immaturity (Asman and Muda, 2023; Hasanudin et al., 2023). Couples that satisfy the administrative requirements and marry under the minimum age are allowed to register the marriage at the Office of Religious Affairs. A previous study reported that underage marriages conducted through the alternative method of Sirri marriage had problems (Hilmi and Kiram, 2023).

The trend showed the need for several parties to actively participate in anticipating secret and underage marriages which have been identified as problematic realities. These marriages are also currently being debated with several considerations and reasons. The issue is associated with the increasingly complex problem of livelihood (Yasin et al., 2023) and concerns about limited knowledge of mothers in providing breast milk for children (Mardiantari and Dwilestari, 2021). Another concern is the lack of communication skills to minimize problems that are capable of leading to divorce (Mulyo et al., 2023).

The different opinions in society are part of the reasons for changes. This is observed from the fact that the change in the pattern of order in society can contribute to the shift in specific roles. The trend is in line with the argument of Shlomo Eisenstadt that social change includes several concepts. These include institutional changes that cause differences compared to previous patterns as well as the variations in previously crystallized roles and cultural orientation (Ritzer, 2007).

The influence of several regulations issued by the Indonesian government on the shifting role of the penghulu in the Ternate and Tidore Sultanates shows the socio-political reality associated with institutional changes. The Sultanates had a socio-political order but the institutional roles and functions changed after the government of the Unitary State of the Republic of Indonesia became the legal authority. For example, the legal basis for marriage registration in the Ternate Sultanate was through the Sultan's Plaque "Kie Se Kolano Regulation" Tidore 3 Days of the Month of Muharram 1285 H.

Cultural values, Islamic legal principles, and state laws regarding marriage often influence each other (Faiz et al., 2024; Said et al., 2024). For example, previous studies showed the importance of recording different events conducted by the community, including marriage. The purpose was to minimize future disputes and undesirable events such as negligence, misunderstanding, or domestic violence (Alfitri, 2020). The trend is associated with the fact that domestic violence is believed to be an iceberg phenomenon (Acita et al., 2024; Isima, 2021). Moreover, unregistered marriages are prone to problems related to *Nusyuz* (Mubarak, 2022), inheritance (Bilalu et al., 2025), child custody (Mursyid, Bilalu, and Subeitan, 2024), childlessness (Rasyid et al., 2024), and others. The records are also often used to protect women despite their natural ability to negotiate different roles as a fortress

of family resilience (Abubakar, Saadah, and Na'mah, 2023; Barkah, Sintang, and Morin, 2025). Real experiences showed that women were often the vulnerable party in marriages. Meanwhile, criminal sanctions in marriage law do not provide a significant deterrent effect for perpetrators and violators (Sirait et al., 2024; Salma et al., 2025).

Women facing social and legal challenges need to be critical of different realities (Daud and Rosadi, 2021). This can be achieved directly and through social media (Muslimin et al., 2024). An example of the real actions includes the gender awareness movement as observed in the Majelis Taklim community (Fadillah, 2023) and the Indonesian Women's Ulama Congress (Faizah et al., 2024). These are required to motivate different family law revolutions in Indonesia (Setyawan et al., 2023).

The Ternate and Tidore Sultanates already had systems for recording important events such as marriages and inheritances before the formation of the Unitary State of the Republic of Indonesia. This practice continued even after the legal transition and the trend showed the establishment of a legal culture in society. Moreover, public awareness about marriage registration became a habit which ensured the shift from sultanate laws to Indonesian regulations was with fewer problems. The recognition of the historical and customary values of the Sultanates by the Indonesian government was reflected in local regulations. However, the focus was more on cultural heritage than on the acknowledgment of roles played by the Penghulu in the Sultanates.

The Indonesian government does not legally and formally recognize the penghulu of the Sultanates as legitimate (Sabil, Faisal, and Zukhdi, 2025). However, the Head of the Religious Affairs Office, Soa-Sio, reported that the existing Penghulu of the Sultanate was included in the marriage registration process even though the position should have been abolished legally. This is observed from the excerpt of the interview as follows:

“The Religious Affairs Office of Tidore uses Marriage Registrar Officers despite being removed by the regulations. However, I am polite due to their status as religious and community leaders. I only direct the personnel to register for marriage online at the office in SIMKAH. I also feel helped because the Religious Affairs Office of Soa-Sio has a large area consisting of 13 sub-districts and I am the only registrar. Well, they are very helpful in conducting marriages. Indeed, there are currently two inactive PPNs, including Gamtufkange and Tambula who have died and the other is very old. Their

positions will not be replaced with other people to ensure “the process is based on rules in the future.” (Safari, 2023).

The information shows that Marriage Registrars continue to work at the Soa-Sio Religious Affairs Office in the Gamtufkange and Tambula areas. Mr. Safari who is the Registrar believes the immediate replacement is impolite even though one officer in Gamtufkange is dead and another in Tambula is old. The Registrar prioritizes appointing new officers in line with government procedures rather than including local clerics or traditional leaders. This reflects a shift from cultural appointments to a more orderly and government-regulated system with an emphasis on the adaptation of Marriage Registrars to modern administrative and technological requirements (Amiroh, 2024).

Legal Reference

The social life conditions in society tend to be dynamic due to the possibilities of different societal problems occurring at any time concerning family law. However, the commitment to religious or Islamic law persists in the current modern era. This is identified in the need for religious experts such as local clerics in passing on spiritual teachings which are often beyond the capabilities of the general public. An example from field observation is presented as follows:

“...this mufti is tasked with assisting the sultan when there is a decision related to the community but not contained in the books or hadith and needs to be interpreted according to the current situation. For example, a case decided yesterday was related to a woman who wanted to adopt a child as her biological offspring. The mufti was consulted to issue a fatwa to show the act was forbidden because the woman and the child were not from the same family” (Safari, 2023).

The explanation shows that the consultation of the mufti is a part of the culture of the Ternate Sultanate. It is often implemented when a law is not explicitly stated in the Qur'an and Hadith but requires interpretation by an individual with religious capacity. The title of mufti is accorded to an individual considered competent in spiritual knowledge to be used as a legal reference in family law decisions.

The penghulu used in the Sultanate is no longer formally recognized compared to the officers appointed by the government but the capacity and ability are considered. The

continuous development of problems in life requires modification of the legal basis derived from classical-traditional values in line with contemporary realities (Hayati et al., 2024). This is the reason fatwas from institutions such as the MUI, NU, and Muhammadiyah (Mun'im et al., 2025) need to be considered credible. Moreover, the differences in legal principles and considerations can be negotiated through integration despite the susceptibility to tension (Bilalu et al., 2022). The contemporary legal ijihad product is limited to *mutaghayirat* (changing) fiqh without extending to the aspect of *tsawabith fiqh* (Hakim, 2023). This shows that contemporary Fiqh legal ijihad focuses more on actual responses to modern problems and realities than on worship of Allah SWT.

The case shows that a mufti is considered competent in issuing a fatwa in relation to the adoption of a child. The adoption of a child who is not a sibling of the adoptive parent is considered a harm and the decision is ratified by the Religious Affairs Office. This shows that the mufti who is a local cleric is considered competent in religious knowledge and can be used as a legal reference obtaining formal legal decisions from the government through the Religious Affairs Office. Moreover, formal court decisions can be made through the consideration of customary or cultural legal bases (Nurlaelawati, 2023). The trend identified shows that customary and formal state laws are synergized in the Ternate and Tidore Sultanates but the duties of the penghulu are different. There has been a shift in role of customary penghulu of the sultanate due to the replacement by formal officers of the state.

Conclusion

In conclusion, this study examined the shift in the authority of the local penghulu in the Ternate and Tidore Sultanates. The trend was observed from the fact that the penghulu in the sultanates historically held authority beyond both religion and the state. However, this authority gradually shifted specifically in areas such as marriage settlements, registration, and inheritance which were once the exclusive domain of the sultanate as outlined in the Sultan's Plaque "Kie Se Kolano Regulations" of Tidore, dated 3rd of Muharram, 1285 H. Several government legal products grounded in Penghulu regulations played a significant role in the transformation. The change was further influenced by regulatory developments,

social shifts, modernization, technological advancements, and the digitalization of marriage processes. These factors collectively contributed to the decline in authority of the qadhi, mufti, and Bobato Akherat who were traditional figures upholding Sultanate rules. The authority concentrated within the Sultanate was redistributed, and the situation reduced the influence of the Sultan. The results showed that the Ternate and Tidore Sultanates experienced a cultural shift in the method applied to marriage registration. There was previously a strong adherence to the Sultanate practices but the trend changed due to the growing compliance with state-administered systems.

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