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Bulukumba: Noblemen, Islam and the Islamic court

'Elsewhere outside of Java, as in Java itself until the nineteenth and twentieth centuries, Islamic courts depended on the pleasure of local sultans, even more so perhaps than in most Islamic countries. These sultanates – in East Sumatra, West and East Kalimantan, parts of Sulawesi, and the lesser Sundas – were 'self-governing' in the colony, and Islamic courts there were independently regulated by agreements between the sultans and the colonial administration. The result was some variation and, more significantly for the emergence of national Islamic institutions, a lack of supra-local orientation among religious officials who were closely linked to local authorities.' (Lev 1972: 78)

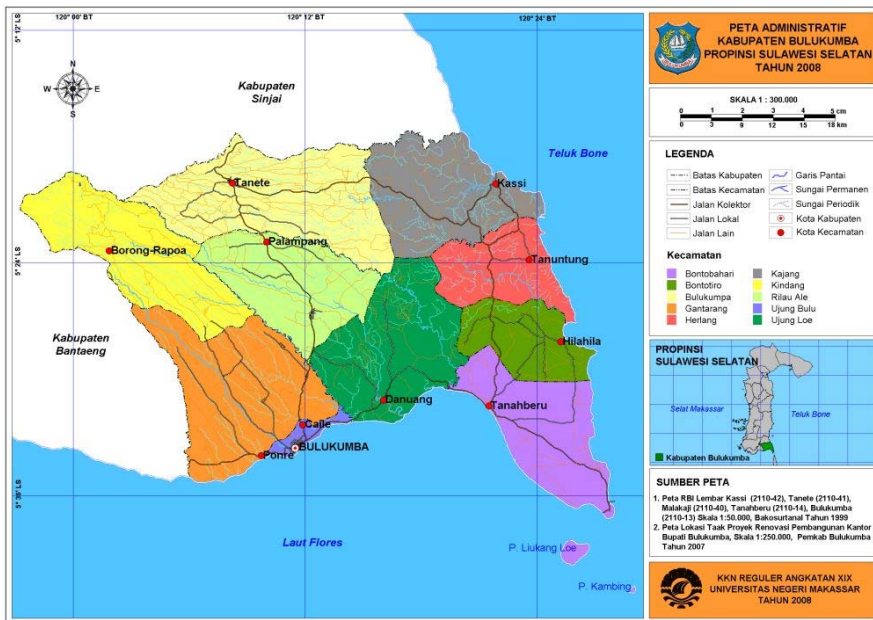
'The weakness of the rule of law, which is a deliberate strategy within the indirect rule system, strengthens the dependency of the poor on their patrons. When the patrons experience crisis, their sense of insecurity spreads around the patronage network. This insight helps explain why moments of political transition in Indonesia – the independence struggle of 1945-49, the creation of the New Order 1965-66, and the demise of the New Order in 1998 – are experienced by the poor as moments of communal tension.' (Klinken 2003: 11)

7.1 A SHORT DESCRIPTION OF THE DISTRICT BULUKUMBA

Bulukumba is the name of both the district and its capital town. The district Bulukumba is located on the south-eastern edge of the province of South Sulawesi. The Islamic court is located in the capital town Bulukumba, sub-district (*kecamatan*) Ujung Bulu. From Makassar, the capital city of South Sulawesi, it is a 153 kilometre or four hour ride to the East along a sometimes bumpy coastal road. In 2009, the district Bulukumba had 394,746 inhabitants, of whom 394,397 were registered as Muslim. At present, the 1,155 square kilometre area consists of ten sub-districts 27 town quarters (*kelurahan*) and 99 villages (*desa*). Bulukumba is a largely agrarian district: 67 percent of the working population are farmers; 14 percent are involved in trade; eight percent work in (governmental) services; and only five percent in industry (*Bulukumba dalam Angka* 2010).

The majority of Bulukumba's population speaks Konjo. Konjo speakers form the majority in the sub-districts Kajang, Herlang, Tiro and Tana Beru.

Buginese speakers form the second largest group and a majority in the sub-districts Bulukumpa, Ponre and Barabba. Gantarang, Tanete and Ujung Bulu are more mixed and also have significant Makassarese-speaking minorities (Hassanudin et al. 2007). In the past Konjo was considered a dialect of Makassarese, but it is presently regarded as a distinctive language of Konjo ethnicity within the larger Buginese-Makassarese 'cultural family' (Friberg 1993). Or in the terminology of Van Vollenhoven, Konjo is part of the Buginese-Makassarese *adat* law circle (*adatrechtskring*).



7.2 SOUTH SULAWESI AND ISLAMIC COURTS BEFORE INDEPENDENCE

7.2.1 South Sulawesi before the arrival of the VOC

The history of South Sulawesi was dominated by rivalry and constant warfare between the kingdoms of Goa and Bone. By the sixteenth century, Goa had become the main kingdom of the ethnic Makassarese, and Bone of the ethnic Buginese. At that time, the area now comprising the district of Bulukumba was the territory of smaller principalities such as Gantarang, Bira and Kajang, which subsequently became tributaries to the larger kingdoms of Luwu, Goa and Bone. The early history of these domains is not well-documented and only known in as far as it concerned their involvement and ever-shifting alliances with Goa or Bone (Hasanuddin et al. 2007). The kingdoms and principalities

predate the Islamization of South Sulawesi (1600) and have animist origins. Wet rice cultivation was introduced in South Sulawesi around 1400, and there are even earlier reports of Buginese trade in the archipelago. The Makassarese and Buginese developed a unique script and from the fourteenth century onwards left a large legacy of literature. The most prominent example is the ancient local epic poem *I La Galigo* which consists of an estimated 6000-8000 pages.

I La Galigo dates the introduction of kingdoms to South Sulawesi at around 1300 AD (Caldwell 1995). According to legend, the gods in the Upperworld decided to send kings to rule the people of South Sulawesi, who had been living in lawlessness, disorder and cannibalism. *I La Galigo* describes the task of the kings vis-à-vis local *adat* leaders as follows: '[...] to deal with disputes between communities over land rights, inheritance, and other matters of custom and practice (*adat*) that the leaders as guardians of the *adat* could no longer resolve among themselves' (Andaya 1984: 26). This divine origin of the kings still plays an important role in Makassarese and Buginese societies today. Traditionally, these societies were strictly stratified into classes: high nobility, lower nobility, commoners and slaves. Social status was traditionally primarily based on the amount of royal 'white' or 'milky' divine blood one possessed. This white blood was passed through both the male and female line (Idrus 2003; Chabot 1996).

Although male kings were more common, female nobles regularly became 'king.' Until the early twentieth century, long after South Sulawesi's conversion to Islam, queens still ruled kingdoms in South Sulawesi. In Buginese-Makassarese *adat* there is generally a strict division of the sexes; yet, when a woman possesses 'male' qualities she may be treated as a man. Before the Islamization of South Sulawesi and Dutch interference in succession, it was not customary for kings and queens to be automatically succeeded by their offspring. Each time a king died, *adat* elders from the higher nobility would hold a ceremony in which the gods would nominate the new king from the ranks of the nobles. As a result, the king's relatives were not of much higher standing than the other nobles in the *adat* council. The bonds of the king with the different principalities that made up the kingdom were primarily strengthened through marriages between male family members of the high nobility and female relations of the local *karaeng* or 'princes' (Pelras 2000; Caldwell 1995; Andaya 1984).

Unlike on Java, where a Hindu bureaucracy was in place, the pre-Islamic kingdoms in South Sulawesi lacked a bureaucracy and therefore, according to Caldwell 'hardly can be characterized as states' (Caldwell 1995: 398). After the kings of Goa and Bone became Muslim, they increasingly modeled themselves on other great sultans in the archipelago and beyond. Hence, Islamization introduced the idea of a powerful sultan who controlled an Islamic bureaucracy – a government system that was also preferred by the VOC as

it made enforcement of its contracts with local rulers easier (Pelras 2000; Caldwell 1995; Andaya 1984).

7.2.2 The Islamization of South Sulawesi

According to the local chronicles, Islam was brought to South Sulawesi by three Muslim preachers, the three *Datos*. One of them, *Dato Tiro*, preached a *sufi* form of Islam and was buried in sub-district Tiro in Bulukumba, where his grave is still visited by pilgrims today. First the *Datos* went to the king of Luwuk, who converted to Islam in February 1605. The next step was the conversion of the king of the twin states Goa and Tallo, which took place only seven months later. In 1607, the renamed Sultan of Goa invited neighboring kings to convert to Islam. On their refusal, he staged the so-called Islamic wars. Within three years all kingdoms in South Sulawesi, except the Toraja, were defeated by Sultan Abdullah and converted to Islam, the rival kingdom of Bone being the last one in 1611 (Pelras 1993).

However, Pelras also described how Islam had been introduced to the area long before the conversion of the kings, as the coastal area was part of a large trade network involving many Muslim merchants. After the town of Melaka had been conquered by the Portuguese in 1511, a large community of Muslim Malays from Melaka settled in Makassar, and successful *dakwah* activities took place, reaching even the principality of Bira, now located in east Bulukumba (Pelras 1993). Moreover an alternative Muslim trade route was established in response to the Portuguese presence in the archipelago, which ran from Aceh via Makassar to Ternate and beyond, deliberately bypassing Melaka. As a result of the Muslim presence in Makassar and the trade involved, Goa and its main city Makassar flourished (Andaya 1984).

7.2.3 The VOC's presence in South Sulawesi

The VOC realized that the area of South Sulawesi in general, and the town of Makassar in particular, were of strategic importance as links in alternative spice trade routes from the Moluccas, and that taking control of the kingdom of Goa would mean eliminating the main competition in the lucrative spice trade. Moreover, in the early seventeenth century the VOC was at war with the Portuguese, and control over Makassar would mean a significant blow to this competitor.

Although Makassar was part of the Muslim trade route, the Makassarese kings and sultans allowed European traders including Dutch, Danish, English and Portuguese to settle in the town. The Portuguese settlement within Makassar was established in 1558, and included a few missionaries. In the early seventeenth century Makassar's community comprised more than 3000 Cath-

olics, only 500 of whom were Portuguese. Prior to the official Islamization of Makassar in 1607, some members of the Makassarese nobility also converted to Catholicism (Pelras 1993). Hence, it was not self-evident that Goa would become the kingdom that Islamized South Sulawesi.

The Portuguese presence would become one of the main reasons for the relatively early and intense involvement of the VOC in South Sulawesi affairs. In 1637 Governor-General Van Diemen (1636-1645), succeeded in forcing the king of Goa to sign a contract concerning trade privileges for the Dutch and protection of Dutch trade ships. Nonetheless, Goa continued to trade with parties other than the VOC, including the Portuguese. On top of this, Goa's conquering of territories in South Sulawesi and beyond (Sumbawa, Buton) had made the kingdom itself a main actor in the region. When Goa reached a trade agreement with the Sultan of the main Javanese kingdom of Mataram, Makassar became a direct threat to VOC interests in Indonesia (Rijneveld 1840: 45). The Dutch decided that the free flow of merchants and goods to and from Makassar had to be brought to an end, and in 1660 sent a fleet of 22 ships and 2700 soldiers to Makassar to force the king of Goa, Sultan Hasanuddin, to sign a contract with the VOC and to ensure that the VOC became the sole trade partner. After a Dutch victory, Sultan Hasanuddin unwillingly signed the contract and expelled the Portuguese community of Makassar to the island of Timor.

Only a few years later Goa's trading practices threatened VOC interests again. This time the Dutch, under Governor-General Cornelis Speelman, wanted to settle the matter for good and decided to play out the hostile feeling within Goa's tributary, the kingdom of Bone. With the help of Arung Palakka, successor to the throne of Buginese Bone, and of troops from the Sultanate of Ternate, Goa was attacked in 1667 from land and sea. Makassar was destroyed the same year and the Sultan forced to sign the so-called Bungaya treaty (*Bongaais Tractaat*) that would become the basis of Dutch political relations in Sulawesi and the Moluccas (Kroef 1961).

The treaty established that the parties would allow no trading-partners other than the VOC, and all international merchants were to be banned. Inter-island trade required licenses from the VOC. The kingdom of Goa had to allow a Dutch presence in Makassar (the fortress of Ujung Pandang was renamed Fortress Rotterdam). A number of principalities previously falling under Goa's influence became VOC territory, including Bulukumba, while the main kingdoms maintained a status of vassal states (*bondgenootschappen*; later called *zelfbesturende landschappen*, or self-governing kingdoms).

Much like in the territories on Java the VOC ruled its territories indirectly through the nobility and established a parallel colonial administrative structure in order to be able to exercise control over the indigenous rulers. Hence, the VOC established the province (*residentie*) Makassar, which was divided into four regencies (*onderresidenties* or *afdelingen*), all of them headed by an *assistent-resident*. Bulukumba for most of colonial history was an district (*onderafdeling*)

headed by a *controleur*, who formally could only act as a representative of the *assistent-resident*, and as such formally had no specific powers of his own, but in practice he had a lot of discretion in administrative matters. Fortifications were built in the coastal VOC territories in order to protect VOC trade, including the fortress Boele Comba. However, the *Bungaya* treaty and the presence of the VOC in South Sulawesi did not bring the peace and order the VOC had hoped for, and hostilities between the kingdoms regularly broke out.

In the British period (1811-1816) the kingdom of Bone successfully increased its influence in the area, and even managed to defeat British troops that attempted to stop its expansion into the former VOC administered territories that had become territory of the Netherlands Indies. When the Dutch returned to power, they were anxious to restore 'the balance of power.' Governor-General Van der Capellen decided that the region had to be 'pacified.' The importance of South Sulawesi for the Dutch as a gate to the Moluccas is exemplified by the large number of troops that were sent to war in the years 1824-1825 (Rijneveld 1840: 8).¹ A large part of the troops and arms were shipped in from the fortresses in Bulukumba and Bantaeng to attack Bone over land from the south, while a fleet attacked from the sea. Bone was defeated after a two-year-long intensive war, during which, in an ironic twist of history, Goa soldiers fought alongside the Dutch. Two further wars with Bone broke out in the next 40 years. In fact, it was not until 1906, when the Governor of Sulawesi issued a regulation concerning the administration of the self-governing kingdoms² that the Dutch decided to take more control over the self-governing kingdoms. As a result, local warfare in South Sulawesi came to an end.

7.2.4 The Islamic courts in South Sulawesi under the VOC and in the Netherlands Indies

With the intention of increasing control over the principalities within their territory, in the eighteenth century the kingdoms of Goa and Bone created an Islamic bureaucracy directly accountable to the Sultan. This move was purportedly supported by the VOC, which favored a more integrated kingdom over a loose bond between the various kingdoms and the local principalities (Röttger-Rössler 2000).

1 In his account of the military campaign in Celebes of 1825-1826, Van Rijneveld suggested that Prince Diponegoro knew about the weak Dutch military presence on Java when he started the Java war against the Dutch (1825-1830) and that the successful and the relatively swift military campaign in South Sulawesi was essential to the Dutch victory in the Java War, as it meant that a large part of those troops could be send back to Java. He claimed that the Java War could have ended in defeat for the Dutch if the campaign in South Sulawesi would have lasted even a few months longer (Van Rijneveld 1840: 327-328).

2 Decision of the Governor of Sulawesi 123/7 of 8 January 1906. See *Adatrechtbundel* 5: 375-437.

The Islamic bureaucracy changed the feudal relation between the kings, the principalities and the old local *adat* councils dramatically as it penetrated into the formerly relatively autonomous principalities and villages, making the relationship between the king and the local nobles more hierarchical. As a result, the role of *adat* councils was increasingly restricted, and only the local nobles that were part of the sultanate's bureaucracy could transcend village level affairs. The high nobility related to the 'royal clan' headed the Islamic bureaucracy and became the main actor in a further Islamization of society, initially propagating a *sufi* form of Islam (Andaya 1984).

Islamic courts were set up as part of the Sultan's Islamic bureaucracy. Like on Java they were referred to by the Dutch as priest councils and headed by the highest local official for Islamic affairs, the chief *penghulu*. These courts assumed jurisdiction over marriage, divorce and inheritance affairs.

7.2.5 The Islamic courts in the territories under colonial government

At that time the involvement of the colonial government with the local administration in its territories increased significantly. In 1824, prior to the war with Bone, the colonial government issued the Regulation concerning the Organization of the Police and the Civil and Criminal Administration of Justice in the Province of Makassar,³ which applied to its territories in the province of Makassar, including the district of Bulukumba (but not the territories of self-governing kingdoms). This regulation attempted to control the movement of the inhabitants and introduced a judicial system. All persons had to report their movements to the hamlet head, non-locals (*vreemdelingen*) had to ask permission from the government to settle in the area, and night patrols and other measures were introduced in order to ensure security, peace and order.

The 1824 Regulation also introduced a new judicial system. Depending on the severity of the crime or the value of the disputed property, the indigenous population (*inlanders*) could bring a crime or dispute before the hamlet head, the *adat* council, the regular court (*landraad*) and finally, as appellate court for certain *landraad* cases, the high court (*Raad van Justitie*). *Penghulus* were part of the council of judges as experts of Islamic law on all these levels. In general, local indigenous and religious law should apply. In major criminal cases in which *adat* financial penalties were considered 'no longer sufficient' Islamic law would apply, and only in the absence of suitable Islamic provisions, the Dutch law (Article 37(4)).

S 1824/26 did not regulate Islamic courts, but that does not mean that Islamic courts were abolished. Correspondence between the Governor-General in Batavia and the Governor of Sulawesi reveals that there were Islamic courts

3 *Reglement op de Administratie der Politie en op de Civile en Criminele Regtsvoering in het Gouvernement van Makassar* (S 1824/26).

in South Sulawesi, but, importantly, that the Governor of South Sulawesi was not sure what the jurisdiction of these courts was. In 1851 the Governor-General addressed the Governor of Sulawesi, stating that the status of the Islamic courts was sufficiently defined in Article 3 of the 1847 Regulation on the Organization of the Judiciary and the Administration of Justice in the Netherlands Indies (S 1847/25) and that he deemed further regulation unnecessary. This means that in 1851 the Governor-General considered that the Islamic courts in Sulawesi had equal status to the *priesterraad* on Java, a fact that would be denied in later years when the official position of the colonial government was that there never had been Islamic courts in South Sulawesi.

In fact, Islamic courts operated in all directly ruled areas of South Sulawesi. In 1877 a report commissioned by the Department of Justice in Batavia concerning Islamic justice in the directly ruled areas of the Outer Islands found that Islamic courts were found in every district and principality in South Sulawesi, including in the *Eastern Districts* where the area of the present-day district Bulukumba was part of (Adatrechtbundel I: 225-34).

Through the 1882 Regulation on the Judicial System in the Province of Sulawesi (S 1882/22)⁴ the colonial government harmonized the administration of justice in its territories of Sulawesi⁵ with S 1847/25, but it also included some 'special provisions that would make the regulations that had been designed for Java and Madura applicable to Sulawesi.'⁶ It established procedures for the high court in Makassar, which was also the first-instance court for Europeans, the *landraad* in each district, the prosecutor and police, and the village and *kampong* (hamlet) heads.

If we look at the jurisdictional areas of the different courts in the territories of Sulawesi it becomes clear that in 1882, the districts of Bulukumba and Kajang had their own *landraad*, which were placed under the administration of the *controleur*. S 1882/22 neither regulated nor abolished Islamic or *adat* courts. The 1882 Priest Court Regulation was introduced in Java and Madura. In South Sulawesi, therefore, formally Article 3 of S 1847/25 still applied, which stipulated that the 'priests' had jurisdiction in civil cases that according to custom and norms of the community concerned were part of religious justice.

7.2.6 The Islamic courts in the self-governing kingdoms in South Sulawesi

The self-governing kingdoms in South Sulawesi were subject to different colonial administrative regulations than those discussed above that only

4 *Reglement op het Rechtswezen in het Gouvernement Celebes en Onderhoorigheden*.

5 S 1882/22 did not apply to the self-governing kingdoms.

6 This phrase is part of S 1882/17, the regulation that endorsed the promulgation of S 1882/22.

regulated the broadest outlines of indigenous justice. The 1906 and 1910 decrees of the Governor of South Sulawesi regulated the administration of justice in South Sulawesi's self-governing kingdoms.⁷ An indigenous court (*inheemse rechtbank*) was to be established in the capitals and every other place considered necessary by the Governor of Sulawesi. The Governor-General also appointed the head of the *inheemse rechtbank*. Hence, even in the so-called self-governing kingdoms, part of the indigenous justice system was put under colonial control. The *inheemse rechtbank* generally applied *adat* and religious law and the civil code and penal code only as a 'guideline' in relevant indigenous civil and penal law cases, conditional to the principles of reasonableness and justice (*billijkheid and rechtvaardigheid*). Execution and enforcement of all but minor cases required permission from the colonial administration, in practice the *assistent-resident*.

The original 1906 decree did not contain any provisions concerning the Islamic courts, but the 1910 amendment mentioned Islamic courts. Article 7 stipulated that marriage and inheritance law was determined by the relevant *adat*. When the clients were Muslim and a 'priest council' existed in the jurisdiction concerned, then the priest council had to decide the case at hand; if not, the *adat* court held jurisdiction. All cases could be appealed to the *inheemse rechtbank*, which in such appellate cases had to investigate the case all over again. This amendment indicates that the Governor had received requests from the *assistent-residents* and *controleurs* of the lower levels of administration to regulate the relative jurisdiction between the *adat* and Islamic courts, and it is proof that separate Islamic courts existed in South Sulawesi in the early twentieth century which, significantly, were not part of the *adat* courts. By providing an appeal possibility to the *inheemse rechtbank*, the Islamic courts were made part of the colonial legal system – in fact very much as the 1882 Priest Council Regulation had done regarding the *penghulu* courts on Java.

However, only a decade later colonial policy regarding the Islamic courts in Sulawesi and Java began to diverge. A first sign of this is a circular issued by the Governor of Sulawesi in 1919⁸ instructing the Dutch administrative heads (*assistent-residenten*) of the self-governing kingdoms not to establish new Islamic courts, and seriously consider the abolition of Islamic courts that 'were established under Dutch influence.' The following phrases demonstrate that the Governor was aware of the sensitive nature of the issue: 'if serious objections are to be expected with regard to the dissolution of Islamic courts (he uses the term *syarat*), then a further regulation concerning its jurisdiction and composition might be considered' (Adatrechtbundel 31: 431-433). The circular demonstrates that the Dutch colonial government (or even further back, the

7 Decree by the Governor of Sulawesi 123/7 of 8 January 1906 and its amendment Decree 5499/7 of 25 July 1910. See *Adatrechtbundel* 5: 375-437.

8 Circular by the Governor of Sulawesi 22/IV of 11 March 1919 addressed to the *assistent-residenten* of Mandar, Paré-Paré, Boné, Loewoe and East Sulawesi.

VOC) had allowed the founding of Islamic courts in South Sulawesi up to that time, and moreover, that by the second decade of the twentieth century the colonial policy in this regard suddenly changed.

7.2.7 The Islamic courts in South Sulawesi in case law of the *landraad*

In the 1920s and 1930s, it was through *landraad* cases⁹ that the Islamic courts' jurisdiction in South Sulawesi was redefined. To start with, in 1929 the Bulukumba *landraad* ruled that the local Islamic court concerned did not possess independent jurisdiction to settle disputes (*zelfstandige rechtsmacht*).¹⁰ Similarly, in 1929 the *landraad* of Selayar, a district adjacent to Bulukumba, even ruled that 'after 1824, in the colonial territories of Makassar, at least in Selayar, legally speaking no administration of justice by priests had ever existed.'¹¹ The *Raad van Justitie* of Makassar endorsed this decision in appeal.¹² A year later, the same *landraad* of Selayar argued it could not issue an *executoirverklaring*, a declaration required in order to enforce the judgments of the Islamic courts,¹³ since the Islamic courts never had been part of the Buginese-Makassarese *adat* and thus they were not part of the Dutch judicial system.¹⁴ Whereas on Java and Madura the judgments of the *landraad* limited the jurisdiction of the Islamic courts to declaratory judgments only,¹⁵ they in South Sulawesi went further and denied the Islamic courts any judicial powers.

The *landraad's* judgments were based on two flawed opinion: firstly, that Islamic courts had never been part of the Buginese-Makassarese *adat*, even in divorce matters; and secondly, that Islamic courts in South Sulawesi never had been part of the judicial system of the Netherlands Indies. There is sufficient proof to the contrary. With regard to Selayar, old local records show that in Selayar an Islamic court had existed long before it became a directly ruled area of the VOC by the treaty of Bungaya in 1667 (Heersink 1999: 57 and 253). Furthermore, there are Dutch accounts from the late nineteenth century (so after 1824) that the chief Islamic judge (*kali* or *opperpriester*) of Makassar was a respected head of the *priesterraad*, who had separated hundreds of couples at the wife's initiative (Matthes 1875: 45-46). This judge had not simply been a registrar of out-of-court *talak* divorces, but performed the judicial role of issuing judgments in divorce cases petitioned by women and based on Islamic doctrine.

9 All following cases in this section are taken from Tan 1976.

10 Judgment of the *landraad* of Bulukumba of 20-9-1929.

11 Judgment of the *landraad* of Selayar of 8-8-1929.

12 Judgment of the *Raad van Justitie* in Makassar of 2-5-1930.

13 See Chapter 2.

14 Judgment of the *landraad* of Selayar of 26-10-1931.

15 See Chapter 2.

Moreover, the abovementioned report on Islamic justice of 1877, 50 years after the coming into force of the 1824 Regulation concerning the Organization of the Police and the Civil and Criminal Administration of Justice in the Province of Makassar, to which the *landraad* of Selayar referred in its 1929 judgment, clearly stated that Islamic courts with jurisdiction over marriage, divorce and inheritance matters operated all over the colonial territories of South Sulawesi, and specifically named Selayar as one of those territories.

The letter from the Governor-General to the Governor of Sulawesi on this matter¹⁶ indicates that in 1851 the Governor-General himself considered that S 1847/25 applied to the Islamic courts in South Sulawesi and needed no further regulation. This would support the argument that S 1824/31 had not abolished the Islamic courts at all. All this indicates that the judgments of the colonial judiciary were not much concerned with formal legal proof, and, like the policymakers at that time, simply had a preference for *adat* law to the detriment of Islam. The colonial regime, including the judiciary, had changed its policy with regard to the position of the Islamic courts in South Sulawesi and attempted to legitimize this in terms of *adat*.

7.2.8 Colonial Regulations concerning the Islamic bureaucracy

Despite this change in colonial policy, the Islamic courts in South Sulawesi continued to exist. While from the late 1920s onwards the colonial government did not formally recognize the independent judicial power of the Islamic courts in South Sulawesi, neither did they abolish them. They kept operating as a kind of *fatwa* institution. At the same time, all other positions in the religious bureaucracy became increasingly subject to regulation. As on Java, high officials in the Islamic bureaucracy of South Sulawesi were appointed by or with the approval of the colonial administration and all Muslim institutions required a license to operate legally.¹⁷

In 1912 the Governor of Sulawesi issued the Regulation concerning Muslim Marriages in the Outer Islands,¹⁸ in which the highest-ranking Islamic functionary on the hamlet (*kampong*) level, the *imam* on the village (*desa*) level,¹⁹ and the *khalif* on the district level were made responsible for marriage and divorce registration in the directly-ruled areas outside Makassar, including Bulukumba. In Bulukumba the marriage official concerned was allowed to charge ten percent of the bride price in marriage cases, to a maximum of 16

16 See Section 7.2.3.

17 S 1910/669, Article 2 (2).

18 Decision by the Governor of Sulawesi 4701/64 of 21 August 1912. See *Adatrechtbundel* 31: 428-430.

19 Villages in South Sulawesi are very widespread, and in fact a *kampong* could correspond equally with a village as a *desa*.

guilders (Article 3, paragraph A (2)). A maximum charge of four guilders was set for divorce registration, while *rujuk* (reconciliation during the *iddah* waiting period) was free of charge. In case of inability to pay, the registration should be free of charge (Article 4). The marriage registrars had to keep registers according to specific templates in order to be able to provide legal proof of marriage, divorce and *rujuk* (Article 6).

In South Sulawesi most religious officials were part of a feudal system led by the nobility. Unlike in West Java, there were not many autonomous *ulamas* and until the 1970s few Islamic boarding schools (Buehler 2008b). Until the 1930s a majority of *ulamas* in South Sulawesi, most of them nobles with a *sufi* orientation, supported the powers-that-be (Pelras 2000). However, on the brink of World War II South Sulawesi's society was about to change.

7.3 THE POLITICAL INSTABILITY BEFORE AND AFTER INDEPENDENCE (1930-1965)

7.3.1 The emergence of an anti-feudal Muslim movement

In this section, we leave the Islamic courts behind temporarily to focus on the political developments during the revolution and civil war periods in South Sulawesi. These reveal the relations and tensions between different social groups as well as the changes in those relations, which influenced the future relationship between the State, the Islamic court, the *ulamas*, the Muslim bureaucracy and society.

In the late 1920s, traditional *ulamas* associated with the nobility were seriously challenged for the first time by the rise of a more egalitarian, modernist Muslim movement. In Makassar a branch of the *Sarekat Islam*, which supported the cause of Muslim merchants, was established in 1916. The first South Sulawesi branches of the *Muhammadiyah* were set up in 1926 and 1928 in Makassar and Wajo respectively.²⁰ Noblemen from the ruling elites of Bone and Goa were openly opposed to the establishment of *Muhammadiyah* in South Sulawesi, as well as to the secular parties (Pelras 1993).

The communist PKI, which established a regional branch in Makassar in 1926, and the PNI, with its large following on Java, did not manage to get a similar amount of support in South Sulawesi. The PNI lacked the support-base of the *priyayi* in South Sulawesi. The communists' presence, however, played an important role in antagonistic Islamic (and Christian) discourses in South Sulawesi as being an outside threat from Java (Noor 2010). The relatively late entrance of the secular parties in South Sulawesi also meant the period in which they could operate openly was short, as the repressive colonial measures of the 1930s quickly forced them underground again.

20 Wajo, a kingdom with a modernist *wahabi* past, had a less feudal structure than common in South Sulawesi. See Pelras 2000.

Its late arrival and the opposition from the aristocracy did not stop the growth of the *Muhammadiyah*. In 1941 the 16th South Sulawesi regional conference succeeded in attracting 7,000 members and 30,000 sympathizers. *Muhammadiyah*'s presence in South Sulawesi became increasingly influential. Islamic day schools were established, providing modern education in a region where such education was almost absent, and taught a modernist and a more egalitarian form of Islam. In the 1930s the traditionalist NU also established a branch in South Sulawesi, but before independence it did not attract much support: its single branch in Makassar had only 50 registered members in 1941 (Juhannis 2006: 29).

The Islamic bureaucracy that was supported by and in return supported the high nobility in South Sulawesi at that time, started a traditional South Sulawesi Islamic counter movement, with considerable success. The traditionalists too established Islamic schools providing modern education, but with traditionalist Muslim teachings. Ironically, through this Islamic education the *adat* basis on which the high nobility's power had previously relied was undermined. Moreover, the increase in religious teachers reduced the role of the high nobility in religious matters. From the ranks of successful commoners and lower nobles a new Islamic elite gradually emerged that took neither the nobility's reign nor their *adat* rules for granted (Pelras 1993; see also Prins 1960).

7.3.2 The nobility's support for a return of the colonial government

The Japanese occupation, the struggle for independence (1945-1949) and the later *Darul Islam* rebellion (1950-1965) reshuffled South Sulawesi's stratified feudal social system. When Japan took over the Netherlands Indies in 1942, it attempted to unite the traditional South Sulawesi and national reformist movements under *Jemaah Islam*, just as it had done in the Western part of Indonesia through the *Masyumi*. More than on Java, however, *Jemaah Islam* was split by internal conflict, not only over Islamic issues, but also over the issue of feudalism.

The return of the Dutch in 1945 worsened the conflict, as many noblemen supported the Netherlands Indies Civil Administration, formed in Brisbane to restore Dutch rule in Indonesia. They did so in order to hold on to their privileged position, a strategy which came under fire from *Muhammadiyah* supporters at home. The 1955 election results reveal strong support for Muslim parties in South Sulawesi than on Java. *Masyumi* (five provincial seats in the national Parliament) won the elections ahead of the NU (two seats), the Christian *Parkindo* (two seats) and the Islamic PSII (one seat). PNI won only one seat, and the PKI none.

Thus anti-feudal rhetoric in South Sulawesi did not reflect secular liberal and socialist ideologies, but was an Islamic discourse, mainly propagated by

the *Muhammadiyah* (Pelras 2000). The noblemen had sufficient reasons to fear that an independent Indonesia would lead to an end to their rule, but their support for a return to colonial rule backfired as fighters for an Independent Indonesia in South Sulawesi, joined by Javanese fighters, became increasingly anti-feudal. The guerrillas attacked nobles, bureaucrats, Chinese and Christians, all seen as supporters of the Dutch. The Dutch reacted by sending in their Special Forces under the leadership of the notorious Captain Westerling. Westerling developed a brutal strategy, in which the Special Forces would surround a village suspected of harboring independence fighters and drive the entire male population to a remote location, where the suspects were executed. From a military standpoint the campaign was rather successful, but it came at a price. IJzereef estimates that 3,000 Indonesians were killed in Westerling's campaign of 1946-1947 (IJzereef 1984). The Indonesian Republic even claimed that 40,000 people in South Sulawesi lost their lives.

Diplomacy was another arena where traditional leaders, nationalists and the Dutch fought their battles. In July 1946 the Malino conference was held in South Sulawesi, with the Netherlands represented by Governor-General Van Mook (Ricklefs 1993: 224). During the conference the Dutch tried to gather support for the idea of a federal Indonesian state, which would continue as part of the kingdom of the Netherlands. Soekarno rejected the idea, but many noblemen in Eastern Indonesia, including South Sulawesi, looked favorably on a federal state of East Indonesia (*Negara Indonesia Timur*, NIT). The Conference of Adat Rulers (*Hadat Tinggi*) of the NIT was installed in Makassar in November 1948, in anticipation of such federal state (Buehler 2008b).

In May 1949, under the Roem-Van Royen agreement, the Dutch recognized Indonesia's independence under the precondition that it would become a Federative Republic, administratively independent from, but still forming a union with the kingdom of the Netherlands. Thus, the NIT continued to exist after independence with a strong position for the traditional aristocracy in the *Hadat Tinggi*. However, as it appeared, in 1949 South Sulawesi and its high nobility were far removed from a restored traditional order. Many of the groups that fought in the independence struggle remained armed and kept fighting, but now against the NIT. Initially, many fighters were inspired by Soekarno's ideal of a unitary Republic, but many Muslim guerrillas were rather fighting against feudalism. For others sheer opportunism played a role, as they saw the chance to take over local trade previously controlled by the nobility (Pelras 2000).

The NIT was short-lived, as in 1950 Soekarno abolished the Federation and declared the unitary Republic of Indonesia. Subsequently, many guerrilla groups that had rebelled against the NIT turned against the unitary Republic, partly because they were not incorporated into the National Army. Ironically, in their common struggle against the Republic, the previously anti-feudal guerrillas sought and managed to gain support from members of the nobility (Juhannis 2006: 56).

7.3.3 The Darul Islam and Permesta/PRRI rebellions

In the midst of this chaotic situation, Kahar Muzakkar came to the fore. Muzakkar was a *Muhammadiyah*-educated youngster from Luwu, who had been banished to Java by the *inheemse rechtbank* (*Hadat*) for publicly criticizing the feudal make-up and conservatism of the ruling elite (Pelras 2000). He joined the independence struggle on Java against the Dutch in 1945-1949, and as one of Soekarno's bodyguards personally met with nationalist leaders (Juhannis 2006: 38). In 1946 he became acquainted with General Sudirman, who also had a *Muhammadiyah* background and who gave him the task of setting up a Republican army unit, with the aim to fight the Dutch in South Sulawesi. In 1949 Muzakkar was involved in organizing military transports of Javanese soldiers into South Sulawesi.

In 1950 he returned to South Sulawesi as leader of the United Guerrillas of South Sulawesi (*Kesatuan Gerilya Sulawesi Selatan*); to his disappointment, not as the leader of the Republican army unit he had helped to set up. Muzakkar demanded that his fighters were incorporated into the Republican army, to no avail (Juhannis 2006: 42). These personal disappointments, as well as the fact that he was very anxious about the rise of communism on Java, made him rebel against Soekarno's Republic, which he once fought for. In 1953 he joined the *Darul Islam* rebellion raging in West Java and Aceh (see Chapter 5). *Darul Islam* managed to bring vast areas in South and Southeast Sulawesi under its control. It abolished all *adat* titles and introduced sharia-based law in those areas, including penalties for those who did not observe them. Law Enforcement Soldiers of the *Momoc Ansharullah* (Mobile Operation Commando of God's soldiers) watched over its implementation and held the triple function of police, prosecutor and judge. For the latter function specialized *ulamas* were recruited (Juhannis 2006: 140).

Bulukumba was also a *Darul Islam* stronghold. By 1953 the guerrillas had taken control over Bulukumba relatively easily, but met fierce resistance in the district Kajang, today part of the district Bulukumba. The Kajang community feared that the *Ammatoa's* position – the local *adat* leader who is believed to be the descendant of the mythical ancestors of the Bugis, Konjo and Makassarese peoples – had come under threat from the Muslim puritan and anti-feudal *Darul Islam*. In 1954 they launched a fierce attack killing members of the *Darul Islam* and burned down mosques all the way to the coastal area of Bira. It took the much better armed *Darul Islam* fighters another year to defeat the Kajang. Indeed, they subsequently imposed sharia law and banned spirit cults. However, the institution of *Ammatoa* survived the *Darul Islam* period and is very much alive today.

In 1957 the South Sulawesi Republican forces themselves rebelled against Soekarno. The civilian government of East Indonesia with support of local military commanders, including those in Makassar, in 1956 asked Soekarno to grant the regions more autonomy in economic and political affairs. When

Soekarno refused they began the Universal Struggle (*Perjuangan Semesta, Permesta*) rebellion. In 1958 the Revolutionary Government of the Republic of Indonesia (PRRI) was declared in Sumatra and the *Permesta* joined the PRRI. Muzakkar was also approached and as a result he was now fighting with some of the Christian ex-KNIL officers he once rebelled against.

The National Army succeeded in defeating the *Permesta/PRRI* rebellion in 1961. The remaining rebel groups in Sumatra and Sulawesi, including the *Darul Islam*, proclaimed the RPI (*Republik Persatuan Indonesia*, United Republic of Indonesia). However, this time the National Army forced the *Darul Islam* onto the defensive. *Darul Islam* lasted until 1965, when Kahar Muzakkar was shot by the National Army (Buehler 2008b).

7.3.4 The rebellions of South Sulawesi and West Java compared

A comparison of the political relations, ideologies, and socio-economical tensions that lie beneath the respective *Darul Islam* rebellions of West Java and South Sulawesi, provides a valuable insight into the relations between the national state, the ruling noblemen, *ulamas* and society as they developed after independence. As we have seen in Chapter 5, those relations are important for understanding how the Islamic courts as state and religious institutions are viewed by society.

Like in West Java, the *Darul Islam* in South Sulawesi was an Islamic movement that started as a guerrilla war against the Dutch, but turned against the Republican forces. Likewise, it displaced tens of thousands of people who fled the violence. However, unlike in West Java, the *Darul Islam* in South Sulawesi was not an outcome of *ulamas'* attempts to retain or regain the influential position they traditionally held in society as a defense against the encroachment of the modern state. On the contrary, supporters of *Darul Islam* in South Sulawesi were the modernist Muslim threat to the traditional local landowning elites; they wanted to change society. The rebellion was supported by non-aristocratic landowners and merchants as well as local lower noblemen – in other words, the emerging Muslim middle class which wanted to move up the social ladder.

Thus, whereas the West Javanese *Darul Islam ulamas* could retreat into their rural communities, those in South Sulawesi could not, as those communities were still under the influence of the nobility. If they wanted to increase their status they had no choice other than taking over, or taking part in, the government, the economy and civil society. It is likely that those different starting points for the *ulamas* rebellions in West Java and South Sulawesi had their effect on society. The West Javanese *ulamas* could fall back on their traditional position by maintaining the status quo and apply a tactic of non-cooperation toward the state, which after independence was facilitated, paradoxically, by their incorporation into the religious bureaucracy. The modernist *ulamas* in

South Sulawesi had no such option and had to win both state and society for their Islamizing cause.

7.3.5 The process toward recognition of the Islamic courts

During the political chaos of the 1950s, the national government attempted to support nationalist forces through legislation, thus responding and contributing to anti-feudal feelings in society. It issued Emergency Law 1/1951 abolishing *adat* courts everywhere, which was applauded by anti-feudal forces in the Outer Islands. Importantly, Emergency Law 1/1951 made an exception for Islamic courts 'where according to the living law such justice forms an independent part of *adat* justice' (Lev 1972: 79). It also provided that Islamic courts would be further regulated by Government Regulation. The problem rose as how to establish the status of such 'living' Islamic courts before the Government Regulation was issued.

In Kalimantan the sultanates worked out a solution with the Ministry of Religion, by temporarily transferring judicial authority to the KUAs. In Sulawesi, however, the dissolution of a number of principalities and their *adat* courts was already a fact before any formal transfer of authority had taken place. In August 1952 the provincial Office of Religious Affairs urged the Ministry to set up new Islamic courts in South Sulawesi. By late 1952 the Governor of Makassar had taken powers into his own hands and seriously considered to establish Islamic courts by himself, as he had already drafted a Governor's Regulation on the matter. The urgency given to the issue suggests strong political and societal support for the Islamic courts in South Sulawesi, but perhaps must also be considered an attempt to adopt an Islamic agenda for political purposes. When the Ministry apparently gave little priority to the Islamic courts issue in Sulawesi, and did not respond to the request to establish them, the KUAs assumed a judicial role and temporarily handled all Muslim family law issues, including disputes (Lev 1972: 80).

In fact Soekarno's political party PNI did not favor a situation in which in Muslim regions all *adat* institutions with jurisdiction over family law issues were replaced by Islamic ones. In South Sumatra for instance, an alliance between state authorities and *adat* authorities managed to postpone the installation of Islamic courts for a number of years (Lev 1972: 86). By 1957 the political tensions between the national government and *Masyumi*-led opposition in the Outer Islands had deteriorated so much that the government had to make concessions to the Islamic cause. Finally, in 1957 a Government Regulation was issued, stipulating the establishment of Islamic courts all over the Outer Islands (GR 45/1957). A year later, the Islamic court of Bulukumba was established. The same year the Ministry of Religious Affairs issued decision 8/1958 regarding the establishment of the Islamic high court in Makassar with jurisdiction over Sulawesi, Bali, West and East Nusa Tenggara, the Moluccas and

Irian Jaya. The Islamic courts in South Sulawesi had become a recognized part of the judicial system again.

The Islamic courts history in South Sulawesi shows that, other than on Java, the introduction of the Islamic courts in the self-governing kingdoms and principalities was part of a dual process of modernization and Islamization of the traditional order (see Lubis 1994: 100-101). This process was mainly driven by modernist Muslim organizations and their supporters.

7.4 THE NEW ORDER AND OLD POLITICS

As part of the national court system, the Islamic courts in South Sulawesi became subject to national legislation and supervision by the Ministry of Religious Affairs and the Supreme Court. Chapters 2, 3, and 4 have discussed the introduction of many substantive and procedural changes relevant to the Islamic court during the New Order, and, I need not repeat them here. I return now to the relation between the state, the nobility, *ulamas* and society. Despite the strong centralized military power on which the New Order relied, it also stimulated a return to clear patron-client relations that very much resembled the traditional *adat* structure in South Sulawesi.

The year 1965, when Suharto appeared as major military and political force, was also the year of *Darul Islam's* defeat in South Sulawesi. It marked the beginning of the end for two of *Darul Islam's* main opponents: President Soekarno, symbolizing Javanese centralist policies; and the PKI, representing secularism. However, it did not mark the end for a third opponent: the aristocracy. The rebellions and the subsequent military control indeed resulted in a situation in which more positions, formerly exclusively reserved to the high nobility, became available to commoners. While noble birth continued to give one a head start, the new composition of social positions became far more diverse, as after the rebellion the military, businessmen, intellectuals and *ulamas* with no or little 'aristocratic blood' were able to enter the provincial, district and local administrations, including the religious bureaucracy. Many were incorporated into the political party *Golkar*, the political machine of President Suharto.

Ironically, soon the new elite members were incorporated into the old, aristocratic elite they previously opposed. Through marriages between kin of these new patrons and kin of the high nobility, the patron could become a 'blood' member of the aristocracy. Those commoners who managed to penetrate into the higher class adopted many of its old ways and became the new local patrons who bought the loyalty of their clients through the exchange of protection and favors (Pelras 2000). Subsequently, the New Order, through *Golkar*, built a symbiotic relationship with the new 'traditional' elite of South Sulawesi (Buehler 2008b). Thus, society's traditional clientelistic structure did not change as it was deliberately retained by the New Order.

Through *Golkar* the New Order established strong ties with the reshuffled elite in South Sulawesi. By granting the aristocratic and military elite central positions within the state bureaucracy, loyalty could be assured – in spite of the fact that through several pieces of legislation on local administration the New Order had formally done away with the feudal make-up of society (Antlöv 2003; Rössler 2000).²¹ Van Klinken has argued that *Golkar*'s continued patronage system through the aristocracy 'in all arms of government,' might explain the typically large *Golkar* vote in the Outer Islands before *Reformasi* and just after it in 1999 (Klinken 2003: 11). Another explanation is that *Golkar* did not only successfully incorporate the aristocracy and its patron-client networks, but also the new *ulamas* of the reformist Muslim movement who had finally found a vehicle to exert influence on, or simply get a position within, the administration.

7.5 THE ISLAMIC REVIVAL DURING THE *REFORMASI*

7.5.1 The Preparatory Committee for the Implementation of Sharia in Indonesia

Suharto's fall from power and the subsequent *Reformasi* constituted a crisis in which insecurity spread around the patronage networks in South Sulawesi. However, unlike the post-colonial period, this time it did not result in large-scale violence by *guerrillas*, although here too serious violent incidents did take place, such as attacks on Chinese and bombings on symbolic targets. Similarly to the events in the 1940s and 1950s, during the *Reformasi* Islamist ideas came to the surface once again in South Sulawesi.

In 2000 the Preparatory Committee for the Implementation of Sharia Law in Indonesia (*Komite Persiapan Penerapan Syariah se-Indonesia*, KPSSI), which despite its name is a South Sulawesi-centered organization, was founded during a meeting in Makassar. Representatives of all major Muslim organizations and institutions (NU, *Muhammadiyah*, MUI, ICMI, and others) participated in the event, as well as a variety of prominent Muslim figures, including Jusuf Kalla (the future vice-president of Indonesia), the president of the *Partai Islam SeMalaysia* (PAS), the deans of *Universitas Muslim Indonesia* and the law faculty of *Universitas Hasanuddin*, and even the infamous Abu Bakar Ba'syir. In a symbolic act the participants in the meeting chose Abdul Azis Kahar Muzakar, son of the executed *Darul Islam* leader of South Sulawesi, as head of the executive board of KPSSI.

21 Hence, Gerry van Klinken's (2003: 11) suggestion to follow Burhan Magenda by approaching the New Order as a 'revival of elements of Van Mook's Federal rule' may indeed be insightful.

Not surprisingly, the main point on KPSSI's agenda was the incorporation of sharia-inspired regulations into the legal system of South Sulawesi. Politically, the KPSSI took an anti-New Order and anti-corruption stance. It was argued that sharia would increase law and order and that the national government's sharia policy in Aceh had opened up the legal possibility for a further sharia-tization of regions with a traditionally strong Islamic character. The *Laskar Jundullah* was established as a paramilitary organization that could be used to put pressure on politicians to adopt sharia-inspired regulations and to oversee enforcement (Buehler 2008b).

This time the Islamists were not met with violence, but with a strategy of cooption, taking over the discourse of political opponents. After some members of *Laskar Jundullah* were convicted for their involvement in several bomb-attacks that hit Makassar in the years 2000-2004, the KPSSI lost much of its political momentum. The sharia agenda of the KPSSI was adopted by politicians from main-stream political parties *Golkar* and PDI-P who came most often from the ranks of the nobility (Buehler and Tan 2007). Besides the political strategy of cooption, clientelism also played a role. Through regulations concerning the management of Islamic charities (*zakat*), local governments could collect extra taxes that were used to establish new patron-client networks. In those networks, religious figures (*ustadz(a)* and *ulamas*) are expected to act as power brokers in return for prioritization of Islamic matters and an increase in funds. Qur'an recitation groups (*majelis ta'lim*) were especially important as they reach both male and female voters (Buehler 2008b: 30-31). Hence, much unlike the South Sulawesi aristocrats of the 1950s, the present-day representatives do not only take an Islamic stance in politics, they do so in order to win the Muslim constituency, as success in the present-day clientelistic politics of modern noblemen partly depends on support of the *ulamas'* networks.

7.5.2 Bulukumba's sharia-based regulations

In 2002 Bulukumba was the first district in South Sulawesi to introduce sharia-based regulations. These bylaws concern prohibitions on alcohol;²² the management of Islamic charities (*zakat, infaq and shadaqah*);²³ Muslim dress codes in government buildings;²⁴ and the ability to recite the Qur'an as a requirement for marriage, secondary school and certain positions in the bureaucracy.²⁵ Since 2003, each of the ten sub-districts has at least a model village (*desa percontohan*) or Muslim village (*desa Muslim*), the apparatus of which is expected to encourage adherence to the sharia-based regulations

22 District Regulation 3/2002.

23 District Regulation 2/2003.

24 District Regulation 5/2003.

25 District Regulation 6/2005.

within the village and set an example for other villages in the sub-district. The introduction of sharia-inspired regulations in Bulukumba attracted considerable media attention.²⁶ The attempt in 2005 by the Muslim village council of Padang, a village in Bulukumba's sub-district Gantarang, to introduce and implement caning as a penalty for being in seclusion with the opposite sex without being married (*khalwat*) was even taken up by *Komnas Perempuan* (See *Komnas Perempuan* 2009).

The Bupati of Bulukumba (1995-2005), who actively promoted and introduced sharia-based regulations, is Patabai Pabokori of the *Golkar* party, a KPSSI member since its establishment in 2000. Students of the STAI Al-Ghazali told me that his successors (AM Sukri Sappewali (2005-2010) and Zainuddin Hasan (2010-present) have been more lax with regard to the implementation of the regulations. Although I had not been in Bulukumba before 2010 and I cannot compare the current situation with that in 2005, I did notice that in at least one Muslim village (*desa Muslim* Balong) women openly ignored the veiling regulation and, moreover, did not object to being interviewed by a male Western researcher and a male research assistant without a male relative being present.²⁷

In 2007, Bulukumba's sharia politics reached the national newspapers once again when *desa* Padang wanted to introduce the punishment of amputation for theft. This time, the district government intervened and declared that caning and amputations are illegal under Indonesian law. The vice-Bupati stated that since 'Bulukumba is not an independent republic' such practices were illegal in Bulukumba.²⁸ According to a female activist from *desa* Padang, who had testified for *Komnas Perempuan* in one of the caning cases, no new caning punishments have taken place since that case in 2005.²⁹

Such experiences give the impression that the height of the shariatization in Bulukumba lies behind us. Moreover, if Michael Buehler's analysis is correct, then the local elite was not so interested in Islamization itself, but more in the patronage networks they could build through the process. This is not to say that the sharia-based regulations are without effect. Government offices are instructed to refuse to help unveiled Muslim women.³⁰ Due to public

26 See for example Gamal Ferdhi, Nurul H Maarif, 'Depancalisasi Lewat Perda SY', *The Wahid Institute edisi VII*, in: *Gatra*, edisi 24/XII, 29 April 2006; Subair Umam 'Formalisasi Syarat Islam Perjuangan Ahistori: Belajar dari Bulukumba dan Luwu', *the Wahid Institute*, Edisi 1, November 2005-Februari 2006.

27 My own observation during an interview with Bu M. in *desa Muslim* Balong, *kecamatan* Ujung Loe, Bulukumba, 23-7- 2011.

28 Manan, & Irmawati, 'Bukan Republik Bulukumba', *Tempo*, Edisi 41 / XXXVI/03, 3-9 December 2007.

29 Interview with Bu Esse of the local women's organization Sipakatua Sipakalebbi, 9-11-2010 in the town Bulukumba.

30 Interview with Nurlaila Umat, an official of the division Islamic Affairs (*Urusan Agama Islam*), of the District Office of the Ministry of Religious Affairs, Bulukumba, 3-8-2011.

pressure, the abovementioned female activist from *desa* Padang currently always wears a veil in public, while before 2003 she did not.

7.5.3 The Islamic court of Bulukumba and the sharia-based regulations

Although the Islamic court of Bulukumba is a national institution where national rules apply, it does implement the district veiling regulation, although no visible signs are displayed explicitly instructing women to veil themselves. During a pre-study, it became clear that Muhammad Rusydi Thahrir, the head of the Islamic court of Bulukumba during my field research in 2010-2011, was an outspoken proponent of sharia-based regulations. According to him, they will bring benefit to the community (*kemaslahatan*) as Allah will reward good conduct. He did not look favorably on gender activists and the researchers of *Komnas Perempuan*, who, according to him, came to Bulukumba for a few days in 2009 and, based on very little knowledge, wrote a long and judgemental report.³¹

As a consequence of the veiling policy, women who do not wear a veil on a daily basis will put on a veil before entering the court and take it off again on leaving. In the hundred plus hearings studied for this research, I observed only one occasion when an unveiled woman was able to enter the courtroom. It concerned a woman of high status whom the clerks and judges clearly did not dare to correct. On another occasion, an unveiled woman who came to the Islamic court as a witness and had not brought a veil was requested by the assistant-clerk to put on a *mukenah* (praying dress for Muslim women) instead, before he allowed her to enter the courtroom.

7.6 CONCLUSION

In the colonial part of this chapter I have analyzed the historical trajectory of the Islamic courts in South Sulawesi. Initially, the VOC preferred centralized sultanates with a religious bureaucracy under its control over the looser bonds between the different principalities and kingdoms under *adat*. I have shown that there are several indications that the VOC and later the Government of the Netherlands Indies, had indeed stimulated the establishment of local Islamic courts in the South Sulawesi districts under its control, before in the 1920s its Islam policy changed in an *adat*-centered one. The 1919 Governor's instruction not to establish new Islamic courts in South Sulawesi and to consider abolishing the ones established under Dutch rule implies two things: first that Islamic courts had been established with permission of the Dutch

31 Interview with *Pak* Muhammad Rusydi Thahrir, Head of the Islamic Court of Bulukumba, 9-11-2010.

before; and second, that as late as 1919 there was still a chance that new Islamic courts were established. The tone of the letter was still cautious, but some ten years later *landraad* case law was much more outspoken: Islamic courts were not part of the Makassarese-Buginese *adat*.

My analysis of the relation between the Islamic courts, nobility and the *ulamas* has shown that this relation was, and still is, very different from that described in Chapter 5 for Cianjur. On Java the *penghulus* were caught between three fires: the colonial regime, Muslim society (especially autonomous *ulama* and modernist Muslim organisations) and God (Hisyam 2001). In Bulukumba of the 1920s Islamic courts were not recognized by the colonial regime, and as a consequence their promotion became a symbol of reformist Muslim resistance against an alien government and the indigenous noblemen it relied on.

This brings me to the turbulent period of the *Darul Islam* rebellion. Despite its defeat, the rebellion did achieve some of its goals: first, communism did not get hold in South Sulawesi; second, the nobility, although still strongly present, had to accept commoners, including *ulamas* and supporters of Muslim organizations, into their patron-client networks and into the government; and third, *adat* courts were abolished whilst Islamic courts were established. The 1957 Government Regulation resulted in the establishment of Islamic courts in the districts of South Sulawesi one year later, including Bulukumba, meaning that the Islamic courts of South Sulawesi were finally recognized as part of the judicial system. These were clear victories for the Muslim movements over the secular-nationalists and the nobility.

The short analysis of a return to a reliance on noblemen's clientelist networks under the New Order, with a place for Muslim actors in government and *Golkar*, clearly show a changed relationship between the nobility and *ulamas*. This change also becomes evident in my discussion of Michael Buehler's observation that in present-day South Sulawesi, the *ulamas* are recognized by the nobility as constituting an essential part of their patronage network. Now that the nobility has been Islamized, feudalism does not seem to be an important issue for the *ulamas* anymore, and cooperation with the state and nobility appear to be commonsensical.

In the next chapter, I will analyze the role and performance of the Islamic court of Bulukumba in women's divorce and post-divorce matters, in much the same manner as Chapter 6 has examined the Islamic court of Cianjur, and I will compare the findings of those chapters. As we shall see, some of the differences between the performance of those Islamic courts today can be explained by the historical differences in the development of relations among the state, Islamic court, the *ulamas*, and society.

