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Aligning religious law and state law: street-level bureaucrats and Muslim marriage practices in Pasuruan, Indonesia

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Curriculum Vitae



Muhammad Latif Fauzi was born in Sidoarjo, East Java on 23 December 1982. Currently he is a lecturer at Sharia Faculty, IAIN (Institut Agama Islam Negeri Surakarta, the State Islamic Institute for Islamic studies of Surakarta). He obtained his MA in Islamic studies from Leiden University in 2008 and completed the earlier Master degree in Islamic law from UIN (Universitas Islam Negeri, the State Islamic University) Sunan Kalijaga, Yogyakarta in 2006. As of June 2019, he served as the chairman of NU Belanda. He has published a number of articles in peer-reviewed journals and a book chapter entitled "Women in Local Politics: The Byelaw on Prostitution in Bantul." In *Islam, Politics and Change: The Indonesian Experience after the Fall of Suharto*, edited by Kees van Dijk and Nico J. G. Kaptein, pp. 195–215. 2016. Leiden: Leiden University Press. He can be reached at muhlatiffauzi@iain-surakarta.ac.id.

This thesis discusses the ways in which local officials deal with the tensions concerning regulations on Muslim marriage and social practices that emerge as a response to such regulations. In so doing, it addresses these questions: How does the Indonesian state regulate Muslim marriage? How do local people in Pasuruan practice and negotiate the state regulations on Muslim marriage, in the light of the variety of norms imposed on them? How do local officials deal with their practices? What role do intermediaries play in this process? In an attempt to answer these key questions, the thesis investigates what legal reforms the state has set in motion, how state officials interpret and implement the state law, how religious leaders respond to these legal reforms and how the practices adopted by Muslims reveal their responses. This thesis examines marriage practices in a Muslim community in Pasuruan, East Java, Indonesia.

By looking at the implementation of legal norms on marriage, the functioning of marriage bureaucracy and the people's attitudes towards state recognition of marriage in the local setting, this thesis suggests that Indonesia is experiencing a continuing process of the penetration of state law into society. At the law-making level, instead of reforming the substance of the marriage law, which would only stir up controversy and debates, the government has used a citizens' rights approach to control marriage practice. This citizens' rights approach is helpful in guiding people towards compliance with the state legal framework.

Furthermore, the central state is also endeavouring to remove all forms of informality from the procedures involved. Nevertheless, in practice, it seems it is an uphill battle to reduce informal intervention. Moreover, in terms of legalisation of unregistered marriages, we have witnessed the decision by judges of Islamic courts and *penghulu* (marriage registrars) at the KUA (Kantor Urusan Agama, the sub-district office of religious affairs) to adopt a lenient approach towards the rules governing marriage. In certain cases, *penghulu* are willing to turn a blind eye to the rules, while the judges are ready to exercise judicial discretion to enable them to grant state recognition to a marriage. This situation has led to continuing legal plurality within the state. The willingness of the state officials to give a less than strict interpretation of legal rules is key to guaranteeing the functioning of the state law and will be good for the legal development of Indonesia in the future.



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