

The Influence Of Receptie C. Snouck Horgronje Theory On The Development Of Religious Courts In Indonesia

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ABSTRACT

The influence of the Receptie Theory issued by C. Snouck Horgronje on the development of Islamic law in Indonesia. This paper aims to determine the influence of C. Snouck Horgronje's thinking (receptie theory) on the development of Islamic law in Indonesia in terms of intervention, the existence of Islamic law in Indonesia. This research is a library research whose data sources consist of secondary data in the form of journals, books, research results related to the research theme. Data collection is done by literature study. Data analysis is done by Discourse Analysis. The results showed. Whereas, the influence of C. Snouck Horgronje's thinking (receptie theory) in terms of intervention by the Dutch East Indies government was the birth of Article 134 paragraph 2 IS which reads "In the event of a civil case between fellow Muslims, it is resolved by Islamic religious judges if their customary law so wishes and as far as not determined otherwise by an ordinance". With the emergence of the ordinance, the Religious Courts began to question their existence in this archipelago. C Snouck Horgronje's thoughts (receptie theory) also article 2 paragraph 1 which contains the revocation of the authority of the Religious Courts regarding inheritance Snouck Horgronje's thoughts also led to the necessity of confirming the decisions of the Religious Courts by the General Court (landrad) and this lasted until the birth of Law No. 7 years 1989.

Keywords : Receptie Theory, Snouck Horgronje, Religion Court

A. Background

Islam is a religion brought by Rasulullah SAW in the 7th century AD, with the strength and a clean conscience Rasulullah SAW spread the religion of Islam which was commanded by Allah SWT through the path of Da'wah, in the contents of the da'wah Rasulullah SAW teaches how we as humans have noble moral behavior as exemplified by the Prophet Muhammad, to become a human being who behaves well cannot be separated from a law that was taught by the prophet Muhammad SAW through his revelations, namely the Al-Quran and Al-Hadith, and became an essential Islamic law called Fiqh. Fiqh is the main part of Islam which regulates all affairs of mankind who are Muslims, the contents of fiqh are Sharia and Syara, namely the law that stipulates the rights and obligations of Muslims towards God and towards fellow human beings, rules regarding

worship, marriage, inheritance economy, waqf, zakat and others, all of which are regulated in fiqh taught by the Prophet Muhammad through his revelations.¹

After the Prophet Muhammad died, the task of spreading religion did not stop until then, it was continued by the caliphs and continued by the Ulama so that they could reach the earth of Indonesia as it is today through Arab traders who sell their goods and teach the teachings of Islam to the Indonesian people. These traders also married indigenous people so that the spread of Religion in Indonesia slowly began to spread.²

According to Triesna, previously the majority of the people were Hindus. It is proven by the many temples that stand in Indonesia and the emergence of the largest Hindu kingdom, namely the Majapahit Kingdom, when Hinduism still controlled the land of this archipelago, the indigenous people sought justice from a case by reporting to the Pradata Court and the Solidarity Court. -problems such as Robbery, Murder, Persecution, and order within the Kingdom. Meanwhile, the Solidarity Court has the authority to adjudicate individual matters. Personal interests or disputes between the people, materially the law is very different. The Civil Court refers to the Hindu Law book contained in the papakem while the Solid Court refers to the law that lives in society and is not written..³

Islamic law entered Indonesia through the Indonesian kingdoms that adhered to Islam such as the Pasai, Demak, Mataram, Banten and Cirebon kingdoms. Actually, it already existed before the entry of the Dutch Colonial invaders.⁴

After Islamic law entered Indonesia, Islamic law not only replaced Hindu law, which was manifest in Predata Law, but also influenced various aspects of people's lives in general. Although the original law, namely Hindu law, still exists to show its existence, Islamic law has become endemic among its adherents, especially family law. This also affects the process of establishing and developing the Religious Courts in Indonesia, because Islamic law has been accepted and practiced in a general and voluntary manner. So the Islamic Court of Justice is very much needed by the indigenous population in Indonesia.⁵

The emerging Islamic kingdoms also began to want to control the very large Hindu

¹Kanisius, *Pengantar Sejarah Kebudayaan Indonesia*. (Yogyakarta, Kanisius (anggota IKAPI 1961), h, 22

² Sofyan Rofi, *Sejarah Pendidikan Islam Indonesia*. (Yogyakarta, Deepublish Publisher, 2016), h., 1.

³ R.Tresna, *Peradilan di indonesia dari Abad ke Abad*, (Jakarta: Pradya Pramita, 1997), h., 17.

⁴ Zaini Ahmad Noeh dan Abdul Basith Adnan, *Sejarah Singkat Peradilan Agama di Indonesia*, (Jakarta,PT, Intermassa, 1980). h., 30.

⁵Tresna, *Peradilan di Indonesia Abad ke Abad*, h., 17.

Kingdom in addition to wanting to control the territory of the Kingdom. This kingdom also wants to spread Islam throughout the territory of Indonesia, indirectly the Islamic law that develops in this archipelago is not formed neatly or runs as it is, as well as the judiciary in the Islamic Kingdom also runs differently in each region, for example, if there is a dispute or problem in the midst of the archipelago or indigenous peoples, that is, it is resolved by taking judgment with the teacher or preacher who he considers to understand the science of religion widely and the person who is adjudicating is usually called Muhakam, in every territory of the Kingdom that adheres to Islam, the name for the people who judge the area are very different for example, in Java the person who solves the problem is usually called the Penghulu, while in West Sumatra it is usually called Nazir or Qadi, Qadi during the Kingdom was appointed by the rulers to solve problems that occurred such as Waqf, Inheritance, Marriage annulment, marriage cancellations and others, which lead to the teachings of Islam, with supervision by the kings so that the dispute is resolved fairly, in addition to dealing with disputes, the Qadi or Penghulu also plays a role in dealing with the problem of distributing zakat, infaq and sodaqoh..⁶

After Islamic law began to develop in Indonesia, there was a phase where colonialism was carried out by the Dutch through the VOC, which initially intended to only trade on Indonesian soil because the Dutch saw the potential of this Indonesian State through its abundant spices. The Dutch began to take action. In terms of politics, by changing the original goal of trading to colonizing, to colonize the earth of Indonesia, the Dutch carried out their politics by disbanding the VOC and creating the Dutch Colonial government, as well as Islamic Law in Indonesia after the emergence of the Dutch Colonial government, the center of attention will be focused on the position of Islamic Law in Indonesian Law system is the applicable legal system, Islamic law itself is a subsystem of existing and applicable Indonesian law. Indonesian law is a plural legal system because various legal systems apply, namely Customary, Islamic, and Western (Continental)).⁷

The emergence of a judicial body based on Islamic law, which among others obtained a form of state administration during the Islamic sultanate. During the Dutch colonial period, the Dutch East Indies government formally recognized the existence of the Religious Courts with the decision of the King of the Netherlands number 24 dated January 19, 1882 which was published in Stbl.. 1881 number 152 which was known as Bepalingen

⁶ C Snouck Horgronje, *XI hokum Islam dalam Praktek Menurut MR, L,W,C van den berg*, Terj, Sutan Maimun(Jakarta: INIS, 1995) h., 104.

⁷ Renny Supriyatni. *Pengantar Hukum Islam*, (Bandung: widya padjajaran, 2011), h., 82

Betreffende de Priesterraden op Java en Madoera. This decision was declared effective on August 1, 1882 as contained in Stbl.. 1882 number 153, which was later amended by Stbl.. 1937 number 116. In the same year an Ordonnantie was issued which regulates Religious Courts in parts of East Kalimantan which is contained in Stbl., 1937 No. 638 and 639, in 1957 PP number 45 of 1957 was issued regarding the establishment of Islamic Courts of Islamic Courts outside Java and Madura (sheet 1957 number 99), except for areas outside Java and Madura which have been regulated by Stbl.. 1937 numbers 638 and 639. With the enactment of the Sharia Court Law no. 7 of 1989 concerning the Religious Courts, it is emphasized that Religion is a special court with the authority to adjudicate certain civil cases and for certain population groups as well..⁸

The competence of the Religious Courts has experienced quite complicated dynamics and has led to ups and downs. Although it has not been abolished, the scope of jurisdiction of the Religious Courts is often limited to certain civil cases. This fact is actually inseparable from the political will of the rulers which is basically reflected in the policies taken by the authorities concerned. It is undeniable that the political dynamics of the law and the political will of the rulers have written an important note for the Existence, Position and Authority of the Religious Courts in Indonesia, which in reality is not always on a smooth journey.⁹

Historically-sociologically-historically-sociologically, the competence of the Religious Courts is basically very closely related to the implementation of Islamic Law as living law. However, since the emergence of Christian Snouck Horgronje's Product Receptie theory, the competence of the Religious Courts has been limited, no longer dealing with inheritance issues because they are not considered as customary law. Based on this theory, the competence of the Religious Courts is only allowed to deal with issues of Divorce, Livelihood, Talaq, and Rujuk, the competence of the Religious Courts is basically very closely related to the implementation of Islamic Law as living law. However, since the emergence of Christian Snouck Horgronje's Product Receptie theory, the competence of the Religious Courts has been limited, no longer dealing with inheritance issues because they are not considered as customary law. Based on this theory, the competence of the Religious Courts is only allowed to handle Divorce, Livelihood,

⁸ Juhaya S. Praja, *Pengantar Hukum Islam di Indonesia Pemikiran dan Praktek*, (Bandung: Remaja Rosdakarya, 1991) h., 5.

⁹ Hasbi Hasan, *Kompetisi Peradilan Agama dalam Penyelesaian Sengketa Ekonomi Syari'ah*, (Jakarta: GramataPublishing, 2010), h., 9.

Talaq, and Referral issues..¹⁰

Biographically, Snouck Horgronje attended H.B.S. in Breda to study Latin and Greek (Greek), Then he entered the University of Leiden in 1875, at the age of 18. At first he entered the Faculty of Theology, then moved to the Faculty of Letters, Department of Arabic, Graduated with Cumlaude predicate accompanied by Het Meekansche Feest (Celebration in Makkah). After completing his education, Snouck taught special education for prospective employees for the Dutch East Indies (Indolegie), in Leiden. In 1885, Snouck went to Makkah to deepen his practical knowledge of the Arabic language for about 6 months (February-August 1885). By studying Arabic and Islam it made it easier for the Dutch East Indies government to know and trick the Indonesian people into believing the Indonesian people, and to hand over power to the Dutch East Indies government.¹¹

B. Focus of Problem

In scientific writing, the author limits the problem according to the problem formulation so that the discussion will be clearer and more focused as expected by the author.

The formulation of the research problem is:

1. How was the influence of C Snouck Horgronje's thoughts on the development of the Religious Courts in the Archipelago?
2. How does C Snouck Horgronje think about the keceptie theory on the authority of the Religious Courts in Indonesia?
3. What is the influence of C Snouck Horgronje's thoughts on the implementation of Religious Court Decisions in the Archipelago?

C. Research Method

Research is basically a planned activity, carried out using the scientific method with the aim of obtaining new data to prove the truth or untruth of a symptom. In this study the author uses the following research methods:

1. Research Type

¹⁰ Guntur Pribadi, *Pemikiran Politik Asosiasi Christian Snouck Horgronje dan Implikasi terhadap Peminggiran Politik Islam di Indonesia*, (skripsi, IAIN Sunan Gunung Ampel Fakultas Syariah, Surabaya, 2004), h., 18.

¹¹ Amirul Hadi *Orientalism dan Kolonialisme: Analisa Terhadap Misi Christian Snouck Horgronje di Aceh*, dalam *Al-Afkar: jurnal Dialogis Ilmu-Ilmu Ushuludin* (Edisi; X, Tahun ke-9, Juli-Desember 2004), h., 87

This type of research is a type of literature, literature study is all efforts made by researchers to collect information relevant to the topic or problem that will be or is being researched. This information can be obtained from scientific books, research reports, scientific essays, theses and dissertations, regulations, statutes, yearbooks, encyclopedias, and other written and printed sources..¹²

2. Data sources

In conducting this scientific research, the author compiled this scientific work, based on secondary data sources. Secondary data sources are sources of data collected by other people, not the researchers themselves. This data is usually obtained from other research conducted by other institutions or organizations.

3. Finding & Discussion

a. *The religious court During Receptie In Complexxcu and Receptie Theory*

1. Receptio in Complex Theory

The archipelago has a very historical background. Islamic Shari'a has become a religious teaching that is strongly adhered to by our country. The phenomenon of Shari'a as a living law in society, with the Sultan or King holding the highest power, has given birth to the theory of Credo (Shahadah) among observers of Islamic Law. This theory is a continuation of the principle of monotheism which requires the implementation of Islamic Shari'a by those who pronounce the Shahadah. This is in line with the theory of Legal Authority, which in the theory of H.A.R Gibb explained that a person who has accepted Islam as a religion means that he has accepted the authority of Islamic law over himself..¹³

In 1596 the Dutch East Indies Trading Company Organization (VOC) came to Indonesia via Banten, West Java. The original purpose of their arrival was to trade who specifically wanted to get Spices at a price. very safe in Europe, but then its direction changed to gradually control the Indonesian archipelago, then the Amsterdam Company sent a fleet of merchant ships to Indonesia, namely in 1595 under the leadership of Cornelis de Houtman, in 1598 under the leadership of Van Nede, Van Heemskerek, and Van Warwick , in 1599 under Van der Hagen, and in 1600 under Van Neek. To control the Indonesian archipelago and after the

¹² <http://www.perkuliahan.com/apa-pengertian-studi-keputusan/> (diakses pada 17 januari 2017)

¹³ H.A.R. Gibb, *Aliran-aliran Modern dalam Islam, terjem Machtum Husen* (Jakarta: PT. Raja Grafindo Persada,1993). H., 145-146.

Amsterdam Company succeeded in controlling the Indonesian archipelago and developing its trading business, which was then followed by other companies. The Dutch government gave power to trading companies. The Dutch, with the name VOC (Verenigde Oostindische Compagnie) to establish a fort and make treaties with the kings of Indonesia. Because of the rights it obtained, the VOC had two functions, namely as a trader and as a government agency. VOC is a combination of companies that are legalized by the Staten General of the Republic (The highest governing body).¹⁴

The policies that have been implemented by the Sultans are still maintained in the areas they control, even in many cases the VOC provides convenience and facilities so that the Islamic Courts can continue to develop because they know that law enforcement through the judiciary for Muslims is *Fardhu Kifayah*. The form of VOC facilitation was to publish Islamic Law books which became the Judge's Handbook in deciding cases. The books published are *al-Muharrar*, *Shiratal Mustaqim* and the last one is the *Compendium Freijer* which is intended for judges of the Cirebon Regional Religious Courts.

This condition will continue until the handover of power to the Dutch colonial government. In the face of the development of Islamic law in Indonesia, at first the Dutch colonial government moved the policies that had been implemented by the VOC, they did not think that Islamic law was a threat to be feared. Based on Van den Berg's proposal with the *Receptio In Complexu* theory which developed and was believed to be true by the legal experts of the Dutch colonial government, a Religious Court was formed in Indonesia. The establishment with the issuance of Stbl. 1882 No. 152 which was enforced in Java and Madura. Judges who work in the Religious Courts are recruited from the *Penghulu* as well as advisers to *Laandrad* in resolving cases.¹⁵

The *Receptio In Complexu* theory was pioneered by Lodewijk Willem Christian Van Den Berg in 1845-1925. The *Receptio In Complexu* theory states that the judiciary is an inseparable part of the entire system of government in its jurisdiction.

Dutch legal and cultural experts recognize the large role of Islam in the lives

61. ¹⁴ Santoso Kartohadiprodjo, *Pengantar Sejarah Indonesia Baru 1500-1900* (Jakarta: PT Gramedia) h.,

¹⁵ Abdul Manan, *Reformasi Hukum Islam di Indonesia*, (Jakarta: Raja Grafindo, 2006) h., 1-3.

of Indonesian people, which colors daily life and becomes a solution when disputes occur between Indonesian people, making LWC Van Der Berg (1845-1927) conclude that at this time there had been a *Receptio In Complexu*, where Indonesian Muslims accept and apply the Islamic Shari'ah as a whole.

On the influence of this theory, the Dutch East Indies government in 1882 established a Religious Court aimed at citizens who embraced Islam. But then the *Receptio In Complexu* theory was opposed by Van Vollen Hoven and C. Snouck Horgronje.

2. Receptie Theory

Receptie theory states that Islamic law can be applied as long as it does not conflict with customary law. According to this theory, Islamic Inheritance Law cannot be enforced because *beluni* is accepted or contrary to Customary Law.¹⁶

This theory was brought by C Snouck Horgronje to the Dutch Colonial Government in order to have a reason to form a Commission tasked with reviewing the Authority of the Religious Courts in Java and Madura. Armed with recommendations or proposals from this Commission, the *Staatsblad* of 1937 Number 116 was issued which contained the revocation of the authority of the Religious Courts to handle inheritance and other matters. These cases were then delegated to the *Landraad* (District Court). With the revocation of the Inheritance authority of the *Agaria* Court, directly or indirectly, the *Receptie* theory is very detrimental to the institutions that have existed since a long time ago, where usually the indigenous people when they resolve their religious affairs to the Religious Courts, especially regarding Inheritance, must follow the Decision of the *Landraad* or the Judiciary. which was made by the Dutch colonial government and does not refer to Islamic law but refers to customary law, and is also very contrary to the teachings of Islam.

Snouck's efforts to hinder the Islamic movement in Indonesia did not stop there, Snouck also tried to get rid of the *Receptio In Complexu* theory brought by Van den Berg by criticizing his writings, according to Snouck that the Dutch colonial government was wrong to spend money on research conducted by Van den Berg. because there are so many works published by Van Den Berg that there are many errors in the translation, then Van Den Berg also made a mistake in the print

¹⁶ Achmad Gunaryo, *Pergumulan politik dan Hukum Islam : Reposisi Peradilan Agama dari Peradilan "pupukbawang" menuju Peradilan sesungguhnya*, (Semarang: Pustaka Pelajar,2006).,cet.1

of his own essay after it was revised by himself instead of strengthening the argument instead replacing it on the grounds that the mistake of the Fos Printing Officer, Snouck did the report for nothing but replacing the Reception in Complexu theory with the Receptie theory that C Snouck Horgronje's efforts were not only made to the Indonesian people who were Muslim, but also criticized the essays published by Van den Berg, in order to apply the Receptie theory among the Indonesian people. mainly Muslim people.

As an adviser to the Dutch East Indies government, Snouck gave advice known as "Islamic Policy". He formulated his advice to the Dutch government in managing Muslims in Indonesia with an effort to attract the indigenous people to be closer to European culture and the Dutch East Indies government. This advice has the core that issues relating to the worship of Muslims must be given full freedom, with the hope that in the social field the Dutch East Indies government must respect the prevailing customs and habits of the people, by directing them to approach the Dutch East Indies government, while in the administrative field, the Indies government The Netherlands must not give an opportunity and must prevent things that can help the Pan Islamism movement." Because Pan Islamism really threatened the Dutch East Indies government because if the indigenous people believed more in the Islamic movement or parties in the name of Islam, the people would carry out expansion. against the Dutch East Indies government, this was very much feared by the Dutch East Indies government, therefore Snouck Horgronje was appointed by the Dutch East Indies government as an adviser on indigenous affairs in order to oversee the movements of the natives, especially Muslims..¹⁷

Before Snouck Horgronje was appointed as advisor, in 1859 the Colonial government's efforts to intervene in religious affairs had actually begun. The Governor-General, for example, was justified in interfering in religious matters and even had to monitor every movement of the ulama if deemed necessary for the sake of public interest and order. For Horgronje, it was time for the Dutch government to need inlandsch politick, a policy regarding the natives to understand and control the natives.

He divided Islam in Indonesia into two parts, namely Islam as Religion and Islam as Political Doctrine. Against the former, he offers a tolerant attitude which is

¹⁷ A. Qadri Azizi, *Eklitisme Hukum Nasional: Kopetensi antara Hukum Islam dan Hukum Umum* (Yogyakarta: GamaMedia, 2002)., h, 15

described in a neutral attitude towards religious life. Against the second, he offered that things that show a political nature should be resolved by force. Any interference in matters relating to Islam from abroad must be trimmed at the root. The steps taken, for example, are the limitation of the number of Indonesian Hajj pilgrims. According to him, Hajj is considered not merely as worship but has a political network that could threaten the interests of the colonial government. According to Deliar Noer, the Dutch side to supervise the Hajj pilgrims was strengthened by the opening of the Dutch consulate in Jeddah in 1872 by sending Horgronje to the Hijaz with the main aim of getting to know more about the daily life of the Meccans from the thousands of Muslims from all over the world who live in Mecca..¹⁸

- According to the formulation of Abu Bakar Aceh as quoted by Rosyidi and Ahmad, the policies formulated by Horgronje towards Islamic Law and its people cover three aspects:
- Religious Affairs. The Dutch East Indies government should give freedom honestly and completely without conditions for Muslims.
- Social Affairs. The Dutch East Indies government should respect the prevailing Customs and liberties of the people, by paving the way according to the standard of living of the colonized people to a peaceful progress towards approaching the Dutch East Indies government, by providing assistance to those who take this path.
- State Administration. The Dutch East Indies government should prevent the growth of a mindset that can lead and grow the Pan Islamism movement, which has the aim of finding other forces in resistance to the Dutch East Indies government..¹⁹

Although Horgronje argued that the enemy of colonialism was not Islam as a religion but Islam as a political doctrine, they were not willing to give the indigenous peoples the freedom to practice Islamic law. Therefore, he contrasted Islamic law on the one hand with customary law on the other. To carry out this purpose, he wrote a book as a report on the results of his research, *De Atjehers* for the Aceh region and *De Gajoland* for the Gayo region. In both

¹⁸ Deliar Noer, *Gerakan Modern di Indonesia 1900-1942* (Jakarta: LP3ES, 1996), h., 32-33.

¹⁹ A. Rahmat Rosyidi dan M.Rais Ahmad, *Formalitas Syariat Islam dalam Perspektif Tata hukum Indonesia* (Bogor: Ghalia Indonesia, 2006), h., 79.

books, he made a thesis that the applicable law in both areas is customary law, not Islamic law. In the law it has been influenced by Islamic law, but that influence only has legal force if it has been truly accepted by customary law. This thesis is known as the Receptie theory.²⁰

The Receptie theory which was used as the basis for the Dutch East Indies government's policy on Islamic law, including the religious judiciary, is reflected in article 134 paragraph (2) which reads, in the event that a civil case occurs between fellow Muslims, it will be resolved by an Islamic Religious Judge if the situation has been accepted by the Muslim community. Customary Law and as long as the Ordonantie is not carried out, the meaning is that Islamic Law can only come into effect when it has been accepted by Customary Law, this change is through Staatsblad 1929 No. 221, after that the institutional authority of the Religious Courts was limited to the issue of inheritance, especially in Java and Madura, then it was revoked by the Dutch government and transferred to the District Court through Staatsblad 1937 No. 116 and 610. And not only that, the impact also occurred in South Kalimantan where the Qadhi density and high Qadhi density were established through Staatsblad 1937 No. 638 and 639 with the same authority as Java and Madura.²¹

3. The Position of the Religious Courts During the Dutch Colonial Period

The presence of the Dutch in the archipelago brought about very significant changes to society and the Islamic Kingdom at that time, especially to the Religious Courts. Because the arrival of the Dutch, represented by the VOC, which began as a trade mission, gradually turned into domination and colonization of the territories controlled one by one..

Historically, Dutch colonialism over Indonesia occurred in two stages, which were initiated by the VOC or Company which had triumphed for 200 years, and then was taken over by the Kingdom of the Netherlands. The Company first anchored in the archipelago in 1596, in Banten with captain Cornelis de Houtman¹⁷ with a trading mission the VOC was eager to control the archipelago because the VOC was very interested in plants such as Cloves, Coffee and Tobacco which were

²⁰ Deliar Noer, *Gerakan Modern di Indonesia 1900-1942*, h., 34-35.

²¹ Choirulizan, *Sejarah Peradilan Agama pada masa Belanda Staatsblad 1937*. No, 116, <http://choirullizan.co.id> (di akses pada 09 april 2017).

very easy to find in Indonesia, apart from trading VOCs as well. has a mission, namely to spread Christianity in Indonesia,

Until the nineteenth century, the strong opinion among the Dutch about the applicable law in Indonesia was that Islamic law was the basis. This is not an exclusive opinion. There are many reviews from Dutch experts regarding the mixing of religious norms and values with different community habits throughout the archipelago. The difference between Islam and Adat is clear and is then used as a general understanding in statements. Colonial Government regarding legislative policy. Of course, the colonial view of Indonesian law and society did not show any respect for Islam. Everywhere if there is a clash between Islam and Adat. The Netherlands has always sided with the Indigenous group. Namely the rulers of the local community who were basically not or clearly anti-Islam against the Universalist Islamic Group. The usual and clearest example was the Padri war in West Sumatra in the early nineteenth century. the welfare of their "children" namely the Adat Group, then other officials prefer to foster favorable conditions for their economic interests, they are more inclined not to prioritize or emphasize the solution of the "Islamic problem".²²

Dutch intervention in Islam will also have an impact on the Islamic Religious Courts Institution showing this symptom. However, the situation is very different throughout the archipelago, in some places, such as Aceh and Jambi in Sumatra, South and East Kalimantan, South Sulawesi and elsewhere, Religious Judges are usually appointed by local authorities. In other areas, such as North Sulawesi, parts of North Sumatra, such as Gayo, Alas and Tapanuli, as well as South Sumatra, there is no separate position for the Religious Courts, but religious officials immediately go down to carry out judicial duties, while on the island of Java, religious courts are found in all areas. District since the 16th century. The district, headed by a regent, is the main administrative area in Java. In the development so far, the district remains a territorial administrative unit throughout Java, there are approximately eighty units, while the regions outside Java and Madura today are also divided into district units and are under provincial administration, each district is divided into sub-districts. which is called the sub-district, and there used to be a link called the Kewedanaan which since 1960 has been removed, then the lowest

²² Abdul Halim, *Peradilan Agama dalam Politik Hukum di Indonesia*, h., 48.

unit is the village.

Religious Courts are held by the Penghulu, namely local mosque administration officials and their sessions usually take place in the Porch of the Mosque so it is often called the Veranda Court at that time there was no other official court serving the people on the island of Java. Since 1830 by the Dutch Governor, this Religious Court has been placed under the supervision of the Colonial Court (Landraad). Only Landraad has the power to order the implementation of the decisions of the Religious Courts.

So according to the author, at the beginning, Indonesia had a very different judicial system because it was still very dependent on the norms of their respective local communities, as said above that in the Gayo, Alas, Tapanuli areas there was no separate position for the Religious Courts but Religious officials go directly to resolve religious issues, while in the areas of Aceh, Jambi, South and East Kalimantan, South Sulawesi, judges are appointed by local authorities, from which we know that the Islamic Courts are not strictly regulated. In contrast to the area of Java, Madura, especially on the island of Java, as a very regular place of the judicial system at that time there was already a court for Muslims commonly called the Veranda Court because it was carried out in the Veranda of the Mosque but the court was still supervised by the Dutch colonial government, namely Landraad.

It is not only that, at first the Dutch Company government did not pay attention to disputes between natives, especially in the Religious Courts, they only cared about their own group but when their power grew stronger, Dutch intervention in the Religious Courts began in 1820, namely in instructions to the Regents regarding disputes that occur among the community to be resolved by Islamic scholars, as well as in Stbl. 1835 No. 58 then got a change in 1848 and 1854, it was only called the surrender to Alim Ulama experts in Islam who in Dutch were called Priesters which meant the Penghulu and other religious officials who at that time were assistants to the Regents, but at that time The existence of a religious court institution has not yet been regulated, the regulation was only issued in 1882.²³

During the Dutch colonial rule, the Religious Courts received official recognition. In 1882 the Colonial government issued Staatsblad No. 152 which is an official acknowledgment of the existence of the Religious Courts and Islamic

²³ Zaini Ahmad Noeh, *Sejarah Singkat Peradilan Agama Islam di Indonesia.*, h., 32.

Law in Indonesia, this Staatsblad can be considered as the starting point for the interaction of the two judicial systems, Islamic and Western. Furthermore, in 1931 the colonial government formed a commission in the form of the issuance of Staatsblad No. 53 which consists of three parts, part I on the change of the Judiciary from Priesteraad to Penghoeloegerecht. Part II contains rules regarding Landraad's interference in the property justice for native Indonesians.

Because Staatsblad is not working effectively and because of the influence of Receptie theory. then in 1937 came out Staatsblad 1937 No. 116 This Staatsblad revokes the authority of the Religious Courts in matters of inheritance and other matters relating to property, especially land. Since then, the competence of the Religious Courts has only been in matters of marriage and divorce. As has been explained above, that the Religious Courts at this time cannot carry out their own decisions, but must be asked for confirmation from the District Courts.

This reduction in the competence of the Religious Courts is certainly very disappointing for the Indonesian Muslim community because the Religious Courts at that time really they considered a judicial institution like a judicial institution. not only as a religious institution. Not to mention that at this time the Religious Courts could only support themselves through the case fees they received, this was done because the colonial government never subsidized the Religious Courts for their administrative management, including not paying judges and their employees, the fact that judges and employees of the religious courts received money from them. Those who use the services of this court are later used as a tool by the Dutch to say that the Religious Courts are a den of corruption.²⁴

Thus, as an explanation above that the existence of the Religious Courts was interfered with during the Dutch Colonial period and influenced the Indonesian people who were Muslim not free to seek a court at that time.

4. Biography C. Snouck Hoegronje

a. Education

Christian Snouck Hoegronje was born on February 8th in Tholen, Oosterhout, He comes from a Traditional Protestant Priest family, similar to Orthodox but his learning environment is to some extent Liberal, His full name is a

²⁴ Achmad Gunaryo, *Pergumulan Politik dan Hukum Islam; Reposisi Peradilan Agama dari Peradilan "pupuk bawah" Menuju Peradilan Yang Sesungguhnya*, (Semarang: Pustaka Pelajar, 2006)., h., 128-130

combination of his grandfather Christian's name and his father's name Snouck Horgronje. The name bears heavy duty, ie. Snouck Horgronje must become a priest to correct the mistakes made by his parents. It seems that the ideals of his parents were not ignored, thus making Snouck a hard-working young man with amazing academic achievements. She is the fourth child of pastor J.J Snouck Horgronje and Ana Maria, daughter of pastor D. Christian de Visser. The marriage of his parents was preceded by an illicit relationship, so that they were expelled from the Hervormd Church in Tholen (Zeeland) on May 3, 1849. His parents were only legally married on August 31, 1856, at his request that his position in the Hervormd Church be restored. Also accepted as a member of the Church on April 12, 1867, like father, grandfather, and great-grandfather who was at home as a Protestant minister, Snouck had been directed from a young age to the field of theology. He started his basic education at the elementary school in his village, followed by secondary school in Breda. After graduating from high school, he continued to Leiden University for courses in Arabic Theology and Literature in 1874. He earned his doctorate in 1879 by writing a dissertation entitled *The Season of Hajj in Mecca*.²⁵

The name Snouck Horgronje is not only known in the Netherlands, it is also well known to the Arabian Peninsula and Indonesia, even the world. Apart from being considered a Lector (authoritative figure) of Arabic after Goldziher, he is also considered a major pioneer in the study of Islamic Fiqh, Usul Fiqh and Hadith. But again the people of Aceh he is a traitor without a match. However, recent research shows that Snouck as an Orientalist is only a cover to infiltrate the power of the Acehnese people. He is considered to be manipulating scientific tasks for political purposes. A Dutch researcher Koningsveld Contemporary, explained that the cultural reality in his country had a big influence on Snouck's psyche and attitude in subsequent developments. Snouck argues that the Koran is not a revelation from God. Rather, it was Muhammad's work which contained the teachings of Religion at that time, comparative Religionists and comparative historians were greatly influenced by Darwin's theory of "Evolution."²⁶

In 1876 he was a student at Leiden and Snouck had taught at the Leiden and

²⁵ Abdurahman Badawi, *mawsua'ah al-Musytskyriqin*, Terj. *Eksiklopedi Tokoh Orientalis oleh Amroeni Drajjat*, (Yogyakarta: LKIS Yogyakarta, 2003), h., 183

²⁶ Abdurahman Badawi, *mawsua'ah al-Musytskyriqin*, Terj. *Eksiklopedi Tokoh Orientalis oleh Amroeni Drajjat*, (Yogyakarta: LKIS Yogyakarta, 2003), h., 183

Delf institutions, namely institutions that provided training for Dutch citizens before being assigned to Indonesia. At that time, Snouck had never come to Indonesia but he began to be active in Dutch colonial problems. At the time of the war, Aceh began to stir from the veil of "false Islam".²⁷

While on duty in Indonesia, Snouck married the only child of the Great Chief of Ciamis Raden Haji Muhammad Ta'ib named Sanglana at the age of 33 at the insistence of the wife of the Regent of Ciamis Raden Ajoe Lasminakusuma, so the marriage took place in an Islamic way and gave birth to four children namely Salamah, Umar, Aminah, and Abraham. In 1898, after his wife died of a miscarriage giving birth to his fifth child, Snouck remarried to Siti Sadiyah, the daughter of the deputy head of Bandung, Haji Muhammad Soe'eb, known as Kalipah Ape (1922). The marriage was managed by the Penghulu Bandung Haji Hasan Mustapha, while Snouck was 41 years old. The child of this marriage is named Raden Yusuf. Because these two marriages were against the morals of Europeans based on ethnic separation (Apharteid), both marriages were not recognized, and he later married Ida Maria, a daughter of Dr. A.J. Oorf, retired liberal pastor in Zutphen. A daughter was born named Christien, the marriage lasted until Snouck died on June 26, 1936.

b. Scientific Works

So apart from serving as a professor, he also served as an advisor to the Minister of Colonies. In addition to his scientific work, his advice, reports, and notes also provide an understanding of the versatility and extraordinary work of the compilers, this is evident in his works which are the result of his thoughts and experiences, including:²⁸

1. *Het Mekkaansche Feest*, Leiden: E.J. Brill, 1880, Indonesian edition, celebration of Makkah, trans. Supardi, Jakarta: INIS, 1980, is Snouck's dissertation.
2. *De Beteekenis van den Islam voor Zijne Belijder in Qoost-Indie*, (The Meaning of Islam for Its Adherents in the East Indies), Leiden: 1883
3. *Mekka*, 2 vols, I: "Die Stadt und ihre Herren" (The City and its Rulers):

²⁷ Ibid., h., 184

²⁸ E Gobe dan C, andriane, *Nasihat Nasihat C. Snouck Horgronje semasa Kepergawaiannya kepada pemerintah Hindia Belanda 1900-1936*, Jilid 1, penerjemah, Sukarsi, (Jakarta: INIS, 1990), h xv

4. II: "Aus dem Heutigen Leben" (From Today's life), "Leipzig- The Hague: 1888-1889" with appendix entitled Bilderatlas zu Mekka)

5. Implementation of Religious Court Decisions

In 1882, the Dutch East Indies government issued Staatsblad 152 in 1882, regarding the establishment of a Religious Court for the Java and Madura regions. This Staatsblad explains that the absolute authority of the Religious Courts is to resolve inheritance issues. In these years, it was influenced by the Receptio In Complexu theory period, which in this theoretical period the Religious Courts were very free to make their decisions on the problems of indigenous people who were Muslim, because the Receptio In Complexu theory which means someone who has made Islam into his religion then people must follow the teachings of Islam as the law. Including inheritance problems because of the inheritance of Islamic teachings, people who have inheritance problems must be resolved in the Religious Courts. Then the opinion was opposed by Prof. Van Vollenhoven and Dr. Christian Snouck Horgronje by bringing up the Receptie theory, because according to Snouck the Dutch East Indies government had a wrong opinion about the indigenous people who were Muslim, according to him Muslims living in this archipelago have not followed the teachings of Islam because there are still many religious teachings that are influenced by customary law, then from the opinion of Snouck Horgronje, the Dutch East Indies Government applied the Receptie theory which contained that Islamic law could apply if it was received by Customary Law. From this theory, it also had an impact on the authority of the Religious Courts, especially inheritance issues and also decisions from the Religious Courts could not be carried out because of the impact of the emergence of artificial theories. This Christian Snouck Horgronje and Van Vollenhoven.²⁹

During the colonial administration of the Dutch East Indies, the litigation process in the Religious Courts was not structured as it is today, where the litigation process and implementing decisions in the Religious Courts were very irregular in origin, still from several sources of customary law and other sources of law, from this The Religious Courts institution was greatly disadvantaged because this judicial institution was formed by the government not to develop indigenous people who were Muslim, but on the contrary, this institution was formed to

²⁹ Mardani, *Hukum Kewarisan Islam di Indonesia*, (Jakarta: PT Raja Grafindo Persada, 2014). H.,14.

supervise indigenous people who were Muslim, as evidenced by the replacement of the basic constitution of the Dutch East Indies government which was previously from Regling Reglement (RR) to Indische Staatsregeling (IS) in 1919 Article 78 (2) RR Staatsblad 1855:2 then became 134 (2) IS, which contains "In the event of a civil case between fellow Muslims, it will be resolved by an Islamic Religious Judge if the situation has been accepted by Customary Law and to the extent not specified According to the Ordinance of this article, the institution of the Religious Courts and the sources of the Procedural Law of the Religious Courts are very unclear.³⁰

The procedural law and the authority of the Religious Courts greatly influenced the decisions made by the Religious Courts, therefore the Dutch East Indies government limited the authority of the Religious Courts by issuing Article 2a of the Judicial Ordinance in Java and Madura in the Staatsblad of 1937 Number 116. Which contained the Religious Courts only dealing with marriage issues, while the Waris case was revoked from the authority of the religious court and submitted to the general court (Laandrad), the emergence of this regulation reduced the authority of the Religious Courts in deciding cases of indigenous people who were Muslim, the emergence of this law was due to the birth of the Receptie theory brought by Snouck Horgronje, then also has an impact on the decision of the Religious Courts which initially the Religious Judges decided on inheritance and then transferred to the General Court Judges (Laandrad) the emergence of this law was very detrimental to the Religious Courts institutions which initially the judges got money from the Inheritance case problem to carry out their final life.

The judges lost their livelihood from the emergence of this law, even the authority of the Religious Courts in deciding Inheritance cases was influential until after independence, this theory was denied by Prof. According to Hazairin, Article 134 (2) IS is not valid to be used as a legal basis in Indonesia, he gave rise to the Receptie Exit theory which opposes the implementation of Snouck Horgronje's thoughts on the application of Islamic Law based on Adat. According to him, Islamic law must be based on Article 29 of the 1945 Constitution. Based on this article, after Indonesia's independence, Islamic inheritance can be applied in Indonesia and not based on customary law. Before Law No. 7 of 1989 concerning

³⁰ Afdol, *Penerapan Hukum Waris Islam secara Adil* (Surabaya, Airlangga University Press, 2013),h., 36-37.

the Religious Courts was issued, the decision on inheritance was confirmed by the General Court, the decision of the Religious Courts would apply. if it is confirmed by the General Court. Socially, this stipulation is detrimental to Muslims, while politically it seems that there is an external party intervention against Waris' decision.

In the opinion of the author, the Receptie theory brought by Snouck Horgronje is very influential on the Religious Courts from the judicial system which was initially fine, to a slump, especially in the authority of the Religious Courts and their decisions, especially inheritance issues. Snouck Horgronje tried to find the weakness of the Religious Courts system and then the system was weakened by Snouck Horgronje so that people would not trust this oldest judicial institution, with the intention of indigenous Muslims being apart from the teachings of Islam which had been trusted by the community for a long time.

E. Conclusion.

Based on the discussion above, in accordance with the formulation of the problem, the author concludes that there is an influence of Christian Snouck Horgronje's thoughts on the Religious Courts in Indonesia, consisting of 3 things, as follows:

1. Intervention of the Dutch Colonial Government in the Religious Courts, Thought C Snouck Horgronje, influenced the Dutch East Indies government to pay more attention to people who were Muslim in Indonesia because if left alone it would be very dangerous for the Dutch East Indies government itself, because if the indigenous people were religious Islam is strong in upholding the teachings of Islam, it will make it difficult for the Dutch East Indies government to apply Western Law. Then the Dutch East Indies government through the Receptie theory put forward by C Saouck Horgronje which states that Islamic law can apply if it has been received by customary law, article 134 paragraph 2 which contains "In the event of a civil case between fellow Muslims, it is resolved by an Islamic Religious Judge if the Law Their custom requires it and to the extent that it is not specified otherwise by an Ordinance." With the emergence of this law, the Religious Courts began to be questioned again about their existence on this archipelago. After our independence, the influence of this theory still exists, this can be seen in the abolition of the Religious Courts in

Law No. 19 of 1948.

2. The Authority of the Religious Courts, After the emergence of the Receptie Theory, the Dutch East Indies government formed a committee to review the authority of the Religious Courts, because the government received a report from C Snouck Horgronje that the Religious Courts had committed corruption by taking 10% of cases related to the assets to be distributed. With this report, the Dutch East Indies government by taking the results from the Committee for Reviewing the Authority of the Religious Courts, it was determined that the authority of the Religious Courts was only to deal with marriage matters, which was promulgated in Stbl. 1937 No. 116 Article (2) paragraph 1 which contains the authority of the Religious Courts, which only deals with matters of marriage and divorce while inheritance is revoked. Implementation of the Decisions of the Religious Courts, the decisions of the Religious Courts must be confirmed by the General Courts. The decisions of the Religious Courts will take effect if they are confirmed by the General Courts and this will continue until the issuance of Law no. 7 of 1989.

F. Recommendation

The author concludes some of the influences from Christian Snouck Horgronje's thoughts, the author suggests the following::

1. For the Religious Courts, in order to maintain the existence of the Religious Courts in Indonesia as it is today. This Judicial Body must maintain the trust of the Indonesian people to resolve cases of Indonesian Muslims who are Muslim and the Religious Judges must truly carry out their duties according to the teachings of Islam so that there is no re-intervention from parties who do not like it, then Judges must have a neutral character when deciding cases. And judges must stay away from Corruption and Nepotism, if this Religious Court is separated from everything mentioned above, the existence of this Court will develop and become a role model for the Indonesian people.
2. For further research, the study material that must be investigated is how to maintain the existence of a judicial institution so that there is no sense of setbacks again, where in this global era people are easy to get information through internet media so that Indonesian people are not easily provoked by irresponsible people. answer and spread fake news.

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