



Undhang-Undhang Bantěn

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UNDHANG-UNDHANG BANTĒN

A 17th to 18th-century legal compilation from the *qadi* court of the Sultanate of Bantĕn

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ABSTRACT

This article is based on my study of Cod.Or. 5598, a manuscript that belonged to the last Kiyahi Pĕqih Najmuddin, Faqih Haji Muhammad Adian, who died around 1855–56. This *codex unicus*, preserved in the Library of Leiden University, the Netherlands was once part of the manuscript collection of C. Snouck Hurgronje, the leading Dutch scholar of Islam in Indonesia. The *Undhang-Undhang Bantĕn* is a hybrid text comprising 11 texts bound together in one codex. Its diverse parts include a 65-page text in Javanese script that was written after 1755 and the remaining 162 pages in Arabic script were inscribed after 1815. The major part of the text totalling 227 pages is written in Javanese while 11 pages are written in Malay. It is a ‘legal sourcebook’ that contains the customary law (*dirgama*) of Bantĕn’s Javanese society, the judicial legacy of the Sultanate of Bantĕn prior to the arrival of Islam, Islamic law (*agama/syarak*) and European law.

KEYWORDS

Agama; dirgama; Kiyahi Pĕqih Najmuddin; Majapahit; Undhang-Undhang Bantĕn; VOC

Introduction

Even though Javanese literature includes other legal compilations similar in structure to the one discussed here, the article will highlight the unique character of the manuscript at hand. Cod.Or. 5598 draws primarily on customary law (*adat* or *dirgama*)¹ but its obviously Islamic character and the strength of its religious belief reflects the preference of whoever managed to assemble the several texts that constitute this ‘code’.² I shall try to show in this article that the content of Cod.Or. 5598 has to have been the result of concessions to encroaching Indic, Islamic, and European traditions.

Title of the manuscript

Cod.Or. 5598 is mentioned in three different catalogues of Leiden University: Juynboll, Pigeaud, and Iskandar.³ The manuscript itself bears no title either on its cover

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¹The *Undhang-Undhang Bantĕn* (Cod.Or. 5598) text uses the word ‘*dirgama*’ for customary law as in the *Pĕpakĕm Tjĕrbon* (Hazeu 1905: 43).

²My thanks to Mason C. Hoadley for the idea of this paragraph.

³Juynboll (1911, vol. II: 432) gave Cod.Or. 5598 the title ‘Piyagems en Undhang-Undhangs’; Pigeaud (1968, vol. II: 327–8) gave a rather detailed overview of Cod.Or. 5598 whilst Iskandar (1999, vol. I: 202–3) wrote that the third part of the manuscript Cod.Or. 5598 is ‘Undang-undang Bantĕn’.

or in the texts it contains, but Theodore G. Th. Pigeaud (1899–1988) added the title *Undhang-Undhang Bantěn* (henceforth *UUB*) in pencil on the brown paper in which the manuscript is wrapped for protection.⁴ He probably borrowed the formula that was used in some colophons.⁵ One should bear in mind that although *UUB* literally means ‘Laws of Bantěn’ the manuscript is not a codification of laws or a legal code in the modern Western sense, but rather a legal sourcebook to be used by Bantēnese *qadi* (supreme judges).⁶ In fact, the manuscript is a kind of notebook, a compilation of different texts and excerpts of a diverse nature related to legal issues.

Origin of the manuscript

The manuscript used to be part of the archive of the Kiyahi Pēqih Najmuddin,⁷ the Islamic supreme judge and highest authority in matters of law in the Sultanate of Bantěn in north-west Java.⁸ According to the *Sajarah Bantěn*, the title Kiyahi Pēqih Najmuddin was awarded to Enthol Kawista⁹ around 1651 and after him the various *qadi* of the sultanate continued to carry the title. The office disappeared after the death of Haji Muhammad Adian, the last Kiyahi Pēqih Najmuddin, around 1855–56.¹⁰ The archive of the Kiyahi Pēqih Najmuddin was part of the manuscript collection of C. Snouck Hurgronje that entered the collection of the Library of Leiden University in 1906.

Raden Adipati Soetadiningrat (d.1893) or his brother Raden Soetadinata (1854–1899) bestowed the Kiyahi Pēqih Najmuddin’s archive on C. Snouck Hurgronje (1857–1936),¹¹ who visited Bantěn in 1890¹² when he acted as advisor to the Dutch East Indies Government in Batavia from 1889 to 1905. During the time of his visit, Raden Soetadiningrat was acting as the Regent of Serang (1870–1893) while Raden Soetadinata was acting Patih Menes (head of the Menes community in Bantěn, 1888–1894). Snouck Hurgronje came

⁴I showed the manuscript to Marie-Odetta Scalliet, the (then) curator of Southeast Asian manuscripts in the Library of Leiden University, and she confirmed that it was Pigeaud’s handwriting.

⁵Some colophons include phrases (in translation) such as: ‘The law is enacted in the state or in the kingdom of Bantěn’.

⁶*Qadi* was the functional designation of a supreme judge in Bantěn as has been mentioned in the text of the *Sajarah Bantěn Besar* (Djajadiningrat 1983: 40, 42–4, 48, 58, 71, song XXIV–XXVI; Pudjiastuti 2000). Seals of the *qadi* of Bantěn have also been found, for example one dated 1726/7 (1139 AH) ‘*Pangeran Kadi Syamsuddin*’ and another dated 1733 ‘*Alamat Cap Kadi Bantěn*,’ written in *pegon*; see Gallop (2002: 585, 593).

⁷*Kiyahi* is a Javanese honorific often used for religious men. *Pēqih* is the Javanese form of the Arabic *faqih*, meaning a scholar in Islamic law (jurist). *Najmuddin* means ‘star of religion’ and is used here as a title. Beside this manuscript, the Library of Leiden University preserves several other manuscripts, Cod.Or. 5625, 5626, 5627, and 5628, that contain the registers of *qadi* Kiyahi Pēqih Najmuddin (Pigeaud 1968, vol. II: 333–4) besides other content.

⁸The Bantěn archives are preserved in Jakarta and date from 1738, 1747, 1748, 1753, and 1789. They contain the seal of the *qadi* of Bantěn who bore the title Kiyahi Pēqih Najmuddin (Arsip Nasional Republik Indonesia, no. 72, book 43/6; no. 73, book 43/7; no. 74: 2, seal B; no. 76, book 43/10: 17; no. 77, book 43/12: 37). In the same vein, J. De Rovere van Breugel, a Dutchman, visited Bantěn in 1786 and observed that ‘*Ké Fokké Najanoeddin*’ was ‘... *de Hoogepriester, thans President van den Raad van Justitie* ...’ [‘*Ké Fokké Najanoeddin*’ was ... the supreme ulama/priest and at present the President of the Council of Justice] (Breugel 1856: 161). Two years later, on 7 October 1789, a Dutch report states that the high priest Khay Fokkée Natja Moedin was appointed by the king as *fiscaal*, namely a judge to adjudicate disputes among the Bantēnese; see Guillot (1989: 134).

⁹Djajadiningrat (1983: 71, song 55). *Enthol* is an honorary title, while the *qadi*’s proper name was Kawista.

¹⁰Leiden Cod. Or. 7936 [B]: 9.

¹¹Raden Adipati Soetadiningrat and Raden Soetadinata often gave manuscripts to Snouck Hurgronje. Raden Adipati Soetadiningrat gave two manuscripts: *Babad Bantěn* (‘Chronicle of Bantěn’ now Cod.Or. 7387) in 1890 and *Sadjarah Bantěn* (‘History of Bantěn’ now Cod.Or. 7390) in 1892; for the catalogue, see Pigeaud (1968, vol. II: 426–7). In the inside of the covers of these manuscripts is written ‘*Babad Bantěn Nov 1890 Soetadiningrat*’ and ‘*Regent Serang Rd. Adipati Soetadiningrat 1892*’ indicating that they used to belong to Raden Adipati Soetadiningrat. Soetadinata gave one manuscript to Snouck Hurgronje. It is a *primbon* (prediction) in Cod.Or. 7936 [J]; for the catalogue, see Iskandar (1999, vol. I: 477–80).

¹²According to some sources, Snouck Hurgronje was in Bantěn to investigate the 1888 Bantěn insurrection, see Hecke (2004: 23).

to know the highest Javanese authorities in Bant n through Raden Aboe Bakar Djajadinigrat whom he had befriended during his sojourn in Jeddah. The latter had been his loyal informant during his stay in Mecca in 1884 and 1885. Raden Aboe Bakar was the brother of Raden Soetadiningrat and Raden Soetadinata and the three men were the sons of the Regent of Pandeglang, Raden Adipati Natadiningrat (d.1870).¹³ During his stay in Bant n, Snouck Hurgronje studied religious organisations there, sought information on their movements, and collected manuscripts.¹⁴ After his visit, he corresponded with Soetadiningrat and Soetadinata and he often asked them for information on topics dealing with Bant n.¹⁵

Snouck Hurgronje received letters from Raden Soetadinata concerning, among other things, religious organisation in Bant n and more specifically, the details of the *qadi* of Bant n and the institutional history of the Kiyahi P qih Najmuddin.¹⁶ It would seem to be highly plausible that it was Soetadinata who kept the archive of the last Kiyahi P qih Najmuddin, Haji Muhammad Adian, since Soetadinata held an important post in Bant n at the time, that of Patih Menes. Perhaps it was also Soetadinata who gave the archive to Snouck Hurgronje. However, according to Jan Just Witkam (2007), the Bant nese manuscripts in the Library of Leiden University in fact mainly originate from a Bant nese Muslim scholar who was suspected of entertaining heretical convictions. Snouck Hurgronje had found these manuscripts in Serang during his visit to Bant n in 1890. They had been deposited there after having been confiscated, and had been stored for quite some time when he found them (Witkam 2007: 159–60). Eventually, at the end of his service as advisor in the Dutch East Indies in 1905, Snouck Hurgronje returned to the Netherlands and devoted himself to teaching and research at Leiden University. In 1906, he donated the Kiyahi P qih Najmuddin’s archive, including the *UUB* manuscript as well as other manuscript collections to the Library of Leiden University (Pigeaud 1968, vol. II: 10, 327–8).

Description of the manuscript

Manuscript cover

The cover of the manuscript is of yellow-brown cardboard (Figure 1). The outside of the front and back covers are badly damaged and both have a multitude of small holes due to termites or other insects and the inside part of these covers have deteriorated further (Figure 2). On the left side of the inside front cover is a note written in Arabic script. In addition, on the inside of the back cover a piece of paper is glued to the cardboard

¹³For detailed information about Raden Aboe Bakar Djajadinigrat, see Laffan (1999: 517–42).

¹⁴Gob e and Adriaanse (1965, vol III: 1986–99). Snouck Hurgronje wrote in a letter to the Dutch East-Indies Government dated 15 August 1892 about the findings of his visit to Bant n commenting that ‘*Deze en dergelijke indrukken werden gedurende mijn verblijf in Bant n in 1890 bevestigd en versterkt*’ [These and similar impressions had been confirmed and strengthened during my stay in Bant n in 1890], (ibid.: 1987). In 1890, Snouck Hurgronje obtained the Javanese manuscript of Bant n ‘*Wawacan Haji Mangsur*’ preserved in the library of Leiden University (Cod.Or. 7420), see Wieringa (2004: 419–21).

¹⁵Cod.Or. 7936 attests to the active correspondence between Snouck Hurgronje and Raden Adipati Natadiningrat’s sons, Raden Soetadinata, Raden Adipati Soetadiningrat, Raden Soeriadiningrat, and Raden Astrasutadiningrat. For more detailed information on the manuscript, see Iskandar (1999, vol. 1: 477–80).

¹⁶Three letters Soetadinata wrote to Snouck Hurgronje when he was Patih Menes – Cod.Or. 7936 (A, B and H) dated 21 September 1892 (7 pp.), 29 September 1892 (15 pp.) and one letter undated (13 pp.) – explain the institutional history of the Islamic supreme judge, Kiyahi P qih Najmuddin of Bant n.



Figure 1 Front cover wrapped in paper to protect the manuscript from degradation.

Source: Cod.Or. 5598, *Undhang-Undhang Bantěn*, University of Leiden Library.

with an Arabic inscription describing the ‘*iman*’, ‘*Islam*’, and ‘*ihsan*’. The papers that contain the notes (not the notes as such) were used as binding materials to hold the pages of the manuscript together and have no relation to its content. At the top of the outside back cover, a small sheet of paper has been glued containing the label ‘93 5598’ which was added by librarians and is unrelated to the manuscript.

Manuscript binding

The manuscript was bound with black and white yarn using traditional hand-binding techniques. Once they had been bound by thread, they were assembled and glued together, and subsequently covered. The spine of the manuscript has disappeared and replaced with a large sheet of brown paper of the same kind that was used to wrap the cover. The brown paper was probably added by the Library’s conservation department. Except for the spine, the rest of the cover is in place, but severely damaged.

Manuscript dimensions, pages and numbering

The manuscript paper and the text have the dimensions 31×20 cm and 24×14 cm respectively.¹⁷ The manuscript has 227 pages and 22 pages have the original page

¹⁷The catalogues of both Pigeaud (1968, vol. II) and Iskandar (1999, vol. I) indicate the dimensions for the manuscript and text as, respectively, 32×21 cm and 24×13.5 cm.



Figure 2 Last page of the manuscript (p. 163) in *pegon* script and the inside of the back cover, both heavily damaged.

Source: Cod.Or. 5598, *Undhang-Undhang Bantèn*, University of Leiden Library.

number written in Arabic numerals on the upper and lower corners of the odd pages. Most of the pages have no original page numbering but at a later date page numbers were pencilled in. These added numberings, in Arabic numerals, were in the upper corners of the verso sides of the folios. It was likely Pigeaud who numbered the pages from the first to the last texts of the manuscript in pencil. In fact, these numbers are small and narrow and differ in style from the rest of the text. The writing of the numbers is similar to the handwriting that can be found on page 120, '94/93 sing[?] Hijrah 1269', which has been done in pencil and is found below the text, and can be identified as the hand of Pigeaud.¹⁸

Languages and scripts of the manuscript

The manuscript is almost entirely written in Javanese with the exception of 11 pages which were written in Malay. The text is written in black ink with the exception of page 156, which contains two lines of a Qur'anic verse in red ink. It is probable that a *mistara* (ruler) was used to make the ruling for writing. The manuscript has neither illustrations nor illuminations. Three types of script have been used in the manuscript: Javanese, *pegon* (Arabic script adapted to the phonological rules of Javanese, see Figure 3), and *jawi* (Arabic script adapted to the phonological rules of Malay).

¹⁸ showed a photo of this pagination to Edwin P. Wieringa, who worked for several years on the catalogue of manuscripts in Leiden (2 volumes) and he confirmed that the handwriting is that of Pigeaud.



Figure 3 Manuscript pages 7 and 8, two of the 140 pages in vocalised *pegon* in the *naskhi* style.

Source: Cod.Or. 5598, *Undhang-Undhang Bantèn*, University of Leiden Library.

The first 65 pages were written in Javanese script (*ha-na-ca-ra-ka*, see [Figure 4](#)) and each page has 6 to 7 well-spaced lines. The next 140 pages were written in fully vocalised (*harakat* provided) *pegon*, namely pages 1–106 and 130–63. The text is written in *naskhi* script (Islamic cursive style of the handwritten alphabet). The number of lines on these pages is between 7 and 13, except for pages 162 (11 lines) and 163 (24 lines). The next 22 pages (pp. 107–29) contain two different texts side by side. One is located on the right hand side pages (recto or odd numbers) and the other on the pages at the left (verso or even numbers). The two texts have their own original numbering. Text A (on the right hand side, see [Figure 6](#)) has two columns: Malay (*jawi*) on the right and Javanese (in Javanese *ha-na-ca-ra-ka* script) on the left. Each column comprises 10 to 13 lines that are sufficiently spaced from each other. Text B (on the left hand side, see [Figure 5](#)), consists of 11 pages and is written in non-vocalised *pegon* with the exception of the last page (128) which is written in *pegon* with vowels.

Manuscript paper

The text is written on Dutch paper with watermarks, countermarks, and chain lines. The watermark boasts two lions upholding a crown and holding a shield decorated

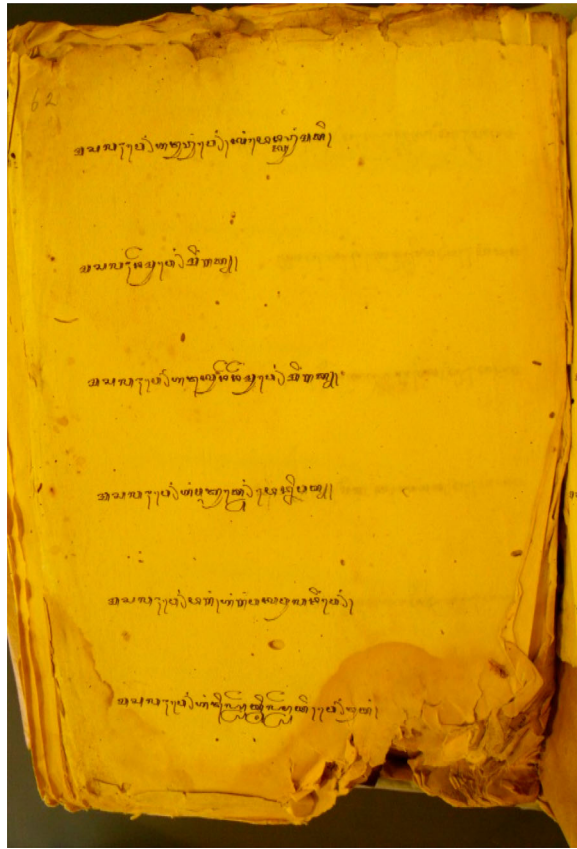


Figure 4 The text of *Masalah Undhang-Undhang* in Javanese script (p. 62).

Source: Cod.Or. 5598, University of Leiden Library.

with three crosses resting on a pedestal decorated with flowers. Although the watermark was found in a document dated 1722, this does not mean that the paper of this manuscript can be dated to that year.¹⁹ Indeed, it is interesting to note that only one watermark of the manuscript paper has a different countermark (initials of the paper manufacturer). In light of this, the countermark of the paper manufacturer should be used as the basis to assert when the paper was produced. The letters HI and LS are found on 65 pages of the section written in Javanese script,²⁰ while on 162 pages of the Arabic script section, the letters HM and underneath the letters GI have been identified. The letters HI refer to paper production in 1755, while HM (used by H. Meijerink and L.H. Ledebor) refers to production in

¹⁹Personal communication from Russell Jones, 30 August 2016. Voorn (1960: 133, 157). According to Voorn, such a watermark can be classified in the category of Coat-of-Arms of Amsterdam. After careful observation, the watermark of the manuscript has proven to be identical to watermark number 67 in Voorn's book. He discovered the watermark in the Provincial Archives of North Holland, in a land act registered under number N 5899.

²⁰I found the letter H on pages 25 and 26. This letter refers to paper that has been dated to 1808 (by Harm Jonker), see Voorn (1985: Appendix II, 183). However, some doubt remains since the countermark is not particularly clear. It is likely that it is HI although I am uncertain of this.



Figure 5 ‘Sajarah Majapahit’ written in *pegon* with Text B on the left, showing p. 110, one of seven pages.

Source: Cod.Or. 5598, University of Leiden Library.



Figure 6 The tenth text (11 pages), an agreement between the VOC and Sultan Zainul Arifin (p. 109) – Text A, in Javanese script on the left column and *jawi* on the right.

Source: Cod.Or. 5598, University of Leiden Library.

1815.²¹ We can therefore surmise that the 65-page text in Javanese script was written after 1755 and the rest of the text (162 pages) in *pegon* script was inscribed after 1815.

The manuscript consists of friable paper that is severely damaged. Many leaves risk crumbling when turning the pages. In addition, several pages have separated from the binding. The upper part of the manuscript's text is only slightly damaged, while the lower parts (front and back) show severe deterioration with a large hole. Such damage is generally due to moisture. Despite its advanced state of deterioration, most of the text of this manuscript remains readable.

Authors, scribes, and copyists of the manuscript

For the purposes of this article, an author is defined as the person who originated a written text from their own ideas and a scribe as the person who put these ideas dictated by the author, to paper. A copyist is defined as a one who copies the text written by the scribe at a later period.

The manuscript of *UUB* contains no fewer than six colophons, located at the beginning, middle and end of the text. These colophons do not name authors, scribes or copyists. However, most of the colophons indicate the date when the law was enacted, suggesting the date of the original authorship of the text, rather than the date when the text was copied into this manuscript. In the sequence in which they appear in the manuscript of *UUB*, these dates refer to 1699, 1777, 1738 (in three colophons), and 1820 CE, suggesting that several persons authored and inscribed the texts in the manuscript. The three texts dating from the same year of 1738 were likely written by one person.

However, it is difficult to identify the individual scribes or to know who they were. It is likely that they were palace officials who held the positions of royal secretaries. There are several reasons for this supposition. Firstly, it was found in 1680 that Sultan Haji was accompanied by a Malay scribe when he received the envoys of the Dutch East India Company (VOC, *Vereenigde Oost-Indische Compagnie*),²² when they arrived from Batavia to pay him a visit.²³ Secondly, it was found that Sultan Abul Mafakhir Muhammad Aliuddin's letter dated 1 November 1781 was written by one of His Majesty's scribes (Pudjiastuti 2005: 125). Thus we may conclude that the sultans of Bantën had their own scribes or secretaries, who could indeed have written these *UUB* texts. The original authors of the texts preserved in the *UUB* were obviously legal authorities of the Sultanate of Bantën, presumably various individuals who held the post of the *qadi* Kiyahi Pëqih Najmuddin, and his officials.

The respective texts in this manuscript were clearly written by different copyists. This is evident from their different writing styles – the shape of the script, the lines and the pressure used with the writing instruments, vowel specifics, punctuation, adapted letters, and the homogeneity and consistency in writing. The 65 pages in Javanese script were copied by only one person, whom we shall call C1 (copyist 1). The 140 pages (pp. 1–106 and pp. 130–62) written in *pegon* script were copied by another scribe we shall call C2. It seems likely that 22 pages (pp. 108–29) were copied by three different

²¹The letters LS do not appear in the countermarks list drawn up by Voorn (1985: Appendix II, 183).

²²The VOC was a trading trading company founded by Dutch merchants in 1602 and dissolved in 1799.

²³VOC archive, 2 July 1680, VOC 1351, f. 2257–2270, cited in Rantoandro (2000: 507).

people C3 for the text in *jawi*, C4 for the text in Javanese script i.e. the text on the verso or left hand pages, and C5 for the text in *pegon* script on the recto or right hand pages. Therefore, it seems likely that there were five copyists in all. Unfortunately, no information is offered about any of them. The copying was executed perfectly and free from major errors. Hence it can be assumed that the copyists were Javanese in culture and language, and that they were born and lived in Bantën.²⁴ That one copyist clearly hailed from Bantën can be deduced from the Bantënese copyist peculiarities of putting a dot underneath the letter *dāl* (Wieringa 2003: 513). These various texts are copies and not originals as older and more complete versions of some of the texts within this manuscript have been found elsewhere.

Description of the content

The various texts in the manuscript

Differences in language, script, and dates in the manuscript, reveal that it is not composed of a single text but are of several texts gathered together. The manuscript can undoubtedly be regarded as a unity, although one can clearly distinguish its different component parts. It is composed as follows:

(1) Masalah Undhang-Undhang

The first text is the *Masalah Undhang-Undhang* consisting of 65 pages (pp. i–lxv) of 33 folios numbered separately by Pigeaud.²⁵ It is the oldest section of the manuscript, and as explained earlier, according to the watermarks and countermarks of the paper, this text has been copied after 1755, while the others were copied after 1815. The text contains what seems to be a list of articles or even a table of contents. However, it is not the index to the *UUB*'s contents. While many items on the list certainly refer to articles in the various texts of the manuscript, of its 399 entries, only 160 entries correspond to actual articles contained in the *UUB*. In other words, these 160 corresponding articles are all found in subsequent sections and some 240 items of the lists are not to be found in the manuscript. We can deduce that this is the index of an earlier lost or unknown book of which less than half was copied into this manuscript.

(2) Undhang-Undhang Sultan Haji

The second text is the law of Sultan Haji (r.1682–1687). It is 26 pages long (pp.1–26) and consists of 46 articles. It dates back to the time of Sultan Abu Nasar Abdul Kahar, known as Sultan Haji. However, it also includes three articles (12, 43, and 45) related to the reign of his father, Sultan Ageng Tirtayasa (r.1651–1682). The text has no title, but several phrases indicate that the law was issued during the time of Sultan Haji's

²⁴There is evidence that points to the fact that the texts copyists were from Bantën. Research findings confirm the role of Bantën as a major centre for copying Islamic manuscripts and its influence throughout the Indonesian archipelago. For example, Wieringa (2003: 509, 514) found that manuscripts containing the *Syair Seribu Masalah* and *Syair Burung* were copied by Bantënese. Furthermore, he identified the copyist of *Syair Burung* as Muhammad Hasnawi of Bantën (Wieringa 2003: 509). The manuscript of the *Undang-Undang Aceh* (Mss. Malay D.12) in the British Library in London was copied either by a Bantënese or by a resident of Bintan. However, the word *bā-nūn-tā'-nūn* has no vowels, so one cannot distinguish between 'Banten' or 'Bintan', see (Ricklefs and Voorhoeve 1977: 127). I thank Annabel Teh Gallop for this information.

²⁵One unnumbered folio is a blanc recto, while the verso only contains the single word *masalah* (case) written six times.

reign.²⁶ The text is a collection of articles addressed to all layers of society. At first glance it seems quite heterogeneous, but careful reading shows that it is about regulations pertaining to the relationships between diverse social strata and royal power.

(3) *Undhang-Undhang Sultan Zainul Abidin*

The third text is the law of Sultan Zainul Abidin (r.1690–1733). It is 49 pages long (pp. 26–75) and explicitly mentions that it consists of 80 articles within a series of laws dating from his reign (*UUB*: 26). This section contains two different colophons. The first colophon is on p. 73: '*Dhawuhing undhang2 ing dina itnayn tanggal ping kalih wulan Jumādī al-Aḥir tahun Jīm 1191 Hijrah. Wa Allāhu a'lam*' (The law was enacted on Monday second of the month Jumādī al-Aḥir of 1191 AH [8 July 1777 CE], the year Jīm. Allah is omniscient). The second colophon is on p. 74: '*Wulan Jumādī ... sanat 1111*' (month of Jumādī (?) of year 1111 AH [between the end of October to December 1699 CE].) The colophons reveal that his successors re-enacted Sultan Zainul Abidin's law after his death, and that they were still in force up to 1777. The text in this section is a collection of unrelated cases but the laws regulate the civil affairs of all individuals in society.

(4) *Undhang-Undhang Sultan Zainul Arifin*

The fourth text is the law of Sultan Zainul Arifin (r.1733–1748). It is 13 pages long (pp. 75–87) and consists of 22 law articles issued by Sultan Abul Fathi Muhammad Syifa Zainul Arifin (*UUB*: 75), and re-enacts the ones issued during the reign of his father, Sultan Zainul Abidin, and his grandfather, Sultan Haji (*UUB*: 79). This section contains two colophons. The first is on p. 75: '*Ing dina Arba' tanggal ping 5 saking wulan Rabi'ū al-Awwal tahun Dāl 1151 hijrah, kala iku Kangjěng Sultān Abū al-Faṭḥ Muḥammad Šifā Zayn al-Ārifīn andhawuhakěn undhang-undhang*' (On Wednesday, the fifth of the month Rabi'ū al-Awwal of the year 1151 AH, the year Dāl [23 June 1738 CE], His Majesty the Sultan Abul Fathi Muhammad Syifa Zainul Arifin enacted [the] law). The second is on p. 87: '*Hijratu al-Nabi ṣallā Allāhu 'alayhi wa sallam sewu satus sekět tunggal lumampah ing tahun Dāl ing sasi Jumādī al-Awwal tanggal wolu ... Bantěn Ṭalaṭa waqtu Zuhur aḥir*' (In Bantěn on Tuesday afternoon ... the eighth of the month Jumādī al-Awwal, 1151 AH the year Dāl [8 August or 3/13 September 1738 CE].) The text is directed at the people of Lampung and regulates their relationship with the Sultan of Bantěn and his representatives, as well as pepper²⁷ production and the trade thereof in Lampung.

(5) *Undhang-Undhang Sultan Abul Mafakhir*

The fifth text contains the law of Sultan Abul Mafakhir Abdul Kadir (r.1624–1651). It is 8 pages long (pp. 88–95) and consists of 11 articles that deal with discretionary punishment (*ta'zīr*) as recommended by sharia (*UUB*: 88) and as applied by the Sultan of Bantěn. The text states that only the sultan has the authority to pronounce a verdict based on *ta'zīr*. In the same vein, he has the prerogative to increase or reduce sanctions and punishments. He is also the only one who has the right to resort to *ijtihād* (personal interpretation) in making a decision or in pronouncing a verdict while deliberating with his advisers. It

²⁶*UUB*: Article 5, p. 2; article 8, p. 4; article 33, p. 14. Furthermore, the name Pangeran Arya Dipaningrat, who was the prime minister during Sultan Haji's reign, is mentioned. The name appears in articles 1, 36–39, and 44, p.17, p. 20 and p. 22.

²⁷Pepper was the main resource of revenue of the Sultanate of Bantěn.

should be noted here that the possibility of resorting to discretionary punishment is not given to a *faqih* (jurist) but only to a sultan. So, according to this text, the sultan is not only the highest political authority but also the highest legal authority, as was often the case in Muslim kingdoms.

We know that Bantënese interest in discretionary punishment dates back to the reign of Sultan Abul Mafakhir (UUB: 92), because it was he who sent an envoy to Mecca to submit questions to the ulama of the Holy Land about the most Islamic way to govern a country. Sheikh Muḥammad ‘Ali Ibn ‘Allān Bakrī Makkī was charged with answering these questions.²⁸ He responded to the sultan’s 10 precise questions including his queries about the *wujūdiyyah*,²⁹ how to govern his people, and the methods and forms of the implementation of sharia. Sheikh Ibn ‘Allān dealt with these issues by referring to the Maliki School (Mālikiyya), citing the opinion of Imām Mālik (d.179 AH/796 CE).³⁰ Ibn ‘Allān’s answers were turned into a book entitled *Mawāhib al-Rabbāniyyah ‘an al-As’ilah al-Jāwīyah*³¹ [Divine gifts in response to questions from the Javanese] that was brought back by the Bantën envoy when he returned from the Holy Land in 1638. Sultan Abul Mafakhir Mahmud Abdul Qadir later offered Ibn ‘Allān the position of *qadi* of the Sultanate of Bantën, but he declined.³²

(6) *Undhang-Undhang Kyai Arya Mangunjaya*

The sixth text is the law of Kyai Arya Mangunjaya (r.1651–1680). It is 4 pages long (pp. 95–8) and contains 5 articles composed by Prime Minister Kyai Arya Mangunjaya during the reign of Sultan Ageng Tirtayasa (1651–1682).³³ During Kyai Mangunjaya Arya’s time, the Sultanate of Bantën was an independent state and enjoyed total freedom at all levels: political, legal, and commercial. The Prime Minister promulgated the laws that the political power of Bantën desired at the time. At first sight, the text seems to consist of unrelated cases, but in fact it centres around one general theme, namely the regulations pertaining to criminal cases among the people of Bantën.

(7) *Kitab Perjanjijan Kumpëni Lan Sultan Haji*

The seventh text is a treaty between the VOC and Sultan Haji³⁴ and is 9 pages long (pp. 98–106). The background of this treaty dates back to 1682 when civil war broke

²⁸ Sheikh Muḥammad ‘Ali Ibn ‘Allān Bakrī Makkī was a jurist, born on 20 Šafar 996 (21 January 1588) in Mecca and died on 21 dūlhijjah 1057 (18 January 1647) in Mecca; he was buried at the Ma’lā cemetery. He was one of the most famous scholars in the Holy Land from the 10th to 17th century, and wrote more than 60 books.

²⁹ Djajadiningrat (1983: 193). The *wujūdiyyah* is a mystical current within Islam that sees all things in the universe as emanations of God, the Supreme Being, because all creation is only by His will. This is, in fact, an extreme form of *tawḥīd* meaning, ‘There is nothing but God’, and therefore it is the realisation of God’s existence because anything else is totally annihilated; see *Encyclopédie de l’Islam* (2005, vol. 9: 236).

³⁰ Furthermore, Imām Mālik is specifically mentioned in the UUB, ‘Maka ing zaman Sultān Abū al-Mafāḥir’ Abd al-Qādir rahmatullāhi ‘alayhi satuhune akon anglampahakēn ana’zirakēn kalawan angambil arta karana taqlid maring Imām Mālik radiyallāhu ‘anhū’ (In the time of Sultan Abul Mafakhir Abdul Kadir, may Allah rest his soul in peace, he ordered to apply the seizure of assets as a discretionary punishment [ta’zīr] referring [taqlid] to Imām Mālik, may Allah rest his soul in peace), see UUB: 92.

³¹ See Sudrajat 2002: 8–11.

³² The *Sajarah Bantën* states that ‘the Sharif of Mecca could not send *faqih* to Bantën, but he attributed the title of sultan to the kings of Bantën ...’ (Djajadiningrat 1983: 54, 195–6).

³³ UUB: 95.

³⁴ The text bears the title *Kitab Përjanjijan Kumpëni lan Kangjeng Sultān Hajji* (Treaty between the Company and His Majesty Sultan Haji). The first paragraph states ‘Ikilah surat tēkēnan olihing amēthiki anurun saking surat përangjijan saking Kangjeng Sultān Hajji Abū Naṣr’ Abd al-Qaḥḥār kalawan Kumpëni kang wus muwafaqat sarta wus denlakokakēn ing nagara

out between Sultan Ageng Tirtayasa and his son, Crown Prince Sultan Haji. The latter appealed to the Dutch to crush his father's forces. They did and he succeeded his father to the throne that very year. The Dutch made several demands on Bant n in recompense for their support. Three treaties were signed in 1682, 1684, and 1686. Part of the treaty of 1686 is included as the seventh text in the *UUB* manuscript. A comparison between the text of the treaty in *UUB* and the Treaty of 1686 as found in the *Corpus Diplomaticum* shows that the first contains only 12 articles, while the original has no less than 35. The articles in *UUB* are identical, but in Javanese, and are adaptations rather than translations.³⁵ Whoever commissioned the translations, probably the *qadi* of Bant n, left out 23 articles and retained only 12. The contents of the 12 included in the manuscript concern prohibitions on VOC officials and the rules the *qadi* could enforce, for example, in case of the rape of a Bant nese woman by a VOC officer or a drunken VOC soldier's intrusion of a mosque. In contrast, the 23 articles of the treaty which were left out of the manuscript, in essence, concern the obligations of the Sultan of Bant n.

The commissioner of the copy of this manuscript may have deliberately wanted to have each of the Sultanate of Bant n's obligations removed, including those on restrictions on the trade in slaves, cotton, black and white pepper, those requiring ships to obtain a licence from the Dutch maritime authorities, the monitoring of 'illegal' trade, control over slaves and immigration, as well as limitations on international relations and contacts with the outside world. It is very likely that this copy was ordered and used by a *qadi* who wanted to have a copy of the articles of the Treaty of 1686 only to help him to arrive at his verdicts on conflicts between the Bant nese and the Dutch.

(8) *Sajarah Majapahit*³⁶

The eighth text is the 'Laws of Majapahit'. It is 7 pages long (pp. 108–20, on verso pages, Text B, see Figure 5). It has its own pagination in ink in Arabic numerals, but not in Arabic script, at the top and bottom of the text. These pages correspond to numbers 108, 110, 112, 114, 116, 118, and 120 of Pigeaud's pagination. Despite the clarity of writing, the text is difficult to read due to its small size and the irregularity of the script. The lines are very tight. Each page has 22 lines. In this section, I found one colophon on p. 120: '*Tam t al-kal m bi al-hayri wa al- fiyah. Ing dinten hamis (...) sasi Jum di al-T ni 1235 sanat ze kalaning sanah ngerat kit b*' (The text has been well executed and was fully completed on Thursday (...) of the month Jum di al-T ni 1235 AH, [between 16 March and 14 April 1820 CE], the year of Je, the year of the writing of the book).

The text is a collection of 66 articles on Javanese laws. The first part of the text is special because it clearly indicates for the first time that Bant n had several legal sources, including Javanese customary law. In connection with offences and punishments, some of the

Bant n salawas-lawase' (This is a copy of the treaty between His Majesty Sultan Haji Abu Nasar Abdul Kahar and the Company, agreed and established forever in the state of Bant n), *UUB*: 98–9.

³⁵The text of this treaty is published in Heeres and Stapel ([1907–1955]1934, vol. 3: 392–405).

³⁶Although it is stated in the first paragraph that it dates from the time of Majapahit (*punika sajarah saking Majapahit*), the text actually dates from a different time. Its contents have nothing to do with the history of Majapahit as the word *sajarah* might suggest. According to Labrousse (1984: 738), the first meaning of this word is 'genealogy' rather than history and the text does deal with Hindu-Buddhist Javanese legal tradition and culture.

articles in this section bear titles related to legendary figures such as *Aji Saka*, *Raja Niti*, *Jugal Mudha*, *Anglangkara* (*Jaya Lengka?*), and *Kunthara*.³⁷

As shown in this eighth text, Javanese law consisted of short phrases written in Sanskrit or Old Javanese to designate offences and punishments.³⁸ These legal precepts are here termed '*akṣara*'.³⁹ Borrowed from the Indian world, the term is used here in Java in a specific manner that is found nowhere else in the Indonesian-Malay archipelago.⁴⁰ The meanings of these Sanskrit and Old Javanese terms found in the eighth text of this manuscript are not direct copies of actual Hindu-Indian law. Their use is nominal in that they refer to the Javanese tradition and culture of the time, not to Indian traditions and culture (Hoadley 2002, 2004). For instance, two words, *jaksa* and *karta*, are found in the manuscripts, which have their roots in the Indian legal tradition, but in this context they contain local elements and draw their sources from Javanese law. These examples merely show the strong influence of Hindu-Buddhist culture in Javanese law (Kern 1910, vol. I: 197–200).

In fact, the important role of Javanese law as the legal basis in Bantën is highlighted by a very important passage in this section which reads: 'The sovereign must promulgate these three laws, namely: the *agama*, the *dirgama*, and the *karinah*. That is what the law is for Muslims.'⁴¹ This passage gives us a clear vision of the law in Bantën and it is the only place in the text where the author conceptualises what the law in Bantën is. Thus the law for Muslims with a Javanese cultural background in Bantën at the time was based on religious law, customary law and *karinah*. Indeed, the articles in the actual text reveal the two main legal sources: 58 articles are based on customary law from the Javanese Hindu-Buddhist era, while the last 8 articles are based on Islamic law.

In the second part of this eighth text, the majority of cases forms a set of legal rules of a criminal nature. The text is meant for all in Bantën irrespective of their social or ethnic

³⁷The Javanist legal historian Mason C. Hoadley (personal communication, 27 June 2013) raises the interesting possibility that the eighth text is a summary or a paraphrase of parts of a longer manuscript edited and translated into Indonesian by Ali Imran (2006). Like the text under discussion, chapter I of this text identifies the textual sources of the law as *Kuntara*, *Raja Niti*, and *Jugal Muda* from Majapahit, Pajajaran, and Lampung respectively, while chapter III clarifies the contents of law as *igama* (*agama*, religious), *dirgama* (*drigama*, customary), and *karinah* (a law combining *agama* and *dirgama*) thus linking Islam, *adat*, and experience.

³⁸Raffles wrote of the peculiarity of Javanese law: 'The body of regulations etc. compressed in these codes is curious, from the laborious refinement of their distinctions, from the mixture of moral maxims and illustrations with positive law, from the most incongruous combinations, and from their casuistical spirit,' (Raffles 1817: 280); see also Hoadley and Hooker (1981: 209).

³⁹The *akṣara* specifically cited in the text are: *abadham beya*, *amangkur beya*, *ambalang beya*, *ambang beya*, *anancang beya*, *anangatang beya*, *ananjah beya*, *angacar beya*, *angalusi beya*, *angamu beya*, *anganak beya*, *angarang beya*, *angarkarta beya*, *anglamar beya*, *angrampok beya*, *angrang beya*, *anyëgah beya*, *anyërang beya*, *anyomanging beya*, *embong beya*, *ilëb beya*, *irang beya*, *kibar beya*, *mancing beya*, *nanjang beya*, *ngamuk kapunggung beya*, *pongah beya*, *sakar beya*, *sandyang beya* and *sepa beya*. For a discussion of *akṣara* as a legal concept in texts from the 'Independent Kingdoms' period of the 18th century, see Hoadley (2008: 82–7, 91ff).

⁴⁰The influence of the Indian world could be attested, in the *UUB*, for example, by the word *kunthara*, which is a variant of the word *kuthara* or *kutara*, and seems to be an abbreviation of *kuṭāra mānawa*, the book developed from the Laws of Manu (*Manavadharmaśāstra*), the most famous of the *dharmaśāstra* (Indian legal codes). In ancient India, *dharmaśāstras* served as the basis for Brahmanic law. The Laws of Manu also served as the legal structure in Java from the advent of the Javanese kingdoms as shown by inscriptions dated 732 and 794 found in East Java, that refer to the king Manu in the Indian tradition and the Indian legal tradition (Ball 1982: 42; Hoadley 1971: 99). During the Majapahit period, the influence of Hindu-Indian culture and legal tradition continued. The *Nagarakṛtāgama*, a eulogy of the King of Majapahit, Hayam Wuruk, written by Rakawi Prapanca in 1365, refers to the *kuṭāra mānawa* as the legal source of the kingdom of Majapahit. The book explains that *upapati* or jurists, consulted the *kuṭāra mānawa* during legal proceedings (Pigeaud 1960–63, vol. 3: 154, fig. 6 recto, line 1). In addition, the code of Majapahit called *āgama* refers to the *kuṭāra mānawa-śāstra* (Hooker 1978: 39), among several other Indian legal sources.

⁴¹'Ratu anjënëngakën parentah kang tëlung pèrkara iya iku: *agama*, lan *dirgama*, lan *karinah*: iku hukum wong Islam' (*UUB*: 112).

origin. The second part is the only place in the *UUB* that treats cases of a criminal or civil nature between private individuals. It should be noted, however, that to a lesser extent, this second part also relates to civil affairs, for example, marriages, contracts, and individuals, which are based on Islamic law. The articles with regard to Islamic family law pertain to marriage (*nikāḥ*), divorce (*ṭalāq*), *li'ān* (the husband affirms under oath that the wife has been unchaste or that the children born of her are not his), *zihār* (the use of the formula 'you are for me untouchable like the back of my mother'), and *'ilā* (the oath of the husband to abstain from sexual intercourse). The eighth text shows that to resolve these conflicts the judicial authority of Bantěn based its judgments on Javanese customary law with the exception of those related to marriage and divorce, which were based, partly, on Islamic law.

(9) *Bāb al-Farā'id*

The ninth text treats Islamic inheritance law in 4 pages (pp. 122–8, in verso, Text B) and consists of 29 articles. It concerns the issue of succession according to Islamic law. The Arabic title, *Bāb al-Farā'id* (Chapter on Succession) has been retained. This section is found after text number eight and has the same character, but the pages correspond to numbers 122, 124, 126 and 128 of Pigeaud's pagination. Each page has 22 lines, with the exception of the last page (p. 128, three lines only). The difficulty of deciphering due to cut phrases, unclear sentences and irregular writing increases gradually as the text progresses.

The text follows the style of the Shafi'i school. Among the books of this school, it is most likely that the *Minhāj al-Ṭālibīn*⁴² of al-Nawāwī or one of his later commentaries was used as its source.⁴³ A comparison of the *Minhāj al-Ṭālibīn* and this text on succession shows that the content and the structure are identical. However, the *UUB* text on inheritance has only copied a small part of the original book (that of *Minhāj al-Ṭālibīn*) and excludes all the chapters of the last part and also various other passages, such as the chapter on the exclusion of women from inheritance.

Unfortunately there is no evidence that the *Minhāj al-Ṭālibīn* or its commentaries existed in Bantěn before 1820, in the period when this text of the *Bāb al-Farā'id* was copied. The National Library of Indonesia in Jakarta contains a collection of around 116 manuscripts of the royal library of Bantěn, nearly all of which are in Arabic. They were acquired by the Dutch in 1832 after the exile of the last sultan (Gallop and Akbar 2006: 141). However, in the catalogue *Codicum Arabicorum* written by van den Berg (1873),⁴⁴ I only found a dozen manuscripts that belonged to the sultans of Bantěn and none of these include the the *Minhāj al-Ṭālibīn*. The catalogue of Arabic manuscripts

⁴²The *Minhāj al-Ṭālibīn* (Guide of zealous believers) by 'Imām Muhyiddīn Abū Zakariyyā Yahyā Ibn Šaraf al-Nawāwī, born in 631/1233 and died in 677/1278 in Damascus, is a summary of the book *al-Muḥarrar* written by Imām al-Rāfi'i (d.623/1226) and commented upon by al-Nawāwī himself. The latter is also a summary of the book *al-Wajīz* by Imām al-Gazālī (d.505/1111) which is itself a summary of the *Nihāyat al-Maṭlab* by Imām al-Juwaynī (d.478/1085). In essence, it is a compilation of the new opinions (*qawl jadid*) of Imām Šāfi'i (d.204/820).

⁴³The *Minhāj al-Ṭālibīn* exists in several forms: commentaries (*šarḥ*), abridgments (*muḥtaṣar*) and explications in the margin (*ḥāsiyah*) by hundreds of jurist (*fuqahā*) in their works. The most well known among them are: (1) Jalāl al-Dīn al-Maḥallī (d.864/1459) in his book *Kanz al-Rāgibīn Šarḥ Minhāj al-Ṭālibīn*; (2) Yahyā Zakariyyā al-Anṣārī (d.926/1520), who made two summaries: *Minhāj al-Tullāb* dan *Fath al-Wahhāb Šarḥ Minhāj al-Tullāb*; (3) Ibn Hajar al-Haytāmī (d.973/1565) in his book *Tuḥfat al-Muḥtāj*; (4) Ibn Ḥaṭīb al-Šarbīnī (d.977/1569) in his book *Muḡnī al-Muḥtāj ilā Ma'rifat al-Ma'āni Alfāz Šarḥ al-Minhāj*; and (5) Šams al-Dīn al-Ramlī (d.1004/1595) in his book *Nihāyat al-Muḥtāj ilā Šarḥ al-Minhāj*.

⁴⁴Van den Berg (1873: 24, 58, 63, 68, 72–3, 77–8, 89, 90–2, 98–9, 123–45, and 133).

by van Ronkel (1913: 224–5) in the Perpustakaan Nasional Republik Indonesia (PNRI) mentions five copies of the *Minhāj al-Ṭālibīn*, but they do not originate from the royal library of Bantěn.

However, in the 17th century, during Sultan Ageng Tirtayasa's reign, the *qadi* Sheikh Yusuf of Makassar was a Shafi'i jurist.⁴⁵ Thus it can be assumed that he taught the *Minhāj al-Ṭālibīn* to the Bantēnese Muslims and used it as his source book for the adjudication of inheritance issues. At the same time, in the Sultanate of Aceh, the *Minhāj al-Ṭālibīn* and al-'Anṣārī's commentary *Fath al-Wahhāb* served as the main sources for the sultanate's *qadi*, Nuruddin Ar-Raniri (1590–1658), in writing his legal book *Sirāt al-Mustaṭqīm* (written in Malay in 1044/1634).⁴⁶ Later, in the same sultanate, *qadi* Abdurrauf al-Singkeli (1620–1693) used al-'Anṣārī's commentary on the *Minhāj al-Ṭālibīn* as his main source for writing his legal book *Mir'āt al-Ṭullāb Fī Tashīl Ma'rīfat Aḥkām al-Šar'iyyat Li al-Mālik al-Wahhāb*⁴⁷ (written in Arabic with a Malay translation). Al-Singkeli also referred to other commentaries on the *Minhāj al-Ṭālibīn*, such as Ibn Ḥajar al-Hayṭamī's *Tuhfat al-Muhtāj*, *Fath al-Jawwād*, and the *Nihāyat al-Muhtāj* by Šams al-Dīn al-Ramlī.⁴⁸

After 1820, the *Minhāj al-Ṭālibīn* spread widely and was taught in Qur'anic schools in Java and Madura, including Bantěn. In the 19th century, this book was known in the Nusantara world as the Shafi'i school's primary source (van den Berg 1882: v–viii; van Bruinessen 1990: 226–69).⁴⁹ In the first half of the last century, a large number of students from the Archipelago, known as the *Jawah*, were in Mecca with jurists of the Shafi'i school. It was an opportunity for them to study the *Minhāj al-Ṭālibīn*, which they then taught in Nusantara after they returned home (Snouck Hurgronje 1970: 186–9, 258). This explains the popularity of the Shafi'i books in the Indonesian Archipelago. In addition, a manuscript of the *Minhāj al-Ṭālibīn*, dated 1845, is preserved in the National Library of Indonesia (Behrend 1998: 12). Even more noteworthy, there is a Javanese version of the commentary on the *Minhāj al-Ṭālibīn* by Ibn Ḥajar al-Hayṭamī, *Tuhfat al-Muhtāj*, dated 1808, which used to belong to the Regent of Semarang, Adi Surya Menggala (Keijzer 1857: 74). The text was edited and published in 1853 by Salomo Keyzer and

⁴⁵ Sheikh Yusuf al-Makassari was born in Makassar in 1626 and died in Cape Town in 1699. He studied in the Holy Land and in the Middle East with the ulama of the Shafi'i school and his works closely followed that school. Before returning to Bantěn, he married the daughter of a Shafi'i ulama in Jeddah. Upon his return, Sultan Ageng Tirtayasa gave him his daughter as wife and appointed him as *qadi* and mufti of Bantěn. In fact, Sheikh Yusuf had been a friend of Sultan Ageng Tirtayasa when the sultan was still Crown Prince in 1644. When Yusuf wanted to go to the Holy Land in 1649, Sultan Abul Mafakhir, the grandfather of the future Sultan Ageng Tirtayasa, asked Yusuf to return to Bantěn to become an ulama and a mufti in Bantěn; see Hamid 1994: 92–7 and Azra 2004: 89–94.

⁴⁶ This Arab jurist-consultant was born and died in India. He referred to the *Hidāyat al-Muhtāj Šarḥ al-Muhtaṣar* by Aḥmad Šayḥ Ibn Ḥajar al-Makkī, *al-Nūr* or *al-Anwār* by Ardabilī and *Umdat al-Sālik Muhtaṣar Minhāj* by al-Ālim al-Fādil Ibn Naqīb; see *Sirāt al-Mustaṭqīm* Ml. 104: 1–2, Ml. 419: 1–3, Ml. 417: 4–5 in the Perpustakaan Nasional Republik Indonesia (PNRI) Jakarta. According to the Kedah manuscript *Hikayat Merong Mahawangsa*, the Sultan of Aceh, Iskandar Thani, and Ar-Raniri had sent the *Sirāt al-Mustaṭqīm* to the sultan, see Low (1849: 476). The *Sirāt al-Mustaṭqīm* was explained and largely commented upon in the 18th century by the *qadi* of the sultanate of Banjar in Borneo, Muhammad Arsyad al-Banjari, in his book *Sabīl al-Muhtadin Li Tafaqquh Fi Amr al-Dīn*, which became this sultanate's authoritative text on Islamic law.

⁴⁷ PNRI Jakarta, Ms. *Mir'āt al-Ṭullāb* with the code Ml. 445, Ml. 473, Ml. 289 and Ml. 399. The *Mir'āt al-Ṭullāb* spread over the Nusantara world. For example, we know that the king of Gorontalo used to own it, see Keijzer (1859: xv).

⁴⁸ PNRI Jakarta, Ms. *Mir'āt al-Ṭullāb*, Ml. 445. Al-Singkeli referred also to the *Tafsīr al-Bayḍāwī* by Ibn 'Umar al-Bayḍāwī (d. 685), the *al-Irṣād* by al-Muqri al-Yamani (d. 873) and to the *Šarḥ Šahiḥ Muslim* by al-Nawāwī. All of these names are found in the manuscript of *Mir'āt al-Ṭullāb*; see for example, in Ml. 473, in the PNRI Jakarta.

⁴⁹ There is a development that shows the importance of the *Minhāj al-Ṭālibīn* in the Indonesian-Malay world in Bruinessen (1990: 246).

republished by Taco Roorda in 1895 (Bruinessen 1990: 246; 1995: 113–4). These two editions were made at the request of the Dutch colonial government. Indeed, their books were used during the colonial period by judges and regents in Java to resolve family issues (Keijzer 1859: vii–xii; Roorda 1895: i–x).

In short, it can be concluded from the aforementioned that the primary sources of the *Bāb al-Farā'id* in the *UUB* manuscript are the *Minhāj al-Ṭālibīn* and its commentaries. Moreover, this finding supports the view that from the 10th to the 16th century, the *Minhāj al-Ṭālibīn*, and its two commentaries, Ibn Ḥajar's *Tuhfat* and al-Ramlī's *Nihāya*, were the fundamental books of the Shafī'i school in the Muslim world (*Encyclopédie de l'Islam* 1993, vol. 7: 1043–4). Bantěn was no exception.

(10) *Perjanjian Kumpěni – Sultan Zainul Arifin*

The tenth text is an agreement between the VOC and Sultan Zainul Arifin (1733–1748). It is 11 pages long (pp. 109–29 on recto pages, Text A). It is written in two columns: *jawi* in the right-hand column and in Javanese *ha-na-ca-ra-ka* script in the left column. Each column comprises 10 to 13 lines sufficiently spaced from each other. The page numbering was done in ink and from back to front. Arabic numerals are used, but not in Arabic, which suggests that Pigeaud numbered these pages: 109, 111, 113, 115, 117, 119, 121, 123, 125, 127 and 129. This section contains a colophon on p. 109: '*Surat dalam nagari Surasowan atas karajaan nagari Bantěn pada dua puluh lima [bu]lan Jumadil Awal 1151 sanah Dal'* (Royal letter [made] in the state of Surasowan in the kingdom of Bantěn, the 25 of Jumadil Awal 1151 AH, the year Dal [10 September 1738 CE]).

The text contains the agreement in six articles between the VOC and Sultan Zainul Arifin for the construction of a fenced-off housing complex for VOC officers and soldiers in Lampung. This is a copy of the original agreement dated 9 September 1738, which is kept in the National Archives of Indonesia. The original is written on a large sheet folded in two, in three languages: Dutch on the left, Malay in the centre, and Javanese on the right. The agreement was signed and sealed by both parties; i.e. six persons from the VOC, including Willem Maurits Bruynink, head of the delegation, and 16 persons from the Sultanate of Bantěn, including Sultan Zainul Arifin himself.⁵⁰ The Dutch version of the agreement is included in the *Corpus Diplomaticum* (Heeres and Stapel [1907–1955] 1938, vol. V: 270–3). This text in *UUB* is a faithful copy of the original with the exception of a few minor differences.

(11) *Undhang-Undhang Sultan Zainul Arifin*

The eleventh text is the law of Sultan Zainul Arifin on Lampung,⁵¹ and is 33 pages in length (pp. 130–62). The text consists of 58 articles outlining the policies pertaining to Lampung as part of the Sultanate of Bantěn and deals with both public and administrative law. It regulates the obligations and duties of the Bantěn officials in their administration of Lampung and defines their relationship vis-à-vis the Dutch officials assigned to that

⁵⁰ Arsip Bantěn, no. 72, ANRI Jakarta, a 13-page document.

⁵¹ 'Pengět. Iki karsa dalēm sarta undhang2 Kangjeng Sultān Abū al-Fath Muḥammad Šifā' Zayn al-Ārifin kang denlakoni dening kang dadi panguluning ponggawa dalēm ...' (Notice. This is the decree of the palace and the laws of His Majesty Sultan Abul Fathi Muhammad Syifa Zainul Arifin that the responsible [*pangulu*] of the officials of the palace must enforce), from the section on the Laws of Sultan Zainul Arifin on Lampung, *UUB*: 130.

province of Bantën. It also regulates the task of the representative of the sultan and other officials, and provides a list of these officials with their names and functions.

The text states that the representative of the sultan (*pangulu*)⁵² and the judge (*jaksa*)⁵³ have to make their judgments relying, as in Bantën, both on Islamic law (*agama/syarak*) and on customary law (*dirgama*). It gives the judges leeway to choose among these laws based on their own legal reasoning. However, the text states that in criminal cases, they should refrain from sentencing crimes, offences, and infractions based on Islamic penal law. This special mention appeared because during the 1680s the Dutch actively worked to exclude the application of Islamic penal law in the principalities under their domination. In 1688, in Cirebon, this culminated in a case in which the Resident pointedly wrote that the Honourable Company had entered into an agreement with the princes, not the *paepen* (Muslim scholars), so that allowing them to set the punishments was empty chatter (*State v. Braja Pati*, 1688, in Hoadley 1994: 29–30). The Sultanate of Bantën was not quite an independent state at the time of Sultan Zainul Arifin, being as it was under the domination of the Dutch in Batavia and it was obliged to accept the imposition of this exception.

Legal pluralism in the *UUB*

The *UUB* manuscript is a collection of 11 legal texts of different natures, namely eight laws, one ‘international treaty’, and one agreement with the VOC. Perhaps a *qadi* of Bantën or one of its officials gathered the aforementioned titles together and had them bound into a single manuscript which has subsequently come down to us and is now preserved as Cod.Or. 5598 in Leiden. More importantly, the texts in this codex seem to have been gathered and connected under the idea of ‘law’ in a unique culture and legal tradition. The law in Bantën, as reflected in these texts, is an expression of a plethora of social constructs which include systems of thought, religion, ethnicity, legal mechanisms and social morality.

In this respect, it becomes apparent that the *UUB* is very particular type of legal document or ‘law’. The first aspect is that the *UUB* is not written systematically. The second is that it is incomplete in all branches of law, even in the field of procedural law. The third is a lack of formal style and the inconsistency of its contents. Finally, most of the laws in *UUB* were seemingly written without a preconceived plan and in no specific order. There is no overriding concept in the sense that no attempt has been made to enunciate general principles that can deal with specific cases.

It appears that the *UUB* is not in itself a ‘code of laws’ of the Sultanate of Bantën, but a written record of customary law in force at the time. It is an accumulation of cases that may possibly be used as jurisprudence for dealing with future cases. It is clearly a

⁵² ‘... iya iku apa sapèryogane kang patut kalawan agama lan dirgama, apa maning kang patut kalawan šara’...’ (... he should make a verdict in accordance with the *agama* and the *dirgama* and even more with Islamic law [the Sharia]), in article 52 of the Laws of Sultan Zainul Arifin on Lampung, *UUB*: 286.

⁵³ ‘... jaksa iku arèp angalap saking hukum šara’ sa’atas qadare pangawruhe (...) angalap saking hukum šara’ iku, ora kèna ora kuku kaya apa saħukume iku, lakokèna. Lan lamon angalap saking hukum dirgama, iya iku arèp bènèr dirgamane, kaya kang wus kalakon saban2 atawa tatrapan iku kaya kang wus sinèbut ing dalèm undhang2’ (All judges [...] should use Islamic law [šara’] as long as they know it. Thus, if one uses Islamic law [šara’], one should apply it as it is. If one uses customary law [dirgama], one really has to follow it as it is implemented, otherwise they adjudicate according to existing laws), from article 45 of the Laws of Sultan Zainul Arifin on Lampung, *UUB*: 283.

compilation intended for practical use. As we know, this legal collection certainly belonged to a judge in Bant n, whose functional designation was *qadi* and whose official title was Kiyahi P qih Najmuddin and for whom it probably served as a legal basis for making judgments.

Most of the content of this ‘legal compilation’ is made up of customary law (*dirgama*) and relate civil and criminal cases. Some 265 articles of 335 (80%), in this compilation originate from customary law. In essence, this is Javanese custom adapted to time and place, and given legal consequences. While *UUB* gives us the only source of customary law from Bant n that has survived from that time, other customary laws may have existed that were not recorded in this compilation. *UUB* contains only the written customary law that the sultans chose to enforce as ‘state’ law. By using this text, the *qadi* of Bant n, despite his Islamic title, referred to Javanese customary law to make his judgments.

The decision of the *qadi* of Bant n to adopt customary law as his main source should be regarded as an individual effort and as his personal interpretation (*ijtihad*) to supplement the two fundamental sources, i.e. the Qur’an and the Hadith and Sunna. He would have understood well that according to Islamic legal theory, under the concept of ‘*urf*’ and ‘*adat*’ he was allowed to pass judgments and make decisions based on customary law. While until the end of the 3rd AH/9th CE century the Muslim jurists (*fuqah *) had rejected customary law as a formal source of Islamic law, customary law was accepted from the 5th AH/11th CE century by jurists, mainly those of the Hanafi school. It is noteworthy that customary law has also been widely accepted and used in the Ottoman empire from the 16th century (Libson 2003: 68–79). Thus the *qadi* of Bant n, taking customary law as his main source, did not violate Islamic law.

Aside from customary law, Islamic law⁵⁴ represents some 52 (15%) out of 335 articles in the *UUB*. In this legal sourcebook, Islamic law deals particularly with Islamic inheritance law (29 articles) and discretionary punishment (11 articles), as well as some 12 articles on family law and ritual obligations. Islamic penal law can be found dispersed across several different passages in the manuscript. As we have seen, the chapter on Islamic inheritance is based exclusively on Islamic law and even the title is in Arabic (*B b al-Far ’id*). It is clear that this chapter is a literal translation of an Islamic law book from the Shafi’i school, namely al-Naw wi’s *Minh j al-T lib n* or one of its commentaries, Ibn H jar al-Haytam ’s *Tuhfat al-Muht j* or  ams al-D n al-Raml ’s *Nih yat al-Muht j il   arh al-Minh j*. Moreover, the chapter on discretionary punishment (section 5 in the *UUB*) is strongly inspired by Islamic law. Indeed, the source of this chapter, among others, is Ibn ‘All n’s book *Maw hib al-Rabb niyyah* referring to the Maliki school and citing Im m M lik’s opinions. In the *UUB*, the ritual Islamic obligations of prayer and fasting are also recorded.⁵⁵

Regarding Islamic penal law, three articles can be found that deal with punishment in the Qur’an: *had* and *qis s* for homicide (in the Law of Kyai Arya Mangunjaya, section 6 of the *UUB*),⁵⁶ theft (in the Law of Sultan Haji, section 2 of the *UUB*),⁵⁷ false accusation of

⁵⁴The text of the *UUB* employs three words: * ara’*, *p qih* and *agama* to indicate religious law originating from the Qur’an and the Hadith or coming from the jurisprudence of the Muslims jurists (*fiqh*).

⁵⁵*Masalah Undhang-Undhang*, p. 31, *UUB*.

⁵⁶Article 3 of the Law of Kyai Arya Mangunjaya, *UUB*.

⁵⁷Article 43 of the Law of Sultan Haji, *UUB*.

illegal sexual intercourse, and adultery (in the Laws of Java/*Sajarah Majapahit*, section 8 of the *UUB*).⁵⁸ In addition to these instances of Islamic penal law, the compilation also provides for punishment by means of fines, compensation or the collection of corals.⁵⁹

The presence of Islamic law in this compilation demonstrates a degree of Islamic identity in Bant n. However, the *UUB* only marginally incorporated elements of Islamic law as that Islamic law is only one of the sources of the Laws of the Sultanate of Bant n and not its major source. Islamic law inspired only a lesser portion of the compilation. Here, the degree of Islamisation and the proportion of pre-Islamic *adat* and sharia are not dissimilar from that in the famous *Undang-Undang Melaka* (*UUM*) of the Melaka Sultanate (see Liaw 1976). The one significant difference between the *UUB* and the *UUM* is that the latter does not contain a chapter on heritage (*B b al-Far 'id*) and this makes the *UUB* unique in its genre.

The remaining 5% of the *UUB* manuscript, consisting of 18 articles out of 335, comprises a treaty and an agreement between the Sultanate of Bant n and the VOC. The parts of these texts the *qadi* in the *UUB* retained were merely to enable him to resolve problems that arose between the Dutch and the Bant nese. Since he had to comply with the treaty and the agreement for passing judgments, the *qadi* was obliged to know their contents. In fact, the treaty and agreement were new types of legal instruments for the authority of the Sultan of Bant n. Written tracts had not existed in Bant n prior to European contact.⁶⁰ The Sultanate of Bant n began to learn about other legal systems only through the arrival of envoys from various European nations like Portugal, France, England, Denmark and Holland from the early 17th century.

For Europeans, treaties and such agreements formed the legal basis of inter-state relations. This resulted in the transplantation into the local population of Banten of a perceived national sovereignty in such legal acts bearing the imprint and influence of 'European' law and legal culture. Indeed, the Europeans brought their legal system to the region. Both the treaty and the agreement the Dutch 'imposed' through the VOC was part of European law, which in this case refers not only to substantive law but also to the legal system and the theoretical structure in which the law was produced. The imposition of European law is reflected in society via a tacit 'acceptance' of its members (Slaats 1994: 99–100). Therefore, the presence of both these European agreements in the legal compilation of the Sultanate of Bant n shows how important the traces and marks of a European legal system were in Bant n, in particular, and in Indonesia in general.

Conclusion

A thorough reading of the *UUB*, the compilation of laws of the Sultanate of Bant n, is of great interest for the history of Islam in Southeast Asia. It sheds light on a fundamental aspect of the development of Islam in the Indonesian archipelago and more specifically on the application of Islamic law. This study shows that *UUB* had, in fact, only marginally incorporated elements of Islamic law (sharia or *fiqh*). In fact, the main part of the

⁵⁸Article 62 of the Laws of Java, *UUB*.

⁵⁹Article 4 of the Law of Kyai Arya Mangunjaya; article 50 and article 60 of the Law of Sultan Zainul Abidin, *UUB*.

⁶⁰However, it should be mentioned here that the first agreement in Bant n was in 1522 between the 'king' of Hindu-Buddhist Pajajaran in West Java and the Portuguese. In this agreement, the lack of a signature and a stamp of the kingdom of Pajajaran were noteworthy. The signatures of the Portuguese were found but not those of the Pajajaran dignitaries; see Guillot (1991).

compilation's diverse content was basically derived from the legislative legacy of the Nusantara states prior to the arrival of Islam or foreigners in the region. More precisely, the contents of the *UUB* show that it was basically a compilation of customary law of Javanese Bant n society (*dirgama*) including the Indic-legislative legacy prior to the arrival of Islam (Majapahit's law), Islamic law (*syarak/agama*) and 'European' law. It is an early manifestation of the impact foreign law was going to have in the archipelago. Its evidence of the evolution of Bant n's legal constitution as complex, diverse, and rich again demonstrates the historical cultural openness of the area.

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