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1. Introduction

The Batavian scholar of Arab descent Sayyid ‘Uthmân ibn ‘Abd Allâh ibn ‘Aqîl ibn Yahyâ al-‘Alawi (1822-1914) was one of the most productive Islamic scholars in the Netherlands East Indies of his time. In Dutch colonial historiography he is best known as adviser on Muslim affairs to the Dutch colonial administration, or as ‘Honorary Adviser on Arab Affairs’ (‘Honorair Adviseur voor Arabische Zaken’), as his official title ran (Snouck Hurgronje 1924a; Azra 1995). In spite of this, no book-length monograph has been devoted to him so far, and many aspects of his life and work still remain obscure. It is assumed that he acquired his advisership because his ideas were in close harmony with the religious policy pursued by the Dutch in the Netherlands East Indies. In addition it has been claimed that, this advisership notwithstanding, Sayyid ‘Uthmân refrained from expressing certain opinions because of his function as such, in order to uphold current Dutch policy (Steenbrink 1984:137).

Although doubtless Sayyid ‘Uthmân’s view that it was perfectly possible to lead the life of a pious Muslim and at the same time be an obedient and loyal servant of the infidel Dutch government made him the ideal candidate for this advisership, the assumption that this function did not affect his perception of Islam needs to be refined. To demonstrate this, I will analyse Sayyid ‘Uthmân’s views on the legal validity of documentary evidence in this article. In Islamic law, documentary evidence in principle is

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1 A part of this paper was presented at the International Seminar on Islamic Studies in South East Asia (ISIS), Universiti Brunei Darusalam, 20-23 November 1995. I would like to thank Martin van Bruinessen for his valuable comments on the pre-final draft of the text.

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inadmissible. Understandably, this led to tensions between Muslims and the burgeoning colonial bureaucracy. An interesting example of this is provided by the colonial government’s appointment of *panghulu* (religious leaders) in Batavia in the late nineteenth century. These appointments were not recognized by the Islamic community because they were effected through written instruments, whereas in Islam only oral appointments of civil servants are acceptable (Snouck Hurgronje 1893:363). I shall examine Sayyid ‘Uthmān’s views on the validity of documentary evidence before and after he became involved in the colonial administration in 1889, and try to explain the political relevance of these views. I shall conclude with some general remarks on the works of this remarkable man.

2. *A case of conditional repudiation in Batavia in 1881*

The question of the legal validity of documentary evidence arose in connection with a case of conditional repudiation on which Sayyid ‘Uthmān’s opinion was asked. This case is well documented in a small lithographed booklet containing copies of the relevant documents, and thus constituting a dossier on the subject in question. The original documents are written in Arabic, and the connecting passages and some summaries of relevant texts in Malay. The booklet once formed part of the personal library of the famous Dutch Orientalist C. Snouck Hurgronje (1857-1936), who spent the years 1889-1906 in the Netherlands East Indies as Adviser on Native and Arab Affairs in the service of the Dutch colonial government. During this period Snouck Hurgronje amassed an enormous collection of printed and manuscript works. After his death in 1936 this collection was bequeathed to the Leiden University Library. This is how the booklet, providing the material for the present section, came to form part of the collections of this library, where it is now kept under number 893 F 20.

It is stated nowhere in this booklet where or when it was published. On page 1 it contains a statement that the case in question was initiated in A.H. 1298, which corresponds to A.D. 1880/1881. Therefore the date of publication will not have been too long after this year. The booklet has no title, and I shall here refer to it as *Segala Soal Jawab* (hereafter abbreviated as *SSJ*), as these are the first words occurring on the cover. These are followed by a few lines of Malay indicating its contents, which read as follows:

‘This contains the questions and answers relating to the issue of the impermissibility of validating a repudiation on the sole basis of written statements by witnesses who have since died. They [i.e., the questions and answers] have been sent to the Noble City of Mecca and confirmed by the mufti of Mecca and other ‘ulamā’.”

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2 For a brief introduction to this issue from the point of view of Islamic law, see Peters 1995.
The booklet deals with a specific case of conditional repudiation (taʿlīq al-talāq). Under the marriage law in force in large parts of the Netherlands East Indies at the time, it was customary for the husband to state immediately after the conclusion of the marriage contract that his wife would be repudiated in the event of his failure to fulfil certain specified conditions vis-à-vis her.

As was said above, the case was initiated in 1298/1881, when a woman asked a district imam (Muslim leader) to confirm her divorce from her husband, who had left her to go on a sea journey and had subsequently been absent for approximately ten years. Although the imam who had married the woman, as well as the witnesses who had been present at the conclusion of the marriage, had since died, the marriage register contained a taʿlīq statement in writing, ‘as is usual and in accordance with the customary law of the province’, with the signature of the husband appended beneath it. Statements of this kind, as was indicated above, specify the conditions under which the marriage may be dissolved. This documentary evidence notwithstanding, the imam to whom the woman had applied did not confirm the repudiation, because he was aware of pronouncements of ‘ulamāʾ forbidding the passing of verdicts on the sole basis of documentary evidence, without the verbal testimony of the witnesses concerned (SSJ:8-9).

The issue moved a step further ahead when the imam in question put the case to Sayyid ʿUthmān. The question (in Arabic) to the Sayyid about whether or not the wife had in fact been repudiated in this instance (SSJ:1-2) and Sayyid ʿUthmān’s lengthy reply denying the validity of the talāq (repudiation) under the given circumstances are contained in the above-mentioned booklet, the reply constituting the greater part of it (SSJ:2-7). This answer will be studied in detail below.

After that, this reply was discussed by a legal advisory council (majlis fatwa), which doubtless convened in Batavia (SSJ:10). The majority of the members of this council endorsed Sayyid ʿUthmān’s view. Three of them, however, expressed the opinion – with reference to the principle of emergency (darūra), to part of a Qur’anic verse (Sūra 2:185), and to a quotation from a Muslim legal manual (the Fath al-Muʿīn by the sixteenth-century scholar Zayn al-Dīn al-Malaybārî, see Juynboll 1930:375) – that the marriage could be dissolved on the basis of the written document in the absence of the witnesses (SSJ:9).

Thereupon the district imam informed the woman of his decision not to 3

3 ‘Ini segala soal jawab atas masalah tiada harus mehukumkan talak dengan semata-mata tulisan saksi-saksi yang telah mati. Maka telah dikhirim ke Mekah al-musharrafah dan telah ditashihkannya oleh mufti Mekah beserta lain ulama lagi.’

4 The adat specified different periods of time for the absence of the husband, depending on whether he had travelled by land or by sea upon departure. See Snouck Hurgronje 1893:384.
validate her repudiation. The case then moved on to a higher level when it was submitted to a number of authoritative Muslim scholars in Mecca for arbitration. All of these also stated that the repudiation could not be validated (SSJ:10-11).

The said booklet is very interesting for a number of reasons. In this article, however, I shall restrict myself to highlighting the two subjects of the incidence of conditional repudiation in the Netherlands East Indies and Sayyid ‘Uthmân’s views on the legal validity of documentary evidence.

3. The incidence of conditional repudiation in the Netherlands East Indies

The question concerning conditional repudiation that was referred to Sayyid ‘Uthmân was cited by C. Snouck Hurgronje in his classic book on Aceh to underline the importance of this institution in Batavia and other parts of the Netherlands East Indies (Snouck Hurgronje 1893:382-5).

In submitting the question to Sayyid ‘Uthmân, the district imam begins with a detailed summary of the issue. In some parts of the Netherlands East Indies (fi ba‘d buldân Jâwâ), he says, it is the custom (‘âda) to specify in writing a number of circumstances under which a wife may be divorced. These circumstances are registered at the office controlled by persons acting as marriage functionaries under the supervision of the Dutch colonial government (al-hâkim al-Wulanda), there being neither a Shârî‘a judge nor a legal substitute for him involved. The written ta‘lîq formula states that talâq will be effected

‘... as the result of one of the following three circumstances: if he [the husband] fails [to give his wife] an allowance for household expenditure (nafaqa) for [at least] a month; [if the husband] has deserted [the wife] for [at least] a year; or if he has bashed her. Each of these three [conditions] is binding where the wife does not accept [the circumstances specified by] one of them, submits her case to the authorities (al-mansib), and asks for [a validation of] the repudiation.’ (SSJ:2.)

At the conclusion of the marriage ceremony, this ta‘lîq formula specifying these conditions is whispered into the bridegroom’s ear by the marriage functionaries and usually is repeated by him. It may also simply be recited only by the marriage functionary, without its being repeated by the husband. In yet other cases these conditions are only repeated silently, so that the witnesses cannot hear them. After the ceremony, the document is signed by the husband and the witnesses.

5 I have been unable to discover when and how this practice of stating these conditions in writing was incorporated into the Batavian marriage adat. Perhaps it was introduced under Western influence.
6 For thirty ta‘lîq formulas from Java collected by C. Snouck Hurgronje around 1890, see Van Ophuijzen 1907:109-16. For three from Batavia, see Van Ophuijzen 1907:116; Sayyid ‘Uthmân 1312:123-4.
In the case at issue the woman, who had married in accordance with these *adat* rules, went to the authorities to report that her husband had deserted her for a period of close on ten years without providing for her by paying *nafaqa*, and asked for a divorce. The authorities had forgotten all about this particular marriage because it had been concluded so long ago. So they found themselves in a quandary as to whether or not a divorce could be granted in this case. A ground for granting it was, of course, the uttering of the *ta'liq* formula by the husband. As this act could only be verified on the sole basis of a written document, however, the question was whether the woman could obtain her divorce in this case (*SSJ*:2-3).

In order to enable the reader to judge this case properly, a few basic remarks about its legal context are in place at this point. The Netherlands East Indies had a pluralistic legal system, in the sense that there were different systems operating for different population groups side by side. This plural character was confirmed by the colonial constitution (*Regeringsreglement*) of 1854. For ascertaining the place of *adat* law in these regulations the well-known Article 75 is highly significant. This Article stipulated that the administrators of native law should apply the ‘religious laws, institutions and customs of the natives, insofar as they are not in conflict with generally recognized principles of fairness and justice’. In concrete terms this sanctioned the operation of different legal systems side by side: regionally varying systems of *adat* law for natives and ‘Alien Orientals’ (Arabs and Chinese) on the one hand, and Dutch statute law for Europeans and those legally equated with them on the other hand (Sonius 1981:LVIII).

The marriage law, like other categories of family law, was administered in accordance with non-European law, so that the discussion summarized above was not of a merely theoretical nature, but had certain practical legal consequences for the petitioner. Thus in cases like the present one, dating from A.H. 1298 (A.D. 1880/1881), the district *imam*’s decisions with reference to the marriage law in point of fact had the force of law, at least in Java and Madura, in the period before the official transfer of the judicial powers of *imam* (or *panghulu*, as they were styled) to religious courts (*priesterraden*) in 1882 (Van Ophuijsen 1907:14; 89; Hooker 1975:269). In other words, the present case was a legal case in which the *imama/panghulu* functioned as judge on his own authority (Snouck Hurgronje 1924b). What this case also shows is that in Batavia in 1880 there was a depository for marriage documents, as is suggested by the term ‘marriage register’ (*buku nikah*) and its Arabic equivalent *daftar*, ‘depository’. This depository was in the charge of the ‘commander’ (*kommandan*) (*SSJ*:7), a title which in Batavia designated the native

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7 Snouck Hurgronje (1924c:292, note 1) reported that this new rule had not yet been implemented in practice in 1894.
district head, who was appointed by the colonial government to manage native affairs (De Graaff 1917:285).

Although, as we just saw above, the repudiation of the wife could not be validated on the basis of the ta‘līq, most probably in this specific case she was granted a divorce through the instrumentality of a so-called faskh, that is, the annulment of a marriage by the judge, in this particular instance the imam/panghulu, at the request of the wife after a formal lawsuit (Juynboll 1930:213-4). At any rate, that was the solution suggested by Sayyid ‘Uthmān as the appropriate means of putting an end to the woman’s misery (SSJ:6). In this case the ground for granting this form of divorce probably was the inability of the husband to provide for his wife by giving her an adequate allowance.8

4. Sayyid ‘Uthmān on the legal validity of documentary evidence

Now that some of the background has been sketched in, I will come to the central issue of this paper in this section. First I shall discuss Sayyid ‘Uthmān’s lengthy reply to the question about the divorce case in Batavia put to him by the unnamed district imam (SSJ:2-7). This reply, comprising five points, cites various fiqh (Islamic jurisprudence) authorities, such as the famous sixteenth-century Shafi‘ite scholar Ibn Hajar (Juynboll 1930:31, 375). The first three arguments adduced concern procedural points and do not bear directly on the issue at stake. Here Sayyid ‘Uthmān states that a judgement (hukm) can only be delivered on the basis of a reliable source from the same school of law (madhhab); that the person passing this judgement should clarify his motives in coming to his decision; and that these motives should be provided either by legal proof (hujja shar‘iyya) or by a confession from the defendant. The proper procedure having been established, the fourth point deals with the status of documentary evidence. Underpinning his view with a number of quotations from authoritative fiqh experts, Sayyid ‘Uthmān argues that the custom of making written records has only limited applicability, being allowed only as an aid to the memory (tadhakkur) of the judge (hākim) and witnesses. In the final point of his reply he declares that a written document (khatt) cannot be used by itself as a valid basis for a legal judgement if its contents cannot be recalled from memory and confirmed by the oral testimony of two witnesses.

In his conclusion, which is wholly in accordance with the dominant Shafi‘ite view (Juynboll 1930:318), Sayyid ‘Uthmān observes:

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8 Yet another means of obtaining a divorce to which women sometimes resorted was by declaring in front of a judge that they had renounced their faith. Such a declaration automatically results in a dissolution of one’s marriage, as in Islamic Law apostasy is a ground for divorce (Snouck Hurgronje 1924c:294; Pijper 1934).
Sayyid 'Uthmān's opinion that documentary evidence is non-valid was wholly in line with the predominant Shafi‘ite view, which was propagated by, for instance, the great Meccan expounder of Muslim law, Ahmad ibn Zaynī Dahlān, with whom Sayyid 'Uthmān had studied in Mecca, where Ahmad Dahlān enjoyed a reputation as a famous teacher and scholar. As a Shafi‘ite mufti (adviser on religious law) he handed down many fatwa (legal recommendations) between 1871 and 1886, shortly before his death in Medina. He received questions about the law and its application from Shafi‘ite Muslims all over the world and was held in high esteem in the Netherlands East Indies (Snouck Hurgronje 1923a:67-8; Kaptein 1995). Accordingly, this mufti was also consulted about the divorce case in Batavia when it proved impossible to reach consensus there, and all the relevant documents – the replies of the district imām and Sayyid 'Uthmān, and the view expressed by those who were in favour of recognizing the repudiation – were sent to Mecca so the case might be arbitrated there (SSJ:7-8). In this matter Ahmad Dahlān fully backed Sayyid 'Uthmān. The official sanction (tashih) of the latter's view, signed by the Meccan mufti, has also been preserved in the booklet. It reads:

'The gist of this reply [by Sayyid ‘Uthmān], namely that a repudiation unsupported by legal evidence but based on the custom (ʿamal) of lodging a written statement with the authorities is non-valid, is a correct interpretation, which accords with what is right. Moreover, the texts cited in the reply are a sufficient basis. May God reward the person who has given this reply [= Sayyid ‘Uthmān]. [Signed:] Ahmad ibn Zaynī Dahlān, mufti of the Shafi‘ites in the Protected City of Mecca.' (SSJ:7.)

Besides Ahmad Dahlān's response to the question from Batavia, the booklet includes a fatwa relating to the same issue handed down by Ahmad Dahlān at the request of the famous Nawawi Banten (SSJ:10-11). This latter scholar was born in West Java in 1813 and left Java at the age of about 15 to settle in Mecca, where he studied with scholars like Ahmad Dahlān, eventually winning fame as a scholar and teacher in his own right. Although he spent the rest of his life until his death in 1897 almost entirely in Mecca, he was very influential in Indonesia through his students and his
books (Snouck Hurgronje 1970:268-72, 278; Chaidar 1978:5-9). Apparently Nawawi Banten himself was also approached by his countrymen with a request to give an opinion on this issue, and, although he enjoyed a high status as a scholar himself, he also preferred to refer the case to Ahmad Dahlan. Not surprisingly, the legal validity of documentary evidence here again is denied. In short, Sayyid ‘Uthmân’s view was wholly in harmony with that of Muslim orthodoxy as supported by the two Muslim scholars who enjoyed the highest esteem in the Netherlands East Indies.

In the same year (A.H. 1298) as the case just discussed, Sayyid ‘Uthmân dealt with the issue of documentary evidence in a more theoretical framework. In the month Jumâdâ al-akhir of that year, corresponding to the month of May 1881 of the Christian calendar, his Malay work bearing the Arabic title Kitâb al-Qawânîn al-Shar‘îyya li-Ahl al-Majâlis al-Hukmîyya bi-Tahâqîq al-Masâ’il li-Yatamayyaza la-hum al-Haqq min al-Bâtil (The book of Islamic legal rules for the settlement of legal issues to help members of judicial councils distinguish between truth and fallacy) appeared. The title of this book is very similar to that of another work of Sayyid ‘Uthmân’s, which appeared in 1312/1894 under the title Kitâb al-Qawânîn al-Shar‘îyya li-Ahl al-Majâlis al-Hukmîyya wa-l-Iftâ’iyya (The book of Islamic legal rules for members of judicial and advisory councils). This latter book became widely known through the very positive review of it published by C. Snouck Hurgronje (1924c) under the title ‘Sajjid Oethman’s Gids voor de Priesterraden’ (Sayyid ‘Uthmân’s Guide for Religious Courts) in Indisch Tijdschrift van het Recht in 1894. It will be discussed below. As the titles of both works reveal, they each deal with the duties of and procedures for the judiciary. They are not identical, however. The latter Al-Qawânîn al-Shar‘îyya can best be characterized as an elaboration of the 1881 version.

In the 1881 book Sayyid ‘Uthmân deals with the legal validity of documentary evidence in a separate section, which bears the title ‘Tiada sah mehukumkan dengan surat-surat saja’ (The non-validity of judgements on the sole basis of documents) (Sayyid ‘Uthmân 1298:36-39). This book wholly confirms the views on the legal validity of documentary evidence which Sayyid ‘Uthmân had expressed with reference to the repudiation issue discussed above. One new element to be added to the discussion here, however, is that written testimony may be used if the content of this pertains to the affairs of the person who has made the written statement in question. Sayyid ‘Uthmân explains this by giving an Arabic quotation from the Fath al-Mu‘în. It is interesting to note that the three persons who defended the legal validity of documentary evidence in the discussions of the above-mentioned fatwa council referred to the same work. Hence it is probable that Sayyid ‘Uthmân in this passage is reacting to their arguments. The quotation from the Fath al-Mu‘în runs as follows:

\[\text{Fath al-Mu‘în quotation}\]
‘It is permissible for a person to whom a reliable witness reports the utterance of the repudiation formula by or the death or appointment as legal representative of another person to act in accordance with this information as far as it concerns [the witness] himself. Likewise [if the information is conveyed to him through] a carefully kept written document [khatr]. If this [information] concerns the legal rights of another person or a matter coming within the purview of a judge, however, reliance on such a single witness or such a document drawn up by a judge is impermissible, as none of this constitutes legal evidence.’ (P. 39.)

After another quotation with a similar purport, this time from the collection of Fatwa of the earlier mentioned Ibn Hajar, Sayyid ‘Uthmân concludes with the words:

‘Realize, therefore, that people who assert that it is permissible to pass a legal judgement [hukum] or give legal advice [fatwa] on the sole basis of documentary evidence, disregarding the difference between the delivery of a legal judgement and the management of one’s personal affairs, are wrong’ (p. 39).

In short, we can say that in his more systematic treatment of the subject Sayyid ‘Uthmân is inclined to allow the use of written documents for personal purposes, but categorically denies the legal validity of documentary evidence in settling judicial cases.

The different view on the legal validity of documentary evidence expressed by Sayyid ‘Uthmân in a later publication is therefore significant. The whole of section 39 of his Malay manual for religious courts of 1894 is devoted to this topic. Here Sayyid ‘Uthmân sets out cautiously by repeating the above-mentioned arguments for the non-validity of documentary evidence (Sayyid ‘Uthmân 1312:169-72). He goes a step further in this book, however, by asserting that a carefully drawn up written statement by a judge may be used for purposes such as, for instance, fixing the beginning of the month of Ramadan. Sayyid ‘Uthmân supports this by citing in Malay translation a statement by Ibn Hajar, which in English translation runs:

‘If written verdicts or testimonies are carefully preserved in the court premises (tempat hukum), so that there is no risk of their being forged, then a legal decision may be based upon them’ (p. 173).

Furthermore, he acknowledges that certain affairs may be managed with the aid of written documents on the condition that these are carefully kept. As an example he mentions the management of the property of orphans, provided the relevant documents are properly preserved in the Weeskamer

9 The reason for this permission in cases like these is that the report in question is equated with a confession, which is also regarded as valid legal evidence.
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(Orphans' Court, Malay wiskamar). He even goes so far as to state here that there are cases in which documentary evidence has greater value than the oral testimony of a witness. This view is backed by a number of texts written by authoritative Muslim scholars, like Ibn Hajar. The latter actually asserted that ‘Nowadays, written documents drawn up by judges are more reliable than oral testimonies of witnesses’ (Sayyid ‘Uthmān 1312:172-4; see also Snouck Hurgronje 1924c:300-1). In fact, we are justified in saying that in this book Sayyid ‘Uthmān takes a fairly positive view of documentary evidence, even explicitly approving of particular kinds of such evidence. It is moreover interesting to note that he did not object in any way to the relevant evidence being kept in a colonial office.

When we compare the view expressed by Sayyid ‘Uthmān in his Kitāb al-Qawānīn al-Shar‘iyya li-Ahl al-Majālis al-Hukmiyya wa-l-Iftā‘iyya of 1894 with his earlier discussed standpoint of some thirteen years previously, we see that in this later book he had revised his ideas of 1881, although he remained within the boundaries of classical fiqh. For at that earlier time he still totally rejected the legal validity of documentary evidence in the settlement of judicial cases that met all the procedural requirements. This change of view thus must be dated in the period between 1881 and 1894. It is intriguing, as the changed view contradicted the predominant Shafi‘ite view as advocated by Ahmad Dālān and Nawawi Banten.

I would posit that this change of view should be explained as arising from Sayyid ‘Uthmān’s increased orientation towards the interests of the colonial government – a government whose aim it was to promote the legal security of the native population of the archipelago and which for this reason was very much in favour of the registration of the legal transactions of the people in its charge for bureaucratic and legal purposes. As far as the marriage law was concerned, the new indigenous custom of registering marriages and divorces was regarded as a promising first step (Snouck Hurgronje 1957-1965:859-60), which was eventually made compulsory by the Marriage Act (Huwelijksordonnantie) promulgated in 1895 (Van Ophuijsen 1907:27).

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10 This was a government institution (in Batavia from 1885 on combined with the Boedelkamer) which was responsible for orphans (both Christian and non-Christian) and the management of their estates (Gedenkschrift 1924).
11 With regard to wills, Sayyid ‘Uthmān states that their content needs to be verified by two witnesses who have heard the last wishes of the testator regarding the disposition of his property after his death uttered by him or her (Sayyid ‘Uthmān 1312:38).
12 Sayyid ‘Uthmān’s attitude towards the Meccan mufti at a later stage of his career seems to have been more critical (see Snouck Hurgronje 1957-1965:1512). Perhaps this is attributable to the death of his teacher Ahmad Dālān in 1886; further research on this is necessary.
5. Sayyid ‘Uthmān and the Dutch

In order to clarify my point, I shall first describe how Sayyid ‘Uthmān was perceived by a number of prominent Dutch persons. There are various indications of the good reputation he enjoyed among the Dutch. L.W.C van den Berg (1845-1927), for instance, in his 1886 book on the Arabs in the Netherlands East Indies praises him for his loyal attitude towards the government (Van den Berg 1989:106). Van den Berg was the first to suggest a role for Sayyid ‘Uthmān in the service of the Dutch administration, in fact, as is apparent from a letter from him to Governor-General Otto van Rees of 22 April 1886, in which he praises Sayyid ‘Uthmān as one of the most respectable members of the Arab community in Batavia, whom he had known for many years. The well-known Honorary Government Adviser on Native Affairs, K.F. Holle (1829-1896), was personally acquainted with Sayyid ‘Uthmān and expressed a favourable opinion of him because Sayyid ‘Uthmān severely condemned the Naqshabandiyya brotherhood on religious grounds. Holle also disapproved of this particular order, which he regarded as a threat to public security (Van Bruinessen 1992:23-7). However, it was his intensive contact with Snouck Hurgronje that really caused Sayyid ‘Uthmān’s star to rise. In October 1886 Snouck published two articles about him in the Dutch newspaper De Nieuwe Rotterdamsche Courant, in which he stressed Sayyid ‘Uthmān’s importance for the Netherlands East Indies government’s policy vis-à-vis Islam (Snouck Hurgronje 1924a). At that time the two had not yet met, but in 1886 Sayyid ‘Uthmān had written Snouck a letter requesting his help in improving the image of the Netherlands East Indies Arabs, who were suffering under a number of discriminatory measures, in government circles (Snouck Hurgronje to Goldziher, 4 November 1886; see Snouck Hurgronje 1985b:70). Sayyid ‘Uthmān had undoubtedly heard about Snouck through his contacts in Mecca, where Snouck had spent a period of six months in the first half of 1885. As chance would have it, Snouck had heard about Sayyid ‘Uthmān during his stay in Mecca (Snouck Hurgronje 1924a:79). After Snouck Hurgronje’s arrival in Indonesia in May 1889, one of the subjects he discussed with the Governor-General, Mr. C. Pijnakker Hordijk (1847-1908), was the possibility of making use of the services of Sayyid ‘Uthmān for the benefit of the colonial administration.

13 In addition to the Dutch persons mentioned in this section, the Dutch linguist Ph.S. van Ronkel also knew Sayyid ‘Uthmān and made use of his services for linguistic research purposes (Van Ronkel 1903:284).
14 I am indebted for this information to Tom van den Berge, who is writing a biography of K.F. Holle.
15 In the Oriental Department of the Leiden University Library, twelve letters from Sayyid ‘Uthmān to Snouck Hurgronje are preserved in the latter’s archive (Or. 8957). As this is not due to be released for public inspection until 1 January 1997, these letters could not be taken into account in the present paper. A description of the Snouck Hurgronje archive is currently being made by Jan Just Witkam.
After discussing the matter with Sayyid 'Uthmân himself, Snouck proposed in a letter to the Director of Education, Religion and Industry (Directeur van Onderwijs, Eeredienst en Nijverheid) dated 20 June 1889 that Sayyid 'Uthmân be given an appointment as his assistant to help him keep an eye on Islam in the Netherlands East Indies. Because Sayyid 'Uthmân did not have any means of his own but had to work for his living, Snouck proposed giving him an allowance of a hundred guilders a month. Aware of his informant's delicate position, Snouck suggested that this money should be paid to the Sayyid discreetly, through himself, as any too conspicuous form of cooperation with the infidel government on Sayyid 'Uthmân's part might undermine his authority among his co-religionists (Snouck Hurgronje 1957-1965:1510-1). Snouck's requests were granted and this marked the beginning of an intensive and fruitful co-operation between Snouck and Sayyid 'Uthmân, which two years later culminated in Sayyid 'Uthmân's appointment as 'Honorary Adviser on Arab Affairs' (Snouck Hurgronje 1957-1965:1513).

It is only to be expected that the subjects which cropped up in the discussions between the two men included the registration of particular people's legal status and related issues. It is known that Snouck himself regarded this form of registration as an essential step towards preventing malpractices (see, for example, a recommendation by him from 1891, Snouck Hurgronje 1957-1965:862). Although it is possible that Sayyid 'Uthmân revised his view on the legal validity of documentary evidence before he came into close contact with Snouck, it is probable that he became aware of this issue and its implications through his discussions with Snouck and revised his standpoint under the influence of these deliberations. This seems even more probable in the light of a letter which Snouck Hurgronje wrote to his friend the German Oriëntalist Theodor Nöldeke (1836-1930). In this letter, written in Dutch in Batavia on 27 May 1902, Snouck characterizes Sayyid 'Uthmân as a person who likes to emphasize those elements of Islam which are acceptable to 'civilized kafir' [infidels, N.K.] and who is apt to demonstrate that the worthier elements of European culture are present also in Islam. All the Arabic and Malay tracts that Sayyid 'Uthmân has written are in fact intended for a European audience, Snouck continues, concluding the relevant paragraph of his letter with the words:

'Sayyid 'Uthmân does not even try to conceal this from me, but consults me about the most appropriate wordings to make “the exposition of the positive qualities of the Law [shari'a]” as satisfactory and effective as possible in order that infidels may attain, if not belief in Islam, then at least an appreciation of

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16 After Snouck's departure from Indonesia in 1906, this monthly allowance was paid to the Sayyid by his successor, G.A.J. Hazeu (1870-1929) (Snouck Hurgronje 1957-1965:45).
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Islam, which is no indifferent matter to Muslims in these unfavourable times’ (Snouck Hurgronje 1985a:95).

This letter shows that Sayyid ‘Uthmān was very anxious about the impression created by his writings upon the Dutch, which may also have played a role in the revision of his ideas about the legal validity of documentary evidence.

6. The works of Sayyid ‘Uthmān: Some general remarks

In the previous section it was suggested that Sayyid ‘Uthmān abandoned the most commonly held Muslim view that documentary evidence as such cannot serve as legal proof in order to facilitate the registration in writing of all kinds of legal transactions among the indigenous population for the colonial administration. It was further posited that he most probably did so under the immediate influence of Snouck Hurgronje.

Before we can establish whether Sayyid ‘Uthmān was prepared to align his views on matters Islamic more closely with the wishes of the colonial administration in other cases as well, we will need to do a lot more research into his works. It may further prove worthwhile tracing other changes of view, similar to that concerning the legal validity of documentary evidence, in his oeuvre to find out whether these may possibly be connected with any shift in Sayyid ‘Uthmān’s political orientation.17

The first prerequisite for such a study is a reliable bibliography of the works of Sayyid ‘Uthmān. The first scholar to deal at some length with Sayyid ‘Uthmān as a writer was L.W.C. van den Berg in his 1886 description of the Arabs in the Archipelago. According to Van den Berg, Sayyid ‘Uthmān was the owner of a lithograph press and had recently given up teaching in order to be able to devote himself entirely to writing. At that time he already had thirty-eight publications to his name, which are all mentioned by title (Van den Berg 1989:98, 106-8). Another important bibliographical source is a list of works by Sayyid ‘Uthmān which the N.V. Handel-My. Said Oesman, Petamboeran – Weltevreden (Said Oesman Trading Company Ltd., Petamboeran – Weltevreden) published in 1916, two years after his death. This list – an updated reprint of an earlier version dating from 1903 (Sayyid ‘Uthmān 1903) and, like its predecessor, drawn up with a view to promoting Sayyid ‘Uthmān’s books – contains no fewer than 122 different titles. These deal with all branches of Islamic scholarship, discussing dogmatics, fiqh, mysticism, the Prophetic tradition, Qur’an reci-

17 It may be worthwhile comparing the content of the 1881 Kitāb al-Qawānîn al-Shar’iyya with that of the 1894 Kitāb with this end in view. It is interesting to note in this connection that in the 1894 version Sayyid ‘Uthmān explicitly approves the appointment of qādi (= panghulu) by an infidel ruler (= the colonial government) (p. 25), while in the parallel section of the 1881 version (p. 30) all reference to this subject is omitted.
tation, ethics, brotherhoods, heresies, inheritance law, religious administration, Arabic grammar, lexicology, and astronomy. Besides the titles of the works, the price is stated, and a very brief indication is given of the contents of each. In many cases the language of the work concerned – Arabic, Malay, Javanese, or Sundanese – is indicated (Sayyid ‘Uthmān 1916).

Unfortunately, the list of Sayyid ‘Uthmān’s works compiled by Van den Berg and the two sales catalogues do not provide information on the date of publication of the works or on their format, although the prices listed can be taken as an indication of their size. With a view to obtaining some information concerning the internal chronology of Sayyid ‘Uthmān’s oeuvre, I have consulted the old card index of the excellent collection of the Leiden University Library in Leiden, the Netherlands, where many of Sayyid ‘Uthmān’s works have been preserved. This catalogue does specify the year of publication, where it is known, thus providing a basis on which to gain some insight into the development Sayyid ‘Uthmān’s thinking in his publications.

Quite surprisingly, Sayyid ‘Uthmān’s works were only printed in the later stages of his career. The oldest work preserved in the Leiden University Library, a pilgrim’s guide entitled Kitab Manasik Haj dan Umrah, dates from 1292/1875, at which time Sayyid ‘Uthmān was already fifty-three years old. Perhaps this lateness has to do with the circumstance that he did not have the technical means for printing at his disposal earlier, although the necessary expertise did exist among the Arabs in the Archipelago from at least 1853 (Kaptein 1993). Or perhaps he lacked the finance to buy a lithograph press and make the necessary other investments. Or perhaps even an aversion to printing played a role in this (see Snouck Hurgronje 1923b:432). Whatever the case, when drawing up Sayyid ‘Uthmān’s bibliography we should certainly take into account the possibility of certain of his works having been in circulation in manuscript form before being printed. There is evidence, for instance, that K.F. Holle once possessed a manuscript copy of one of Sayyid ‘Uthmān’s works (Van Bruinessen 1992:110, note 2).

Another interesting observation that can be made about Sayyid ‘Uthmān’s oeuvre – if we regard his entry into the colonial administration’s service in 1889 as a decisive moment in his career – is that the majority of his works were published after this date. Not taking into account the double copies of some publications, the later reprints of some works, or the Javanese and Sundanese translations of certain publications, the Leiden University Library according to the catalogue has preserved slightly over one hundred original works by Sayyid ‘Uthmān. Of this number, only sixteen are dated prior to 1889, while fewer than ten are not dated at all in the catalogue description. Although Van den Berg mentions that Sayyid ‘Uthmān already owned his own lithograph press and had published thirty-eight of his own works by 1886, there is no doubt that the majority of his works were published after his acquaintance with Snouck.
This may be connected with the fact that in his capacity as adviser Sayyid 'Uthmān enjoyed a steady income, which enabled him to invest in his own press. We know that, apart from these regular payments, Sayyid 'Uthmān occasionally also received sums of money from the colonial government to cover expenses incurred in the distribution of publications which were regarded as being favourably disposed towards colonial rule (Snouck Hurgronje 1957-1965:1520). All in all, Sayyid 'Uthmān’s press seems to have become a successful venture in a later phase of his career, publishing not only his own works but also those of others (Snouck Hurgronje 1925).

Another observation pertaining to the bibliography of Sayyid 'Uthmān is that many of his works remained in use and were reprinted from time to time after his death. The most popular of these reprints probably is that of his Kitāb al-Qawānīn al-Shar'īyya li-Ahl al-Majālis al-Hukmiyya wa-l-Iftā’iyya of 1894, which was used, for instance, in a court case in Buitenzorg in 1920 and was reprinted in 1925 (Pijper 1934:84, note 1). The same work was also officially designated by the Ministry of Religious Affairs in 1953 as one of the thirteen fiqh texts which Islamic Courts might use as a work of reference (Atho 1993:38). Finally, it is interesting to note that the book is still used even today in various traditional Islamic boarding schools, or pesantren, and is still available in cheap editions on the book market, together with other books by Sayyid 'Uthmān, such as his Kitāb Sifat Dua Puluh, a theological treatise on the attributes of God.

The most important question to which Sayyid 'Uthmān’s publication activities give rise is whether his influence grew as his writings were more widely distributed. Notwithstanding the increase in the number of his publications, his influence on his co-religionists seems to have waned after 1897, when the Ottoman consul in Batavia launched a smear campaign against him through the Arabic press in the Middle East. The slanderous allegations made against him depicted Sayyid 'Uthmān as an agent of the infidel Dutch colonial government. This seriously damaged his reputation. Matters were made worse by Sayyid ‘Uthmān’s being awarded the royal honour of membership of the Orde van de Nederlandse Leeuw and by his authorship of a prayer to be recited at Queen Wilhelmina’s coronation as Queen of the Netherlands in 1898 (Snouck Hurgronje 1957-1965:1517-8). All this must have heightened his co-religionists’ awareness of his close ties with the government. The royal decoration might have attracted admiration in some circles, but his close association with the infidel ruler will have become an increasingly strong factor in the decline of Sayyid

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18 The G.A.J. Hazeu archive, kept at the Royal Institute of Linguistics and Anthropology in Leiden (H 1083, 1995 supplement no. 88), contains a brief lithographed text written by Sayyid 'Uthmān in defence of his writing of this prayer. This text is dated 8 Jumādā al-Uiḍ 1316, which corresponds to 24 September 1898. See also Snouck Hurgronje 1923b:430-1. I am currently preparing a separate paper on this subject.
Only known photograph of Sayyid 'Uthmān (1822-1914), Honorary Adviser on Arab Affairs and member of the Orde van de Nederlandse Leeuw.
(Source: Weekblad voor Indië X (1913-1914), p. 1124; reproduced by courtesy of the KITLV.)
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‘Uthmān’s authority as a religious scholar in others, certainly among non-government-oriented Muslims.

Recently again Sayyid ‘Uthmān’s role has become a subject of serious debate in Indonesia. In 1995 an article on Sayyid ‘Uthmān, dealing with such matters as his services to the colonial government (Azra 1995), appeared in Jakarta. This provoked strong reactions from the Arab community in Indonesia, and eventually stimulated public discussions and even the publication of a pro-Sayyid ‘Uthmān pamphlet bearing the revealing title Menangkal Fitnah Berbisa (Refutation of the Poisonous Slander). The latter contains a strong protest against the defamation of Sayyid ‘Uthmān, and of the Arabs in general (Alhamid Alhusaini 1995).

The subjects discussed in the present article constitute the mere tip of an iceberg. If the article has performed any service at all, it will be that of making clear that, before a reliable assessment of the historical role of Sayyid ‘Uthmān can be attempted, a great deal more research will need to be done.

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