



076-The Advent of Islam and Its Impact on The Malay Rulers and Legal Systems of The Malay States Before European Colonialization

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ABSTRACT

Islam played significant role in the Malay Archipelago or Southeast Asian history, in particular its impact in all angles of Malay's life in this region for centuries. Since the advent of Islam in the Malay World, the spread of Islamic da'wah contributes to a great and meaningful impact on the Malay's system of belief, thoughts, diffusion of culture and religious practices. Therefore, this research aims to explore the theory of the advent of Islam in the Malay World or Malay Archipelago. This research also aims at studying the effects of Islam on the Malay Rulers. In addition, the study also analyses the effects of Islam on legal systems of the Malay states before European Colonization. This research utilized the qualitative methods suite to the nature of research problem as well as to understand the problem. In this case, the study employs documents analysis, based on the secondary data collected. Primarily, the method that carried out in this study is qualitative historical method consisting of selecting a subject or topic for investigation. Content and documents descriptive analysis of secondary data has been conducted in this qualitative research. The findings of the study showed that the advent of Islam to the Malay world has become an intellectual debate among scholars around the world among both Muslim and Western scholars. There are at least five elements of debate on these issues, in particular the originality of Islamic doctrines in the Malay world, the carrier or bearer of Islam in this region, the theory of the advent of Islam to the Malay world and, the times of the coming of Islam as well as the spreading of Islam in the Malay world. According to al-Attas's theory on the inner process of Islamization of the Malay world, he has divided this development into three phases: first, the conversion of the body; second, the conversion of the spirit; and third, the period of continuation of the conversion of the body and the consummation of the conversion of the spirit. Islam did impact the Malay rulers in term of Aqidah and worldview, religiosity and religious commitment and seeking knowledge behaviors, attention towards Islamic spirituality and the Malay rulers' sovereignty in strengthening politics and Islamic laws. The advent of Islam in the Malay world did affect the Malay rulers and the legal system in the Malay states before European colonization.



Keywords: Islam, impact, Malay rulers, legal system, before colonialization.

INTRODUCTION

The advent of Islam to the Malay world or the Malay Archipelago is a turning point for the history of the region. Islam has changed not only the material or physical matters, but it has also shaped the worldview of the Malays. In “Preliminary Statement on a General Theory of the Islamization of The Malay-Indonesian Archipelago”, that was written by Syed Naquib Al Attas stated that Islam came to the archipelago expressed in Sufi metaphysics. It was through *tasawwuf* that the highly intellectual and rationalistic religious spirit entered the receptive minds of the Malays, effecting a rise of rationalism and intellectualism which is not manifested in pre-Islamic times. This emergence of rationalism and intellectualism can be viewed as the powerful spirit that set-in motion the process of revolutionizing the Malay-Indonesian worldview (Nabila Yasmin, 2020).

Islam has impacted the Malay Muslims in this region for centuries in all angles of their life. Since the advent of Islam in the Malay World, the spread of Islamic da’wah contributes to a great and meaningful effect on the Malay’s system of belief, thoughts, diffusion of culture and religious practices. It is not just a religion and belief but also a significant element that shapes Malays’ identity, and a central factor which blows a sense of religious consciousness of the Malays who then become relevant nation surviving for modern and contemporary needs.

Therefore, this research aims to explore the theory of the advent of Islam in the Malay World or Malay Archipelago. This research also aims at studying the effects of Islam on the Malay Rulers. In addition, the study also analyses the effects of Islam on legal systems of the Malay states before European Colonization.

The Purpose of the Study

The purpose of the study aims at:

1. exploring the advent of Islam into the Malay World or Malay Archipelago.
2. analysing the effects of Islam on the Malay rulers and legal system of the Malay states before European colonization.

The Objectives of the Study

The study is conducted to achieve the following objectives:

1. To explore the theory of the advent of Islam in the Malay World or Malay Archipelago.
2. To study the effects of Islam on the Malay rulers.
3. To analyse the effects of Islam on legal systems of the Malay states before European colonization.



LITERATURE REVIEW

A great variety of studies on the advent of Islam in the Malay world and its impact on the Malay rulers and legal systems in the Malay states before the western colonialization era have appeared in the past three decades. The past studies on the advent of Islam in the Malay world or Archipelago have been discussed by many contemporary Western and local Muslim scholars, such as Thomas W. Arnold (1975),²²³ John Crawford (1820),²²⁴ G.J. W. Drewes (1985),²²⁵ G. E. Marrison (1951),²²⁶ D.G.E. Hall (1960, 1964),²²⁷ Brian Harrison (1957),²²⁸ William Marsden (1966),²²⁹ and many others.

Some local writers have also embarked the discourse on this religious social change in observing the influence of Islam on the Malay Muslims' commitment on this new faith and belief, such as Syed Muhammad Naguib Al-'Attās (1969, 1972),²³⁰ Azyumardi Azra (1999, 2013),²³¹ S.Q. Fatimi (1963),²³² Ismail Hamid (1982),²³³ Abdullah Ishak (1992), Hamka (1977),²³⁴ and Natsir (2008).²³⁵

A previous study by Amin, Faizal and Ananda (2019) highlights the arrival and spread of Islam in Southeast Asia: a theoretical study of the process of the study discusses five theories of the arrival and spread of Islam in Southeast Asia or the Malay Archipelago, i.e., Indian

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- ²²³ Arnold, T.W. *The Preaching of Islam: A History of the Propagation of the Muslim Faith*. Lahore: Sh. Muhammad Ashraf, 1975.
- ²²⁴ Crawford, John. *History of Indian Archipelago*. Edinburg, 1820.
- ²²⁵ Drewes, G.J. W. "New Light on the Coming of Islam to Indonesia?" In *Readings on Islam in Southeast Asia*, edited by A. Ibrahim, S. Siddique, and Y. Hussein. Singapore: ISEAS, 1985.
- ²²⁶ G. E. Marrison. "The Coming of Islam to the East Indies." *Journal of the Malayan Branch of the Royal Asiatic Society*, Vol. 24, No. 1 (1951): 28–37. doi:10.2307/41502969.
- ²²⁷ Hall, D. G.E. "Looking at Southeast Asian History." *The Journal of Asian Studies* 19, no. 3 (1960): 243–53. doi:10.2307/2943485; Hall, D.G.E. *A History of South-East Asia*. London: Macmillan, 1964.
- ²²⁸ Harrison, Brian. *South-East Asia, A Short History*. London, 1957.
- ²²⁹ William Marsden. (1966). *The History of Sumatra*. By A the Third Edition, Introduced by John Bastin. (Oxford in Asia Historical Papers.). Kuala Lumpur: Oxford University Press, 1966.
- ²³⁰ Al-'Attās, S.M. Naguib. *Islam dalam Sejarah dan Kebudayaan Melayu*. Kuala Lumpur: UKM, 1972; Al-'Attās, S.M. Naguib. *Preliminary Statement on a General Theory of the Islamization of Malay-Indonesian Archipelago*. Kuala Lumpur: Dewan Bahasa dan Pustaka, 1969.
- ²³¹ Azra, Azyumardi. Edisi Perennial: *Jaringan Ulama Timur Tengah dan Kepulauan Nusantara Abad VII dan XVIII: Akar Pembaruan Islam Indonesia*. Jakarta: Kencana Prenadamedia Group, 2013; Azra, Azyumardi, *Jaringan Ulama Timur Tengah dan Kepulauan Nusantara Abad XVII dan XVIII M*. Bandung: Mizan, 1999.
- ²³² S. Q. Fatimi. (1963). *Islam Comes to Malaysia*. Singapore: Malaysian Sociological Research Institute Ltd.
- ²³³ Isma'īl Hāmid. "A Survey of Theories on the Introduction of Islam In the Malay Archipelago." *Islamic Studies* 21, No. 3 (1982): 89–100.
- ²³⁴ Hamka, *Sejarah Umat Islam*, Kuala Lumpur: Penerbitan Pustaka Antara, 1977.
- ²³⁵ Natsir, M. "Sekilas Proses Masuknya Islam di Kalimantan Barat (Kalbar)." In *Seminar Serantau Perkembangan Islam Borneo 1*, edited by Jamil Hj. Hamali, 52-57. Universiti Teknologi MARA Serawak: Pusat Penerbit Universiti (UPENA) UiTM MARA, 2008.



Theory, Arabian Theory, Persian Theory, Chinese Theory, and Accommodation theory.²³⁶ Overall, these theories are attempts to answer three main problems, i.e., when, from where, and who is the carrier or bearer of Islam to Southeast Asia. The debate about the main problem is incomplete because of the lack of data to support a particular theory and the partiality of certain theories that tend only to emphasize specific aspects of the three main problems. In addition to explain accommodation theories that constitute a synthesis of previous theories, Nurbaiti (2019) describes several factors and channels of Islamization that form the basis of Islamic characteristics in Southeast Asia. This argument is used to place the position of Islam in Southeast Asia or Islam of the Archipelago as the domain of distinctive and equal Islamic culture in the Muslim world.

The study that is conducted by Nurbaiti (2019) intends to examine the main pathway of Islamization through Islamic education in Southeast Asia, then the political development of Islamic education in Southeast Asia, and the challenges faced by Islamic schools in Southeast Asia. This research uses a qualitative method with the type of literature study. The results showed, first, that trade and ulama were moderating variables at the beginning of Islamization in the Archipelago, while the primary variable was Islamic Education taught by the Ulama and traders who came to this region to the local population. Second, the development of Islamic Education is different from one country to another. This is undoubtedly influenced by the geographical location, the culture of society, to politics that influenced the existence of these differences. Third, school development, especially in Indonesia, is understood as a social movement that did not only succeed in educating students but also formed a network of social ideologies that would later influence social transformation, even national development. The implications of this study provide a deeper understanding of the history and dynamics of Islamic education in Southeast Asia.²³⁷

Zanirah and Nurul 'Ain (2019), discussed the effect of Islam and customs in the aspect of family law in the Malacca Laws. Malacca Laws or *Hukum Kanun Melaka*, is a written law existed during the Malacca Sultanate. It was established as a Malay customary law that is compatible with Islamic law. Malacca Laws is believed to be enacted during the ruling period of Sultan Muhammad Shah (1424-1444 AD) and implemented during the reign of Sultan Muzaffar Shah (1445-1458 AD), and methodically organized during the ruling period of Sultan Mahmud Shah (1489 -1511 AD). Malacca Laws is the first Islamic law that was introduced by Sultan Muhammad Shah in the state of Malacca. Its jurisdictions covered the Malacca state and all territories conquered by Malacca. Malacca Laws which have 44 articles related to ruling power, laws, and taboos of family law, significantly affects the laws of other states. Family

²³⁶ Amin, Faizal, and Rifki Abror Ananda. "Kedatangan dan Penyebaran Islam di Asia Tenggara: Telaah Teoritik Tentang Proses Islamisasi Nusantara." Analisis: *Jurnal Studi Keislaman*, Vol. 18, No. 2 (March 1, 2019): 67–100. doi:10.24042/ajsk.v18i2.3069.

²³⁷ Nurbaiti. (2019). The Main Path of Islamization in Southeast Asia. *Jurnal Pendidikan Islam*, Volume 8, No. 2, December 2019, pp. 345-374.



aspects in Malacca Laws are discussed in this study aims to understand the influence of Islam and customs adopted in the past, in terms of their effects on the family law as well as other laws. Literature search is used in the present study. The objective of this study is to find articles that are related to family aspects contained in the Malacca Laws. The discussion focuses on matters related to marriage, guardianship, and inheritance of property as well as some provisions of the law relating to marriage.²³⁸

Another study conducted by Mohd Roslan Mohd Nor et al. (2016) discussed the dynamics formation of Islamic Laws from *Undang-undang Melaka* to federal constitution which contribute to the dynamics of multicultural society in Malaysia. This article applies qualitative methodology in nature, through historical comparative perspective in presenting its data. The *Undang-undang Melaka* (Malacca Laws) was obtained from the monograph available at National Library of Malaysia under the name of Hukum Kanun Melaka. Analysis was done on selected examples from this document. The article highlights that there had been no introduction to a common law system, Malaysia would have remained with its traditional laws influenced by Islam and its local customs as evident from *Undang-undang Melaka* (Malacca laws). The *Undang-undang Melaka* was practised from 1422 to 1444 and the law of the country was developed to accommodate the introduction of civil law during the colonial period. One of the unique aspects of multicultural Malaysia is the fact that it has a parallel legal system: shariah and civil law. This article examines histo-cultural development of the Islamic law as practised in pre-independent Malaysia, as well as the coexistence between these two laws after the independence of Malaya in 1957. The finding concludes that Islamic law in Malaysia is confined to Muslim family matters, while civil law covers all other matters.

Mohamad Hazizie Sukafle (2017), on the other hand attempts to study one of the intellectual heritages of the Malay society in the corpus of law; the Nine-nine Laws of Perak. Basically, this study analyzes the influence of Islam and adat in this set of laws and the nature of the interactions between the two. Instead of seeing those interactions as conflicting in nature and creating tension between them, the study points out that those interactions actually happened in a harmonious and tolerance manner.²³⁹

The previous studies that have been done by western and local researchers gave an overview on the influence of Islam on the Malay rulers and the legal system in the Malay States before colonialization which could help to analyse the current study.

²³⁸ Zanirah Mustafa@Busu, Nurul 'Ain Mohd Firdaus Kozako, Malacca Laws: The Effect of Islam and Customs In the Aspect of Family Law, *Journal of Contemporary Social Science Research*, Vol. 3, Issue 1, Nov 2019, 37-57.

²³⁹ Mohamad Hazizie Sukafle (2017), *The Ninety-nine Laws of Perak: A Study of Islamic and Adat Influence in the Malay Society*. M.A Thesis, Master of Human Sciences in History and Civilization, Kulliyah of Islamic Revealed Knowledge and Human Sciences, International Islamic University Malaysia.



RESEARCH METHODOLOGY

This research utilized the qualitative methods suite to the nature of research problem as well as to understand the problem.²⁴⁰ In this case, the researcher employs documents analysis, based on the secondary data collected. Primarily, the method that carried out in this study is qualitative historical method consisting of selecting a subject or topic for investigation. Content and documents descriptive analysis of secondary data has been conducted in this qualitative research.

The investigation on the advent of Islam in of the Malay world was interpretatively discussed through a content analysis. Content analysis is a systematic research method for analyzing and making inferences from selected texts and documents, in this case are the Malacca Laws (Hukum Kanun Melaka), Ninety-nine Laws of Perak (Undang-Undang 99 Perak) and the Pahang Laws (Undang-Undang Pahang).

THE THEORY ON THE ADVENT OF ISLAM IN THE MALAY WORLD

This section describes the theory on the advent of Islam in the Malay world. This chapter covers the Islamization Theory from India, China, Champa, Persian and the Arabian. This chapter also discusses the stages of Islamization in the Malay world or Archipelago.

The Theory on The Advent of Islam in The Malay World

The discussion on the advent of Islam to the Malay world has become an intellectual debate among scholars around the world among both Muslim and Western scholars. There are at least five elements of debate on these issues, in particular the originality of Islamic doctrines in the Malay world, the carrier or bearer of Islam in this region, the theory of the advent of Islam to the Malay world and, the times of the coming of Islam as well as the spreading of Islam in the Nusantara (Mohammad Noviani Andi, Fatimah Abdullah, 2018: 247).²⁴¹

These intellectual debates have opened critical discussions on Islamization process in the Malay Archipelago or the Malay world, in particular among Orientalists, such as J.P. Moquentte, Pijnappel, R.A. Kern, R.O. Winstedt, G.E. Marrison, Snouck Hurgronje, J.B.O Schrike, Thomas Arnold, G.W.J. Drewes, D.G.E. Hall, John Crawford, A.H. Johns, J.C. Van Leur and others. Among Muslim scholars who critically discussed the arrival of Islam in Southeast Asia were S.Q. Fatimi, Hamka, Syed Muhammad Naquib al-Attas and C.A. Majul

²⁴⁰ J. W. Creswell, and V. L. Plano Clark, *Designing and Conducting Mixed Methods Research*, Thousand Oaks, CA: Sage Publications, 2007.

²⁴¹ Mohammad Noviani Ardi & Fatimah Abdullah. (2018). The History of Islam in the Malay Archipelago: An Analytical Study of Abdullah Bin Nuh's Works. *Al-Shajarah*, 23(1). 247.

(Abdul Rahman, 2003: 215).²⁴²

There are many theories in determining the advent of Islam to the Malay Archipelago which are famous among intellectuals, both Muslim and Western, including theory of India (Gujerat, Bengal & Malabar), Persia, China and Champa and Arab or Makkah. In addition, the difference also appears in the determining of the age of the coming of Islam to the Malay Archipelago. Perhaps, these differences are because Islam came to the Malay Archipelago, in particular Indonesia in the different places and did not come in one time, but in different periods.

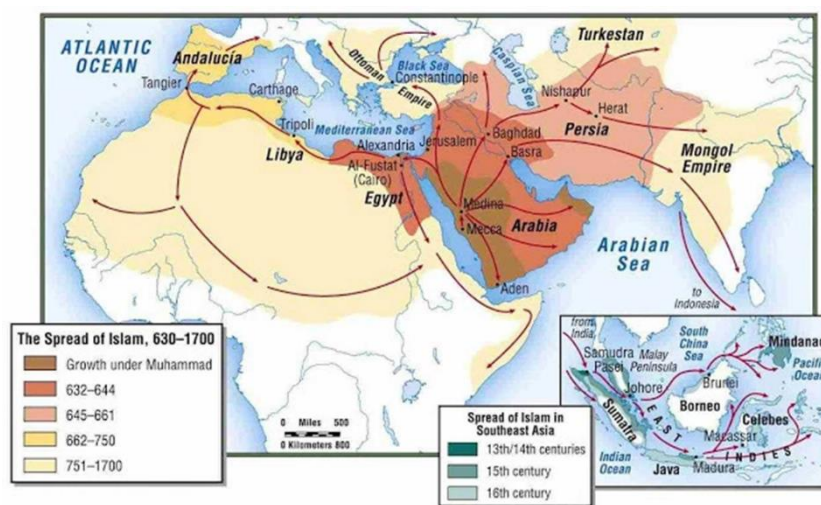


Figure 1: The Spread of Islam in Southeast Asia.

The Islamisation Theory from India

The Islamisation theory from India explains that Islam came and spread to Nusantara, particularly the Indonesia archipelago in the 12th Century from Indian Continent - not Arabic or Persian, from difference parts of India, namely Malabar, Gujerat or Bengal in Coromandel Coast by Indian Muslims who navigated the waters of the Indian Ocean, the Straits of Malacca, the Gulf of Siam, and the South China Sea (Abdullah, 1992: 61; Azra, 2013: 3).²⁴³

This theory was first revealed by Pijnappel who was the first professor of Malay studies at

²⁴² Abdul Rahman Abdullah. (2003). *Sejarah dan Tamadun Asia Tenggara: Sebelum dan Sesudah Islam*. Kuala Lumpur: Utusan Publication & Distributors Sdn. Bhd., p. 215.

²⁴³ Abdullah Ishak. (1992). *Islam di Nusantara (Khususnya di Tanah Melayu)*, Kuala Lumpur: Bahagian Hal Ehwal Islam, Jabatan Perdana Menteri, 1992, 61; Azyumardi Azra, Edisi Perennial Jaringan Ulama Timur Tengah dan Kepulauan Nusantara Abad VII dan XVIII: Akar Pembaruan Islam Indonesia, Jakarta: Kencana Prenadamedia Group, 2013, p. 3.



Leiden University (Drewes, 1985: 440-441),²⁴⁴ Pijnappel argued that the spread of Islam throughout the Archipelago was affiliated with the Arabic Shāfi'ī fiqh from Gujarat and Malabar.²⁴⁵ This is because these areas are very often found in the Early History of the Archipelago. However, Pijnappel still thinks that the proselytizers who first spread Islam were Arabs from Gujarat and Malabar, not Indians themselves.²⁴⁶

The theory was later expanded after 1883AD by C. Snouch Hurgronje, a famous of Dutch orientalist and scholar, who gave many recommendations to Dutch government related to discriminative policies during colonization of the Indonesian Muslim. Amongst the proponents of this theory are Pijnappel (Gujarat and Malabar), Snouck Hurgronje (Deccan), T.W. Arnold (Corommandel and Malabar), D.G.E Hall (Gujarat), R.O. Winstead (Gujarat), Brian Harrison (Gujarat), and H.E. Wilson (Gujarat), G.P. Moquette (Gujarat), G.E. Morrison (Corommandel), de Jong, W.F. Wertheim (Corommandel), S.Q. Fāṭimī (Bengal), Keyzer (Bengal), and G..W. Drewes (Bengal), Van Ronkel, R. A. Kern, and C.A.O. Van Nieuwinhuize etc. Snouck Hurgronje stated in his book with regards to Acehnese literature:

“The South-Indian Islam, the oldest form in which Mohammedanism came to this Archipelago still survives in these works, not without a large admixture of native superstition. With its semi-pantheistic mysticism, its prayers and mysterious formularies, its popular works on sacred history which we have just alluded to it, it will long bid defiance to the orthodoxy of Mecca and Hadramawt, which is seeking to supplant it, and which has in theory driven it entirely from the field.”

(Snouck Hurgronje, 1906, 165).²⁴⁷

In his article, in line to Snouck Hurgronje, A. H. Hill argued that Islam came to South East Asia from India, not direct from Arabia. Persian words, many of which are found in Hikayat Raja-Raja Pasai in passage describing the life of the royal household, point to Muslim India where they were used at the ruler's court. The title *Mālik al-Zāhir* for royalty is not found anywhere in Arabia (A.H. Hill, 1963, p. 16).²⁴⁸

The main ideas of this theory proposed that Islam has been spread to Nusantara, through trade activities. In addition to that, Vlekke is of the opinion that the arrival of the faith in Indonesia can be attributed to Gujarati and Indian spice traders. This is substantiated by the discovery of tombstones with Jawi inscriptions with the names of sultans who ruled the Malay-

²⁴⁴ G.J. W. Drewes, “New Light on the Coming of Islam to Indonesia?,” in Readings on Islam in Southeast Asia, ed. A. Ibrahim, S. Siddique, and Y. Hussein, Singapore: ISEAS, 1985, 440– 41.

²⁴⁵ Azra, Edisi Perennial Jaringan Ulama Timur Tengah dan Kepulauan Nusantara Abad VII dan XVIII: Akar Pembaruan Islam Indonesia, 3.

²⁴⁶ Drewes, “New Light on the Coming of Islam to Indonesia?,” 440–441.

²⁴⁷ Snouck Hurgronje, C, *The Achehnese*, Vol. II, Leiden: E.J. Brill, 1906, p. 165.

²⁴⁸ A.H. Hill, *The Coming of Islam to North Sumatra*, *Journal of Southeast Asian History*, vol. IV, No.1, 1963, p. 16.



Islamic kingdom (Vlekke in Mohd. Zariat, 2010: 53).²⁴⁹ Vlekke also finds that Islamization in Indonesia was somewhat unsystematic because it was in demand of an organization or body to specifically coordinate missionary work. He speculates that the spread of Islam in Indonesia happened by chance, and was therefore incomprehensively spread, because it only involved a small group who had economic interests than the intention to spread Islam (Vlekke in Mohd. Zariat, 2010: 53).²⁵⁰

The Gujaratis theory is possibly the earliest theory put forward by scholars on question of the origin of Islam in the Malay world (Mohd Noh, 2014: 14). This theory relies on the presence of archaeological evidence of early Muslims' tombstones found throughout the Malay world. Scholars such as Pijnappel quoted by Drewes (Drewes, 1968)²⁵¹ and Moquette quoted by Azumardi Azra (1992)²⁵² proposed that Islam be brought to the Malay world by Muslims from Gujarat, the northern part of the Indian subcontinent. This conclusion was made after making comparison between tombstones found in Pasai and Gresik dated 1428 AD and 1219 AD respectively, and those found at Cambay, Gujarat at that time and the result was they were identical. This similarity prompted scholars to suggest that Gujarat could possibly be the place of origin of Islam in the Malay world.

According to this theory, there are similarities on the influence of Indian culture which have been practiced by Indian Muslims with local people in The Malay World and Southeast Asia. The theory claimed that the first Islamic empire in the Malay Archipelago was Samudera Pasai at Aceh at 13rd Century. To convince his idea, Van Ronkel (1922: 29), founded that much evidence in terms of culture and language that showed the influence of India in the archipelago.²⁵³ The word "Lebai" (term from South India) which is taken from the words "Labaigam" or "merchant". In addition, the Gujarat's influence in Malay literature can be seen with the emergence of the author of the Malay-language Gujarati literature in the 17th century AD, Syeikh Nuruddin al-Raniri who wrote "Sirat al-Mustaqim" (1628M) and "Bustan al-Salatin" (1638M)(Abd. Jalil, 2014: 10).²⁵⁴

G.P. Moquette had discovered on a gravestone dated 1428AD founded in Pasai and a gravestone belong to Maulana Malik Ibrahim of Gerisik dated 1419AD. The study founded that the structure of these gravestones as similar as the gravestone of Umar Ibn Ahmad

²⁴⁹ Mohd. Zariat Abdul Rani, The History of Hinduism and Islam in Indonesia: A Review on Western Perspective, *Sosial Humaniora*, 14, No. 1, 2010, p. 53.

²⁵⁰ Mohd. Zariat Abdul Rani, The History of Hinduism and Islam in Indonesia, p. 53.

²⁵¹ Drewes, G. W. J., *New Light on the Coming of Islam to Indonesia*. BKI, 124, 1968, 439–440.

²⁵² Azra, Azumardi. *The Transmission of Islamic Reformism to Indonesia: Networks of Middle Eastern and Malay – Indonesian "Ulama" in the Seventeenth and Eighteenth Centuries*. USA: Columbia University, 1992.

²⁵³ Van Ronkel, P. S., (1922). A Tamil Malay Manuscript. *JMBRAS*, 85, 29.

²⁵⁴ Abd Jalil bin Borham, Islam Di Nusantara, Kolokium Islam Pahang 'Meraikan Ilmu', Anjuran Muzium Negeri Pahang di Panggung Tun Razak, Muzium Sultan Abu Bakar, Pekan, Pahang, pada 18 Mac 2014, p. 10.

Kazaruni, which has been founded in Gujerat, India (Abdullah Ishak, 1992: 62).²⁵⁵ Another historical evidence has been found in Tanjung Ingeris, Langgar, nearby Kedah River that was the tombstone carved according to Indian Cambay style, which recorded the name of Sheikh `Abdul Qadir bin Hussin Syah Alam dated 290 Hijrah (*Mastika (Jawi)*, 1965: 35).²⁵⁶



Figure 2: A gravestone belongs to Maulana Malik Ibrahim of Gerisik dated 1419AD (822 H). This indicated that Islam has reached the northern Java, Indonesia.



Figure 3: A gravestone belongs to Sheikh `Abdul Qadir bin Hussin Syah`

Another historical evidence has been found in Tanjung Ingeris, Langgar, Kedah that was the tombstone carved according to Indian Cambay style, which recorded the name of Sheikh `Abdul Qadir bin Hussin Syah` Alam dated 290 Hijrah (904AD). Most of historians particularly Western observed that the shape of tombstone of Fatimah binti Maimun and the

²⁵⁵ Abdullah Ishak, *Islam di Nusantara (Khususnya di Tanah Melayu)*, Kuala Lumpur: Bahagian Hal Ehwal Islam, Jabatan Perdana Menteri, 1992, 62.

²⁵⁶ Mastika (Jawi), 1965, p. 35.



first Sultan of Samudera Pasai empire were as same as Indian design. Therefore, these evidences underlie their theory that the original Islam in Indonesia and the Malay Archipelago were coming from Gujerat India (Mohammad Noviani & Fatimah, 2018: 252-253).²⁵⁷

This view is, however refuted by Marisson and later by Fatimi. Marisson argues that Gujarat cannot be the provenance of Islam, due to the fact that it was not only until 1928 C.E. that Gujarat was under the rule of Muslim's ruler (Marisson, 1951). Thus, according to him, it was not possible for Gujarat to have been an important base for Muslim missionaries to spread Islam to other areas. Marisson compared the school of law adhered to by the people of Gujarat and Malabar and Samudra Pasai, which differed from one to the other. The former adopted either the Sunni Hanafiyyah School of Islamic Jurisprudence or shi'ism, while the latter adhered to the Sunni Shafiyyah School of Islamic Jurisprudence as same as those Muslim in Bengal (Zulkiflee Haron et. al. 2015).²⁵⁸ He immediately concluded that Muslims from Bengal could be responsible for bringing Islam to the Malay world, based on available archaeological evidence.

The arrival of traders from various regions into became one pattern of trade routes as well as a path of Islamization on the west coast of Sumatra (Sudarman, et al., 2019: 49).²⁵⁹ First, the Bengali sea routes centered on the Coromandel coast that according to many historians was dominated by Muslim traders from Arabia and India (Noordin Hussin, 2007: 5).²⁶⁰ Marisson (1951, 23) and Arnold supported each other long before the 17th century AD Coromandel and Malabar had been used as a place of religious transformation in the archipelago and even in Southeast Asia.²⁶¹ According to Marisson the Coromandel coast became the center of the spread of Islam spearheaded by traders because of the school similarity, Coromandel the Shafi'i school. This school was brought by traders from the Coromandel to the West Coast of Sumatra as a religious institution model that was still maintained by the West Coast of Sumatra community. This school was brought by traders from the Coromandel to the West Coast of Sumatra as a religious institution model that was still maintained by the West Coast of Sumatra community (Sudarman, et al., 2019: 49).²⁶² Arnold

²⁵⁷ Mohammad Noviani Ardi & Fatimah Abdullah. (2018). The History of Islam in the Malay Archipelago: An Analytical Study of Abdullah Bin Nuh's Works. *Al-Shajarah*, 23(1). 252-253.

²⁵⁸ Zulkiflee Haron & et. al., *Tamadun Islam & Tamadun Asia*, Johor Bahru: UTM, 2015.

²⁵⁹ Sudarman, Ahmad Taufik Hidayat, Taufiqurrahman, and Mohammad Hidayaturrahman, Spice Route and Islamization on the West Coast of Sumatra in 17th -18th Century, *Advances in Social Science, Education and Humanities Research*, Volume 302, 2nd International Conference on Culture and Language in Southeast Asia (ICCLAS 2018), Atlantis Press, 2019, p. 49.

²⁶⁰ Noordin Hussin, *Trade and Society in The Straits of Melaka; Dutch Melaka and English Penang*, Denmark: Nias Press, 2007, p. 5.

²⁶¹ G.E. Marisson, "The Coming of Islam to the East Indies", *JMBRAS*, V. xxiv, 1951, p. 23.

²⁶² Sudarman, Ahmad Taufik Hidayat, Taufiqurrahman, and Mohammad Hidayaturrahman, Spice Route and Islamization on the West Coast of Sumatra in 17th -18th Century, *Advances in Social Science, Education and Humanities Research*, Volume 302, 2nd International Conference on Culture and Language in Southeast Asia (ICCLAS 2018), Atlantis Press, 2019, p. 49.



emphasized that the Coromandel was only used as a place of stopover by traders to get to the archipelago, where Muslim traders from Arab, Persia, and India gathered to continue their journey to other places. Of course, the easiest area to visit was the west coast of Sumatra (Sudarman, et al., 2019: 49).²⁶³

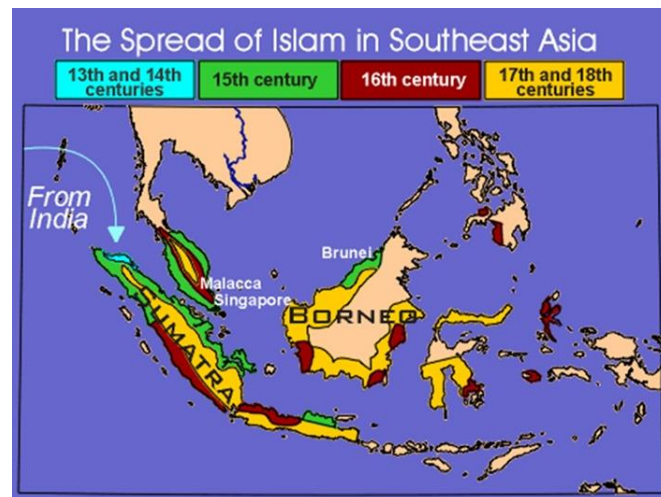


Figure 4: The theory explains Islam comes to the Malay Archipelago from India.

In conclusion, the theory which claimed that Islam came to the archipelago which has been brought from India around 13 centuries, can be denied and weak based on the evident on the history of the coming of Islam to the archipelago from the 7th century AD. In addition, the theory is unacceptable due to there is no solid evidence that has convinced the claims in terms of similarity in the school of fiqh practices in the Malay world compared to India. However it is undeniable that the preachers of India have also played an important role in spreading Islam to the Archipelago around the 13th century AD and later centuries.

The Islamisation Theory from China

Islam is said to be spread to Nusantara from China. Chinese Theory is carried by H.J. de Graaf, Slamet Muljana, and Denys Lombard (Nurbaiti, 2019: 351).²⁶⁴ Trade relations between the Arabs and China are noted to have taken place before birth Islam in Arabia. Trade relations indirectly has established ties with the Malay Archipelago (Zulkiflee Haron et al. 2015).²⁶⁵

²⁶³ Sudarman, Ahmad Taufik Hidayat, Taufiqurrahman, and Mohammad Hidayatullahman, *Spice Route and Islamization on the West Coast of Sumatra in 17th -18th Century*, p. 49.

²⁶⁴ Nurbaiti, *The Main Path of Islamization in Southeast Asia. Jurnal Pendidikan Islam*, Volume 8, No. 2, December 2019, pp. 345-374.

²⁶⁵ Zulkiflee Haron & et. al. *Tamadun Islam & Tamadun Asia*. Johor Bahru: UTM, 2015.



China and the Malay World have had a long history of close relations whether political, economic or social. Islamization of the society in the Malay World such as Malaysia and Indonesia are closely associated with the Muslim arrival from China. This was due to the earlier Islamic arrival in China than in the Malay World, that is, with the entourage of Sa'd b. Abi Waqqas in China during the Tang Dynasty (618-907AD)(Wan Kamal Mujani and Abdul Qayyum, 2012: 408).²⁶⁶

It is recorded that Canton (Khan Fo) became centre of trade since 9th century as noted by al-Mas'udi in his book "*Muruj al-Zahab*", that "Khan Fu (Canton) is a huge harbor with ships coming from Basrah, Oman, Syria and Indian cities, Zabij Island (Indonesia) and Champa in South Indo-China". It was addressed by a Spanish scientist, Emanuel Godinho Eradia, supported by S.Q. Fatimi. According to Al Masudi records, in the year of 877, during the reign of the Tang emperor Hi-Tsung, there was a colony of almost 200,000 Muslims in Canton, China. According to Al Masudi, the peasant rebellion in 887 forced these Muslims to flee and settle at Palembang. However, a modern expert, Nazeer Ahmed (2015) mentioned that the refugees settled at Kedah on the west coast of Malaya instead of in Palembang, Sumatera.²⁶⁷

There is a legend about the Muslim there. Tradition and on old Chinese manuscript said that Guangzhou's Huaisheng Mosque has been built in 627 AD. If the record is correct then, it is one of the oldest mosques in the world. The maternal uncle of Muhammad, Sa'd ibnu Abi Waqqas built the building. Like the other earliest mosques in China, it was built for the growing number of Arab and Persian settlers who came primarily for business. As the consequences, thousands of the indigenous of Chinese embraced Islamic faith of Hanafiah version.²⁶⁸

In Chen Lite book, he mentioned the journey report of an Arab explorer, Al Masudi, who in 943 visited Sumatera and found many Chinese who lived there they had left the mainland China as refugees. This finding is similar with a statement in Sejarah Nasional Indonesia, a book which is published by the Department of Education of the Republic Indonesia in 1976 (Chandra, 2019: 42).²⁶⁹

In the year 903, the well-known Muslim writer Ibn Battuta was impressed with the prosperity of Sriwijaya. Urban areas include the kingdom of Palembang (especially Hill Seguntang), Muara Jambi and Kedah. Thus, Professor Kong Yuanzhi concluded that, those factors became a sufficient attractor for the Muslim Chinese and others to choose Palembang

²⁶⁶ Wan Kamal Mujani and Abdul Qayyum Abdul Razak, Historical Development of the Chinese Muslim Society in Malaysia, *Advances in Natural and Applied Sciences*, Vol. 6, No. 3, 2012, pp. 408-416.

²⁶⁷ See, Al Masudi, *From the Meadows of Gold*, London: Penguin Traveler Book, 2007; Nazeer Ahmed in <http://historyofislam.com/contents/the-post-mongol-period/islam-inindonesia/2015>, 2015.

²⁶⁸ Robby I Chandra, *The Power of Narratives Exploration of the History, Narratives, and Spirituality: The Case of Chinese Indonesian*, June 30, 2019, p. 42.

²⁶⁹ Department of Education and Culture, *Sejarah Nasional Indonesia*, Jakarta: 1976. p. 109.



which was the capital of Sriwijaya as their temporary refuge rather to settle down in Kedah which was also part of the Kingdom (although a scholar, Nazeer Ahmed, in *Encyclopedia of Islam*, chose Kedah as the destination). Apparently, the Chinese Muslim immigrants blended well into the existing majority despite their faith differences. As the center of Buddhism at that time, Sriwijaya inhabitants also got used to ethnic differences and very open minded or welcoming the new immigrants. Thus, the faith of Islam started to have a foot hold in the important state of Sriwijaya and later Indonesia. The Hanafiah Islamic teaching was probably attractive and making sense for most people at that time. The lifestyle of the Muslim Chinese was also exemplary and inspiring (Chandra, 2019: 44).²⁷⁰

According to Syed Muhammad Naquib al-Attas, during the reign of the Tang Dynasty in the 7th century there were as many as 120,000 Muslims in Canton. In 879 AD, there was the peasant's rebellion took place which urged the government to expel foreign nation from Canton. Implications of this event contributed to the migration of surviving traders to Champa, Kedah Patani, Kedah, Palembang, Java and others in order to seek protection (Mohd. Jamil Mukmin, 2014).²⁷¹

Among the archaeological evidence to relate Islam in the Malay world to China were the discovery of a gold dinar dated 577 Hijrah which recorded the "*al-Julus Kelantan*" indicates that a Kelantan Islamic government had existed at that time. In addition, there is also a gold coin in Kubang Labu, Kelantan dated 1181 AD and a gravestone at Telok Cik Munah, Pahang dated 419 AH are the same as the Chinese culture (Kelantan, Malacca and Java) (Zulkiflee Haron et. al . 2015).²⁷²

Chinese architecture can also be found in the tombstones in Pekan, Pahang dated 1082 AD, and the Terengganu Inscription (Batu Bersurat Terengganu) in Kuala Berang, Terengganu dated 1303 AD. O.W. Wolter (1975) stated that there has been a Persian-Chinese relationship dating back to the 3rd century AD based on the claim that China at that time was requiring "Possu" (Persian) items.²⁷³

²⁷⁰ Robby I Chandra, The Power of Narratives Exploration of the History, Narratives, and Spirituality: The Case of Chinese Indonesian, June 30, 2019, p. 44.

²⁷¹ It is also mentioned in the history of the Sung Dynasty (960-1279M) that Islam has been expanded along the Chinese coastline in 977 AD. The rapid growth of Muslim populations in China is due to good relationship between the Arab and Chinese traders. But, in 878 AD, during the reign of Hsi Tsung it was said that a rebellion in Canton caused 120,000 to 200,000 Arabs was killed. Consequently, many of them fled to *Kalah* (Kedah) and Palembang. See, Mohd Jamil bin Mukmin, *Sejarah Kerajaan-Kerajaan Islam Secara Ringkas Dan Sejarah Melaka Sebagai Pusat Penyebaran Islam Di Nusantara Secara Ringkas*, Melaka: Institut Kajian Sejarah dan Patriotisme Malaysia, 2014.

²⁷² Zulkiflee Haron & et. al. *Tamadun Islam & Tamadun Asia*. Johor Bahru: UTM, 2015.

²⁷³ O.W. Wolters, *The Fall of Srivijaya in Malay History*, 1975, p. 20.



Batu Bersurat Kuala Berang

Figure 5: The Terengganu Inscription (Batu Bersurat Terengganu) in Kuala Berang, Terengganu dated 1303AD.



Figure 6: A gravestone at Telok Cik Munah, Pahang dated 419 AH.

The Islamisation Theory from Champa

Islam has been spread to Nusantara from Champa or Cambodia. This theory has been proposed by R. A. Kern, and supported by S.Q. Fatimi. According to R. A. Kern, Muslims in the archipelago originated from Indo-China (S.Q. Fatimi, 1963: 42).²⁷⁴ In the 7th century, it was said that the Malays had been in contact with Champa and Cambodians. Islam is said to have established in Champa, in the Phanrang district since the 8th century AD. The evidence of a "Malay-Polynesian" relationship from the Champa Kingdom with the discovery of tombstone in Leren, East Java dated 1082 AD. A gravestone was belong to Fatimah Binti Maimun Bin Hibatullah, dated 475H or 1082M. She was believed to be a woman messenger send by the King of Champa to spread Islam in Java. JP Moquette was the first who found and read the inscription of a gravestone of Fatimah Binti Maimun Bin Hibatullah, dated 475H or 1082M in

²⁷⁴ Fatimi, S.Q., *Islam Comes to Malaysia*, Singapura: Malaysian Sociological Research Institute, 1963, p. 42.

1911AD (S. Q. Fatimi, 1963: 38).²⁷⁵



Figure 7: A gravestone of Fatimah Binti Maimun Bin Hibatullah, dated 475H or 1082M.

The Islamisation Theory from Persian

The Persian Theory was initiated by Hossein Djajadiningrat. He was famously known as the Father of History and expert on research method in Indonesia and had good emotional relation with Snouch Hurgronje during the colonization era. In fact, this theory is in line with theory of Gujarat. The theory is based on the similarity of Persian cultural elements, especially Shi'ites, that exist within the Islamic cultural elements of the Archipelago, especially in Indonesia and Persia. However, Hossein observed more similarity of the Muslim culture between in Indonesia with the Muslims in Persia. For instance, those similarities are associated with the tradition and culture in celebrating 10th Muharam in Indonesia with most adherent of Shi'is at Persia as the commemoration of Karbala tragedy, Tasawwuf teaching in Nusantara archipelago was similar to teaching with the of Sunni adherents at Iran (Mohammad Noviani & Fatimah, 2018: 253).²⁷⁶

In addition, Hossein also stated three rationales for these similarities. First, the teachings of *Manunggaling Kawula Gusti* by Sheikh Siti Jenar and *Waḥdah al-Wujūd* Hamzah al-Fansūrī in Islamic mysticism (Sufism) in Indonesia are the influence of Persian Sufism from the teachings of Persian *waḥdah alWujūd al-Hallāj*. Second is the use of the Persian terms in the system of spelling Arabic letters, especially for *harakat* sound markings in the teaching of the Qur'an such as the word "jabar" in Persian for the word "fathah" in Arabic, the word "jer" in Persian for "kasrah" in Arabic, and pes in Persian for "ḍammah" in Arabic. The third is the 10th anniversary of Muharram or 'Ashshūrā as a Shi'a memorial day for the shahid of Husein

²⁷⁵ Fatimi, S.Q., *Islam Comes to Malaysia*, p. 38.

²⁷⁶ Mohammad Noviani Ardi & Fatimah Abdullah. (2018). The History of Islam in the Malay Archipelago: An Analytical Study of Abdullah Bin Nuh's Works. *Al-Shajarah*, 23(1). 253.



bin Ali ibn Abi Talib in Karbala. However, this Persian Theory was refuted by Saifuddin Zuhri, who stated that Islam entered the Archipelago in the seventh century Hijriyah, which was the reign of the Umayyads, so Islam could not come from Persia at a time when political power was held by the Arabs (Natsir, 2008: 52).²⁷⁷

The Islamisation Theory from Arab

The best example of a faith-driven approach is the resolution which was formulated by Indonesian Muslims, scholars and theologians at a seminar held in 1963 in Medan (North Sumatra), and reaffirmed in Aceh in 1978 (Kratz, 1988).²⁷⁸ Among others, the declarations made in this seminar are that Islam entered Indonesia for the first time in the 1st century of hijrah (7 – 8 C.E.) and came directly from Arabia (Kratz, 1988).²⁷⁹ While there is perhaps evidence to support the claim that there was a community of Muslims in the Malay world as early as the 1st century of hijrah (Groeneveldt, 1880),²⁸⁰ no conclusive hard evidence is available up to now to support this argument.

The Arabian theory was put forward by several Dutch, Indonesian, and Malaysian scholars such as Marsden (Arabia), Crawford (Arabia) Keijzer (Arabia), Niemann (Arabia), De Hollander (Arabia), al-'Atṭās (Arabic or Persian), Hashimi, and Saifudin Zuhri and Hamka (Arabia). A different approach from a Muslim scholar in the Malay world is that of Syed Muhammad Naquib al-Attas. Although he adopted a different approach in analyzing the issues of the coming of Islam to Malay world from those of the above faith-driven theoreticians, he came to a similar conclusion, namely that Islam was brought to the Malay world from Arabia. He then added that it was brought largely, by the sayyids, mainly from Hadramawt, and the later missionaries of Islam in the archipelago were the Malays themselves and the Javanese and other indigenous people' (Al-Attas, 1969: 29).²⁸¹

Islam came and spread to The Malay Archipelago, particularly Indonesia during the delegation of Sa'ad Ibn Waqqas (R.A.) to the East. There was a small settlement of the Malays located in Aden, Yemen at early 35 years BC proved the early contact of the Malays with the

²⁷⁷ Natsir, M. "Sekilas Proses Masuknya Islam di Kalimantan Barat (Kalbar)." In Seminar Serantau Perkembangan Islam Borneo 1, edited by Jamil Hj. Hamali, 52-57. Universiti Teknologi MARA, Sarawak: Pusat Penerbit Universiti (UPENA) Universiti Teknologi MARA, 2008, p. 52.

²⁷⁸ Kratz, E. U. (1988). *A Bibliography of Indonesian Literature in Journals: Drama, Prose and Poetry*. Yogyakarta: Gadjah Madha University Press.

²⁷⁹ Kratz, E. U. (1988). *A Bibliography of Indonesian Literature in Journals: Drama, Prose and Poetry*. Yogyakarta: Gadjah Madha University Press.

²⁸⁰ Groeneveldt, W. P., Notes on the Malay World and Malacca Compiled from Chinese Sources. *VBG*, 39, 1880, 13–14.

²⁸¹ al-Attas, Syed Muhammad Naquib, Preliminary Statement on a General Theory of the Islamization of the Malay-Indonesian Archipelago. Kuala Lumpur: Dewan Bahasa dan Pustaka, 1969, p. 29.



Arabs before the birth of the Prophet (Sheffer, 1996: 11-16).²⁸²

After Arabian Muslim traders had a contact trading with locals in the Nusantara, the ulamas from Arabia who were experts in *tasawwuf* and Alawi also travelled to the East and brought their mission for da'wah (spread the Islam). History shows that the Arab merchants leading to Southeast Asia have gone through a variety of ways by land on land to Afghanistan and then crossing into China to Canton and directly to the Clustered Malay Islands. And by sea as well.²⁸³

There are many evidences to support this claim that Islam comes to the Malay world from Arabia. Among others were an Islamic maritime presence was already established in Southeast Asia during the 7th century apparently due to the existence of pre-Islamic Arab trading centers. Islam has reached Aceh, earlier than any other area in the region. According to Thomas Arnold (1968), there was an Arab-Muslim settlement in the western Sumatran coast in 674 AD which was supported by Chinese sources. Another evident that support this was an expedition that was reported had been sent to China in 651 during Uthman's Caliphate, and the embassy was sent to China in the same year (Arshad, 2017: 62).²⁸⁴ The Chinese sources also indicate that the Muawiyah Caliph (661-680) mooted the idea of invading the Malay Archipelago in 674 but abandoned it because of the peaceful and just rule of Queen Sima (Arnold, 2001: 364).²⁸⁵

There are effort and notion of the top to bottom approach to the Islamization of the Malay world. The myths were created by the courts for a specific purpose which is that Islam was received by the rules directly from the descendants of the Prophet from Arabia. Hamka (1994, 675) called it as an attempt to manage academically to convince the Malays on the relationship between the Malays and the Arab Peninsula, the original source of Islam. There are many the local histories reported on the conversion of the King used the title of al-Malik, and by sheikh from the Arab described in *Hikayat Raja-Raja Pasai*, *Hikayat*, *Hikayat Merong Mahawangsa*, *Hikayat Aceh*, *Sejarah Kepulauan Sulu*.²⁸⁶

Hamka (1994) in his book, *Sejarah Umat Islam* has listed many evidences recorded in the local histories to support the theory of Arab as the followings:²⁸⁷ First, it is recorded that Syarif Makkah asked Syeikh Ismail from Makkah to visit Samudera, stopped at Malabar to met

²⁸² Shaffer, Lynda Norene., *Maritime Southeast Asia to 500 (Sources and Studies in World History*, Taylor & Francis Inc, 1995, 11-16.

²⁸³ A. Hasjmi, *Sejarah Masuk dan Berkembangnya Islam di Indonesia*, Jakarta: al-Maarif, 1989, p. 52.

²⁸⁴ Arnold, Thomas Walker, *The Preaching of Islam: A History of the Propagation of the Muslim Faith*, Lahore: Muhammad Ashraf Kashmiri Bazar, 1968.

²⁸⁵ T. W. Arnold, *The Spread of Islam in the World: A History of Peaceful Preaching*, New Delhi, Goodword Book, 2001, p. 364.

²⁸⁶ Hamka, *Sejarah Umat Islam*, Singapura: Pustaka Nasional Pte. Ltd., 1994, p. 675.

²⁸⁷ Hamka, *Sejarah Umat Islam*, Singapura: Pustaka Nasional Pte. Ltd., 1994, pp. 675 – 677.

Sultan Muhammad, the decendent of Saidina Abu Bakar, the first caliph of Islam.²⁸⁸ Second, the King tended to convert into Islam from Hinduism, change to his Islamic name. He dreamed that after Asar prayer the next day, there will be a ship from Jeddah bring together a sheikh who could convert him into Islam and change his name to the prophet's name. By tomorrow the dream become reality. That person was Sayid Abdul Aziz.²⁸⁹ Third, the first Arab scholar who brought Islam to Aceh was Syeikh Abdullah Arif, the messenger of Syarif of Makkah. His student, Burhanuddin spread Islam in the west Sumatra, Pariaman (Hamka, 1994: 676). Fourth, in the story of the King of Kedah, Maharaja Merong Mahawangsa, it was believed that Syeikh Abdullah, the Arab Sufis and ulama' had converted him into Islam from Buddhism (Hamka, 1994: 677). Fifth, it was reported in the note of the Maluku Kings, the four brothers namely Tidore, Bachan, Ternate and Jailolo, who were sons of Imam Ja'far Sadiq, the descendent of The Prophet Rasulullah SAW (Hamka, 1994: 677). Sixth, Islam entered Mindanao in the 15th century. Syarif Kebungsuan from Johor was the first ulama' or bearer who contributed to spread Islam to Mindanao Islands. Captain Thomas Forst, who wrote the note in 1775M, agreed that the Arabs first arrived the Mindanao islands 300 years before, who were the descendents of Sayyid from Makkah. His grave can be found, made of stone of rugged hill (M.S. 201-313). Seventh, Maulana Malik Ibrahim was the pioneer who build the foundation of Islam in Java. He was also called as Maulana Maghribi, believed to originate from Kasyan (Persia) and the descendent of the Prophet Muhammad. He came from the sayyid family through Ali Zainal Abidin, grandson of Ali bin Abi Thalib (Hamka, 1994: 677).²⁹⁰

The rationale for the above theories lies in the fact of the advent of the Arab merchants to Southeast Asia. They are the first group to convert to Islam and spread it all over the world including the Malay Archipelago on the principle of "*al-Risalah*" (Al-Qur'an, surah al-Ma'idah (5): 67).

يَا أَيُّهَا الرَّسُولُ بَلِّغْ مَا أُنزِلَ إِلَيْكَ مِنْ رَبِّكَ وَإِنْ لَمْ تَفْعَلْ فَمَا
 بَلَّغْتَ رِسَالَتَهُ وَاللَّهُ يَعْصِمُكَ مِنَ النَّاسِ إِنَّ اللَّهَ لَا يَهْدِي الْقَوْمَ
 الْكَافِرِينَ ﴿٦٧﴾

"O Messenger, announce that which has been revealed to you from your Lord, and if you do not, then you have not conveyed His message. And Allah will protect you from the people. Indeed, Allah does not guide the disbelieving people."

²⁸⁸ Hamka, *Sejarah Umat Islam*, Singapura: Pustaka Nasional Pte. Ltd., 1994, p. 675.

²⁸⁹ Hamka, *Sejarah Umat Islam*, Singapura: Pustaka Nasional Pte. Ltd., 1994, p. 675

²⁹⁰ Hamka, *Sejarah Umat Islam*, Singapura: Pustaka Nasional Pte. Ltd., 1994, p. 677.



Islam came to the Malay Archipelago or Indonesia since 7th Century A.D or in the first Century of Hijrah in the Islamic calendar. - The Arab-Muslim settlement at western Sumatra coast (Nuh, & Shahab, 1963: 145-150).²⁹¹ The spreading of Islam in the Malay Archipelago and Nusantara was not occurred at one time together, but it has been spread gradually, due to the reason that the majority of the Malay still practice the ancient religion of Indonesia archipelago that was based on animism, dynamism, and Hindu-Buddha.

The Stages in the Process of Islamisation of the Malay World

Islamization process of the Malays in its first phase was focused on belief, practices, and the formation of ethics and Islamic character and then accomplished with the introduction of Islamic laws. These aspects gradually change Malays' culture and the way they see this world in its meaning and function. Da'wah activities which have been done by the previous Muslim intellectuals or ulama are to be continued by the next generations passing through the same the process whereby reformation and renewal is always being practiced in the endeavour to comprehend and realize the true meaning of Islam in accordance to the Quran and Sunnah (Mashitah, 2016: 72).²⁹²

In constructing the history of the spread of Islam in the Malay world, al-Attas outlined several phases of advancement and provided essential features to each phase, the phases being the First Phase 579-805H / 1200-1400AD, Second Phase 803-1112H / 1400-1700AD and the Third Phase 1112H/1700AD onwards (al-Attas 1969: 29-30).²⁹³ According to al-Attas's theory on the inner process of Islamization of the Malay world, he has divided this development into three phases:

1. The conversion of the body;
2. The conversion of the spirit; and
3. The period of continuation of the conversion of the body and the consummation of the conversion of the spirit.

The first phase, which occurred approximately from 579-805H or the 12th to 14th centuries AD - (The conversion of the body). At this stage, the Malays were introduced and converted to Islam by the strength of faith, and not necessarily accompanied by an understanding of the rational and intellectual implications such conversion entailed. The

²⁹¹ A. B Nuh, & D. Shahab, *Sedjarah Masuknja Islam ke Indonesia. Risalah Seminar Sejarah Masuknya Islam ke Indonesia*, Medan: Panitia Seminar Sedjarah Masuknja Islam ke Indonesia, 1963, 145-150.

²⁹² Mashitah Sulaiman, *Islamic Resurgence and Religiosity Among the Malay Middle and Low-Income Classes in Selangor and Kuala Lumpur, 1977-2014*, PhD Thesis, Faculty of Arts and Social Sciences, University of Malaya, Malaysia, 2016, 72.

²⁹³ al-Attas, Syed Muhammad Naquib, *Preliminary Statement on a General Theory of the Islamization of the Malay-Indonesian Archipelago*. Kuala Lumpur: Dewan Bahasa dan Pustaka, 1969, 29-30.



fundamental concepts connected with the central Islamic concept of unity of God (*tawhid*) were still vague in the minds of the converts, the old concepts overlapping and clouding or confusing the new ones (Al-Attas, 1969: 29).²⁹⁴

During these early periods of conversion to Islam, the Malays were simply converted to Islam without really understanding what Islam was all about. The Malays became Muslims, and were instructed to follow the religious laws (*shariah*) by the ulama i.e. the Arabs at that time. Islam has yet not penetrated the inner realm of the Malay at this stage. Wan Mohd Nor construed the first phase in al-Attas' theory as a stage involving morality, legal aspects and the basics of the faith (Wan Daud, 2012: 45).²⁹⁵ These characteristics of the first phase help to interpret the arrival and spread of Islam in the Malay world from classical Malay historiography sources and discovered artefacts such as the Terengganu Inscription Stone (Azmul Fahimi, et al., 2016: 3).²⁹⁶

The second phase of Islamization between 803-1112H or the 14-17th centuries AD (The conversion of the spirit). At this phase, period was a continuation of the first phase. But the distinguishing feature between the two phases is the emphasis on intellectual activities discussed in greater depth the question of *tawheed*. The Malays started to understand the inner meaning of Islam. According to al-Attas, Sufism and Sufi writings as well as the writings of the *Mutakallimun* played a dominant role at this stage in order to convert the spirit of the Malays (Al-Attas, 1969: 29).²⁹⁷

The Malays began to understand the inner meaning of Islam, with the help of philosophical mysticism and metaphysics (*tasawuf*), and other rational and intellectual elements such as rational theology (*kalam*). Sufi metaphysics did not come 'to harmonize Islam with traditional beliefs grounded in Hindu-Buddhist beliefs, but it came to clarify the difference between Islam and what the Malays had known in the past' (Al-Attas, 1969: 29).²⁹⁸ The characteristics of this second phase are also helpful in interpreting the arrival and spread of Islam in the Malay world from sources of Malay manuscripts by Muslim scholars in that era.

²⁹⁴ al-Attas, Syed Muhammad Naquib, *Preliminary Statement on a General Theory of the Islamization of the Malay-Indonesian Archipelago*, p. 29.

²⁹⁵ Wan Mohd Noor Wan Daud, The State of Islamization in the Malay Peninsula as Reflected in the Terengganu Inscription. In *Batu Bersurat of Terengganu: Its Correct Date, Religio Cultural, and Scientific Dimensions* (pp. 29–52). Kuala Lumpur: Jabatan Warisan Negara, 2012, p. 45.

²⁹⁶ Azmul Fahimi Kamaruzaman, Aidil Farina Omar & Roziah Sidik@Mat Sidek. (2016). Al-Attas' Philosophy of History on the Arrival and Proliferation of Islam in the Malay World. *International Journal of Islamic Thought*, Vol. 10, December 2016, p. 3.

²⁹⁷ al-Attas, Syed Muhammad Naquib, *Preliminary Statement on a General Theory of the Islamization of the Malay-Indonesian Archipelago*, Kuala Lumpur: Dewan Bahasa dan Pustaka, 1969, 29.

²⁹⁸ al-Attas, Syed Muhammad Naquib, *Preliminary Statement on a General Theory of the Islamization of the Malay-Indonesian Archipelago*, Kuala Lumpur: Dewan Bahasa dan Pustaka, 1969, 29.



In discussing the Malay mindset in the 17th century based on *Durr al-Fara'id* manuscript, the study by Wan Mohd Nor and Khalif Muammar utilised the characteristics of the second phase as described by al-Attas (Wan Daud, Muammar, 2019: 119-146).²⁹⁹

The third phase of Islamization, which started from 1112H or the 17th century AD and continued until today – (The period of continuation of the conversion of the body and the consummation of the conversion of the spirit). At this phase, the Malays still continue the process of the first and the second phases i.e. the process of understanding and internalizing Islam as their new religions, during which the legal, academic activities and debates happened in earnest, particularly in Sumatra in the 17th century and Java in the 19th century (Al-Attas, 1969: 30).³⁰⁰ Important concepts such as rationalism, individualism, universality (internationalistic) already existing in the life of Muslim Malays and Islamic scholarly tradition continued to develop during the process of Westernization in the Malay world (al-Attas 1969: 30).³⁰¹ Nevertheless, these concepts will deviate from their true meaning if Western approach is used to attain their intentions (al-Attas, 2014: 183).³⁰² During this phase, the Malays faced cultural influences and the coming of the West. According to al-Attas, such influences were in fact laid earlier by Islam (Al-Attas, 1969:30).³⁰³

By this Islamization process, it has changed the essential element of the Malay including worldview. To speak of the worldview of Islam, the concept of worldview refers to the thought that an individual thinks about the nature of his creation, the purpose of his existence in this world and the destiny of mankind within this world. The worldview of the Malays is greatly influenced by Islam (Nabila, 2020: 42).³⁰⁴ Al Attas defined the worldview of Islam:³⁰⁵

“The vision of reality and truth that appears before our mind’s eye revealing what existence is all about; for it is the world of existence in its totality that Islam is projecting. The Worldview of Islam encompasses both al-dunya and al-akhirat, is which the dunya aspect must be related in a profound and inseparable way to the akhirat, and in which

²⁹⁹ Wan Daud, W. M. N. & Muammar, K., Kerangka Komprehensif Pemikiran Melayu Abad ke17 Masihi Berdasarkan Manuskrip Durr al-Fara’id Karangan Sheikh Nurudin al-Raniri. *International Journal of the Malay World and Civilization*. Vol 2, No. 27, 2009, 119–146.

³⁰⁰ al-Attas, Syed Muhammad Naquib, *Preliminary Statement on a General Theory of the Islamization of the Malay-Indonesian Archipelago*, Kuala Lumpur: Dewan Bahasa dan Pustaka, 1969, p. 30.

³⁰¹ al-Attas, Syed Muhammad Naquib, *Preliminary Statement on a General Theory of the Islamization of the Malay-Indonesian Archipelago*, 1969, p. 30.

³⁰² al-Attas, S. M. N. 2014, *Islam and Secularism* (Ketiga.). Kuala Lumpur: IBFIM, 2014, p.183.

³⁰³ al-Attas, Syed Muhammad Naquib, *Preliminary Statement on a General Theory of the Islamization of the Malay-Indonesian Archipelago*, 1969, p. 30.

³⁰⁴ Nabila Yasmin, Islamization of The Malay Worldview A Study of Malay Historical Literature *Taj al-Salatin. Tsaqofah & Tarikh: Jurnal Sejarah dan Kebudayaan*, Vol. 5, No. 2, (July-Desember 2020), p. 42.

³⁰⁵ Syed Muhammad Naquib al Attas, Prolegomena to the Metaphysics of Islam: An Exposition of the Fundamental Element of the Worldview of Islam, Kuala Lumpur: ISTAC, 1995, pp. 1-2. See also in Syed Muhammad Naquib al Attas, *Tinjauan Ringkas Peri Ilmu dan Pandangan Alam*, Pulau Pinang: USM, 2007, p. 17.



the akhirat aspect has the ultimate and final significance”.

With regards to the above definition, al Attas listed nine key terms that represent the worldview of Islam namely: the nature of God, the nature of Revelation (i.e. Qur’ān); the nature of man, the nature of the psychology of human soul, the nature of knowledge, the nature of religion, the nature of freedom, the nature values and virtues and the nature of happiness.³⁰⁶

Referring to some historical facts, either in the form of reports, notes or inscriptions found in the archipelago can be concluded that the arrival of Islam to the Malay World has taken place at least in the 7th century CE, or at least in the 9th century CE of its arrival to the Malay Peninsula (Malaysia) and later its expansion in the 12th or 13th century AD, not in the 15th Century AD as what was proposed by many Western historians who claimed that it started from the Malacca Sultanate. It is clear that the advent of Islam into the Malay Archipelago or Nusantara has had a great and widespread impact on the life of local community has thus successfully realized the teachings and principles of Islam among them effectively, thereby enhancing their dignity to be better and dignified Ummah.

THE IMPACTS OF ISLAM ON THE MALAY RULERS

Islamization was an instrumental historical episode which has undeniably transformed the Malay Muslims’ character, behaviour and lifestyles corresponding to Islamic principle and way of life. The role of Islam, its impacts and impression upon the Malay Muslims in the Malay world or Southeast Asia can be seen in social, cultural, political and economic aspects of life of the present Malay Muslims in Southeast Asia. This chapter discusses the effects of Islam on the Malay rulers before European colonialization. Islam did impact the Malay rulers in term of Aqidah and worldview, religiosity and religious commitment and seeking knowledge behaviors, attention towards Islamic spirituality and the Malay rulers’ sovereignty in strengthening politics and Islamic laws.

The Effects of Islam on the Malay Rulers’ System of Belief or Aqidah

Islam transforms Southeast Asia people in particular the Malays, including the Malay rulers from animism to Hinduism or Buddhism and then turns into Islamic Aqidah to be devout believers. After professing the Islamic creed ‘both with the tongue and with the heart’ and the Malays changed their act to be gradually more profound in term of insight and knowledge as to the principle and doctrine of Islam (Syed Muhammad Naquib al-Attas, 1999; Mashitah,

³⁰⁶ Al Attas, Syed Muhammad Naquib, *Tinjauan Ringkas Peri Ilmu dan Pandangan Alam*, Pulau Pinang: USM, 2007, p. 17-18.



2016: 62; Nieuwenhuijze, 1958: 39).³⁰⁷

The first and foremost action that has been done to show the Malay rulers' commitment to Islamic Aqidah was to change their name to be recognized as Muslim. Islamic Aqidah and principle which bring the Malays to change their name into an Islamic names or title.

For the Malay rulers, name or title as Muslims would reflect their image or identity which needs to be mentioned as recognition that they are its adherent and the Malays also proud to be entitled as Muslims. Based on local histories, *Hikayat Raja-Raja Pasai* and *Sejarah Melayu* for example, had mentioned that the Prophet Muhammad PBUH appeared to Merah Silu in his dream and the prophet gave him a title of Sultan Malikul Saleh (Mashitah, 2016: 62).³⁰⁸ In addition, the ruler of Pasai also used the title of Al-Malik al-Zahir as soon as after his conversion to Islam, and this showed a strong relationship between the Malay Kingdom and the Middle East as this title also being used by the Islamic ruler, Sultan Mamluk in Egypt (B. Schrieke, 1957: 261).³⁰⁹ According to *Sejarah Melayu*, the Malacca Sultan, Raja Kecil Besar, had been converted to Islam by Syed Abdul Aziz from Juddah (Jeddah), and had changed his name to Sultan Muhammad Shah (Abdullah Ishak, 1992, 37).³¹⁰

Similarly, as well, in the case of the conversion of Maharaja Derbar Raja II, the first Kedah's ruler, who became a Muslim in 1136AD. It is recorded in *Hikayat Merong Mahawangsa* that the Kedah ruler then had changed his name to Sultan Muzaffar Shah and he was said to be converted by an Arab scholars, Shaikh Abdullah al-Yamani, from Yemen (Muhammad Hassan, 1968: 26; Hamka, 1997: 677).³¹¹

The Impact of Islam on the Malay Rulers' Religiosity and Religious Commitment

The conversion of the Malay Muslims to Islam had brought this community near to the Middle East, in particular Hijaz of Peninsular Arab, the place that located two holy cities of Makkah

³⁰⁷ C.A.O. van Nieuwenhuijze, *Aspect of Islam in Post-Colonial Indonesia*, The Hague and Bandung: W. van Hoeve Ltd., 1958, p. 39; Mashitah Sulaiman, *Islamic Resurgence and Religiosity Among the Malay Middle and Low-Income Classes in Selangor and Kuala Lumpur, 1977-2014*, PhD Thesis, Faculty of Arts and Social Sciences, University of Malaya, Malaysia, 2016, 62. See also, Syed Muhammad Naquib al-Attas. (1999). *Islam dalam Sejarah dan Kebudayaan Melayu*. Kuala Lumpur: Angkatan Belia Islam Malaysia, 1999.

³⁰⁸ Mashitah Sulaiman, *Islamic Resurgence and Religiosity Among the Malay Middle and Low-Income Classes in Selangor and Kuala Lumpur, 1977-2014*, PhD Thesis, Faculty of Arts and Social Sciences, University of Malaya, Malaysia, 2016, 62.

³⁰⁹ Schrieke, B. (1957). *Indonesian Sociological Studies*, Part Two. The Haque and Bandung: W. van Hoeve Ltd., 1957.

³¹⁰ Abdullah Ishak. (1992). *Islam di Nusantara (Khususnya di Tanah Melayu)*. Petaling Jaya: Bahagian Hal Ehwal Islam, Jabatan Perdana Menteri, p. 37.

³¹¹ Muhammad Hassan Dato' Kerani Mohd Arshad, (1997). *Al-Tarikh Salasilah di Negeri Kedah*, Kuala Lumpur: Dewan Bahasa dan Pustaka, 1968, p. 26; Hamka (1997). *Sejarah Umat Islam*, (Singapura: Pustaka Nasional, 1997), p. 677.



and Madinah. The Malays went to Makkah to conduct hajj and to continue their studies. The Malays' travel to Makkah for these purposes was the most vital and earliest human movement in history before colonization and this also contributed to the continuation of the Malays' relationship with the Middle East (Mohammad Redzuan Othman, 2005: 33).³¹² According to Bernard Lewis, the travel for performing hajj was a crucial and a great voluntary mobility in human history before European colonization (William R. Roff, 1985: 79-80).³¹³

The study of the hajj from a historical perspective is not new. Misbaha (1986), Alwi Syeikh Abdul Hadi (1955), William Roff (1982), Mary Bryne McDonnell (1986), Eric Tagliacozzo (2013) and, most recently, Aiza Maslan @Baharudin (2014) are among those who have highlighted its history with various emphases. The works of Misbaha and Alwi Syeikh Abdul Hadi are both general narratives on Malay people's preparations once they decided to perform the hajj. A local historian, Misbaha (Mohd Saleh Hj Awang), wrote a book by referring to a report written by Tome Pires that the first Malay who had performed hajj in the Malay history was The Malacca Sultan, Sultan Alauddin Riayat Shah (1477-1488).³¹⁴

The historical notes of the Malay literatures written in *Hikayat Hang Tuah* and *Tuhfat al-Nafis* at least prove that the practice of pilgrimage or Hajj to the Holy Land has been exercised as early as the 15th and 16th centuries. *Hikayat Hang Tuah* for example, recorded this event starting with the conduct of the pilgrimage by Hang Tuah's expedition and this caravan was also participated by Maharaja Setia (Secretary Emperor), Maharaja Dewa (Emperor Gods), sixteen young officers, 42 boats and 1,600 crews. The expedition took about two months and the Hajj season cited in the text is in 886 AH (Aiza Haji Maslan, 2005: 203).³¹⁵

Tuhfat al-Nafis, was another historical work recorded the inaugural pilgrimage travel among Riau Malay aristocracy or the Malay rulers of Riau performed by Raja Ahmad Engku Haji Tua and his son Raja Ali Haji. It is recorded that Raja Ali Haji when he was 19 years old, had traveled to Makkah in 1827 to perform hajj with his father, Raja Ahmad Engku Haji Tua and then studied religion and Arabic language in Makkah for a year (Hashim Musa and Rozita

³¹² Mohammad Redzuan Othman. (2005). *Islam dan Masyarakat Melayu*. Kuala Lumpur: Penerbit Universiti Malaya, p.33.

³¹³ Roff, William R. (1985). Pilgrimage and the History of Religion, Theoretical Approaches to the Hajj. In Richard C. Martin (ed.). *Approaches to Islam in Religious Studies*. Tucson: University of Arizona Press.

³¹⁴ MISBAHA (Mohd Saleh Haji Awang). (1986). *Haji di Semenanjung Malaysia. Sejarah dan Perkembangannya Sejak Tahun 1300-1405H (1896-1985)*. Kuala Terengganu: Syarikat Percetakan Yayasan Islam Terengganu Sdn. Bhd., pp. 116-117.

³¹⁵ Aiza Haji Maslan @Baharudin, (2005). 'Pemergian Menuaikan Haji Dalam Hikayat Hang Tuah dan Tuhfat al-Nafis', *Sejarah: Jurnal Jabatan Sejarah Universiti Malaya*, No. 13, 2005, pp. 2-3.



Che Rodi, 2017: 13; Arbaiyah Mohd Noor and Mohd Hanafi Ibrahim, 2015: xii).³¹⁶ Unlike *Hikayat Hang Tuah*, the departure of pilgrimage in *Tuhfat al-Nafis* is a major mission and it was a planned travel in advance.³¹⁷

The travel for conducting hajj requires high commitment. For the Malay peasants, for example they need for about twenty-five years to save money in order to fulfil their ambition to perform hajj. Despite of many obstacles faced by the Malays, number of Malay pilgrims continues to increase every year. By the years 1921-1930, approximately 50,000 of two million Muslims in Malaya had performed hajj. Compared to the ratio of Muslim populations from India, Iran and Turkey, the number of Malay pilgrims showed significant growth (Mohammad Redzuan Othman, 2005: 33).³¹⁸



Figure 8: Al Hajj: The Malaysian Experience.

Source: Islamic Arts Museum Malaysia, Jalan Lembah Perdana, Kuala Lumpur
<http://asemus.museum/event/al-hajj-the-malaysian-experience/>

The Impact of Islam on the Malay Rulers' Seeking Knowledge Behaviors

Islam has also transformed the Malay rulers from native style of thinking to the scientific and divine thinking through nurturing knowledge seeking behaviour and traditions. Islam has been delivered to the Malays in this region either in the formal or informal institutions.

Sejarah Melayu mentioned that Maulana Abu Bakar brought a theology-sufism book which was written by his Sufis teacher Abu Ishaq, entitled *Durr al-Manzum* to Sultan Mansur

³¹⁶ Hashim Musa and Rozita Che Rodi. (2017). Raja Ali Haji: Cendekiawan Ulung dan Pemikir Besar Merentas Zaman Raja Ali Haji: A Prominent Malay Intellectual Throughout the Ages. *International Journal of the Malay World and Civilisation (Iman)*, 5(2), 2017: 13; See also Arbaiyah Mohd Noor and Mohd Hanafi Ibrahim, 2015 (ed.). Raja Ali Haji: Pemikir Ulung Alam Melayu Abad ke-19, (Kuala Lumpur: Dewan Bahasa dan Pustaka), xii.

³¹⁷ Raja Ali Haji, *Tuhfat al-Nafis*, Virginia Matheson Hooker (editor), Kuala Lumpur: Yayasan Karyawan dan Dewan Bahasa dan Pustaka, 1998, pp. 374-375.

³¹⁸ Mohammad Redzuan Othman, *Islam dan Masyarakat Melayu*. Kuala Lumpur: Penerbit Universiti Malaya, 2005, p. 33.



Shah (1459-1477) at the Malacca Sultanate Palace. The sultan then, asked him to bring this book to the palace of Pasai to get brief explanation and further description related to the exegesis of its content before it was returned to Malacca and was forwarded to the sultan to better understand on its meaning. This book was then elaborated by the Pasai's Muslim scholar Tuan Permatikan. *Sejarah Melayu* had also mentioned on the problem related to the science of Islamic theology (*ilmu kalam*) faced by the Malacca Sultanate which then referred to Muslim scholars in Pasai. This problem had been well answered by Makhdum Mua and Tun Hassan of Pasai (Ismail Hamid, 1985: 177).³¹⁹

Among the greatest contributions of Islam are to upgrade and transmute this region as a center of Islamic cultural and civilization, besides the Haramayn or Mecca and Medina being acknowledged as places of the learning. Historical evidence showed that the Malacca Sultans, from the first sultan, Megat Iskandar Shah 1414AD to the last Sultan, Sultan Mahmud Shah were very concerned on the progress of Islamic education. Islamic studies had been taught in homes, mosques and suraus and the sultans' palace. The sultan palace was being a center for religious discourses, as a library and center for translation of books (Abdullah Ishak, 1992: p. 141-141).³²⁰

The Effects of Islam on the Malay Rulers' Attention towards Islamic Spirituality

The *da'wah* activities has been carried out extensively as initiated by the royal court and the Malay rulers, then followed by the masses in the form of official or informal propagation of Islam. From preaching and educational activities, Islam had been successful changed Muslim communities' attitudes and conceptions towards religion, culture and Islamic knowledge. The transformation of the Malay rulers' attitude was recorded by al-Attas as the following, "If their first (kings and princes) rapt contemplation of love, fool, imaginary fable, but now they turned to actively organized the writing and interpretation of knowledge and the philosophy of history and *tasawwur* Islam (or the Islamic worldview)"(Syed Muhammad Naquib Al Attas, 1999: 12; Abdullah Ishak, 1992: 101).³²¹

The effect of religious feeling and love towards knowledge clearly reflected in the soul of the Malay rulers of Malacca. The kings showed their respected to knowledge, Muslim scholars and books and important days in Islamic calendar which reflected a deep sense of religious consciousness through religious education that existed at that time. Sultan

³¹⁹ Ismail Hamid, *Pengantar Sejarah Umat Islam*, Kuala Lumpur: Heinemann (Malaysia) Sdn. Bhd., 1985, p. 177.

³²⁰ Abdullah Ishak, *Islam di Nusantara (Khususnya di Tanah Melayu)*. Petaling Jaya: Bahagian Hal Ehwal Islam, Jabatan Perdana Menteri, 1992, pp. 141-142.

³²¹ Syed Muhammad Naquib Al Attas, *Islam dalam Sejarah dan Kebudayaan Melayu*, Kuala Lumpur: Angkatan Belia Islam Malaysia (ABIM), 1999, p. 12; Abdullah Ishak, *Islam di Nusantara (Khususnya di Tanah Melayu)*, Kuala Lumpur: Bahagian Hal Ehwal Islam, Jabatan Perdana Menteri, 1992, p. 101.



Muhammad Shah for example, showed his enthusiasm in glorifying the fasting month of Ramadan, Ramadan, especially on the 27th night, when he performed *Tarawih* prayers at the mosque together with the rakyat, as recorded by Shellabear in his writing, *Sejarah Melayu* as follow:

“If in the month of Ramadan, the night of twenty-seven, when during the day carry the carpets to the mosque, Temenggong led the elephant. So gentlemen, and all regalia and drums all paraded before the mosque; at night the king went to the mosque, as is customary feast, to perform the tarawikh prayer”.³²²

The Malay historical legend, *Sejarah Melayu* also reported on Sultan Mahmud himself was a disciple of Maulana Yusuf and he studied Fiqh on the chapter of Mua'malat (Islamic Civil Law).³²³ This passionate attitude towards knowledge was reported by Shellaber as follow:

“After coming out of Maulana Yusuf’s door, the Sultan said to the gatekeepers, “Tell Maulana that the poor Mahmud comes”. Then Maulana Yusuf said, “If the poor Mahmud comes, please open the door; the poor as ought to venture a poor home. “Sultan Mahmud then has been brought sitting up to his house. Sultan Mahmud then started studying with Maulana Yusuf on the subject of muamalat”.

All the above evidence suggest that the practice and appreciation of Islam has gained special attention from the Malay rulers and this “top-down” nature on the practice of Islam which then had been trailed by the chiefs and the ordinary people and publics.

The Impact of Islam on the Malay Rulers’ Sovereignty in Strengthening Politics and Islamic Laws

Most of the Malay Muslim kingdoms had emerged as centers for Malay Civilization and Excellency as well as, a meeting point for Malay intellectuals, ulama and Muslim scholars. From Barus, Perlak, Samudera-Pasai (1009-1444), to Malacca (1400-1511), and then Aceh (1500-1650), Demak (1478-1568), Patani, Johor/Riau, were evidence of Islamic supremacy and legacy which constituted Islam in the Malay politic and feudal system.³²⁴

Apart of the Malay political structure and social hierarchy is the existence relationship between the ruler and the *rakyat* - being governed. Sultan is placed at the highest position in

³²² W.G. Shellabear, (1948). *Sejarah Melayu or the Malay Annals*, Singapore: The Malay Publishing House Ltd., 1948.

³²³ ‘Sejarah Melayu’, Raffles MS No. 18, *JMBRAS*, vol. XVI, pt. 3, 1938, pp. 82-157.

³²⁴ See, Hashim Musa. (2001). *Merekonstruksi Tamadun Melayu Islam: Ke Arah Pembinaan Sebuah Tamadun Dunia Alaf Ketiga*, Kuala Lumpur: Akademi Pengajian Melayu, 2001, p. 54.

political hierarchy with his supreme (*daulat*) power as a symbol of Malay dignity and legacy.³²⁵

Under the rule of the Malay Muslim rulers, the Malacca Sultanate was recognized as prominence world-class trade & international maritime centre with its systematic organizations and social institutions in the economic, political, administrative, legal, norms and ethos of organized and competent (Hashim Musa, 2001: 54).³²⁶ The Malacca Sultanate had issued its own currency and gold coins in its transaction in trade activities (William Shaw & Mohd Kassim Haji Ali, 1970).³²⁷

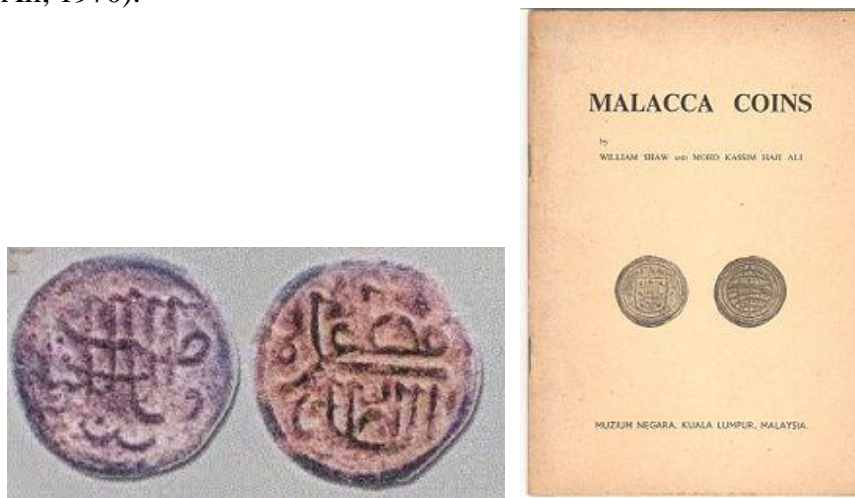


Figure 9: The Malacca Sultanate Coins (1445AD).

Source: William Shaw & Mohd Kassim Haji Ali. (1970). *Malacca Coins*. Kuala Lumpur: Jabatan Muzium Malaysia

The Malay rulers' commitment towards Islam can be reflected not just in their passion of individual worship and knowledge culture but also their effort in implementing the Shariah laws as a system to strengthen social values. The Malay States administration and rulers has also adopted Islamic values and laws besides using traditional Malay customs which have been practiced since generations. The Malay States' administration before the arrival of British colonial was governed through the guidance of the Malay local law that was formed from a combination of the Malay Customary Law and Islamic Laws (Berhanundin Abdullah, 1999: 82).³²⁸

³²⁵ Faisal @Ahmad Faisal bin Abdul Hamid, Hamidah binti Jalani, (2010). 'Beberapa Pandangan Mengenai Islam Dari Perspektif Parti Politik Melayu', *Jurnal Al-Tamaddun*, No. 5, 2010, pp. 118-119.

³²⁶ Hashim Musa. (2001). *Merekonstruksi Tamadun Melayu Islam: Ke Arah Pembinaan Sebuah Tamadun Dunia Alaf Ketiga*, Kuala Lumpur: Akademi Pengajian Melayu, 2001, p. 54.

³²⁷ William Shaw & Mohd Kassim Haji Ali, *Malacca Coins*. Kuala Lumpur: Jabatan Muzium Malaysia, 1970.

³²⁸ Berhanundin Abdullah, (1999). 'Sejarah Pengaruh Adat dan Barat dalam Pentadbiran Islam di Malaysia', *Malaysia Dari Segi Sejarah (Malaysia in History)*, No. 27, 1999, p. 82.



After the advent of Islam, influence of this religion in the formation of local law can be seen in a few written laws as recorded in *Risalat Hoekoem Kanon* which is consisted of the Malacca Digest, the Malacca Maritim Laws and Customary (*Adat*) Laws in the Malay States (Winstedt, 1966: 58).³²⁹ From these groups of laws, the Malacca Digest contains of the earliest Islamic elements as well as Customary Laws which give influence on the other Malay states laws such as the laws of Kedah, Pahang Johor, Riau Pontianak and Brunei. Moreover, The Malacca Digest itself consists of groups of laws that comprise the Malacca Laws of the original, the Maritim Law, the Islamic Family Law, the Islamic Legal Purchase and Event, the state Law and Johor Law (Berhanundin Abdullah, 1999: 82).³³⁰

The 1303AD Terengganu stone inscription clearly showed some of importance elements in relation to the early period of Islamization process in the Malay society of Malaysia. An interesting fact on this inscription is that the ability and function of local genius Malays who were able to adapt Arabic writing in order to convey its meaning in Malay. Moreover, it also recorded the legal and Islamic jurisprudence which clearly described that Islam was practiced by the local people for centuries, not just as individual faith but also as a system which governed the society and state as well (Mahyuddin Yahya, 1998: 23).³³¹

Malay historiography classics, such as *Hikayat Raja Pasai* and *Sulalatus-Salatin* contain notes of the arrival and spread of Islam. Among the most important contents are the names of the rulers and the era of their administrations, locations, names of individuals involved in preaching Islam to the Malay world and accounts about the calling to preach to the Malay

³²⁹ According to R.O. Winstedt, the Malay Law can be categorized into three groups, namely, the Malacca Digest, The Malacca Islamic Law and the Minangkabau Law. See, R.O. Winstedt, (1966). 'A History of Malaysia', *Journal of the Malaysian Branch of the Royal Asiatic Society*, London: Hutchinsonm University Library, Vol. 13, No. 1, 1966, p. 58.

³³⁰ Berhanundin Abdullah, 'Sejarah Pengaruh Adat', p. 82.

³³¹ Mahyuddin Yahya, (1998). *Islam di Alam Melayu*, Kuala Lumpur: Dewan Bahasa dan Pustaka, 1998, p. 23. The Terengganu stone also noted the impact of Islam which was subtle as mentioned by Kern. The Terengganu stone bears an inscription in the Jawi script. While this has been used time and again as a reference point to mark the immaculate arrival of Islam in the Malay world, few have cared to point out that the inscription itself does not mention the word "Allah" but rather refers to God as "Dewata Mulia Raya"- a phrase that is fully Sanskrit in origin. Kern is trying to show that Islam's early arrival did not come as a forceful impact that marked a traumatic break from the past, despite the claims of many an Islamist scholar today. Kern extracts similar observations in his writings on the Islamization of Aceh, South Sumatra, Java, Borneo, Sulawesi, and the Malay Peninsula, going to great lengths to show the degree of overlap and interpenetration that took place in these diverse social settings at a number of levels. Working within the communicative architecture of the period, Kern explores the etymological roots and development of key concepts in Malay culture like *kuasa* (power), *kewibawaan* (authority), *sakti derhaka* (treason) and others to show just how the formation of Islamic socio-cultural, political, and legal discourse was developed according to the needs and circumstances of the contemporaneous local environment. Kern also points to the local genius of the Malays, who had adapted Islam to their culture and vice-versa, in a process of cultural cross-fertilization enriching Malay culture and Islamic civilization at the same time. Refer to Farish Noor, (2002). 'Rethinking the Islamization of the Malay World', Research and Reports, *IIAS Newsletter*, Vol. 27, March 2002, p. 18.



which was a directive of Prophet Muhammad (Azmul Fahimi, Aidil Farina & Roziyah, 2019: 2).³³²

Besides, the discussions on the existing theories of Islamization of the Malay world, it is interesting to note the critical analysis made by Mohd Noh (2014) on Russel Jones's study (1979)³³³. He critically emphasized that it is also important to highlight a study made by Russel Jones (1979) on the conversion of myths from the Malay historiography classics, existing in the archipelago (Jones, 1979; Mohd Noh, 2014: 17). These views could be used to understand the entire process of Islamization of the Malay world better. Mohd Noh (2014) analysed Jones studies which highlighted that no identifiable author can be found for such myths, and that they were created "by Muslims scribes under Muslim patronage, perhaps long after Islam had been accepted as a state religion" (Jones, 1979). He found 'a kind of uniformity' about these myths which was characterized by miracles and other striking features, such as dream or prediction. These, according to Jones, 'would have helped to soften the first impact of the change and to reconcile contradictions during the early transitional period' (Jones, 1979).³³⁴

The above analysis made by Jones after presenting various example of Islamization of the Malay world does agree with Al-Attas' top to bottom approach to the Islamization of the Malay world. In other words, these myths were created by the courts for a specific purpose which is that Islam was received by the rules directly from the descendants of the Prophet from Arabia. As such, this notion will help to convince people to accept Islam brought to them by their rulers, as this religion was perceived to be the most authentic form of Islam, because it was transmitted by the people who received it directly from the Prophet. Not only that, by doing so, the people would indirectly accept the legitimacy of the ruler, as it was in the past, because Islam also recognizes the authority of Muslim rulers as third in hierarchy after Allah SWT and His Prophet, whom Muslims should obey as long as they rule in accordance with the teachings of Islam (Mohd Noh, 2014: 17-18).³³⁵

Such a notion of a top to bottom approach of Islamization is also in line with the analysis made by Azra on what he termed 'local histories', such as in *Hikayat Raja-Raja Pasai*, *Sejarah Melayu*, *Hikayat Merong Mahawangsa* as well as the *tarsilaks* of the Muslim rulers of the Sulu Sultanate in the Philippines (Azra, 2006).³³⁶ He concludes his analysis by saying 'there are

³³² Azmul Fahimi Kamaruzaman, Aidil Farina Omar & Roziyah Sidik@Mat Sidek. (2016). Al-Attas' Philosophy of History on the Arrival and Proliferation of Islam in the Malay World. *International Journal of Islamic Thought*, Vol. 10: (Dec.), 2016, 2.

³³³ Jones, R., Then Conversion Myths from Indonesia. In N. Levtzion (Ed.), *Conversion to Islam*, London, New York: Holmes & Meier Publishers Inc., 1979.

³³⁴ Jones, R., Then Conversion Myths from Indonesia.

³³⁵ Mohd Noh Abdul Jalil, The Roles of Malays in the Process of Islamization of the Malay World: A Preliminary Study, *International Journal of Nusantara Islam*, Vol. 02, No. 02 – 2014, 17- 18.

³³⁶ Azra, Azumardi., *Islam in the Indonesian World: An Account of Institutional Formation*, Bandung: Mizan Pustaka, 2006.



four main points conveyed by such local histories. First, Islam in the archipelago was brought directly from Arabia; second, it was introduced by ‘professional’ teachers or propagators; third, the first converts were the rulers; and fourth, the most of these ‘professional’ preachers came to the archipelago in the twelfth and thirteenth centuries (Azra, 2006).³³⁷

In general, the essence of both classical sources indicates that preaching of Islam to the Malay world was a direct instruction from Arabia to the Malay world. The da’wah process occurred peacefully and was first and foremost aimed at the ruling class or the Malay rulers because psychologically and indirectly, they could give a greater impact on the publics or the mass. As similar opinion as al-Attas, Azra and Jones, Denisova also agreed that such classical source namely *Hikayat Raja Pasai* clearly denied that the spread of Islam came from India or Iran as specified in Western Orientalists theories, emphasized the role of the Malay rulers as the highest position in the Malay political structure to protect Islamic affairs in the region (See, Denisova, 2011).³³⁸

One of the Malay Historical Literature, namely *Taj al-Salatin* shows a proof of the Islamization of Malay worldview in classical literature. *Taj al-Salatin* is a work written by Bukhārī al-Jawhārī and designed with the aim of advising future kings and their executive officers (e.g., viziers, judges) on statecraft, how to rule best their subjects and to lead a decent life in accordance with the stipulations of Islamic ethics (*akhlāq*). The book is arranged in twenty-four chapters, dealing with the role of viziers, royal justice, and the sacred authority of kings. The first four chapters is discussed the key elements in Islam; the nature of man, the nature of God, the nature of the world and the nature of afterlife (Nabila Yasmin, 2020: 39).³³⁹

With regards to advice for human, the content of *Taj al-Salatin* aims to advise the rulers for them to be very aware of being a human that he came from nothing. In addition, once he knows himself, he would be aware of his very attitude toward his God and His creatures. *Al-Jawhārī* put the emphasis on the end of this chapter lest the human whoever becomes ruler will govern arbitrarily. He wrote;

“Adapun barang sesiapa membaca sesuatu fasal yang pertama ini dan tahu bacanya dan mengerti segala katanya dan dalam pengetahuan itulah usahanya inshā Allāh Ta‘ālā dengan kurnia Tuhan sarwa sekalian alam pintu ma‘rifat itu terbukalah dan jadilah arif namanya dan mengenal jua adanya, dan mengetahui Tuhan itu Yang Maha Besar kuasaNya. Maka nyatalah padanya bahawa adanya itu hamba juga yang hina tiada berupaya yang daif tiada berkuasa yang lemah tiada berkuat yang segala adanya itu aib

³³⁷ Azra, Azumardi., *Islam in the Indonesian World: An Account of Institutional Formation*, Bandung: Mizan Pustaka, 2006.

³³⁸ Denisova, T. A., *Refleksi Historiografi Alam Melayu*, Kuala Lumpur: Penerbit Universiti Malaya, 2011.

³³⁹ Nabila Yasmin, Islamization of The Malay Worldview A Study of Malay Historical Literature *Taj al-Salatin*. *Tsaqofah & Tarikh: Jurnal Sejarah dan Kebudayaan*, Vol. 5, No. 2, July-Desember 2020, p. 39.



dan kecelaan jua yang tiada suci kerana perinya yang keji dan tiada terpuji.”

(Whoever reads this first chapter, comprehend reading it and know every word in it, inshā Allāh Ta‘ālā with the gift of God the door of intuitive knowledge will be exposed to him and he be an intuitive knower (arif) and eventually he knows that God is Powerful and Mighty. Once he knows that everything existing in the universe is under His throne and the throne is under His Power, he will realize that man is just a weak and despicable creature that has a Creator).³⁴⁰

Thus, the Malay manuscript emphasize the characteristics of a good rulers or human towards his God (Allah SWT), to be implemented by all Muslims. The discussion above has proved the important position of the Malay rulers to ensure their role as the leader in Islam, as well as guardian of Islamic affairs in the Malay states. The content of *Taj al-Salatin* could guide the Malay rulers to be role model in implementing Islamic principles, which represented the beauty of da’wah which has been spread to the Muslim community in this region.

The transformation of the Malay into Islamic culture and way of life is proven gave significant impacts on the Malays, in particular the Malay Rulers, as the Guardian of the Malays and Islamic Affairs, because Islam emphasizes not only the correct belief but also the right conduct. Islam did impact the Malay rulers in term of shaping their system of belief or Aqidah and worldview, strengthening their religiosity and religious commitment and seeking knowledge behaviors, their attention towards Islamic spirituality and their sovereignty in strengthening politics and Islamic laws.

THE IMPACTS OF ISLAM ON LEGAL SYSTEMS OF THE MALAY STATES BEFORE EUROPEAN COLONIALIZATION

Before the arrival of European colonists, the Malay states in the Malay world, or in particular Malaya has its ruling system mainly based on religious guidance. The sharia or Islamic law has been incorporated in the existing states’ law, such as the Undang-undang Kedah (Kedah Laws), Undang-undang Pahang (Pahang Laws), and Undang-undang Melaka (Malacca Laws). Undang-undang Melaka, that has elements of sharia, was introduced during the reign of Sultan Muhamad Syah (1422–1444) (Fang, 2007; Mohd Roslan, et al., 2016: 1).³⁴¹

Before the arrival of British in Malaya, Malay customary laws either being influenced by the teachings of Islam or not, were the foundation of the laws in the states of Malaya. Most of

³⁴⁰ Ibid., p. 44.

³⁴¹ Fang, Liaw Yock., Naskah Undang-Undang Melaka: Suatu Tinjauan, SARI 25, 2007, pp. 85–94; Mohd Roslan Mohd Nor, Abdullah, A. T., & Ali, A. K. (2016). From *Undang-undang Melaka* to Federal Constitution: the Dynamics of Multicultural Malaysia. *SpringerPlus*, Vol. 5, No. 1, 2016, p.1.



these Malay customary laws were unwritten and the chiefs of a district or an ethnic, learned about the customs through traditions. Malay customary laws were the customary practices and traditions of the Malays which eventually acquired legal status and thus could be enforced by the heads of districts. There are documents on the old Malay laws collected mainly by Western scholars in studying the history of law in the Malay states (Zanirah and Nurul 'Ain, 2019: 37).³⁴²

Among the legal texts which describe the old Malay laws practiced at the time are Malacca Laws, Pahang Laws, Kedah Laws, 99 Perak Laws, and Sungai Ujung Laws in which similarities are observed among the texts found in the Malacca Laws and the Laws of Pahang, Kedah and Perak. Careful inspection on the texts indicated the existence of two customary systems that are extremely different but have been widely implemented, especially in the Malay Peninsula (Zanirah and Nurul 'Ain, 2019: 37-38).³⁴³ It is Perpatih custom law (Adat Perpatih) that is practiced only in Negeri Sembilan, while Temenggong custom law (Adat Temenggong) is practised in other states. Adat Temenggong is believed to be first practiced in Malacca, and later was modified according to the laws of Islam after the acceptance of Islam by the sultans, the ruler of the Malay states. Customary law can be divided into three main sections (Zanirah and Nurul 'Ain, 2019: 37-38).³⁴⁴

1. Adat Perpatih.
2. Adat Temenggong.
3. Translation of teachings (laws) of Islam.

The Effects of Islam on Legal Systems of the Malay States before European Colonization: The Case of Malacca Laws of the Malacca Sultanate

Malacca Laws is the first Islamic Law introduced by Sultan Muhammad Shah - in the state of Malacca. Malacca Laws is a written document that shows that Sharia law was enshrined in the legal system of Malacca and its colonies, and it was enforced based on historical facts. Malacca Laws is believed to be enacted during the ruling period of Sultan Muhammad Shah (1424-1444 AD) and implemented during the reign of Sultan Muzaffar Shah (1445-1458 AD), and methodically organized during the ruling period of Sultan Mahmud Shah (1489 -1511 AD)

³⁴² Zanirah Mustafa@Busu, Nurul 'Ain Mohd Firdaus Kozako, Malacca Laws: The Effect of Islam and Customs In The Aspect of Family Law, *Journal of Contemporary Social Science Research*, Vol. 3, Issue 1, Nov 2019, 37.

³⁴³ Zanirah Mustafa@Busu, Nurul 'Ain Mohd Firdaus Kozako, Malacca Laws: The Effect of Islam and Customs In The Aspect of Family Law, pp. 37-38.

³⁴⁴ Zanirah Mustafa@Busu, Nurul 'Ain Mohd Firdaus Kozako, Malacca Laws: The Effect of Islam And Customs In The Aspect of Family Law, *Journal of Contemporary Social Science Research*, Vol. 3, Issue 1, Nov 2019, 37-38.



(Zanirah and Intan Nurul 'Ain, 2019: 38).³⁴⁵

When Malacca was a Malay kingdom in early 15th century, a compilation of laws was made on the orders of the Ruler and this, the Malacca Laws (Undang-undang Melaka), shows the influence of Islam in Malay customary laws (Ahmad Mohamed Ibrahim, 2000; Hamid Jusoh, 1991).³⁴⁶ According to Fang (1976), who studied the Undang-undang Melaka since 1976, this law is a hybrid text.³⁴⁷ In other words, it is composed of several separate texts bound together as one manuscript. It was copied and later recopied and although it undoubtedly came to be regarded as one text, the various component parts still clearly show themselves. The Malacca Laws consist of six different texts (Hooker, 1986; Fang, 1976, 2007: 86).³⁴⁸

1. The Undang-undang Melaka (proper).
2. The Maritime Law (partly).
3. Muslim Marriage Law.
4. Muslim Law of Sale and Procedure.
5. The Undang-undang Negeri.
6. The Undang-undang Johor.

There are some aspects that are emphasized in the laws including marriage law, trading and its procedures to demonstrate that Malacca Laws is Islamic law. The existence of the Malacca Empire with all its greatness was immensely associated with the practice of Islamic laws. The rulers of Malacca respected the teaching of Islam and established the palaces as the place to spread Islam. Under the implementation of this law, the Malacca Sultanate became the government and Islamic authority which had influences in the Southeast Asia region. Its jurisdictions covered the Malacca state and all territories conquered by Malacca. Malacca Laws which has 44 articles related to ruling power, laws, and taboos of family law, significantly affects the laws of other states (Zanirah and Intan Nurul 'Ain, 2019: 37).³⁴⁹

Malacca Laws is essentially based on Islamic laws, while not denying the existence of

³⁴⁵ Zanirah Mustafa@Busu, Nurul 'Ain Mohd Firdaus Kozako, Malacca Laws: The Effect of Islam and Customs In The Aspect of Family Law, *Journal of Contemporary Social Science Research*, Vol. 3, Issue 1, Nov 2019, 38.

³⁴⁶ Refer to, Ibrahim, Ahmad Mohamed., The Administration of Islamic Law in Malaysia, Institute of Islamic Understanding Malaysia, Kuala Lumpur, 2000; Hamid Jusoh, The Position of Islam before British Administration, In: The Position of Islamic Law in the Malaysian Constitution with Special Reference to the Conversion Case in Family Law, Dewan Bahasa dan Pustaka, Kuala Lumpur, 1991.

³⁴⁷ See, Fang, Liaw Yock., *Undang-undang Melaka (Malacca laws)*, Martinus Nijhoff, The Hague, 1976; Fang, Liaw Yock., Naskah Undang-Undang Melaka: Suatu Tinjauan, *SARI* 25, 2007, p. 86.

³⁴⁸ Hooker, MB (ed), *Laws of South-East Asia: The Pre-Modern Texts*, Butterworth, Penang, 1986; Fang, Liaw Yock., *Undang-undang Melaka (Malacca laws)*, 1976; Fang, Liaw Yock., Naskah Undang-Undang Melaka: Suatu Tinjauan, *SARI* 25, 2007, p. 86.

³⁴⁹ Zanirah Mustafa@Busu, Nurul 'Ain Mohd Firdaus Kozako, Malacca Laws: The Effect of Islam and Customs In The Aspect of Family Law, p. 37.



elements of customary law and legal sense. Malacca Laws is also known as *Undang-undang Melaka*. However, Malacca Laws is more appropriate to be used since it is part of the essence within the text of the original *Undang-undang Melaka* which contains various other laws. It was amended based on places (Liaw Yock Fang, 1976).³⁵⁰ In other words, Malacca Laws is Malay customary laws which are consistent with Islam. Formulation and collection of Malacca Laws are believed to have started during the reign of Sultan Muhammad Shah (1424 – 1444 AD) and then completed during the ruling period of Sultan Muzaffar Shah (1445 – 1458 AD) which was the glorious era of the Malacca Sultanate (Zanirah Mustafa@Busu, Nurul ‘Ain, 2019).³⁵¹

The Malacca Laws is divided into two main parts, namely customary law and Islamic law. The customary law is the main law, while the Islamic law is included as an option for punishment. Malacca Laws is also influenced by Islam and Hindu. Sultan Muzaffar Shah of Malacca (1445 – 1458 AD) had introduced Malacca legislations known as the Malacca Laws. The laws commonly known as *Undang-undang Melaka*, was originally an unwritten rule. The regulations were to protect the government, citizens, and the state of Malacca. Although Malacca Laws was implemented during the reign of Sultan Muzaffar Shah (1445 – 1458 AD), it was only written and methodically arranged during the reign of Sultan Mahmud Shah (1489 – 1511 AD). Thus, Malacca Laws is considered to exist after the year 1489 AD (Zanirah and Nurul ‘Ain, 2019: 38).³⁵²

The Malacca Laws that was methodically arranged and used in the rulings is divided into two parts;

1. Malacca Laws: It contains Criminal Law, Mu’amalah Law, Family Law, and Law of Evidence and Procedure which defines the terms to become a ruler and the responsibilities to the government.
2. Strait of Malacca Laws: It is related to the regulations of shipping and trading, crimes in trading and jurisdiction over the master of the ship as well as related cases.

Malacca Laws consists of several parts including Constitutional Law, Criminal Law, Agriculture Law, Slavery Law, Contract Law, Guardianship Law, Family Law and Sink in Water/Oil Law. Each section was organized at different periods. The first part was the essence of the Malacca Laws which was prepared during the reign of Sultan Muhammad Shah (1424-1444 AD). The section was subsequently expanded and supplemented with regulations or laws

³⁵⁰ Fang, Liaw, Yock., *The Malacca Law (Undang-undang Melaka)*, The Hague: Martinus Njhoff, 1976.

³⁵¹ Zanirah Mustafa@Busu, Nurul ‘Ain Mohd Firdaus Kozako, Malacca Laws: The Effect of Islam and Customs In The Aspect of Family Law, *Journal of Contemporary Social Science Research*, Vol. 3, Issue 1, Nov 2019, 37-38.

³⁵² Zanirah Mustafa@Busu, Nurul ‘Ain Mohd Firdaus Kozako, Malacca Laws: The Effect of Islam and Customs In The Aspect of Family Law, p. 38.



on voyage by Sultan Muzaffar Shah (1445-1458 AD), which was during the height of the Malacca Sultanate. While the part for Islamic law, especially regarding law on *bai'* and *shahadat* (testimony), it was arranged soon after the establishment of Islam in the Nusantara (archipelago). Accordingly, the State Laws were prepared at the beginning of the sixteenth century when the Portuguese arrived in Malacca (Liaw Yock Fang, 2003).³⁵³

Two sources of written law that existed during the Malacca Sultanate are *Malacca Laws* and *Strait of Malacca Laws*. Malacca Laws contains 44 clauses regarding the powers and jurisdiction of the king and ministers, the taboos in the society, the punishments for criminal offenses, and family law. The Strait of Malacca Laws contain 25 clauses that outline the rules of trade and sea traffic, cruise arrangements, power and jurisdiction of the ship's officers and the punishments for offenses committed at sea. Some of the clauses contained in the Malacca Laws and Strait of Malacca Laws are based on Islamic law. The content of Malacca Laws is based on 6 main clauses which are:

Clause 1 has 44 clauses, which 18 of those are based on Islamic law. The clauses are for Islamic Marriage Law, Islamic Trading Law, Law of Evidence, and Islamic Criminal Law. The matters included in the Islamic Marriage Law is engagement (S.18.1-18.3), *wali* (S.25.1), *Ijab* and *Qabul* (S.25.2), witness (S.26), *khiyar* (S.27), the right to marriage (S.28), the law of Muslim marrying a non-Muslim (S.26) and the marriage of free/independent people and slaves (S.28.1).

Clause 2 is about the king's jurisdiction.

Clause 3 is about the minister's jurisdiction.

Clause 4 deals with taboos in the society.

Clause 5 is about the punishments on public offenses Clause 6 is about family law.

The Islamic laws in Malacca occupy almost a quarter of the sum of the local provisions, which concern marriage law, law of sale and procedure, and criminal law (Hamid Jusoh, 1991).³⁵⁴ For example, criminal law is mentioned in five chapters, Chapter 36, 39, 40, 41 and 42. The texts of these chapters are as below:

Chapter 36: Rules governing apostasy.

36.1 *If a Muslim turns apostate, he will be ordered thrice to repent. If he refuses to repent, it is permissible, according to the law of God, that he be killed and (his body) should not be bathed and no prayer should be read (at his funeral) and (furthermore) he should not*

³⁵³ Liaw Yock Fang, *The Malacca Law and the Sea Law (Undang-Undang Melaka dan Undang-Undang Laut)*, Kuala Lumpur: Yayasan Karyawan Publication, 2003.

³⁵⁴ Hamid Jusoh, *The Position of Islam before British Administration*, In: *The Position of Islamic Law in the Malaysian Constitution with Special Reference to the Conversion Case in Family Law*, Dewan Bahasa dan Pustaka, Kuala Lumpur, 1991.

be buried in the Muslim graveyard.

36.2 Concerning people (who fail to perform) the (obligatory) prayer, there are two cases. (First), neglecting (the prayer) and (second), without firm belief in the obligatoriness of prayer. If a man (still) believes that prayer is obligatory, he is (simply) ordered to perform the prayer. If he does not perform the prayer due to illness, he has not turned apostate, but he will be ordered thrice to repent like an apostate. If he does perform the prayer, he will be pardoned. If he refuses to perform the prayer, he shall be killed but he is to be treated like a Muslim, and his body is to be buried in the Muslim graveyard. Such is the law" (Liaw Yock Fang, 1976; Mohd Roslan, 2016: 3).³⁵⁵

Chapter 39 Rules governing killing (*qiṣāṣ*).

39.1 If a person who is sane and of age wilfully kills a Muslim: whether the person killed is a man or a woman, whether (the person) is small or big, he who kills shall be killed. It is not permissible to kill a Muslim for killing an infidel: neither should a free man be killed for killing a slave; (nor) a father be killed for killing his son. If a Jew kills a Christian or even an infidel or a fireworshipper (and the crime) remains unknown, (and) only later it becomes known, even if the Jew has become a Muslim, he is to be punished according to the law of God.³⁵⁶

Chapter 40 Rules relating to unlawful intercourse (*zīnā*)

40.1 Concerning *zīnā* (unlawful intercourse) there are two cases: first, (that committed by) a man who is *muḥṣan* (legally married), i.e. a man who has been married in a legal marriage; (and second, that committed by) a man who is non-*muḥṣan* (non-married), i.e. an unmarried man or an unmarried woman. When *muḥṣan* he shall be sentenced to the *rajm* punishment and be stoned to death. When non-*muḥṣan*, the *ḥad* [*ḥudud*] punishment is that he shall be given one hundred lashes and expelled from the country for 1 year. Being *muḥṣan* means four things: first, a Muslim, second, of age, third, in full possession of his mental faculties and fourth, (he is) not insane. The *ḥad* punishment for a male slave or a female slave is half of that for a free man, that is, fifty lashes.³⁵⁷

Chapter 42 Rules relating to alcoholic drinks.

³⁵⁵ Liaw Yock Fang, *Undang-undang Melaka (Malacca laws)*, Martinus Nijhoff, The Hague, 1976; Mohd Roslan Mohd Nor, Abdullah, A. T., & Ali, A. K. (2016). From *Undang-undang Melaka* to Federal Constitution: the Dynamics of Multicultural Malaysia. *SpringerPlus*, 5(1), p. 3.

³⁵⁶ Mohd Roslan Mohd Nor, Abdullah, A. T., & Ali, A. K. (2016). From *Undang-undang Melaka* to Federal Constitution: the Dynamics of Multicultural Malaysia. *SpringerPlus*, 5(1), p. 3.

³⁵⁷ Mohd Roslan Mohd Nor, Abdullah, A. T., & Ali, A. K., From *Undang-undang Melaka* to Federal Constitution, p. 3.

42. (Concerning) anyone who drinks alcoholic drinks or any drink which is intoxicating: if a free man, he shall be scourged forty strokes; if a slave twenty strokes. The *had* punishment is given on the basis of two things; first, a confession (by the offender); (and second), when there are two male witnesses. The *had* punishment shall not be inflicted, if someone's mouth just smells of alcohol, that is, he (the man) shall not be sentenced (Fang, 1976; Mohd Roslan, 2016: 4).³⁵⁸

Hence, Mohd Roslan et. al., (2016) describes that a dual system of law (customary and Islamic law) was practised. Therefore, it is noted that in many chapters of the law relating to punishment for a certain crime, after prescribing the penalty according to *hukum adat* (the law of local custom), the text also mentions various alternative penalties according to 'hukum Allah' (the law of God) (Hamid Jusoh, 1991; Mohd Roslan et. al., 2016: 4).³⁵⁹ For instance, it is mentioned in Chapter 5.3: relating to the killing of a paramour, it is worth to highlight the reference from the Undang-undang Melaka. It says (in traditional Malay language):

Adapun jikalau membunuh madu, maka madunya itu lari ke dalam kampung orang, tiba-tiba maka diikutnya jua oleh empunya madu itu, maka berkelahi dengan orang yang empunya kampung itu, maka melawan ia, maka terbunuh oleh orang yang empunya kampung itu, mati sahaja tiada den gan hukum lagi. Itulah adat hukum dalam negeri, tetapi kepada hukum Allah, tiap-tiap membunuh itu dibunuh juga hukumnya, kerana menurut dalil di dalam Qur'an dan menurut amru bil-ma'ruf wan-nahyu 'anil-munkar (MSS23 Hukum Kanun Melaka, n.d.).³⁶⁰

It is translated as: If he (a paramour) runs into someone's compound and is pursued by the husband, whereby the latter is involved in a fight with the owner of the compound; If he (the owner of the compound) resists him and the pursuer is killed, the latter simply dies and there shall be no litigation. This is the custom of the country. But according to the law of God, he who kills shall also be killed. For this is in accordance with what is stated in the Qur'an and is in pursuance of (its teaching): (God bids us) to do good, and forbids us to commit sin (Liaw Yock Fang, 1976; Mohd Roslan, 2016: 4).³⁶¹

Marriage laws for Muslims as listed in Malacca Laws is a translation and modification

³⁵⁸ Liaw Yock Fang, *Undang-undang Melaka (Malacca laws)*, Martinus Nijhoff, The Hague, 1976; Mohd Roslan Mohd Nor, Abdullah, A. T., & Ali, A. K., From *Undang-undang Melaka* to Federal Constitution, p. 4.

³⁵⁹ Jusoh, Hamid., The Position of Islam before British Administration, In: *The Position of Islamic Law in the Malaysian Constitution with Special Reference to the Conversion Case in Family Law*, Dewan Bahasa dan Pustaka, Kuala Lumpur, 1991; Mohd Roslan Mohd Nor, Abdullah, A. T., & Ali, A. K., From *Undang-undang Melaka* to Federal Constitution, p. 4.

³⁶⁰ MSS23 Hukum Kanun Melaka, Monograph MKM 30 (F) (microfilm), National Library Malaysia, Kuala Lumpur, n.d..

³⁶¹ Fang, Liaw Yock., *Undang-undang Melaka (Malacca laws)*, Martinus Nijhoff, The Hague, 1976; Mohd Roslan Mohd Nor, Abdullah, A. T., & Ali, A. K., From *Undang-undang Melaka* to Federal Constitution, p. 4.



of the principle content in the Shafi'i mazhab (Zanirah and Nurul 'Ain, 2019: 37; Zaini Nasohah, 2004).³⁶² Family law can be tried in two parts. The first part states that if a male proposes to someone else's fiancée, he would be fined. Under certain circumstances, a woman or her parents can return the dowry she received during the engagement, while the man can also ask for his dowry to be returned. The second part is the Islamic marriage law. A person who wants to marry should have the presence of guardian, witnesses, as well as a marital contract. For married couples, they can also exercise the right of *khiyar* and divorce according to Islamic law as well as being married to a slave (Liaw Yock Fang, 2003).³⁶³

Although some scholars criticised certain parts of the first 24 chapters in the Malacca Laws are in conflict with Islamic criminal law and procedures described the other chapter of the laws, but we need to be fair to evaluate the laws considering the different time period when the respective laws were written and compiled. For example, Hamid Jusoh (1991) and Liaw Yock Fang (2007), agreed that "the differences in these provisions maybe due to the different time period when the respective laws were written and compiled. It might have also been due to different attitudes of society towards the acceptance of Islamic law" (see, Hamid Jusoh, 1991; Liaw Yock Fang, 2007).³⁶⁴ As cited by Mohd Roslan et al., (2016) apart of Fang's conclusion (1976) that:

"it in futile to attribute the compilation of Undang-undang Melaka (Malacca Laws) to any one ruler or at any one period. Nevertheless, the Malacca Laws (proper), and possibly also the section on Maritime Law, were first established during the time of Sultan Muhammad Shah (1424-44) and were completed during the reign of Sultan Muzaffar Shah (1445-58), the golden period of the Malacca Sultanate. The section on Muslim (Islamic) laws, especially those pertaining to commercial matters and procedures, (including criminal) may have been compiled sometime later"

(Fang, 1976; Mohd Roslan et al., 2016: 5).³⁶⁵

Reviewing on the vulnerability of the Malacca Laws, again, Hamid Jusoh (1990), criticised that the Malacca Laws failed to outline the rules and the country's administration clearly. It only stated some of the Islamic principles relating to the rulers and the concept of

³⁶² Zanirah Mustafa@Busu, Nurul 'Ain Mohd Firdaus Kozako, *Malacca Laws: The Effect of Islam and Customs In The Aspect of Family Law*, p.37; Zaini Nasohah, *Pentadbiran Undang-undang Islam di Malaysia: Sebelum dan Menjelang Merdeka*, Kuala Lumpur: Utusan Publications and Distributors Sdn Bhd., 2004.

³⁶³ Liaw Yock Fang, *The Malacca Law and the Sea Law (Undang-Undang Melaka dan Undang-Undang Laut)*, Kuala Lumpur: Yayasan Karyawan Publication, 2003.

³⁶⁴ Hamid Jusoh, *The Position of Islam before British Administration*, In: *The Position of Islamic Law in the Malaysian Constitution with Special Reference to the Conversion Case in Family Law*, Dewan Bahasa dan Pustaka, Kuala Lumpur, 1991; Fang, Liaw Yock., *Naskah Undang-Undang Melaka: Suatu Tinjauan*. *SARI* 25, 2007, 85–94.

³⁶⁵ Fang, Liaw Yock., *Undang-undang Melaka (Malacca laws)*, Martinus Nijhoff, The Hague, 1976; Mohd Roslan Mohd Nor, Abdullah, A. T., & Ali, A. K., *From Undang-undang Melaka to Federal Constitution*, p. 5.



leadership.³⁶⁶ In responding to such criticism, conversely, Mahmood Zuhdi commented that, even if the matters relating to the Federation were not mentioned in the Malacca Laws, this does not mean that absenteeism of the said laws in writing can be taken as grounds to say that the basis of Islamic constitution never existed at that particular time. This is because the constitution for a federation may not necessarily be in writing. It may have been an oral tradition (see, Mahmood Zuhdi, 1997).³⁶⁷

The history of Malacca proves that system of life proposed by Allah SWT is the civil and state laws which were adopted before the colonization. These laws surpassed the boundaries of time and place as the laws reiterated the leadership of the Prophet Muhammad in Medina. Therefore, it is suggested that social progress should never be used as a pretext for not implementing Islamic law (Zanirah and Intan Nurul 'Ain, 2019: 37)³⁶⁸. The effect of this Islamic laws can be seen through the justice order implemented by the Malay rulers. For example, there were some Malay rulers that had taken a serious responsibility on practising and maintaining justice in their administration, such as Sultan Muzaffar Syah (1446-1456) and Sultan Alaudin Riayat Syah (1477-1488)(Awang Asbol, Ramlee & Nur Syazwani, 2018: 1).³⁶⁹

Sultan Muzaffar Syah, 1446-1456 AD for example, was a Sultan that could be considered a just ruler. Malacca during his time in power was believed to be stable – politically, economically, and socially. Perhaps this was due to its relationship with China, which at that time was in a powerful condition and was willing to offer protection in regards to safeguard their trading activities. Such privileges had enabled him to spread his sphere of influence from Malay peninsula to some parts of Sumatera island (Abdullah Musa Lubis, n.y.; Marrison, 1949; Yusoff & Tate, 1992; and Mohd Jamil, 1994:48-49).³⁷⁰

The occupied lands were believed to be Islamized under his command. He had encouraged his people to further study about Islamic religion in Mecca; and welcomed foreign scholars to preach and teach the Islamic principles and any other related knowledge. He was also responsible for modifying the Malacca Custom Law, which he then added the newly

³⁶⁶ Jusoh, Hamid., *Pemakaian undang-undang Islam kini dan masa depannya di Malaysia*, Dewan Bahasa dan Pustaka, Kuala Lumpur, 1990.

³⁶⁷ Mahmood Zuhdi AM., *Pengantar Undang-Undang Islam di Malaysia*, Kuala Lumpur: Penerbit Universiti Malaya, 1997.

³⁶⁸ Zanirah Mustafa@Busu, Nurul 'Ain Mohd Firdaus Kozako, *Malacca Laws: The Effect of Islam and Customs In The Aspect of Family Law*, p.37.

³⁶⁹ Awang Asbol Mail, Ramlee Tinkong & Nur Syazwani Md Suif, *The Issue of Justice and Injustice In Malacca Sultanate, 1400 – 1511AD*, *SUSURGALUR: Jurnal Kajian Sejarah & Pendidikan Sejarah*, Volume 6, No. 1, 2018, p. 1.

³⁷⁰ Abdullah Haji Musa Lubis, *Sultan-sultan Melaka*, Kuala Lumpur: Saudara Sinaran Berhad, n.y.; Marrison, G.E., "The Siamese Wars with Malacca during the Reign of Muzaffar Shah" in *Journal of the Malayan Branch of the Royal Asiatic Society*, Vol. 22, No.1, March, 1949, pp. 61-66; Mohd Jamil Mukmin, *Melaka: Pusat Penyebaran Islam di Nusantara*, Melaka: Penerbit IKSEP [Institut Kajian Sejarah dan Patriotisme] Malaysia, 1994, 48-49.



accepted law that was based on Islamic principle. The legal code was one example that Malacca had adapted, so justice could be attained accordingly (Abdullah Musa Lubis, n.y.; Winstedt, 1953; Buss-Tjen, 1958; Fang, 1976; Wake, 1983; Shellabear ed., 1984; and Mohd Jamil, 1994).³⁷¹

Having that change, Sultan Muzaffar Syah wished to implement a better administration system that could maintain the country's stability, prosperity, harmony, and security. The transformation did actual successfully hold his administration firmly as the sense of equality, integrity, and humanity were emphasized throughout his reign. His reign was glorified in *Sejarah Melayu*, or Malay Annals, that states as follow:

*"Syahdan, adalah Sultan Muzaffar Syah di atas kerajaan terlalu baik fiel baginda, dengan adil dan murah dan saksama pada memeriksa segala rakyat, dan ialah menyuruh membuat undang-undang supaya jangan bersalahan adat segala hukum menterinya (cited in Shellabear ed., 1984: 65-66)."*³⁷²

Translation: Truly, Sultan Muzaffar Syah ruled his kingdom fairly and was thorough in the matters of his citizens, and he made sure the laws of his ministers did not go against custom.

In conclusion, the advent of Islam in the Malay archipelago did impact the legal system of the Malay states before western occupation and colonialization, as some customary laws being preserved and some aspects of the Islamic laws being adopted to the Malacca laws. When the kingdom of Malacca was defeated by the Portuguese in 1511, the texts of the Malay laws were taken and adapted with modifications in the various Malay states including Pahang, Johore and Kedah (A. M. Ibrahim, 2000).³⁷³

³⁷¹ Abdullah Haji Musa Lubis, *Sultan-sultan Melaka*, p. 11; Winstedt, R.O., "The Date of the Malacca Legal Codes" in *Journal of the Royal Asiatic Society of Great Britain and Ireland*, 1-2, 1953, pp.31-33; Buss-Tjen, P.P., "Malay Laws" in *American Journal of Comparative Law*, 1958, pp. 248-267; Fang, Liaw Yock., *Undang-Undang Melaka: A Critical Edition*, Leiden and The Hague: KITLV [Koninklijk Instituut voor Taal-, Land- en Volkenkunde] and Martinus Nijhoff, 1976; Wake, Christopher H., "Melaka in the Fifteenth Century: Malay Historical Traditions and the Politics of Islamization", in Kernial Singh Sandhu & Paul Wheatley [eds]. *Melaka: The Transformation of a Malay Capital c.1400-1980*, Volume 1. Kuala Lumpur: Oxford University Press, 1983, pp.128-161; Shellabear, W.G. [ed], *Sejarah Melayu*, Kuala Lumpur: Fajar Bakti Sdn Bhd., Translation, 1984; Mohd Jamil Mukmin, *Melaka: Pusat Penyebaran Islam di Nusantara*, 48-49.

³⁷² Shellabear, W.G. [ed], *Sejarah Melayu*, 1984, pp. 65-66.

³⁷³ Ibrahim, Ahmad Mohamed., *The Administration of Islamic Law in Malaysia*, Institute of Islamic Understanding Malaysia, Kuala Lumpur, 2000.



The Impacts of Islam on Legal Systems of the Malay States before European Colonisation: The Case of the Ninety-Nine Laws of Perak

Malay customary laws have long been in existence and were inherited from the ages and have become the principle of the rules and norms of the local population. Adat Laws are a list of regulations drawn up on the basis of customs, values, norms, morals or adab which became the practice of life during the Malay Sultanate.

The Ninety-Nine Laws is believed to have been written by Sayid Hussain al-Faradz who had come to Perak from Hadramaut in the 17th century. But according to M. A. Fawzi Basri, that the argument was contradict with the manuscript, which mentions the fact that it was brought in by Sayid Hassan during the reign of Sultan Ahmad Tajuddin Marhum Tanah Abang in the 16th century (1577-1584).³⁷⁴

The laws has been practiced in Perak until 1900 and is said to have been implemented since the reign of al-Marhum Sultan Idris Murshidul A'azam Shah ibni al-Marhum Raja Bendahara Alang Iskandar, around 1887 until 1916. It is known as the Ninety-Nine Laws because it contains 99 law cases that cover various aspects. The history of the government of the kingdom of Perak and the contents of the Nine-Nine Silver Law can be used as a guide and symbol of Malay civilization and rulership once before (Suria Fadhillah, et. al., 2015: 87).³⁷⁵

Abdul Kadir Haji Muhammad claimed that the existence of numerous Malay traditional laws such as, Hukum Kanun Melaka, Hukum Kanun Pahang, Undang-Undang Kedah, and Undang-Undang Johor demonstrates the strong efforts of the Malay rulers in formulating a comprehensive Islamic legal code for the well-being of the society (Abdul Kadir Muhammad, 1996: 86).³⁷⁶

The Ninety-nine Laws of Perak principally served as a corpus of law. Some Islamic

³⁷⁴ M.A. Fawzi Basri, *Cempaka Sari: Sejarah Kesultanan Negeri Perak*, Ipoh: Yayasan Perak, 1986, p. 217. The argument about the origin of the manuscript which was addressed R.O Winstedt, was supported by other researchers such as Jelani Harun, Ahmad Jelani Halimi, and Liaw Yock Fang, who refer to Winstedt's opinion seems to be based on his earlier work., "The Hadramaut Sayids of Perak and Siak". However, this writing seems to have some issues since he himself wrote a contradictory fact that Sayid Hussein was a teacher of the first Sultan of Perak, who reigned as early as 1528 (16 century) but also stated that the same Sayid Hussein arrived in the 17th century. See also, Windstedt, R.O., The Hadramaut Sayids of Perak and Siak. *Journal of the Straits Branch of the Royal Asiatic Society*, 79, 1919, p. 51.

³⁷⁵ Suria Fadhillah Md Pauzi, Azniza Ahmad Zaini, Mohd Azmi Nias Ahmad, Undang-undang Sembilan Puluh Sembilan: Warisan Persuratan Melayu Negeri Perak, Konferensi Akademik KONAKA 2015, Al-Biruni, UiTM Pahang, 2015. p. 87.

³⁷⁶ Abdul Kadir Haji Muhammad said that: "this is a document on Hukum Kanun for all the great countries and great kings and their viziers and its subjected customs and orchards, so it will bring benefit towards the country and the kings". see, Abdul Kadir Haji Muhammad. (1996). *Sejarah Penulisan Hukum Islam di Malaysia*. Kuala Lumpur: Dewan Bahasa dan Pustaka, 1996, p. 86.



elements that have been traced to be installed in The Ninety-nine Laws of Perak are:³⁷⁷

1. At the beginning of this set of laws, it mentioned that it serves as a guidance from one generation to another for any country without a king and for its aristocracies to implement them, and if there is a qadi, then both the laws of the Qur'ān and these laws can be implemented (Jelani Harun, 2011: 102).³⁷⁸ It is a kind of “constitution” and guidance for good governance for the Perak Sultanate. Before going further on explaining the content of this set of laws, the writer beforehand reminded the ruler that the implementation of laws – either the one contained in this set of laws or the laws of al-Qur'ān itself – was the basic requirement for the prosperity of the country. The reason for the writing of this law is addressed – “because each country has its own king and its aristocracy, its penghulus and noble person, hence to arrange their role accordingly”, besides stresses on the concept of governance which needs a proper hierarchy in governing a country (Jelani Harun, 2011, 102-103; Denisova, 2011, 185-186).³⁷⁹
2. Articles 77 stated about the appointment of the successor after the demise of a ruler. It mentioned that the blood-relations aspect, is significant in the monarchy system (Rigby, 1970, 61).³⁸⁰ Article 92 further asserted another criterion, which needs to be considered upon the appointment of a ruler. The future-appointed ruler must be able to uphold justice and preserve the well-being of his people, by providing affordable food (Halimah Hassan, 2019, 239-240).³⁸¹ According to Zakariya, Hafiz, & Mohamad Hazizie (2020), this two articles clear to address the effort of the compiler of this set of laws to balance and infuse an Islamic element in the practice of ‘adat in Malay kingship regarding the appointment of a full royal blood or *gahara* as sultan. It must be supported with the ability to uphold justice and preserve the well-being of the people. Even a not full royal blood can be appointed as a sultan if he fulfils these two important requirements.³⁸²
3. The Ninety-nine Laws of Perak further pointed the importance of the maintenance of mukim in the Perak Sultanate, where a mukim is needed for the state officials. This point

³⁷⁷ Zakariya, Hafiz, & Mohamad Hazizie Sulkaflle. "The The Influence of Islam on the Statecraft of the Perak Sultanate: The Case of the Ninety-nine Laws of Perak." *Asian Journal of Research in Education and Social Sciences* [Online], 2.3, 2020: 104-116.

³⁷⁸ Jelani Harun, *Umpama Sebuah Bahtera: Kajian Naskhah Melayu Sejarah Kesultanan Negeri Perak*, Kuala Lumpur: Arkib Negara Malaysia, 2011, p. 102.

³⁷⁹ Jelani Harun, *Umpama Sebuah Bahtera: Kajian Naskhah Melayu Sejarah Kesultanan Negeri Perak*, pp. 102-103; Denisova, Tatiana A., *Refleksi Historiografi Alam Melayu*, Kuala Lumpur: Penerbit Universiti Malaya, 2011, pp. 185-186.

³⁸⁰ Rigby, J., The Ninety-nine Laws of Perak, In M.B. Hooker (Ed.), *Readings in Malay Adat Laws*, (pp. 57-83), Singapore: Singapore University Press, 1970, p. 61.

³⁸¹ Halimah Hassan, Raja dan Pembesar dalam “Undang-undang 99”. In Harun Mat Piah (ed.), *Kesultanan Melayu Perak* (pp. 226-256). Kuala Lumpur: Dewan Bahasa dan Pustaka, 2019, pp. 239-240.

³⁸² Zakariya, Hafiz, & Mohamad Hazizie Sulkaflle. "The The Influence of Islam on the Statecraft of the Perak Sultanate, p. 109.

aims to guarantee the systematic management of that mukim. In Article 12, seven basic officials for one mukim was listed. Those officials were 1) the judge (qaḍī), 2) the imām, 3) the penghulu, 4) the reader (khāṭīb for Friday prayer), 5), the muazzin or bilāl, 6) the pawang, and last but not least, 7) the midwife (Rigby, 1970, 61).³⁸³ The explanations of mukim and its relations to the mosque and Friday prayer also verify with the fiqh discussion regarding the Friday prayer. Mukim basically involves place of residence and once the number of able men (or head of families) reaches forty, then the obligation of performing Friday prayer becomes obligatory upon them (Mustafa al-Khin, Mustafa al-Bugha & Ali al-Syarbaji, 2011, 363-382).³⁸⁴

4. The first important element in the administration of justice, emphasized by this set of laws is a reminder to the sultanate's officials, especially the judges that they were answerable to Allah the Almighty for their responsibility. Therefore, it made obligatory upon them to implement justice in their administration (Zakariya, Hafiz, & Mohamad Hazizie, 2020: 111).³⁸⁵

M.A. Fawzi Mohd Basri has classified the articles in the Ninety-nine Laws of Perak as the followings:

Table 1: M.A. Fawzi Mohd Basri's Classification of Articles in the Ninety-nine Laws of Perak.

Zakariya, Hafiz, & Mohamad Hazizie, (2020), simplify the influence of Islam which can be clearly discovered in the Ninety-nine laws of Perak especially in the aspect of statesmanship or the governance. There are five main aspects of statesmanship which are illustrated by this set of laws:³⁸⁶

1. The qualifications of to be appointed as sultan and chiefs.
2. The proper hierarchy needed to ensure the systematic management of the sultanate.
3. The responsibilities of the chiefs appointed.
4. The ethics of every single strata of the society in the sultanate.
5. The proper administration of justice in the sultanate.

The above five aspects of statesmanship which are demonstrated in the Ninety-nine laws

³⁸³ Rigby, J., The Ninety-nine Laws of Perak, In M.B. Hooker (Ed.), *Readings in Malay Adat Laws*, (pp. 57-83), Singapore: Singapore University Press, 1970, p. 61.

³⁸⁴ Al-Khin, Mustafa, Mustafa al-Bugha & Ali al-Syarbaji, *Al-Fiqh Manhaji: Ibadat dalam Fiqh al-Syafi'i*, edited and translated from Arabic by a panel led by Zulkifli bin Mohamad al-Bakri. Bandar Baru Bangi: Darul Syakir Enterprise, 2011, pp. 363-382.

³⁸⁵ Zakariya, Hafiz, & Mohamad Hazizie Sulkaflle. "The The Influence of Islam on the Statecraft of the Perak Sultanate, p. 111.

³⁸⁶ Zakariya, Hafiz, & Mohamad Hazizie Sulkaflle. "The The Influence of Islam on the Statecraft of the Perak Sultanate, p. 113.



of Perak are coherent with the idea of justice addressed in the traditional Malay laws as detailed out by Jelani Harun (2010, 353-354):³⁸⁷

1. The main purpose is to serve as guidance to the rulers and aristocrats in implementing the existing laws and regulations. Those who abandon it will lose their qualifications as a ruler.
2. It reminds about the do's and don'ts and emphasizes the responsibilities and ethics of each group in the society.
3. The corporal punishments for those who break the laws or forsake their responsibilities.
4. The ethical and procedural guidance for the rulers, aristocrats, and the judges in their administrations.

The Impacts of Islam on Legal Systems of the Malay States before European Colonization: The Case of Pahang Laws and Johor Laws

The Pahang laws which were formulated during the reign of Sultan Abd. Ghafur Muhaiddin Shah (1592– 1614 A.D.) following the Undang-undang Melaka, Mohd Roslan et al., (2016) found that the influence of the Malay custom was less than the Islamic law which was generally followed. Thus, there were provisions based on the Islamic law dealing with *qisās* (section or s. 46 and 47), fines (s. 48), unlawful intercourse (s. 49), sodomy (s. 50), theft (s. 53), robbery (s. 54), apostasy (s. 62), omission to pray (s. 60), jihad (s. 61), procedure (s. 62), and witnesses and oaths (s. 64). There were also provisions dealing with trade sale, security, guarantee, investments trust, payment for labour, land, gifts and waqfs.³⁸⁸

The Johore laws too, were modelled on the Undang-undang Melaka. At the beginning of the 20th century, the codifications of the Islamic law, as seen in Turkey and Egypt, were translated into Malay and adopted. The Majallah al- *Aḥkām* was as adapted as the Majallah *Aḥkām* Johor (Borham 2002)³⁸⁹ and the Ḥanafī code of Qadri Pasha was adapted and translated as the *Aḥkām* Shar‘iyyah Johor (Ibrahim and Joned, 1995). However, Mahmood Zuhdi (1997) commented that even Majallah *al-Aḥkām* was copied from Turkey; it was introduced during a period where Johore’s legal system was heavily influenced by the British. It can also be argued if Majallah *al-Aḥkām* was a true reflection of the Islamic law or if had been widely influenced by the legal system in Europe at that particular time (Mahmood Zuhdi, 1997).

According to Ahmad Ibrahim, all these examples show that there were attempts before

³⁸⁷ Jelani Harun, *Undang-undang Kesultanan Melayu dalam Perbandingan*, Pulau Pinang, Penerbit Universiti Sains Malaysia, 2010, pp. 353-354.

³⁸⁸ Mohd Roslan Mohd Nor, Abdullah, A. T., & Ali, A. K., From Undang-undang Melaka to Federal Constitution: the Dynamics of Multicultural Malaysia. *SpringerPlus*, 5(1), 2016, p. 5.

³⁸⁹ Borham A.J., *Majalah Ahkam Johor: Latar Belakang, Pelaksanaan dan Komentari*, Penerbit Universiti Teknologi Malaysia, Johor, 2002.



the arrival of the British to modify the Malay customary laws and to adopt Islamic laws. This was in progress when the British arrived and exercised their influence in the Malay states (Ahmad Ibrahim and Joned 1995).³⁹⁰

As conclusion, before the colonial era began in the Malay Peninsula, people had already lived under the Islamic law, especially in Malacca. Under the implementation of this law, the government of Malacca became the government and authority of Islam in the Southeast Asia region. History of Malacca proves that the system of life that Allah has proposed is used in the civil and state laws which were implemented before the advent of colonialism. This law can surpass the boundaries of time and place when once again it partially implemented the leadership practiced by the Prophet Muhammad in Madinah.

The development in the society should never be used as a pretext for not implementing Islamic law. We, Muslims must believe that Islamic law is the law that best fits for us. Although practically all legal systems seek to achieve justice, since Islamic law stems from the revelations of Allah Almighty, who knows better what the human needs and what is best for them, Islamic law has precedence over other laws.

The Malay states in Malaya (known as Malaysia after 1963) have inherited a legal system that is of good quality and unparalleled in terms of justice and humanity. We, who administer the law, carry a heavy burden. Our task is to show that Islamic law is not only the best, but its implementation will bring justice and will be well received by all parties. Improvements are necessary in the national and international laws. The Federal Constitution prohibits discrimination based on sex. Local and religious authorities in Islamic countries admit there are several aspects in their current and former family legislations require amendments to be unbiased and fair. The initiation towards reforming the law is the right step for Malaysia.

CONCLUSION

Based on the above discussion, it can be discerned that historically, the laws which were implemented in Malaysia before European colonisation, were mainly based on Islamic influence. Some of them were in harmony with Islam even though they were not based on the Quran or Hadith (they were based on customary laws). If we were to compare the position of Islam during the Malacca Sultanate for example, and its current position, the scope in the Malacca Laws was wider as the laws were not only limited to the personal and family matters but also covered aspects of crime, civil, economy and commercial.

³⁹⁰ Ahmad Ibrahim, Joned, A., *The Malaysian legal system*, 2nd edn. Kuala Lumpur: Dewan Bahasa dan Pustaka, 1995.



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