



# ISLAM, CULTURE AND HISTORY IN THE MALAY WORLD

Editor

Hafiz Zakariya

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*Islam, Culture and History in the Malay World*

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# CHAPTER 4

## THE INFLUENCE OF ISLAM ON THE STATECRAFT AND LEGAL WRITINGS IN PRE-COLONIAL MALAY SOCIETY

Mohamad Hazizie Sulkafle

*"Adat bersendi syarak, syarak bersendi Kitabullah, syarak mengatur, adat melaksana. [Adat is based on syariah; syariah is based on the Book of God.*

*Syariah designs, adat applies]" .*

- Minangkabau aphorism

### INTRODUCTION

Syed Muhammad Naquib al-Attas, in *Islam dalam Sejarah dan Kebudayaan Melayu* (1999) convincingly argues that the arrival of Islam in the Malay world has introduced significant changes in society. In so doing, Al-Attas has successfully refuted the long-held views of some Orientalists on the subject. These Orientalists, epitomized by Christian Snouck Hurgronje, Jacob Cornelis van Leur and Thomas Stamford Raffles claim that Islam was just a "thin layer" covering the Malay society (Noor Aisha Abdul Rahman, 2006; Aljunied, 2005). Furthermore, R.O. Winstedt had dismissed that many aspects of Malay culture, literature, and civilisation are borrowed from India (Winstedt, 1940/1991). Though during the initial phase, Islam spread gradually but eventually, from the 15th century onwards, the influence of Islam in the Malay world had increased tremendously. This was manifested in various spheres of life: Culture, laws, politics, language, and society. Two important aspects become the focus of this study namely, the influence of Islam on Malay statecraft and the writing of laws.

Before the advent of Islam, Malay politics were strongly affected by the Hindu-Buddhist influence. The Hindu-Malay kingdoms in the Malay world adhered to the concept of *devaraja* (the divine rights of Kings). But Islam had gradually changed the Malay kingdoms from Hindu to Islamic influence. As a result, Malay society underwent a paradigm shift, and their concept of sovereignty did not remain the same. Thus, the Malay rulers are no longer regarded as the reincarnation of God according to the long-accepted *devaraja* concepts. The Malay concept of the rulers' sovereignty had changed to *zillullāhu fī al-‘ālam* or "Allāh's shadow on earth". This paradigm shift put the status of the ruler within not above the boundary of Islamic laws. Due to that reason, Malay rulers made serious efforts to incorporate *syariah*

into the laws of their kingdoms (Jelani Harun, 2011, Abdullah Alwi Hassan, 2000; Ahmed Ibrahim & Ahilemah Joned, 1985/2013). Islamic laws remained mixed with the local *adat* but had played an important role to modify Malay *adat* per Islamic laws (Muhammad Haniff Hassan, 2007).

This important change had influenced the writings of laws in pre-colonial Malay society. Before the advent of Islam, little was known about the existence of written laws in the Malay world except for a 14th century legal text known as *Undang-undang Tanjung Tanah*, found in Kerinci, Sumatera (Ulrich Kozok, 2004). However, after the advent of Islam, numerous Islamic kingdoms emerged in various parts of the Malay world. Moreover, almost all sultanates had compiled their legal texts. Jelani Harun, in his seminal work, *Undang-undang Kesultanan Melayu dalam Perbandingan*, has listed and studied 20 legal texts that belonged to 15 sultanates in the Malay world. Furthermore, there is still a possibility that there are several other legal texts which are still unknown and undiscovered (Jelani Harun, 2010).

Azmah Abdul Manaf argues that the strong Islamic influence on the Malay legal texts has complemented and enhanced the existing laws (2005). The strong influence of Islam was manifest to the extent it has been considered as the law of the land (Abdul Majeed Mohamed Mackeen, 1969). Even R.J. Wilkinson (1922) admits the strong influence of Islam on Malay legal texts: "Muslim law was in a different position. It rested on something stronger than mere observance and was recorded in imperishable literature. It was gaining ground everywhere when the British authorities come into Malaya" (p. 49). Abdul Rahman Abdullah concludes that, despite some shortcomings, which still exist in the Malay legal texts after the arrival of Islam, the significant influence of Islam is evident because Islam had overcome the Hindu and Buddhist influences (2009).

The main objective of this chapter is twofold. First, to analyse the influence of Islam in the development of Malay statecraft on the idea of the ruler's sovereignty. Second, to examine the role of Islam in the development of the writing of Malay legal texts. These two issues are interconnected and thus, to get a full picture of the impact of Islamisation, these two should be examined together. It also analyses the application of the principle of *ta'zīr* as a source of laws. Besides, an in-depth discussion on the concept of *adat* in Malay society is warranted. This is significant to clear any misconception on Malay *adat* especially on the well-known phrase "*Biar mati anak, jangan mati adat*" (Losing a child is preferable to losing the *adat*).