Chapter 2
British Administration of Malay Peninsula and Its Impact on the Status of Islamic Law

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Introduction

Islam is a complete way of life that encompasses legal, social, and moral order aimed at construing the entire fabric of human life and culture in the light of values and principles revealed by Allah (*s.w.t.*) as guidance for humankind. Islamic law is a system of law and ethics derived from the divine sources commonly known as 'Shari'ah', which comprises the will of Allah (*s.w.t.*) revealed to the Prophet Muhammad (*s.a.w.*) over a period of 23 years beginning 610 AD. Shari'ah deals with two broad aspects of regulations, i.e., a set of laws dealing with the individual's duties towards Allah (*s.w.t.*) and laws governing human relations. In pursuance of the above, the Shari'ah contains explicit injunctions concerning prayers, moral values, beliefs and also instructions for maintaining an appropriate, balanced relationship between individuals of various institutions of society in matters such as science, social attitudes, worship, contracts, family matters, economics, politics, and war.

The sources of Shari'ah are the Qur'an (containing the words of Allah (*s.w.t.*)), *Sunnah* (the sayings, practices, and traditions of Prophet Muhammad (*s.a.w.*)), *Ijma* (consensus among Muslim scholars of Shari'ah), *Qiyas* (judicial reasoning), *Istihsan* (derivation), *Istislah* (public interest), and sources as to customs and usage. The most striking characteristic of the Shari'ah is its comprehensiveness and everlasting features, where it is designed for all times, and it is universal in its application (Ramadan 1992). The fluctuation of time and the variations of space have no adverse effect on the integral character of the Islamic legal system (Ibrahim 1984).

Presently, in Malaysia, the application of Islamic law derived from Shari'ah is only applicable to Muslims and confined only to personal matters such as betrothal,

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marriage, divorce, dowry and maintenance, and minor offences against the precepts of the religion of Islam as specified in List II (State List), 9th Schedule of the Federal Constitution. Article 74(2) of the Federal Constitution provides: "[W]ithout prejudice to any power to make laws conferred on it by any other Article, the Legislature of a State may make laws with respect to any of the matters enumerated in the State List (that is to say, the Second List set out in the Ninth Schedule) or the Concurrent List." Having said the above, this chapter explores and critically analyses how the successive foreign occupation during (1511–1957), especially the British administration, subjugated, meddled and reduced the status or position of Islamic law in the Malay Peninsula.

Status of Islamic Law Before the Foreign Occupation of Malay Peninsula

Before its foreign occupation, Malacca was already an influential regional power and a thriving trade centre with a busy port city visited by numerous Asian and European traders (Noor and Azaham 2000). The Laws of Malacca (*Hukum Kanun Melaka*), which was compiled during the reign of Sultan Muzaffar Shah (1446–1459), covered varying degrees and areas ranging from criminal offences, commercial transactions, family matters, evidence and procedure, and the conditions of a ruler. The said law directly absorbed several *fiqh* (Islamic jurisprudence) rulings by referring to texts like *Fath al-Qarib* from Ibn Al-Qasim al-Ghazi, *al-Taqrib* from Imam Abu Syuja' and *Hasyiyah 'ala Fath al-Qarib* from Ibrahim al-Bajuri (Borham 2002).

The following are the Islamic penal provisions under the Laws of Malacca: *zina* (unlawful sexual intercourse) – section 40:2, *qadhf* (slanderous accusation of *zina)* – section 12:3, *sariqa* (theft) – sections 7:2 and 11:1, *hirabah* (robbery) – section 43, *riddah* (apostasy) – section 36:1, *shurb al-khamr* (alcohol drinking) – section 42, and *baghy* (rebellion) – sections 5 and 42. *Qisas* (retaliation) and *diya* (blood money) are legislated in sections 5:1-3; 8:2-3; 18:4, and 39, causing injury in section 8:2, and its various types in sections 16, 17, and 21. The punishments for the abovementioned crimes were a combination of customary law (*Adat*) and Islamic law. Crimes punishable with *ta'zir* (punishments administered at the discretion of the judge), i.e., where the crime lacks conditions for *hadd* (punishments mandated and fixed by God) – section 11:1, included kissing between a man and a woman – section 43:5, gambling – section 42, and giving false testimony – section 36 (Ali Mohamed 2014). Besides, Islamic family law is contained in section 25:2, which deals with the conditions for the marriage such as *ijab* (proposal) and *qabul* (acceptance) as well as rulings and conditions for witnesses to the marriage. Furthermore, sections 27 and 28:1 is related to dissolution rights or *khiyar* and *talaq*. This law also covered Islamic commercial transactions such as *riba* (usury) in section 30, the types of goods that are allowed to be traded, and also goods prohibited for trade, such as alcoholic drinks, dogs, and pigs (Borham 2002).

The Laws of Malacca code was adopted in the codes of other states, such as the Pahang Laws of 1596, Kedah Laws of 1605, Johor Laws of 1789, Perak Code, and Ninety-Nine Laws of Perak 1765. The Pahang Laws, for example, which was prepared during the reign of Sultan 'Abdul Al-Ghafar (1592–1614 A.D.) contained provisions on *qisas* (sections 46 and 47), fines (section 48), illegal intercourse (section 49), sodomy (section 50), theft (section 53), robbery (section 54), apostasy (section 62), omission of prayers (section 60), *jihad* (section 61), and provisions relating to witnesses and oaths (section 64). There were also provisions dealing with trade, sale, security, guarantee, investments, trusts, payment for labour, gifts, and *wakaf* (endowment) (Rau and Kumar 2005).

Likewise, apart from adopting the Laws of Malacca, Johor had, in the early twentieth century, codified Islamic laws from Turkey and Egypt. The *Majallah Al Ahkam* of Egypt was translated as *Majallah Ahkam Johor*, and the Hanafite Code of *Qadri Pasha* was adapted and translated as the *Ahkam Shariyyah Johor.* Further, the Johor Constitution 1895 promulgated by Sultan Abu Bakar on 14 April 1895, contained rules regarding Islam as the official religion of Johor where in particular, article 57 provided: "What is called the 'Religion of the State' for this Territory and State of Johore is the Muslim Religion, and such being the case, the Muslim Religion shall continuously and forever be, and be acknowledged to be, and spoken of as, the 'State Religion'; that is to say, on no account may another religion be made or spoken of as the religion of the country".

Further, in Terengganu, a Stone of Inscription dating to the twelfth century was found, and it, among other things, sets out the punishment for *zina*, namely, one hundred stripes for fornication and stoning to death for adultery. During the reign of Sultan Zainal Abidin III (1881–1918), Terengganu was administered under Islamic Law, and the punishments of *hudud, qisas, diyat,* and *ta'zir* were also provided therein (Ibrahim 1993). Besides the above, the constitution of Terengganu, promulgated by Sultan Zainal Abidin III in 1911, contained a law relating to the constitution of the courts, which appears to provide for the administration of Islamic law in Terengganu (Ibrahim 1993). It is, therefore, undisputed that the law applicable to the Malay States before the colonisation era was Islamic law with the mixture of Malay local customs that are in conformity with the Shari'ah legal principles.

The above was reinforced by British judges in the Malay States, for example, in *Shaik Abdul Latif & Ors v Shaik Elias Bux* [1915] 1 FMSLR 204, where Edmonds JC stated: "Before the first treaties, the population of these States consisted almost solely of Mohammedan (Muslim) Malays with a large industrial and mining Chinese community in their midst. The only law at that time applicable to Malays was Mohammedan (Islamic) law modified by local customs" (p. 207). Again, in *Ramah binti Ta'at v Laton binti Malim Sutan* [1927] 6 FMSLR 128, the Court of Appeal of the Federated Malay States stated, *inter alia*, that: "Muslim (Islamic) law is not foreign law but local law and the law of the land. The court must take judicial notice of it and must propound that law" (p. 129). In this case, the main issue was whether the principle of Mohammedan Law, commonly called 'Harta Sharikat' applied in this case and, if so, whether in the circumstances the respondent was entitled to the declaration she sought.

In 1908, Richard James Wilkinson, a scholar of Malay history, wrote on the status of Islamic law in the Malay States as: "There can no doubt that Moslem (Islamic) law would have ended up becoming the law of Malaya had not British law stepped in to check it" (Ibrahim and Joned 1987, pp. 56–57). This is further reiterated in *Che Omar Che Soh v Public Prosecutor and Wan Jalil Bin Wan Abdul Rahman & Anor v Public Prosecutor* [1988] 2 MLJ 55, in which Salleh Abas LP stated: "Before the British came to Malaya, which was then known as Tanah Melayu, the sultans in each of their respective States were the heads not only of the religion of Islam but also as the political leaders in their States, which were Islamic in the true sense of the word, because, not only were they themselves Muslims, their subjects were also Muslims and the law applicable in the States was Muslim (Islamic) law. Under such law, the sultan was regarded as God's vicegerent (representative) on earth. He was entrusted with the power to run the country in accordance with the law ordained by Islam, i.e, Islamic law and to see that law was enforced" (p. 56).

From the above discussion on the numerous laws promulgated by various Malay Kings in their respective Malay States and some relevant decided cases, it is noticeable even to a casual reader of the subject that Islamic law has been well integrated into the local legal system and thereby became the law of the land before any foreign occupation of Malay Peninsula.

Status of Islamic Law After the Foreign Occupation of Malay Peninsula

The foreign invasion into the Malay Peninsula began in 1511 from Malacca. From 1511 until 1640, the Portuguese occupied Malacca with the intention to dominate the trade in the Far East. Later, from 1641 until 1824, Malacca was occupied by the Dutch, and their main reason for the conquest was to ensure that their trade rivals, the Portuguese and the English, would not compete with them in Malayan waters (Sheppard 1959). During the Portuguese and Dutch administration of Malacca, the local Malays continued to practice Islamic laws and Malay customs as the governing law. The foreign powers had no interest in enforcing their laws in Malacca. In 1795, the Dutch surrendered Malacca to the British without resistance, mainly to prevent the State from falling into the hands of France when the latter captured the Netherlands during the French Revolution. Britain handed back Malacca to the Dutch under the Treaty of Vienna in 1818. In 1824, the Dutch gave permanent occupation of Malacca to Britain in exchange for Bencoolen on the West Coast of Sumatra.

The British expanded their colonial rule into other States in the Malay peninsula. This began when Captain Francis Light, on behalf of East India Company, took the island of Penang in August 1786 and made it the first territory in the Malay Peninsula that came under British possession. In 1824, Singapore and Malacca had also been placed under British control. In 1826, the above three States were grouped together

and referred to as the Straits Settlements. Accordingly, the Charters of Justice 1807 and 1826 were imposed into Penang as well as Straits Settlements, respectively, and these incidents marked, *inter alia*, the imposition of English law as the general law of the land. The above Charters set up the Courts of Judicature and made English law applicable to the native inhabitants and other residents in so far as their various religions and customs would permit.

Further, pursuant to the Charter of Justice of 1855, the two Courts of Judicatures were established, one having jurisdiction covering the island of Penang and the other for Malacca and Singapore. Subsequently, *vide* the Ordinance No. 5 of 1868, the above courts were abolished and replaced by the Supreme Court of the Straits Settlements. Appeals against the decision of the said court could be brought to the Judicial Committee of the Privy Council. In addition, a Criminal Court known as the Court of Quarter Sessions was also established and was presided in Singapore by the Junior Puisne Judge (Ahmad et al. 2019). In 1878, the Courts Ordinance 1878 established a new hierarchy of courts in the Straits Settlements, which was as follows: (i) the Supreme Court of the Straits Settlement; (ii) Courts of Requests, at each of the Settlements; (iii) Courts of two Magistrates, at each of the Settlements; (iv) Magistrates' Court, at each of the Settlements, (v) Coroners' Courts, at each of the Settlements; and (iv) Justices of the Peace (Ahmad et al. 2019).

The application of English law in Straits Settlements may be illustrated with reference to the following decided cases. In *Kamoo v Thomas Turner Bassett (1808) 1 Ky 1,* it was held that the 1807 Charter of Justice had introduced English laws as at 1807 into Penang so long as it is suitable to the conditions and circumstances of the local community. By analysing the above statement, it can be assumed that the newly imposed English law is applicable only when it is suitable to the conditions and circumstances of the local community, including the law of the land, which is the Islamic law with the mixture of Malay customs. Thus, English law can be disregarded if it is in conflict with Islamic law and customary law in place.

However, in the *Re Goods of Abdullah* (1835) 2 Ky Ec 8, Benjamin Malkin R held that the transfer of property wholly by way of a will by the deceased, a Muslim, was valid under English law even though the same was inconsistent with Islamic law. The judge, by completely ignoring the fact that a Muslim is bound to follow the Islamic Law in inheritance matters which are explicitly motioned in the Qur'an, said that:

> "I refer to the case of *Rodyk & Ors v. Williamson & Ors.* (May 24, 1834) in which I expressed my opinion that I was bound by the uniform course of authority to hold that the introduction of the King's Charter into these Settlements had introduced the existing Law of English also, except in some cases where it was modified by the express provision, and had abrogated any law previously existing. The law of England was introduced into Penang by the 1807 Charter and consequently a Muslim could, by will, dispose of his entire property even though such a will would be contrary to Muslim law" (p. 12).

This can be seen as a blatant attempt to subjugate the Malay local legal system and place it under the British newly imposed set of laws.

As the precedent of the subjugation of the Malay local legal system has been set by a case law earlier in the case of *Re Goods of Abdullah* by a single unconcerned judge

without any basis of legislation to that effect, Judge Hackett became even more aggressive and went on to say with his wild presumption to the extent that the 1807 Charter of Justice simultaneously made English law the *lex loci* of Penang in *Fatimah and Ors v Logan and Ors*. (1871) 1 Ky 255. In particular, he stated that: "When the British merchant based in a country occupied or somewhere with no civilised country, not only the English traders brought with them their laws from the mainland to the New Colonies, but English law is taken by those used on the population and residents of the new colony. …[T]he law of England was introduced into this settlement (Penang) immediately on possession taken in the name of the King of England by and for the use of the late East India Company; and law (if any) previously existing thereupon immediately ceased" (p. 257).

Although this bias judgment is clearly against any kind of legal reasoning based on natural justice, it served well and fine to the imperial bureaucracy. Thus, it is not surprising to witness that the Privy Council reaffirmed the application of English law in Penang in *Ong Cheng Neo v Yeap Cheah Neo and Ors* (1872) 1 Ky 326. In particular, the Privy Council stated that:

> "[I]t is really immaterial to consider whether the Prince of Whales' Island, or as it is called, Penang, should be regarded as ceded or newly settled territory, for there is no trace of any laws having been established there before it was acquired by the East India Company. In either view, the law of England must be taken to be the governing law so far as it is applicable to the circumstances of the place, and modified in its application by these circumstances" (p. 331).

In relation to the issue of whether the English Master and Servant Act 1823 was applicable to Penang *vide* the Charter of Justice 1826, Sir Benson Maxwell R. justified the application of English law in *Regina v Willans* (1858) 3 Ky 16, in the following words: "[A]gain, Penang being, at that time when it became a British possession, without inhabitants to claim the right of being governed by any existing law, and without tribunals to enforced any, it would be difficult to assert that the law of Quedah (Kedah) continued to be the territorial law after its cession" (p. 19). His justification is rather questionable as to whether the inhabitants were given rights to challenge the new colonial power's imposition of English law and express their wills to be governed by the existing law. Nevertheless, the judge's subconscious mind took cognisance of the fact that the law of Kedah was the applicable law in the territory and just that, due to the British occupation of the said territory, it is difficult to prove the continuation of the existing local law, i.e., the law of Kedah, at the time he formed his opinion in this case.

The several cases discussed above clearly showed that English law had been imposed in the Straits Settlements and, in some cases, superseded the Islamic law. Concerning the Malay States, Perak and Selangor came under British protection in 1874, Negeri Sembilan in 1875, and finally Pahang in 1888. In July 1895, the above States formed themselves into a federation known as Federated Malay States (FMS) with the capital in Kuala Lumpur. British Residents were appointed in the above States, who wielded considerable political and administrative power, and the Sultan had to consult the Resident on all State matters, except those pertaining to Islamic

administration and customs.[1] It is noteworthy that the Malay States, unlike the Straits Settlements, were not British colonies but sovereign States with the proper legal system in place and this had been recognised in *Mighell v Sultan of Johor* (1894) 1 QB 147, *Duff Development v Government of Kelantan* (1924) AC 797, and *Pahang Consolidated Co. Ltd. v The State of Pahang* (1933) 2 MLJ 274.

Despite the acknowledgment of independent sovereign States, the British managed to administer English law *vide* the informal imposition of these laws through the British appointed advisor known as Resident in each of these States. The British Resident was appointed as the advisor to the Sultan in all State matters except those pertaining to Malay religion and custom. Through the British Resident, a number of British Indian statutes were imported into the Federated Malay States. They include the Penal Code, the Contracts Ordinance, the Criminal Procedure Code, and the Civil Procedure Code. The existing religious courts of the FMS, namely, the Court of *Kathi* and Assistant *Kathi* were allowed to subsist along with the English court system with English trained judges such as Terrel CJ, Mill CJ, Woodward JC, Thorne J, and Edmonds JC. Many of the cases of these States were decided following the English law despite the fact that the parties may be locals. Islamic law was isolated and eventually confined only to matrimonial law, divorce, and inheritance.

The formal introduction of English law into the Federated Malay States was done by virtue of the Civil Law Enactment 1937 (No. 3 of 1937), section 2(1). The section provided that:

> "Save so far as other provision has been made or may hereafter be made by any written law in force in the Federated Malay States, the common law of England, and the rules of equity, as administered in England at the commencement of this Enactment shall be in force in the Federated Malay States. Provided always that the said common law and rules of equity shall be in force in the Federated Malay States so far only as the circumstances of the Federated Malay States and its inhabitants permit and subject to such qualifications as local circumstances render necessary".

The effect of this Enactment was that the English common law and rules of equity as administered in England at the commencement of this Enactment namely, 12 March 1937, became the governing law and thereby replacing the laws of the local inhabitants, namely, Islamic law and customary laws except on matters relating to personal matters such as family matters and inheritance.

Furthermore, in 1909, Siam transferred to the British all rights of suzerainty, protection, administration, and control whatsoever which she possessed over Kedah, Perlis, Kelantan, and Terengganu by virtue of the Anglo-Siamese Treaty 1909. Johor came under British protection in 1914. The above States were grouped together and referred to as the Unfederated Malay States (UFMS). British advisors were appointed who only served in a consultative capacity to the Malay Sultans. The Civil Law Enactment 1937 of the FMS was extended in its

[1] James Wheeler Woodford Birch, commonly known as J. W. W. Birch, the first British Resident in Perak was murdered on 2 November 1875 by followers of Dato' Maharajalela, a local Malay chief, for his total disrespect to the local custom and tradition.

application to the Unfederated Malay States by the Civil Law (Extension) Ordinance, 1951 (No. 49 of 1951).

Apart from the above, the following civil courts were established in the Malay States: Court of the Judicial Commissioner, Courts of the Senior Magistrates; Courts of Magistrates of the First Class; and the Courts of Magistrates of the Second Class was established alongside the local courts namely, the Courts of *Kathi* and Assistant *Kathi*, and the *Penghulus* Court. An appeal to the Privy Council was allowed in 1906. In 1948, the Courts Ordinance 1948 (No. 43 of 1948) established a judicial system for the Federation wherein the Court of *Kathi* and Assistant *Kathi* was omitted from being part of the Federal Court system. The significant aspect of the Ordinance is that it made the civil court's jurisdiction general and freed it from the limitations arising from *Kathi* court's jurisdiction. The Ordinance continued to apply throughout the Federation until it was repealed by the Courts of Judicature Act 1964 (Act 91) and the Subordinate Courts Act 1948 (Act 55).

As from the above, the British administrators applied English legal principle to solve the disputes through the civil court system as can be observed in the following cases: *Government of Perak v Adam* [1914] 2 FMSLR 144, *Motor Emporium v Arumugam* [1933] MLJ 276, *Mohamed Gunny v Vadwang Kuti* (1930) 7 FMSLR 170, *Haji Abdul Rahman v Mohamed Hassan* (1917) AC 209 (PC), and *Leonard v Nachiappa Chetty* (1923) 4 FMSLR 26. In several cases, the courts had clearly disregarded Islamic law, although the parties were Muslims. In *Ainan v Syed Abu Bakar* [1939] MLJ 209, the Evidence Enactment (FMS), section 112 which related to legitimacy, was enforced on the Muslims instead of Islamic law. The above section states that the birth of a child during a valid marriage or within 280 days after its dissolution shall be conclusive proof of the legitimacy of the child unless it can be shown that the parties to the marriage had no access to each other at any time when the child could have been begotten. The court stated: "Our Evidence Enactment is a Statute of general application, and that all the inhabitants of the Federated Malay States are subject to its provisions, whatever may be their race or religion" (p. 215). Therefore, the court held that in questions of legitimacy in the case of Muhammadans, section 112 of the Evidence Enactment applies to the exclusion of the rule of Muhammadan Law.

Again, in *PP v White* [1940] MLJ 214, the accused who resided in the Federated Malay States was initially married to a Christian lady in 1918 according to the rites and ceremonies of the Church of England. In 1936, while his first marriage was still legal, the accused contracted another marriage to a Christian lady according to Mohammedan (Islamic) law after they had been converted to the Mohammedan religion (Islam). The accused was charged and convicted for bigamy, an offence under the Penal Code enforced in the FMS.[2] The court noted, *inter alia*, that a

[2] The above section provides: "Whoever, having a husband or wife living, marries in any case in which such marriage is void by reason of its taking place during the life of such husband or wife, shall be punished with imprisonment of either description for a term which may extend to seven years, shall also be liable to fine".

person who enters into a marriage with a woman according to monogamous rites is subject to the obligations springing from a monogamous relationship. He cannot, whatever his religion may be, during the subsistence of the monogamous marriage, marry or contract marriage with another woman. The above decision is contrary to Islamic law, which allows a man to legally marry up to four wives. The other cases that had sidelined Islamic law even with regards to personal matters are *Martin v Umi Kelsom* [1963] MLJ 1 and *Re Maria Huberdina Hertogh*; *Adrianus Petrus Hertogh & Anor v Amina Binte Mohamed & Ors [1950] 1 LNS 64.*

As a final remark, it would be worthwhile to reproduce the observation by Salleh Abas LP in *Che Omar Che Soh v Public Prosecutor and Wan Jalil Bin Wan Abdul Rahman & Anor v Public Prosecutor* (1988) 2MLJ 55:

> "Before the British came to Malaya, which was then known as Tanah Melayu, the Sultans in each of their respective States were the heads not only of the religion of Islam but also as the political leaders in their States, which were Islamic in the true sense of the word, because, not only were they themselves Muslims, their subjects were also Muslims and the law applicable in the States was Muslim law. Under such law, the Sultan was regarded as God's vicegerent (representative) on earth. He was entrusted with the power to run the country in accordance with the law ordained by Islam, i.e, Islamic law and to see that law was enforced. When the British came, however, through a series of treaties with the Sultans beginning with the Treaty of Pangkor and through the so-called British advice, the religion of Islam became separated into two separate aspects, *viz.* the public aspect and the private aspect. The development of the public aspect of Islam had left the religion as a mere adjunct to the ruler's power and sovereignty. The ruler ceased to be regarded as God's vicegerent on earth but regarded as a sovereign within his territory. The concept of sovereignty ascribed to humans is alien to Islamic religion because in Islam, sovereignty belongs to God alone. By ascribing sovereignty to the ruler, i.e, to a human, the divine source of legal validity is severed and thus the British turned the system into a secular institution. Thus, all laws including administration of Islamic laws had to receive this validity through a secular fiat. Although theoretically because the sovereignty of the ruler was absolute in the sense that he could do what he likes, and govern according to what he thought fit, the Anglo/Malay Treaties restricted this power. The effect of the restriction made it possible for the colonial regime under the guise of 'advice' to rule the country as it saw fit and rendered the position of the ruler one of continuous process of diminution. For example, the establishment of the Federated Malay States in 1895, with the subsequent establishment of the Council of States and other constitutional developments, further resulted in the weakening of the ruler's plenary power to such an extent that Islam in its public aspect had become nothing more than a mere appendix to the ruler's sovereignty. Because of this, only laws relating to family and inheritance were left to be administered and even this was not considered by the court to have territorial application binding all persons irrespective of religion and race living in the state. The law was only applicable to Muslims as their personal law" (p. 56).

Accordingly, it can be seen that during the British colonisation of the Straits Settlements and the Malay States, through the establishment of their imperial bureaucratic system and secular institutions, Islamic law was isolated and slowly had reduced its application only to spheres of personal matters and inheritance (Hooker 1984).

Conclusion

Today, the Malaysian Legal System is mainly based on the English law tradition, which was a direct result of the British occupation of the Straits Settlements and the Malay States for more than 150 years from 1786 right up to 1957, with just one short interruption during World War II. In the Strait Settlements, English law was imposed by the British through the Charters of Justice whilst in the Malay States through the appointment of British Residents and Advisors and enactments of the legislation. The laws applicable in the Malay Peninsula before the British intervention into these States were Islamic law and Malay customary laws (A*dat*) as acknowledged by Edmonds CJ in *Shaik Abdul Latif v Shaik Elias Bux.* The administration of Islamic principles in the legal system was also back reflected in the constitutions of Johor (1895) and Terengganu (1911). Despite the fact that the Malay States were independent sovereign States, the imposition of English law in the Malay Peninsula had left the local law being marginalised, and it was made applicable only in relation to personal matters such as marriage and inheritance. RJ Wilkinson, an English scholar, in his scholarly writing entitled 'Papers on Malay Subjects' aptly noted that "Muslim (Islamic) law would have ended by becoming the law of the Malays had not British law stepped to check it" (Roff 1998, p. 211). In a nutshell, it can be construed that had not the British come and meddle with the existing local legal system of the Malay Peninsula to change it exactly to be like theirs, the current Malaysian legal system would have been the Islamic legal system.

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