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Undang-Undang Kedah Manuscript : A Law Canon Of An Early Malay State

1Adi Yasran A A, 2Mohamad Zaid M Z, 1Hashim M, 1Halimah H, 1Mohd Sharifudin Y, 3Syed Nurulakla S.A, 1Nurhidayah J, 4Ahamad Asmadi S.

1Department of Malay Language, Faculty of Languages and Communication, Universiti Putra Malaysia 43400 UPM Serdang, Selangor, Malaysia
2Centre for Islamic Thought and Understanding, University Technology Mara, 94300 Samarahan, Sarawak, Malaysia
3Department of Foreign Languages, Faculty of Languages and Communication, Universiti Putra Malaysia 43400 UPM Serdang, Selangor, Malaysia
4Department of Al Quran and Sunnah Studies, Faculty of Islamic Studies, University Kebangsaan Malaysia, 43600 Bangi, Selangor, Malaysia

ABSTRACT

The manuscript under study is based on a microfilm copy of the original version found in the SOAS Library, with the reference number MS 40329. The manuscript was written in 1067 AH (1650 AD) and took several years to complete. The content was divided into five sections namely Port Laws, The Law of His Royal Highness, the Canon of Law of Datuk Kota Setar, The Method of making the “golden flowers (tribute)”, and the Law of 1999 AH. On the whole, the Undang-Undang Kedah was a customary law which was beginning to be influenced by the Islamic law as practiced in an early Malay state. The study is aimed at discovering the historical evidence of the Malay legal system based on customary and Islamic canons of law in which became the basis of the life of the Malay traditional society. The Romanization from Jawi script and some description of the work has been done before, but analysis of the content of the work pertaining to the canon of law and the language used has not been studied thoroughly yet. This study is aimed at giving more detail description of the legal aspects besides describing the language used considered to be significant in understanding the work. However all aspects under study only focused on Port Laws to give more details in analyses. From a legal perspective, there was found much Islamic influence, however there were also Malay customary laws and inconsistencies with the requirements of Islamic law. It is also found that are many discrepancies between the vocabulary of MS 40329 and the other version of the manuscript. This study has an important implication for the philologist, historian and reader to understand the content and accurate reading of the manuscript under studied.

Key words: Philology, Malay, Manuscript, Jawi, vocabulary, history, Kedah Laws.

Introduction

Early stages in the development of Kedah’s government, showed the business activities were focused around the ports of the Sungai Mas and the Lembah Bujang. However, these did not persist for long as Kuala Kedah emerged in the early 17th century as the main Kedah port. Kuala Kedah was also known as ‘Kota Kuala Bahang Negeri Kedah Darul Aman’, as stated in ‘Undang-undang Kedah’ ML 25. At the time, Kedah was still under the suzerainty of the kingdom of Aceh which, from 1045 AH (1635 AD) barred Kedah from trading beyond ports under its control. All trade needed to be transacted in the port of Banda Aceh. Consequently, the Kedah ports were neglected during this period until Aceh became unstable following the death of Sultan Iskandar Thani in 1641 AD and its control over Kedah was weakened. After that, Kuala Kedah became busier with the commercial ships coming from all over the world including India, China and England. As a consequence of this, Kedah’s government took the initiative to codify the laws used to manage the port. The result is known as the Undang-undang Pelabuhan Kedah (Kedah Port Laws). These laws clearly show Islamic influence while also maintaining certain features of customary law as practiced by the Malay sultanates, particularly Malacca and Aceh (Ahmad Jelani Halimi 2002).
Several important studies have been made of the Kedah legal text. Studies which contain full transliterations of the Kedah legal texts have been published by R.O Winstedt (1928) and by Mariyam Salim (2006) and Undang-undang Perbuatan Datuk Besar Dahulu, has been studied and transliterated by Edwar Djamaris (1981, in Jelani Harun 2008). Other studies include those by Siti Hawa (1997), Wan Ab Rahman Khudzri and Mohd Afandi (2001), Ahmad Jelani Halimi (2002), Wan Shamsuddin (2002), Mahani (2006), Abu Hassan (2006) and Jelani Harun (2008), published in various forms and publishing media. Nevertheless, detailed analysis of Islamic influence on the Kedah Laws and of language usage has yet to be done.

Materials And Methods

Text Analysis:

There are several Malay legal manuscripts that contain versions of the Undang-undang Kedah. The manuscript selected for this study is SOAS MS 40329, reproduced in Mariyam Salim (2005). The same manuscript was also analysed by Winstedt (1928). This manuscript has been chosen because it is regarded as the most comprehensive manuscript. It is divided into five parts, namely the Kedah Port Laws, Seri Paduka Tuan Law, Canon of Law of Datuk Kota Setar, the method of making golden flower tribute, and the 1199 Hijrah Law. This study focused on part of the Kedah Port Laws. Comparative analysis was also done with the Kedah Port Laws in ML 25 manuscript at the Pustaka Nasional Indonesia, because there were some contradictory facts found in MS 40329. A few manuscripts which contain Undang-undang Kedah are listed below.

1. SOAS MS 40329 Undang-undang Kedah. This copy was reproduced by Winstedt (1928) and Mariyam Salim (2005). This text formed the basis of this study.
2. ML 25 (Bat. Gen. 25) Undang-undang Kedah, in Pustaka Nasional Indonesia. The beginning of this manuscript is almost identical to MS 40329, but the last portion of this manuscript is quite different. This text has been used in this study as a comparative text.
3. Raf. 77 Undang-undang Kedah, in Pustaka Negara Malaysia (microfilm). This text is similar to ML 25 and is believed to originate from the same source.
4. Undang-undang Kedah Ku Din Ku Meh at Arkib Negara Malaysia. This text was studied by Mahani (2006).
6. SOAS 40505 Undang-undang Laut Aceh version (Liaw 2003:34 35)
7. Maxwell 47 pp. 64–81 (Liaw 2003:33)
8. Von de Wall 57 Undang-undang Perbuatan Datuk Besar Dahulu, has been studied and transliterated by Edwar Djamaris (1981, in Jelani Harun 2008)
10. Undang-undang Perbuatan Datuk Besar Dahulu (Perpustakaan Negeri Kedah)

Result And Discussion

The Legal Perspective:

From a legal perspective, the Kedah Port Laws show substantial Islamic influence. This was mentioned by Wan Ab Rahman Khudzri and Mohd Afandi (2001). Examples include the use of the Hijri date, the declaration of Kedah as an Islamic state, the king takzir law, the sentence for not fasting during Ramadan and the inclusion of trade laws. However the Laws incorporate a mixture of Islamic elements and local elements which can give rise to conflict with pure Islamic law.

Date Determination

At the beginning of the Laws it is stated that the date of completion of their writing was:

"...In the year one thousand sixty, the year of zai, on the seventeenth of Jamadil akhir, on Friday, Shah Alam Yang Maha Mulia ordered Paduka Raja to copy and keep the law made by Dato’ Besar in the past...

(p. 1).

Although it is not mentioned whether the year 1060 is according to the Gregorian/ Christian Era (CE) or the Islamic Era (AH), it is common knowledge among researchers and readers of the manuscript that the year is to be taken as the Hijri year. However, not all researchers understand what is the ‘year of Zai’. This Malay year usage was common practice among Malay manuscript writers before 20th century. It was known as the ‘daur kecil’ and comprised an eight year cycle. Court writers and poets throughout the Malay archipelago supplemented the Hijri year by naming each cycle of 8 years as the year of Alif, Ha, Jim (Awal), Zai, Dal
Based on the date of the reign of the Sultan who ruled at that time, Wan Shamsuddin (2002) has calculated that the exact date on which the laws were completed was 26th June 1650 CE. However, based on Hijri-Gregorian conversion software the date was found to be 17th June 1650 CE which was indeed on a Friday as stated in the manuscript. The date conversion formula is as follows:

### Date Conversion

<table>
<thead>
<tr>
<th>Gregorian to Hijri</th>
<th>Hijri to Gregorian</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Day:</strong> 17</td>
<td><strong>Month:</strong> Jumada Al-Aakhirah</td>
</tr>
</tbody>
</table>

**Date entered:** 17 / 6 / 1060  
**The conversion result is:** Friday 17 June 1650 CE  
*There is a small probability of a one-day error.*

The use of the Malay ‘daur kecil’ cycle was also accurate, with each cycle comprising 8 years starting ‘with the Arabic letter Alif. Zai is the fourth letter. If the Hijri year is divided by 8, and the remainder is 4, then it is indeed the year of Zai. This means that based on the Hijri date in MS 40329 the calculation is as follows:

\[
1060 \div 8 = 132 \text{ remainder } 4 \text{ in accordance with year Zai.}
\]

As such, Friday, 17th Jamadil Akhir 1160 A.H. mentioned in manuscripts ML 25 and Raf 77 is incorrect because this date is equivalent to Monday, 26th June 1747 which was not during the reign of Sultan Rijaluddin Muhammad Syah, which is referred to in this law:

“...Verily this law is made while Sultan Rijaluddin Muhammad Shah resides in Naga, in consensus among the ministers, court officials and the scholars to safeguard its sanctity so that does not change...” (p. 8)

According to historians, Sultan Rijaluddin Muhammad Syah ruled from 1035 to 1062 AH, equivalent to 1602–1651 CE (Ibrahim 2008).

### Proclamation of Islamic state:

The manuscript states that the law ordered by the sultan was based on an Islamic state, which is:

“...Verily it is ordered by the Shah Alam Yang Maha Mulia and Yang Dipertuan Yang Maha Mulia that the court officials formulate a law of the kingdom so that there will be fixed rules and regulation of the town as well as the duty of the harbour master based on Islamic state ...” (p. 1).

The quotation above clearly shows that the Laws proclaim an Islamic and not just that Islam is the official religion. Polemic on the issue of the Islamic state still causes disputes in Malaysia as the matter is not clearly stated in the Federal Constitution of Malaysia. The Fourth Prime Minister of Malaysia, Tun Dr Mahathir Mohamad, has declared that Malaysia is an Islamic state (*Ucapan-ucapan Dato Seri Dr Mahathir Mohamad 1982* (1989: 111)). It was also emphasised by Tun Abdullah Ahmad Badawi, the fifth prime minister of Malaysia, that the Islamic state as practised in Malaysia is based on the Islam Hadhari (Islamic Civilisation) approach. This conception of Malaysia as an Islamic state was not acknowledged by the Bar Council of Malaysia in 2009 when it stated that there were nine pieces of evidence to show Malaysia is not an Islamic state. Among them were:

- **Article 4 of Federal Constitution proclaims that Federal Constitution is supreme law of Federation – not Islamic law.**
- **The ‘Father of Malaysia’, Tunku Abdul Rahman Putra Al-Haj, is reported to have said in the Dewan Rakyat (House of Representatives) (Hansard, 1.05.1958) that “I would like to make it clear that this country is not an Islamic state as it is generally understood, we merely provided that Islam shall be official religion of the state.”**

Undeniably the Kedah laws were also not completely based on Islamic law, however serious efforts were made to implement Islamic law fully as clearly stated in the quotation below:
“...All suitable laws with Islam would be proclaimed to the people once a year...” (Wan Ab Rahman Khudzri and Mohd Afandi 2001).

This point was emphasized further with a provision that the harbour master and policemen were permitted to arrest offenders against Islamic laws who would then be punished by the order (takzir) of the sultan, namely:

“...verily all offenders against the syariah laws are to be arrested by the harbour master and the policemen and punished by the order (takzir) of the king...” (p. 7)

Use of Qur'anic verses and Hadith:

Islamic law originated with the birth of Islam in the seventh century with the coming of Prophet Muhammad (pbuh), as a common law. Its also known as Shariah Law. This Shariah Law controls, rules and regulates all public and private behavior (Denis et al, 1994; Mancuso, 2007 in Mansoor Al A’ali, 2007). In the Kedah Port Laws, verses of the Qur'an were used as they are the highest authority for Islamic law. For example:

“...law related to sales and purchases, measures and weights should be based on the same law as mentioned in the Qur'an (nas) "tauful al-mikyala wa al-mizana" which means “complete your measure and weight...” (p. 7)

The closest verse related to the issue is in chapter 11 (surah Hud), verse 85 which means, “...and O my people! Give not short measure and short weight...”

The Islamic law contained in the Kedah Port Laws was supplemented by Islamic law relating murder, qazaf (accusation of adultery), stealing, matrimony and divorce, illegal trading, pledge, apostasy, the conditions applicable to witnesses and the law relating to the swearing of oaths in keeping with Islamic laws (Wan Ab Rahman Khudzri and Mohd Afandi 2001).

Laws inconsistent with Islamic requirements:

Although the Kedah Port Laws are heavily influenced by Islam, there are also many inconsistencies with Islamic law. This situation possibly occurred because takzir (punishment) sentences were implemented based on the sultanic ijtihad and also customary law. For example, punishment was imposed on persons not fasting during Ramadan:

“...if in the month of Ramadan, a man is seen in the market not fasting, then the staff of the harbour master must arrest him and feed him with grass in public or beat him in the market commensurate with the offence...” (p. 7).

This sentence is inconsistent with the Islamic requirement. Islamic fasting is a religious obligation for all adult healthy Muslims. As Islamic fasting is an ordain of Almighty Allah, Muslims observe the fasting with full etiquette, precaution and devotion in Ramadhan (Alam Khan et al, 2002). However, Islam always advises its followers to adopt the moderate way without going to the extreme of unrestricted (M. Iqbal Zafar et al, 2003). Islamic law requires that the government imprisons the offender and prevents him from eating and drinking during the relevant hours of the day in order that he fulfils, at least superficially, the requirement of fasting (Mustofa Al-Khin, Mustofa al-Bugho and Ali Asy-Syarbaji 1999).

The Linguistic Perspective:

The key to understanding Malay manuscripts is understand the lexical meaning of the terms used, which can be very complex. This is closely related to the Jawi writing system normally employed in Malay manuscripts. Based on an analysis of several transliterations of Malay manuscripts, it has been found that many mistakes are made by researchers. An example of such a mistake is found in the transliteration of the last colophon of ML 25/Bat. Gen. 25 which reads “dengan suruh Tuan Muster di Perlis” rather than the correct “dengan suruh tuan Mr. Raffles”.

However the transliteration by Mariyam Salim published in her book Undang-undang Kedah (2005) may be said to be fairly good, although there are some minor errors. This book is highly valuable and has provided evidence and complemented historical evidence of many matters including legal aspects and language usage in the 17th to 18th CE centuries. It certainly complemented the study done by Winstedt (1928) which is now difficult to find. However, Mariyam’s noble effort definitely encountered many challenges, especially the explanation of archaic words and making the transliteration true to the original writer’s meaning.

As many sentences are difficult to be understood because of the vocabulary used, the discussion in this paper will focus on explaining the meaning of that vocabulary. To ensure the right vocabulary is used, a comparison with the Kedah Laws in ML 25 was made. The result was that many words were found to be incorrectly interpreted which could affect the readers’ understanding. There are also many obscure words used in the text and, as such, this paper will focus on explaining those words.
Vocabulary Differences:

There is a lot of confusion when trying to understand the original Malay vocabulary used in MS 40329. Perhaps the original text was not read carefully by the copyist of this version of the manuscript or perhaps it was due to the nature of the spoken language or local dialect at that time. This assumption is made based on the misreading of a few words by the transliterator and also due to the difference in word usage in MS 40329 compared to ML 25.

Utusan (messenger) (MS 40329), Tebusan (hostage) (ML 25):

The word ‘utusan’ (messenger) in MS 40329 is used in place of the word ‘tebusan’ (hostage) in ML 25, as follows:

(“...and if those ships bought (and) brought a messenger / hostage a gold piece (seemas) per person, to be paid by the redeemer...”)

In the sentence above the word ‘tebusan’ is more suitable because it is followed by the word ‘yang menebus’.

Kurnia (favour) (MS 40329), Kerani (clerk) (ML 25):

The word ‘kurnia’ (favour) in MS 40329 is used in place of ‘kerani’ (clerk) in ML 25, as follows:

“...Verily when it is already completed, then the king must order the chief civil officer (panglima bandar) to call the captain (nakhoda) and favour/clerk and treasurer...that these three people would be called...” (p. 3)

In the sentence above, the word ‘clerk’ is more suitable because the subsequent words refer to people and not favour.

Sama Subuk? (سﺒﻮء سﺎم) (MS 40329), Sama Sebut (same mention) (سﺒﻮة سﺎم/سﺒﻮت سﺎم) (ML 25):

The words ‘sama subuk’ (سﺒﻮء سﺎم) in MS 40329 are used in place of the words ‘sama sebut’ (mutual agreement) (سﺒﻮة سﺎم/سﺒﻮت سﺎم) in ML 25, as follows:

“...if there is a loan to the king or an important person, then the captain (nakhoda) must offer gifts to the State Commander in order to free him, and the king must be informed of the transaction to request mutual agreement (sama sebut)...(p. 3)

In the sentence above, the words ‘sama sebut’ (mutual agreement) in ML 25 are more appropriate than ‘sama subuk’ as transliterated by Mariyam (2005).

Tafaus (ftenச) vs Tafahus (تﻔﺎحﺺ):

The word ‘tafahus’ means ‘examination’ or ‘inspection’ (Winstedt 1903). In the Risalah Legal Code manuscript Dublin version no. 1638 the words ‘tafaus menafaus’ are grammatically correct in Malay. In modern Malay, voiceless plosive consonants such as ‘p’, ‘t’ and ‘k’ at the beginning of native Malay root words are removed when preceded by nasals, for example the word ‘pakai’ becomes ‘memakai’, the word ‘tanam’ becomes ‘menanam’, and the word ‘kira’ becomes ‘mengira’. It is also normal to delete the consonant ‘h’ from classical Malay manuscripts and in MS 40329 itself, the ‘h’ is deleted from ma(h)ulah (p. 3), memberita(h)u (p. 3) and (h)ilir (p. 4) – mainly due to the influence of the spoken language. However, the word tafahus is not used anymore in modern Malay literature. In MS 40329 the word ‘tafaus’ is written in the place of ‘tafahus’:

“...then also gained the benefit of tafah(us) the gunpowder will become bullets and to buy rifle ammunition... (p. 6)

Hutang-hutangan (debt) (MS 40329), Tunang (fiancée) (ML 25):

The word ‘hutang-hutangan’ (debt) in MS 40329 is used in place of the word ‘tunang’ (fiancé) in ML 25, as follows:

“...and in legal terms, when a common person whose father has no royal title, kidnaps someone’s daughter or incurs a debt (hutang-hutangan)/fiancée (tunang), the sentence is impalement announced for three days. When the son of a warrior, whose father has a royal title, kidnaps someone’s daughter or fiancée, the sentence is takzir (punishment) for seven days... (p. 9).
In the sentence above the words ‘someone’s fiancée’ (atau tunang orang) are more suitable because in the subsequent sentence the word tunang (fiancée) is also cited.

Golokkan Kris (MS 40329) or Golok dan Keris (ML 25):

The words ‘golokkan keris’ (كوكلکن کریس) in MS 40329 are used in place of the words ‘golok dan keris’ (آﺮﻳﺲ آﻮﻟﻘﻜﻦ) in ML 25, as follows:

“...then the golokkan kris/golok dan keris are redeemed by ten cent (sekupang)…” (p. 7)

The sentence above clearly shows that the cost of redeeming a ‘chopper and dagger’ is ten cents. In this case the words ‘kan’ and ‘dan’ are spelt almost the same in Jawi and could thus have been mistakenly read by the copyist of MS 40329.

Madsaan (مﺪﺳﺎءن (MS 40329), Masanya (مسان) (ML 25):

The word ‘madsaan’ in MS 40329 is used in place of the word ‘masanya’ (his time) in ML 25, as follows:

“...when kings established customary laws for the kings, Allah almighty fixed his time (masanya) even if they are non-Muslims...” (p. 8)

Based on the passage above, the most suitable word would be ‘masanya’, not ‘madsaan’. The word ‘madsaan’ does not exist in either Arabic or Malay. This is similar to the case of the words ‘golok dan keris’ discussed above, which the copyist misread due to almost identical spellings.

Obscure Vocabulary:

There are a few words in MS 40329 which are difficult to understand, however these words are also written in ML 25. The words in question are three Arabic loan words: ‘arad, ‘qabd (al-)Mal and ‘aufu.

‘Arad (عرض):

This word is spelt ‘aradl in Wilkinson’s Jawi-Malay-English dictionary (1903) and given the meaning ‘hindrance’, the equivalent of ‘aral’ in modern Malay. However in the Kamus Besar Arab-Melayu Dewan (2006) the word ‘arad’ is given the meaning ‘see’ or ‘apparent’. As such, the word ‘arad’ has been borrowed from the Arabic but has undergone some semantic changes. The sentence that contains the word ‘arad’ is as follows:

“...then the chief civil officer (panglima bandar) was asked by a harbour master (syahbandar) a policeman of the Raja (H)ilir from the state to inspect the supercargo (nakhoda) and agree with the estuary commander (panglima kuala) to bring those ships into the estuary so that there was no hindrance and to get acquainted with the shipmaster and bring gifts to the shipmaster...” (p. 2)

The letter ‘dad’ is the most difficult letter in Arabic. As such, Malay speakers replace ‘dad’ with other near-identical sounds such as /l/. For example, ‘fardu’ (obligation) has become ‘perlu’ (‘need’) and ‘arad’ has become ‘aral’.

Qabd (al-)Mal (قﺒﻀﻤﻞ):

In Mariyam’s transliteration (2005) qabd (al-)mal (قﺒﻀﻤﻞ) in the original text is written as khabib khamal (خليب خمیل). The error occurred may have been caused by the writing having been unclear and the fact that the words are seldom used in Malay. According to the Kamus Besar Arab-Melayu Dewan (2006), the meaning of qabd (al-)mal is ‘to take property’. This may have undergone semantic change to become ‘bendahari’ (treasurer) based on the following sentence:

“...when it has been completed, the king order will order the chief civil officer (panglima bandar) to call the captain (nakhoda) and the clerk and the qabd (al-)mal...that three person called...” (p. 3)

The words ‘qabd al-mal’ are pronounced [qab.dul.mal] in Arabic. However, in both MS 40329 and ML 25, the letter lam may have been dropped to adjust it for the Malay tongue in which it is difficult to pronounce three closed syllables in sequence because such a phenomenon is rare in Malay.

‘Aufu (أوفر):

In three versions of the Kedah Laws – MS 40329, ML 25 and Raf 77 – the word ‘aufu’ is written that is in the singular, but in the Qur’an, it is written the plural form ‘أوفر’ because the call not to give the short measure or short weight is to all people as is commanded in sentence 85 of the Hud verse which means, “...and
O my people! Give not short measure and short weight...”. Although the passage reads as if it is correct, it is in fact written wrongly, and as such could affect the true meaning and be a mistake as it is not what is written in the Qur’an. The following is a translation of the passage that appears in MS 40329:

“...and it is a compulsory order to use fair scoops and measures of capacity and weight, do not give small (or) large, they should all be the same, because it is the command of Allah almighty, آوٓف المكيل والميزة it must be applied perfectly by all you to your measures and weights to all residents of the state...” (p. 2)

In the above sentence, “to all residents of the state” is not translated from the Qur’an but is rather a partial translation from the Qur’an. This addition does not explain the meaning of the quoted passage because the words that should actually be added are “with justice” which explain that measures and weights must be employed justly. As such, the additional words cause the sentence to have an improper.

Although much of the vocabulary in MS 40329 does not convey the real meaning of sentences, this does not mean that MS 40329 contains more mistakes than ML 25. If it appears so, it is because MS 40329 was the study text whereas ML 25 was only the comparative text. If ML 25 had been the study text and MS 40329 the comparison text, the result might have been different. For example, as discussed earlier, the date on which the Kedah Port Laws were directed to be written that was given for ML 25 has been proven incorrect.

Conclusion:

Based on the legal and linguistic perspectives discussed above, it is clearly shown that there has been a lot of misunderstanding by copyist and researchers of the Kedah Laws. From a legal perspective there was much Islamic influence, however there were also Malay customary laws and inconsistencies with the requirements of Islamic law. These matters need to be explained to avoid any misunderstanding of the justice in Islamic laws.

As for language, it is also found that are many discrepancies between the vocabulary of MS 40329 and ML 25. This shows that transliteration based on a single text is not sufficient to ensure a complete understanding in the contents of a manuscript. As such, comparative studies should be carried out on various versions of a manuscript, especially when there exist more than one version, such as the case with the Undang-undang Kedah.

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