The Culturalization of The Sect of Shafi'i In Forming Harmony In The Malay Society In Malaysia

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ABSTRACT

The Sect of Shafi'i is regarded as synonymous in the Malay community since the development of the Muslim teaching through local missionaries and religious teachers. Therefore, Shafi'i based-practices are very much inculcated within the Muslim Malay community in this country, as well as the fact that they are able to instill the sense of unity and harmony. Therefore, it needs to be maintained and nourished within the people of the mass. Something that is different or deviates from the norms of the sect of Shafi'i will sometimes evoke unpleasant feelings and discomfort among them. Baseless suspicions will bring about accusations that can break apart Malay unity and will certainly leave a long-lasting negative impact to the Muslim community itself. The main methodologies used in this article are field study and analysing previous written materials. The information obtained was edited and analysed qualitatively. The common approach adopted in the historical analysis is the multi-dimensional approach, done towards the complex phenomena, in order for it to be able to be edited effectively. Thus, this article will prove that the uniformity of practice to the particular sect is able to inculcate harmony and prosperity in the Malay society. Apart from that, this article should be able to depict the adherence of religious institutions to the fundamental stance of the Shafi'i sect, not because of their succumbing to the sect blindly, but sometimes, the consideration also lies in the environment of the society that have long accepted the doctrine as long as they can remember.

Key words: The Shafi’i Sect, Culturalization, Harmony, Malay Society

Introduction

This article provides the answer as to why the sect of Shafi’i becomes dominant among the Malay community, that it is able to generate the formation of harmonious Malay community by practising Islamic Shafi’i sect-based teachings. The discussion in this article only sheds light only on the Muslim Malay communities in Malaysia and do not reach the Muslim non-Malay counterparts in this country.

In addressing this issue, this article will seek to identify the elements that have become the catalysts to the Muslim Malay community in applying the sect of Shafi’i in their ways of life. The main methods adopted in the article are through the field analysis and the analysis of previous written materials. The data obtained have been edited and analysed in a qualitative manner.

The prominence of the sect in the lives of the Malays is seen to be capable of instilling the sense of unity among them in Malaysia. The complexities of the various sects have become the reason for disunity and unhappiness among the Muslim Malays. The history has captured that the traditional scholars of the Malay society, through their strengths of knowledge and commitment in spreading Islamic teachings have been able to unite the people of the Archipelago with the sect. The misunderstanding that has persisted in the practices of the Sect in the public can sometimes lead to dispute and disintegration among themselves, at the same time, it is seen as disappointing, especially when regarding the immeasurably valuable efforts of the scholars in developing the knowledge and in building the nation. The acts of challenging and disputing the practices of the public, who follows the Shafi’i Sect by certain parties can well invite some confusion when practising Islam.

In relation to this, Islam Development Office or (JAKIM) has made the initiative to make a stand whereby the schools of understanding and sects other than those of Shafi’i and Ahl al-Sunnah Wa al-Jama’ah must have its spreading to the society monitored, even though the two have been well acknowledged by the Shara’. This is because, the sects practised in Malaysia are those mentioned earlier: the sects of Shafi’i and Ahl al-Sunnah Wa al-Jama’ah (Wan Zulkifli bin Wan Hassan. 2002).

Nonetheless, if there are people who want to practise the sects other than Shafi’i and Ahl al-Sunnah Wa al-Jama’ah they need to register themselves with any of the State Islamic Departments. The practice, however,
only applies to themselves and not to be spread to others. It is crucial, to avoid the issue of the contradictions of the sect, being spread by any irresponsible parties (BAHEIS (JAKIM). 1993).

Subsequently, if the stream of thought or sect other than Shafi’i and Ahl al-Sunnah Wa al-Jama‘ah if spread freely without any monitoring coming from the community itself, it will lead to a lot of disadvantages and disintegration. Those who cause the suspicions of instigating bad or deviant teachings take advantage of teaching deviant knowledge without holding on to the method or approach permissible by Shara’, at the same time contribute to the disunity and lack of solidarity among the Muslim Malay communities.

In such a long run, the advent of Islam through Shafi’i missionaries or scholars has been an evidence of a great knowledge and community building contributions, if compared to other disciplines of sects. Obviously, the sect of Shafi’i has been accepted in the mainstream of the Malaysian community, whether at the level of the administrators or at the mass. This is possibly reasoned by the existence of certain elements, especially with regards to the scholars’ prominence as well as credible and reliable works that have been central to the sect in question.

The Arrival of Scholars and Missionaries In Malaya:

Among the most important element of priority regarding the sect of Shafi’i in the lives of the Malays would be the arrival of scholars and missionaries of Islam to their land. At the same time, it shows how the Muslim people in the Archipelago or the Malay Islands have come to subscribe to a particular religion, namely Islam. It is not precisely confirmed when Islam arrived at the Archipelago, but a few scholars have estimated that its emergence could be around the 13th century. There are opinions, even that believe that the arrival of Islam in this part of the world was actually earlier than the date stipulated, which was in the early first Hijrah century. The opinions were birthed, due to the existence of Muslim settlements, of those of the Arab and Persian lineage in the northern Sumatra, other than the trading relationship formed between the Middle East countries with the Malay realm (Syed Naquib al-Attas. 1969).

Having said that, what is certain and generally acceptable by fellow historians is that the arrival of Islam in the Archipelago had been reported to be around the 13 BC. North Sumatra had been the first place to receive Islam whether in Perlak or Samudera-Pasai (A. Hasjmy. t.t). In bringing into discussion the emergence of Islam in Malaya, according to most scholars, they are in agreement to say that the arrival of Islam started since the Islamization of Parameswara (who later changed his name to Sultan Muhammad Shah) in the year 1414M or early 15BC. The teaching of Islam had spread from Malacca to the entire Malay or Malaysia (Muhammad Yusoff Hashim. 1990; Ismail Hamid. 1983).

In Malaya, there has been a record of the islamization of Parameswara or Sultan Muhammad Shah, stating that he dreamt of seeing the face of the Prophet (Muhammad SAW); therefore he was informed by the Prophet that the next day, someone from Jeddah would arrive and pray on the shore of Malacca and he was to follow the man’s orders. Truth later be told- the dream had become real the next day. Sayyid Abdul Aziz went off the board of his ship and later performed a prayer. When the king saw the incident, he then embraced Islam, an act which was later followed by his people (W.G. Shellabear. (peny.). 1967).

Even that, according to Syed Muhammad Naguib al-Attas (1970) one of the local scholars, he discovered that Islam had long set camp in Malaya or Malaysia since 1303 BC. This is based on a date found on a written tomb which was discovered in Kuala Berang, Terengganu. Other opinions did mention that Islam has been in Malaysia since the 3rd Hijrah century, equivalent to the 10th century BC. Such an opinon was formed after a discovery of a grave tomb in Lembah Bujang that had dictated the date was reported. This shows that the advent of Islam to Malaya had taken place since the reign of the Abbasiyah Administration (Mansor Tobeng. 1965; Mahayudin Hj. Yahya. 1993).

Sultan Muhammad Shah’s embracing Islam in Malacca had carved the history of being the first state that accepted the influence of Islam extensively in Malaysia. This is due to the fact that the Islamic government established, had enabled Malacca to serve as a very powerful Malay Muslim government for a century, prior to the coming of the Portuguese who had colonized the state in 1511. The Malacca Muslim government had placed Islam as the basis for the ruling, in determining the policies which include laws, education, society and politics. The Islamic government in Malacca is also regarded as the first Malaysian state that introduced neatly written and complete, written laws. (Muhammad Yusoff Hashim. 1990).

An interesting phenomenon related to the Islamization of Malacca is the association with the spreading of the Shafi’i’s sect. This is caused by the arrival of Sayyid Abdul Aziz to Malacca as a missionary and he has a connection with Syeikh Ismail al-Siddiq who had introduced Islam in Pasai. They both originate from the Arab Peninsula which, at the time, was a Muslim territory under the wings of the Shafi’i’s sect. (Abdullah Ishak. 1992).

In relation to the original place of the Islamic missionaries who began to come to the Archipelago especially Malaysia, there have been some opinions expressed over this. The first opinion states that the missionaries from Arab countries were the first to have arrived in the Archipelago, including Malaysia.
According to Syed Qadr Allah Fatimi (1963) this is the opinion that has been well accepted by the historians before the year 1883 BC.

Meanwhile, based on the second opinion, the missionaries came from India. G.W. H. Drewes (1985) did mention that a Dutch researcher, Pignappel who did some research on Malay studies, claims that the spreading of Islam was ignited by the Shafi’i sect Arabs who had originated from Gujarat and Malibar India. Pignappel’s view had been an indication that he was the first historian who states that Islam came to Malaya or Malaysia not directly through the Arabs, but through Indians, but he does contend that the missionaries who spread Islam in Malaysia were the Arabs and not Indians. However, such a view is rejected by some other scholars including local historians who state that Arab countries were the places of origin of the missionaries (Ismail Ahmad. 1985; Abdul Rahman Abdullah. 2000).

Meanwhile, the third opinion comes from Syed Naquib al-Attas (1969) who states that the missionaries had come from China. This happened, during the era when a war had broken out involving the Arabs and other people in China. Consequently, Islam had begun to spread to places outside China. The first incident took place in 878 BC during the time of the Hai Tsung Dynasty, as the outcome of a rebellion started by Hwang Choa in Canton that had taken the lives of 100,000 foreigners, the majority of whom were Arabs. In effect, a lot of them had sought refuge to Malaya, particularly Kedah and Palembang.

The second tragedy took place at the end of the Tang Dynasty era, where 5000 foreigners were killed in a riot led by Tien Sheng Kong in the Yang Chow territory. This had propelled those who were safe to migrate to other countries, including Malaya (Abdul Rahman b. Abdullah. 1990).

Guided from several statements above, the differences of opinion concerning the origin of the missionaries have been very clear-cut. In resolving the conflict, Syed Muhammad Naquib al-Attas has attempted to come up with a solution, by asserting that the missionaries must have come from the same place which is Middle East and not from other countries. It is just that, before they arrived at the Archipelago, they must have ‘dropped by’ in other countries as well. (Abdul Halim al-Muhammady. 1982).

In actual fact, since the birth of the Prophet Muhammad SAW there had already been established a relationship between the Middle East, South-East Asia and the Archipelago. Such a relationship was mutual, manifested in the condition whereby the Arab and Persian traders would go to the Archipelago and those from Archipelago would make a point to stop in the Middle East and Persia. This is proven through the statement issued by Syed Sulaiman Nadvi (1992) who asserts that long ago, the Arab traders would be very occupied with their businesses either through the land or sea routes. The Arab Peninsula is linked to other lands through sea. This explains why China goods arrive in the Arab world, through the Hindi Sea and China Sea. As unfolded by the history, in the sailing and trading traditions, the Arab and Persian traders were those who were active players in the world of trading involving the eastern part of the globe. Therefore, the Archipelago, especially the Malay Islands served as the path of trading and a significant transit destination before the traders resumed their journeys. Other than embarking on their trading activities, they also passed the time teaching religion and spreading Islam in the Archipelago, including the Malay lands. (Hasan Ibrahim. 1991; Sidek b. Abdullah. 1998).

Other than the said traders making a transit in the the Malay Islands, there was also a possibility that the Malay traders accepted Islam from Yemen. This is because of the fact that since the era of the primitives, Yemen has been very well-known as an international business hub. Therefore, one big possibility is that the Malays had been one of the many missionaries that had done their businesses at the time. When Yemen embraced Islam, it then also influenced the Malay traders (Adil Muhyidin al-Alusi. 1994).

It is interesting that the arrival of Islam to the Archipelago including Malaysia has been accepted in the Shafi’i sect. This is very obviously seen in the laws (John Crawfurd. 1877; G.W.J. Drewes. 1985). The western expert historians who have been discussing the issue of the arrival of Islam to these places argue that the sect serves as the one dominant sect in the study of fiqh in the Archipelago (John Crawfurd. 1877).

Apart from that, in similar cases, it is learned that most Islam missionaries are not only credible missionaries and the sufists from the Arab lineage, but it is also learned that their influence had been too great that they were able to contribute towards the formation of Islamic governments and the spreading of the Shafi’i sect (Abdul Rahman Abdullah. 2000; Adil Muhyidin al-Alusi. 1994). Among the most interesting phenomena concerning the Arab influence is the role played by the Sayyid Hadramaut whose sect is Shafi’i (Abdul Rahman Abdullah. 2000; Mahyuddin b. Hj. Yahya. 1984).

At the same time, or even earlier, there had been an incident involving the coming of a new sect, Syi’ah. Its arrival in the Archipelago can be divided into two stages. The first stage began when some people from Syi’ah ‘Alawiyyin had escaped from a pressure exerted by a governor from the Umayyah Tribe who was known for his ruthlessness- al-Hajjaj Yusuf al-Thaqafi (695-705M). As refugees, mthey headed to Champa and later to the Sila Islands or the Sulu, Sulawesi and Kalimantan Islands (Wan Z. Kamaruddin. 1994/1995).

Then, at the second stage, at the beginning of 744 BC there was a rebellion of the Syi’ah ‘Alawiyyah in Persia led by ‘Abd Allah b. Mu’awiya. After losing to Marwan b. Muhammad (744-750BC), they ran off until they reached the Far-East other than settling down in by the China Sea which is in Champa. Thus, the origin of
the Champa Muslims is from the refuges of Syi’ah in the 8th BC (S.Q Fatimi. 1963; Abdul Rahman Abdullah. 2000).

This is solidified by the opinion held by Prof. A. Hasmary through his review on the book entitled Izhar al-Haq who states that in 800 BC, a group of 100 Syi’ah followers had arrived in Perlak, the northern part of Sumatera through India and Persia. Their arrival was led by Captain Khalifah due to the pressure and order of the ruler at the time named al-Makmun (198-218H/813-833H). In the duration of half of the century, they had succeeded in islamising the people of Perlak. From the marriage of the Captain with a local woman, they had given birth to Sayyid Abdul Aziz, who had later been able to build a Syi’ah government in Perlak which was the first in the Archipelago in 225H/840 BC (A. Hasmary. 1981).

This shows that the influence of Syi’ah had existed and accepted way earlier in the Archipelago compared to other four sects that it had become the earliest teaching in the first Islamic government in the Archipelago. One of the influences of the Syi’ah sect practised in the Muslim society in the Archipelago has been the Pepatih Customs. Asset distribution in the custom which gives heavier weight on the women is said to be influence by the sect of Syi’ah. It had been practised in the East Minangkabau throughout the 11th century until the 13th Century (Zulkifli Muda dan Nizaita bt Omar. 2006).

At this point, one could almost anticipate the conflict between the followers of the Ahl al-Sunnah with the followers of Syi’ah. Based on the opinion of A. Hasmary (1985), everytime there is a conflict between the two groups, the people of Ahl al-Sunnah have always outdone the power struggle, as seen in the case that happened in Perlak. The followers of Ahl al-Sunnah under the ruling of Sultan Alaidin Maulana Ali Mughayiat Syah (302-305H/915-918M) were able to oust the people of Syi’ah led by Sultan Sayyid Maulana Abdul Aziz Syah. This is due to the fact that the Abbasiyah government had deliberately sent the people of Ahl al-Sunnah all the way to Perlak.

According to a study, the spreading of Islam of the Shafi’i sect in the Archipelago and including Malaysia, had been a planned process. Syeikh Ismail al-Siddiq as one of the missionaries specially sent by Syarif Mekah to ask the people of Pasai to embrace Islam, those who were ruled by the Turkey Mamluk Government (650-922H/1252-1517BC). His arrival was not only to make Meurah Silu embrace Islam (changing his name to Sultan al-Malik al-Salih, but it was more for the purpose of altering the stream of belief of the sect embraced by the people of Pasai from Syi’ah to Shafi’i (A.H. Hill. 1960; Abdul Rahman b. Hj. Abdullah. 1989).

This is strengthened with a statement made by Ibn Batutah (t.t) who used to make a stop for a while in Pasai around 1345 BC. He managed to observe the Islamic sect embraced there and had stated that the sect that had been upheld by King al-Malik al-Zahir and the locals was that of Shafi’i.

From the above elaboration, it demonstrates that the Malay society had begun to know Islam based on the sect of Shafi’i and it is thought of as a very dominant sect which has won the hearts of the Malays in Malaysia despite the existence of other sects like Syi’ah which has equally been spread to influence them. Thus, if there is any effort shown to rob off the sect-based practices, especially one that is based on Shafi’i, then it will bring about some unpleasant emotions and effects, so much so that disintegration is imminent in the Malay society.

The Writing of Shari’a Texts From Local Scholars:

Among the solid elements that can be associated with the priority placed on the practice of following this particular sect in the Malay community would be the writings or works produced by the local scholars. In the meantime, Shari’a-based works or writings are not only produced by scholars from the places which practise Shafi’i but they are also produced by scholars from other states in the Archipelago like Thailand especially Pattani and Indonesia or more particularly in Aceh and Kalimantan. The study outcome establishes the fact that the works that come in the form of Shari’a texts in the states of the Archipelago are also influenced by the Shafi’i-based stream of thoughts.

In the 19th century BC, the writing of Shari’a texts had been very actively done due to the contributions coming from the Pattani scholars who had furthered their studies in Mecca. At the early stage, some of the books had been printed in Mecca and Egypt. Among the famous Pattani prominent figure who was also of the Shafi’i sect was Syeikh Daud b. Abdullah al-Pattani, who had productively written more than 14 legislative works, among them were the book *Furu’ al-Masa’il wa Usul al-Wasa’il, Bughuyah al-Tullab* and others, Hj. Ahmad b. Muhammad Zain b. Mustafa b. Muhammad Pattani who wrote two books *Bahjah al-Mubtadi’in wa Farahah al-Mujahidin* and *al-Fatowa al-Fataniyyah*, Syeikh Muhammad b. Ismail b. Daud al-Pattani with two very popular books *Matla’ al-Badrayn wa Majma’ al-Bahrayn and Washah al-Afrah wa Asybah al-Falah* and some others. The books that they wrote were sourced from the fiqh books of the same sect like *al-Minhaj* composed by al-Nawawi, *Nihayah* composed by al-Ramli, *Tuhfah* composed by al-Haytami, *al-Fatowa* by Syams al-Din al-Ramli and others. (Amir Syarifuddin. 1995; Ahmad Fathi al-Pattani. 2001).

In the 17th century BC, there was a famous Aceh scholar of the Shafi’i sect named Syeikh Abdul Rauf Singkel al-Fansuri who wrote a fiqh book in the Indonesian language entitled *Mir’at al-Tullab fi Tashil Ma’rifah Ahkam al-Syar’iyyah li Malik al-Wahhab*. His book was written based on a good book established like

Apart from him, there was also a great scholar from Kalimantan named Muhammad Arsyad al-Banjari who wrote Sabīl al-Muḥtaṭiḍ by the Sultan of Banjar. This book is sourced from a credible book in the sect of Shafi’i like Minhaj al-Tullab by al-Ansari, Niḥayah by al-Ramlī, Tuḥfah penned by al-Haytami and Muḥgni al-Muḥtaṭ by Khatib al-Syurbi. (Amir Syarifuddin. 1995).

Generally, the fiqh books written by the scholars from the Archipelago including Malaysia have referred to the sect of Shafi’i. What is certain is that, the writing of the fiqh books in Bahasa Melayu had started as early as the 17th century BC. The scripture or book called Sirat al-Mustaqim by Sheikh Nuruddin al-Raniri had been the oldest and the earliest Shari’a book not in the form of the code that had been discovered in Pahang, Malaysia. Although he came from a foreign country, he was already popular as a renowned Malay scholar and the first scholar to have pioneered the writing of a fiqh-based work in the Malay realm (Abdul Kadir b. Hj. Muhammad. 1996; Fadhllullah Jamil. 2001).

His work was written around the 17th century BC while he was residing in Pahang. The book contains approximately 93,000 words divided into several titles concentrated in the chapter of religious worship. In detail, he had segregated the content of the book into the book of al-taharah, al-salāh, al-zakah, al-siyam and al-hajj. Every book is further divided into several chapters and for every chapter, he had divided it into smaller parts which he named clause (Azra, Azyumardi. t.t; Saad Abd Rahman and Md. Akhir Hj. Yaacob. 2001).

As al-Raniri was a keen follower of the sect, he had his writings referred to several credible books and scriptures in Shafi’i. Among them were Minhaj al-Talibin by Imam al-Nawawi, Minhaj al-Tulab and his lecture Fath al-Wahhab written by Syeikh Zakariyya al-Ansari, Mukhtasir al-Fatawa by Ibn Hajar al-Haytami, ‘Umdah al-Salik wa ‘Uddah al-Nasik written by Syihab al-Din Ahmad ibn Lulu’ al-Naqib and also al-Anwar li A’mal al-Bararah written by al-Ardabili. The list of the reference was stated by al-Raniri himself in his book (Saad Abd Rahman dan Md. Akhir Hj. Yaacob. 2001).

The book Sirat al-Mustaqim was printed in Istanbul, Turkey, Singapore and Mecca in 1317 and 1319H in two volumes, together with the book Sabīl al-Muḥtaṭiḍ by Syeikh Muhammad Arsyad al-Banjari (Wan Mohd Saghir Abdulrah. 1991).

Other than the work of al-Raniri in Pahang, at the same time which was in the middle of the 17BC until the early of 18BC there was a writing by Syeikh Abdul Malik b. Abdullah or called Tok Pulau Manis in Terengganu. He had produced several works of fiqh in Bahasa Melayu such as Risalah al- Naqib, Kayfiyyah al-Niyah and Kitab al-Kifayah. In the books, there had been some elements of the sect. (Muhammad Abu Bakar. 1991).

Other than Terengganu, Kelantan also plays an important role in the writing activities that took the shape of the Shari’a texts. It had started to be detected at the end of the 19th BC. Among the Kelantanesse scholars that had been involved in the field of writing was Syeikh Abdul Sammad b. Muhammad Salleh al-Kelantani. His writing seen from his work Bidayah Ta’lim al-A’wam fi Tarf min Arkan al-Islam and Minhad al-Qarib al-Mujib wa Mughni al-Raghibin fi Targhib had clearly shown that it is was sourced from books of fiqh from the sect of Shafi’i. The book Bidayah Ta’lim al-A’wam fi Tarf min Arkan al-Islam aladah referred to several books of fiqh which are well-known books that adhere to the sect like Sharh al-Minhad, al-Tuhfah and al-Zawajid by Ibn Hajar al-Haytami, Hasiyah al-Bayjuri by Ibrahim b. Muhammad al-Bayjuri, Fath al-Qarib by al-Ghazi and other books (Abdul Kadir b. Hj. Muhammad. 1996).

Meanwhile, his book entitled Minhad al-Qarib al-Mujib wa Mughni al-Raghibin fi Targhib also makes close reference to several reliable sources from Shafi’i sect, among which are Sharh Qurrah al-‘Ayn, al-Majmu’, Tuḥfah and others. Apart from that, he also makes reference to the views of al-Ghazali, Ibn Qasim and al-Qadi. He also uses other views from other sects like al-Hanafi in his writings (Abdul Kadir b. Hj. Muhammad. 1996).

Other than the writing of Syeikh Abdul Sammad b. Muhammad Salleh al-Kelantani, there had been another prominent writer in Kelantan who had engaged in writing Sharia-based texts, named Tok Wan Ali Kutan. He used to teach in the al-Haram Mosque, Mecca and managed to produce several works of his own. Among them was Jawhar al-Mawhub which contains some elements of fiqh and discussions on moral and the advantages of religious worship. Yet, according to the writer, his book has been more on the form of khilafiyah (the scholars’ disputes) and the second non-khilafiyah (Abdul Kadir b. Hj. Muhammad. 1996). To elaborate more on this, the explanation of opinion in the form of khilafiyah was not confined to the sect of Shafi’i alone, but it was also expressed in the line of other sects as well, to resolve a lot of current issues at the time, given that there had been some pros and cons over the issue being discussed (Abdul Halim al-Muhammady. 1982).
An implication from this new phenomenon in the Malaysian fiqh, is that there has been an instability in the thinking of the sect of Shafi'i in its history of development in Malaysia. This conflict was roused by the youth at the early century of 20BC following the event at the time when there had been some Malaysian and Indonesian youth who were granted the opportunity to further their studies in Mecca, Egypt and India. Co- incidently, those countries at the time had received the surge of Islam in their religious thinking. In Hijaz they were influenced by the Wahabiyyah pioneered by Muhammad Abd al-Wahhab who had supported the way of thinking of Ibn Taymiyyah and Ibn al-Qayyim al-Jawziyyah. They were both from the sect of Hanbali. In Egypt, the methodology of Muhammad ‘Abduh of the sect of Hanafi had had its dominance, while in India, people had been influenced by the teaching of Wali al-Allah al-Dahlawi. In the Islam movement, urges of going back to the roots, the original destination when resolving every issue with reference to al-Quran, as well as urging people towards ijithad and not by means of taqlid, had been the central principles (Abdul Halim al-Muhammady. 1982).

These youth had attempted to bring in some improvements or changes to the resolution of conflicts. However, their efforts had been in vain, due to the consolidated stance and the pioussness of the scholars who had clung very firmly to the sect of Shafi’i, one which was able to be maintained through higher learning institutions that they had established and through the academic writings that had been rendered of high quality (Abdul Halim al-Muhammady. 1982).

At the initial stage, the discussion on the issue of khilaafiyah only took place verbally in rural villages around the 1920s until the end of the 1930s. The debate in the knowledge discussion was held, to resolve the issue brought up by those who came up with the impending pros and cons (Saad Abd Rahman dan Ustaz Md. Akhir Hj. Yaacob. 2001).

There were several works in the form of khilaafiyah- be it in the form of a manuscript or printed- had been found (Abdul Kadir b. Hj. Muhammad. 1996). One of the works was Risalah Ma’n a Niat. The leaflet was produced by a Kelantanese scholar named Hj. Wan Musa b. Wan Abdul Samad. As it was found, the leaflet was still in its written form, estimated written in 1925. It was written after a dispute took place in Kampung Laut, Kota Bharu, Kelantan concerning an issue related to niat (intention) and its muqaranah (loosely meaning, ‘the insertion of intention) in the prayer. The interpretation of niat included in this leaflet had been based on the view held by a renowned scholar, Ibn Hazm a prominent scholar who was of the sect al-Zahiri. Among the book referred was Bughyah al-Murtarsyidin fi Talkhis Fatawa Ba’d al-A’immah min ‘Ulama’ al-Muta’akhirin by Mufti Hadramaut, Yaman namely al-Sayyid ‘Abd al-Rahman b. Muhammad b. Husayn b. Umar, Ithaf al-Sadah al-Muttaqin by al-Sayyid al-Murtada al-Zabidi, Tarsiyih al-Mustafidin by al-Sayyid ‘Alwi b. al-Sayyid Ahmad al-Saqqaq. Apart from that, his reference was also made on Bughyah al-Tullub by Daud al-Pattani and others (Saad Abd Rahman dan Ustaz Md. Akhir Hj. Yaacob. 2001).

Apart from that, in Perak scholars like Syeikh Jalaluddin also joined in, in writing Sharia-based texts with some elements of khilaafiyah. This is because, he had been among the scholars who had activated the Islam movement, which was also seen as the movement of the youth. Among the work that he had produced was Inil Huraian Yang Membakar Persuratan Haji Bakar Pada Menyatakan Hukum Dua Rakaat Qabliyyah Jumaat (translated as This Is The Elaboration Which Burned The Scriptures of Haji Bakar Upon The Statement On The khilafiyyah). This work had refused the opinion of Haji Abu Bakar bin Hj. Hasan, former Kadi of Muar, Johor who touched on the issue of the non-compulsory Friday qabliyyah prayer after the imam (prayer leader) stands on the mimbar to give his preachings. In his writing, he had referred to several books among which were Syarh Sahih Muslim by Imam al-Nawawi, Huda al-Sari by Ibn Hajar al-‘Asqalani. He had also perused a lot of credible books in the sect of Syufi which were Fath al-’Aziz Syarh al-Wajiz by Imam al-Rafii, Tuhfah al-Muhtaj by Ibn Hajar al-Haytami, al-Majmu’ by al-Nawawi, Bughyah al-Murtarsyidin fi Talkhis Fatawa Ba’d al-A’immah min ‘Ulama’ al-Muta’akhirin by Mufti Hadramaut, Yaman who was al-Sayyid ‘Abd al-Rahman b. Muhammad b. Husayn b. Umar and some others. He also closely consulted other scholars’ opinions like those of Ibn Hazm, Imam Malik and others (Saad Abd Rahman dan Ustaz Md. Akhir Hj. Yaacob. 2001).

There were also several other khilaafiyah works that had made their way in the Malay writings, among which were Risalah Penting Dalam Masalah Jilatan Anjing dalam Empat Mazhab (translated as ‘Important Leaflet In The Issue of Dog Licking in Four Sects’) by Hj. Abbas b. Taha and the book al-Qawl al-Mufid li Ifadah al-Mustafid by Hj. Muhammad b. Idris anda few others (Abdul Halim al-Muhammady. 1982; Saad Abd Rahman dan Ustaz Md. Akhir Hj. Yaacob. 2001).

At the same time, there was also the kind of writing that had adopted the format of comparing the laws of the Shara’ with the legislation that had been of practice. Meanwhile, several others had discussed the principles of the sect of Shafi’i which were placed next in comparison with those of other sects. Among them were Jenayah Murtad dari Sudut Hukum Syarak dan Perundangan Islam (The Crime of Deviancy From The Perspectives of Shara’ and Islamic Legislation) and Fiqh Mazhab al-Shafi’i dan Pendapat Imam-Imam Mazhab Empat (The Fiqh Of Shafi’i and The Opinions of Imam of The Four Sects) by Hj. Said b. Hj. Ibrahim. In both of
these books, other opinions of other sects were also given equal elaborations (Saad Abd Rahman dan Ustaz Md. Akhir Hj. Yaacob. 2001).

There was also one more form of writing that had been of focus, a fraction of it had changed form into the professional writing that was based on the writers’ own fields of expertise. Among them were Konsep Ibadat Menurut Islam (The Concept of Religious Worship Through Islam) by Prof. Madya Dr. Mustafa b. Hj. Daud, Asas Pembaruan Keluarga Islam (The Fundamentals of the Islamic Family Building) by Prof. Madya Datin Dr. Paizah bt. Ismail, al-Nafaqah wa al-Syiaq wa al-Ta‘addud al-Zawijat wa Kayfa ‘Alajaha al-Islam by Dato’ Dr. Haron Din, Sistem Kewangan Islam dan Perlaksanaannya Di Malaysia (Islamic Financial System and Its Implementation In Malaysia) by Prof. Madya Dr. Abdul Mumin b. Ab. Ghani, Undang-Undang Jenayah Islam-Jenyayah Qisas (Islamic Criminal Laws-Qisas Crime) by Prof. Madya Dr. Mat Saad b. Abdul Rahman and some others.

From observation, some of the institutions have their own journals which discuss Shari’a aspects and legislative issues like the Journal of Laws of the Islamic Center, UM Shari’a Journal, UKM Shari’a Issues Journal, IKIM Law Journal and al-Ahkam Journal, DBP. Other than that, in this century there have also been some Muslim scholars who have embarked in the worlds of writing and researching and producing research in various fields following their own respective expertise. This is evidenced by the writing produced by some academicians from the Islamic Studies Faculties in the UM, UKM and other Islamic higher learning centers (Saad Abd Rahman and Ustaz Md. Akhir Hj. Yaacob. 2001).

The reference materials used by them are extracted from various Shafi’i-based reliable books also books on all four sects like Hanafi, Maliki, Shafi’i and Hanbali. Sometimes, they also adopted the views held by those from the al-Zahiri sect. Other than that, the language used was Bahasa Melayu which was adaptable to the understanding of the society that had no longer used the way of thinking applied in the previous era. However, seeing that the sect of Shafi’i has been firmly seated in the Muslim communities in Malaysia, there have been some works of Shari’a texts by the scholars in the 20 BC, which are still bound by the sect of Shafi’i. In Malacca there was a book entitled Tahmid al-Musalli written by Abdul Hamid b. Ahmad Malacca al-Rawwa. His book was written in 1340H or the year 1921BC and which was edited by his own teacher, al-Syeik Muhammad b. Abdul Rahman al-Pattani. This book had been composed, sourced from the books of fiqh in the sect of al-Syaafi’i namely Hasiyah al-Bujayrimi ‘ala al-Iqna’ also Hasiyah Sawi ‘ala al-Jalalayn (Abdul Kadir b. Hj. Muhammad. 1996). In Selangor there was also a Shari’a based book, that had been influenced by the sect of Shafi’i. This is clearly seen from their writing, one of which was the book al-Jawahir al-Safiyyah fi Mukhtasar Madhhab al-Shafi’iyyah by Raja Hj. Uthman b. Raja Yahya (Abdul Kadir b. Hj. Muhammad. 1996; Saad Abd Rahman dan Ustaz Md. Akhir Hj. Yaacob. 2001). In Kelantan there were also some scholars who had produced the works that were confined to the doctrine of the fiqh laws of the sect. Among the earliest fiqh works in the century was Pelajaran Membahagi Pusaka (Collective Prayer Guide) comes in 46 pages. This work, is yet another fiqh book that leans very closely onto the particular sect called Fath al-Mu’in by Syeikh Zaynuddin b. Ahmad Malibari and his lecture I’anah al-Talibin by Abu Bakrb. Sayyid Muhammad Syata al-Dimyati (Muhammad b. Jusoh. 1995; Hj. Abdullah. 2005).

One of the works was by Harun bin Muhammad al-Samad al-Kelantani. During his time, he had produced some writings in the Shari’i field. Among them was Durus al-Tawhid wa al-Fiqh wa al-Tasawwuf that was printed in the year 1949BC. In his writing, he had referred a lot to some Arabic books of the Shafi’i sect such as Munyat al-Musalli and Sulam al-Muhtadi by Syeikh Daud al-Pattani, Wushah al-Afrah and Matla’ al-Badr may by Muhammad bin Ismail al-Pattani also Kasyf al-Lithan by Zayn al-‘Abidin bin Ahmad al-Pattani. He also referred to the scholarly books of the same sect like al-Bujayrimi ‘ala al-Iqna’ by Sulayman b. Muhammad al-Bujayrimi and Fath al-Wahhab by Zakariyya al-Ansari (Abdul Kadir b. Hj. Muhammad. 1996; Saad Abd Rahman dan Ustaz Md. Akhir Hj. Yaacob. 2001).


Syeikh ‘Uthman Jalaluddin was also among the Kelantanese prominent figures who had produced a great deal of work in legislative fiqh. One of his composition was the book entitled Majami’ al-‘Ulam wa Manabi’ al-Fuhum that serves as the translation and the detailed elaboration on the book of fiqh in shafi’i namely Fath al-Mu’in or also labeled as Syarh Fath al-Mu’in in Bahasa Melayu (Ismail Che Daud et. al. t.t).

In Pahang, a writing in the form of article entitled al-Jam’ al-Raiq discusses masbuq and muwafiq mass prayer member. The work is written by Hj. Muhammad Amin b. Hj. Muhammad Tahir Mengkabdu (Minangkabau) as he was staying in the Kuantan Village, Pahang. His composition was extracted from the book Bahijah al-Radiyah by Syeikh Daud al-Pattani and the views of some Shafi’i advocators namely al-Ramli dan Ibn Hajar. The book al-Jam’ al-Raiq was printed in 1934 and had 11 pages (Abdul Kadir b. Hj. Muhammad. 1996).

In the view of the professional writing, there were also works that are strictly based on the Shafi’i sect like Solat Jemaah Menurut Mazhab Syafei (Collective Prayer From The Sect of Shafi’i) by Prof. Madya Mohd Salleh b. Hj. Ahmad. Most reference used for this book was resourced from the books of the sect of Shafi’i either in the Arabic version or Arab version. (Hj. Mohd Salleh Hj. Ahmad. 2003; Saad Abd Rahman and Ustaz Md. Akhir Hj. Yaacob. 2001).

Based on the above explanation, it looks as if the writing produced by our local scholars at the early stage Malaysia had really relied on the opinion and the sect of Syafii. Nonetheless, in the 20th century BC, the writing of these local scholars, was not confined to the opinon held by those of the sect alone, but also from that of other sects. The development has not affected the influence of the sect because some major works of the local scholars are still very much bound by the discipline of the sect. This mirrors the fact that the sect of Shafi’i is still dominant in the development of the Shari’s text writing among the Malaysian community. The public has become more familiar with the books composed by scholars in the Shafi’i sect rather than the work of scholars whose sect is other than Shafi’i. This symbolizes just how strong they are in believing in the sect practice so much so that it is instilled as culture and becomes part of their lives.

**Education:**

The Shafi’i sect has left such a great impact in the traditional education in Malaysia. The priority given to this sect is apparent in multiple forms of teaching and learning systems that have either existed formally or otherwise. In the history of the Islamic education in Malaysia before the emergence of the colonization of the British and during the occupancy of the British, traditionally the kind of education is found to follow the informal education in the ‘surau’ (small mosque) and religious schools or the madrassas. The religious schools or madrassas were mostly found in Kelantran, Terengganu also Kedah (The Editorial Board of Budiman Group Pte Ltd. 2005).

Before the hut learning system had been prominently established in Malaysia, the Islamic education was struggling to find a place among the people. This was because the education had only taken place in the religious teachers’ homes, the houses of the dignitaries, at the mosques, and also palaces. The norm was that, the teacher would be bringing up various religious issues from a lot of fiqh books and explain them to the students by means of halaqah or in groups (Fadhullullah Jamil. 2001; Muhammad Zahiri b. Awang Mat. 1996).

At the time, the knowledge of fiqh and usul al-fiqh were among the most important subjects taught at the institutions. If we look at it as whole, the fiqh usul al-fiqh reading materials used and taught there, contained some elements of the sect, regardless of the fact that the books were in the Bahasa Melayu version or in the Arabic version (Abdul Halim al-Muhammady. 1982).

This is explained by the fact that fiqh spread so well in the Archipelago had been carried by missionaries with belief in Syafi’i sect. Obviously they had resorted to the Shafi’i based fiqh books that had been made the point of reference to resolve any issues or conflicts that took place in the community. It was also found to have been able to unite the people in a community and the fiqh of this particular sect made a subject in various debates and arguments put forth by the local scholars (Abdul Hadi Muthohar M.A. 2003).

Most fiqh texts written in the Classical Malay Language taught in the institutions were actually coming from the works by the Pattania nd Indonesian scholars. The books had provided some great contributions to the advancement of the traditional learning in huts in Malaysia up until now (Abdul Halim al-Muhammady. 1982).

Among the work of Indonesian scholars who are of the Shafi’i sect is the book entitled al-Sirat al-Mustaqim by Raniri yastill learnt in the Malaysian huts until now. In the form of printing, the book was noted by the edge of the book called Sabil al-Muhtadin composed by Muhammad Arshad al-Banjari. Among the centers which had used the study texts as the learning texts were the Melele and Pondok Lanai Huts, Kedah, Pondok Kerandang, Terengganu and others in Kelantran, among which were Lubok Tapah Pasir Mas Hut, al-Bakriyyah Pasir Tumboh, Tok Jelapang, Tok Serindik, Hj. Ibrahim Tok Raja, Hj Abdullah Senik, Hj. Awang Fakir, Sungai Durian and various other huts (Fadhullullah Jamil. 2001; Muhammad Zahiri b. Awang Mat. 1996).

Other than that, the book titled Sabil Muhtadin also serves as the teaching material for the “hut” education in Malaysia especially in the Melele Hut, Lanai Hut, Pak Ya Hut (Padang Lumat, Kedah), Tok Serindik Hut and…
Among the *fiqih* books of the Classical Malay of the Arabic version of the Shafi‘i sect written by the Pattani scholars that were still of use in the hut learning centers in Malaysia, especially in Kelah and Kelantan like Hidayat al-Muta‘alim, Munyat al-Musalli, Bughyat al-Tullab as well as Furu‘ al-Masa‘il by Syeikh Dawud al-Fattani, al-Bahr al-Waf‘i wa al-Nahr al-Safi and Matla‘ al-Badrayn penned by Syeikh Muhammad Ismail Dawud al-Fattani, Kifayah al-Muhtadi by Muhammad Nur b. Ismail al-Fattani, Wisyah al-Afrah wa Asbah al-Falah by ‘Abd al-Ghani Muhammad b. Ismail Dawud al-Fattani and the book Kasy al-Litham wa Majma‘ al-Bahrayn by Zayn al-Abidin al-Fattani (Fadhullah Jamil. 2001; Muhammad Zahiri b. Awang Mat. 1996; Ismail Che Daud et. al. 1996; Abdul Halim al-Muhammady. 1982). Not only the Shafi‘i books of Fadhlullah Jamil. 2001; Muhammad Zahiri b. Awang Mat. 1996; Abdul Halim al-Muhammady. 1982; Ahmad Fathi al-Pattani. 2001). Meanwhile the book that adopts the approach of Fadhlullah Jamil. 2001; Muhammad Zahiri b. Awang Mat. 1996; Abdul Halim al-Muhammady. 1982; Ahmad Fathi al-Pattani. 2001). The big possibility of such a development taking place in Malaysia, is reasoned by the effect from the factor of the influence of the sect of Shafi‘i in the religious life of the Islamic community in Malaysia, other than bring into the discussion the possibility of naming the sect as the grounds for the construction of Islamic Legislation, administration and others. This is evident through the establishment of Madrasah al-Ahmadiyyah, government, as the latter does not use any *fiqih* holy books and Shafi‘i-based texts in the study of *fiqih* in Malaysia to this very day. To exemplify, The Religious Schools in Kelantan including the Modern Hut (the “hut” learning center adaptable with the current conditions) administered by the Kelantan Islamic Foundation (YIK) are still making use of the *fiqih* books of the particular sect.

The holy books of *usul al-fiqh* o the same sect have also been selected as the learning texts. Among these are the *al-Waraqat* composed by Ahmad ibn Muhammad al-Dinyati, *Syarh al-Waraqat* by Jalal al-Din Muhammad b. Ahmad al-Mahalli, *al-Luma‘* by Abu Ishaq Ibrahim b. Ali al-Syirazi, *Jam‘ al-Jawami‘* by Taj al-Din ‘Abd al-Wahhab al-Subki ibn al-Subki, *Lubb al-Utsul Mukhtasur Jam‘ al-Jawami‘* and Ghayah al-Wusul ila syarh Lubb al-Utsul by Zakariyya b. Muhammad al-Ansari. Meanwhile, the book of *al-Asybah wa al-Naza‘ir* by Jalal al-Din ‘Abd al-Rahman al-Suyuti that discusses the methods of *fiqih* in the sect of Shafi‘i is also used in the institutions (Muhammad Zahiri b. Awang Mat. 1996). An interesting point to make is that, among the most important characteristics in the establishment of the “hut” learning centers is the fact that the influence of the sect of Shafi‘i is made more profound and stronger in the lives of the society, involving *fiqih* problems as acts of worship, Buy-and-Sell, marriage, divorce, legislation, administration and others. This is evident through the establishment of Madrasah al-Ahmadiyyah, Bunut Payong, Kota Bharu, Kelantan founded by Tuan Guru (The Master) Hj. Abdullah Tahir. He was the most prominent figure in conducting and materializing the peak of the *fiqih* learning, of the sect. He was even acknowledged by the local community as one among the most prominent Kelantanese *fiqih* scholars under the sect of Shafi‘i, who is also good at defending the stream of the sect if there should be an occurrence of the riotous *khilafliyah* that broke out in his era (Muhammad Zahiri b. Awang Mat. 1996; Ismail Che Daud et. al. 1996). Despite the fact that the “hut” learning centers are more prominent in terms of the usage of *fiqih* texts or Shafi‘iyyah-streamed *usul al-fiqh* in the syllabus, it does not mirror any learning institutions administered by the government, as the latter does not use any *fiqih* holy books and Shafi‘i-based *usul al-fiqh* as the syllabus.

This can be seen in the majority of the books that are still used as texts in the study of *fiqih* in Malaysia to this very day. To exemplify, The Religious Schools in Kelantan including the Modern Hut (the “hut” learning center adaptable with the current conditions) administered by the Kelantan Islamic Foundation (YIK) are still making use of the FIQH books of the particular sect. In the higher secondary level of the religious schools (*al-thanawiyyah*), the book *Syarh Ibn Qasim ‘ala Matan Abi Syuja‘* is raised as the educational syllabus. In the meantime, the syllabus for the subject of *fiqih* applicable in the Modern Hut is also tied with the books of *fiqih* under the stream of Shafi‘i like the *Fath al-Qarib, Fath al-Mu‘in* and *Syarh al-Mahalli ‘ala al-Minaj*. The holy books of *usul al-fiqh* taught there are *Syarh al-Waraqat, Jam‘ al-Jawami‘* and *Syarh Jam‘ al-Jawami‘*. Meanwhile the book that adopts the approach of *fiqih* is selected to be *al-Asybah wa al-Naza‘ir* (Muhammad Zahiri b. Awang Mat. 1996). The big influence and impact of the sect of Shafi‘i in Malaysia, is overwhelming so much so that in some higher learning institutions in Malaysia like Universiti Malaya, they have offered a course at the degree level that particularly discusses the sect in Malaysia. This course will serve as an exposure to the students of Shafi‘i sect Islamic development history in Malaysia. What is also contained in the course is the analysis of the extent of the influence of the sect of Shafi‘i in the religious life of the Islamic community in Malaysia, other than bringing into the discussion the possibility of naming the sect as the grounds for the construction of Islamic Laws in Malaysia (Universiti Malaya Islamic Studies Academy. t.t).

The big possibility of such a development taking place in Malaysia, is reasoned by the effect from the factor concerning the educational development found in the countries of the Archipelago like Indonesia, Brunei, Thailand especially in Pattani and others (Amir Syarifuddin. 1995; Pg. Dr. Hj. Mohammad b. Pg. Hj. Abdul Rahman. 2001; Ahmad Fathi al-Pattani. 2001).
Nevertheless, at the end of the 20th century, the studies of fiqh and usul fiqh at the higher institutions in Malaysia, either at the degree or the masters level, are not only confined to texts from the stream of Shafi’i alone as the measurement of the studies, but they also involve texts written by other sects and become sources of reference. The references are not limited to Bahasa Melayu and Arabic versions of the fiqh books, but reference books in English have also been of use (Universiti Malaya Islamic Learning Academy, t.t).

From the elaboration and explanation offered above, it is apparent that the knowledge basis of fiqh taught in huts, mosques, madrassas, and religious schools at the Archipelago, especially in Malaysia is based on the holy books aforementioned. It is thought as adequate to reflect that the influence and effect of the sect are very much felt by the Malaysian communities, even though various references from other sects have been made public in the higher learning centers.

As most of the Islamic communities in Malaysia are exposed to a particular stream of thought of the sect in the knowledge delivery process, it does not mean that there will emerge a fanatical attitude towards the sect and that it is difficult to accept the views given by people from other sects. This is due to the fact that the mainstream general public is more comfortable to accept the stream of the Shafi’i sect as compared to the university students who are more open to the diverse sects provided in their courses. Hence, the study of multiple sects in the mass, is more often than not, deemed unsuitable and does not match their capability, as there is a high chance that they will disintegrate and break apart.

Legislation:

The implication of the sect is not only influential to the public through the books of fiqh and usul fiqh produced by the local scholars and the educational syllabus applied and taught in Malaysian higher learning institutes, but it also leaves an impact to the ruling people in the politics and the legislative system in Malaysia since the 15th century (Abdul Kadir b. Hj. Muhammad. 1996; Abdul Halim al-Muhammady. 1981).

This is proven through the formulation of Hukum Kanun Malacca (Malacca Laws) that is one of the key aspects in the legislative history in Malaysia. Every clause introduced in the article of Hukum Kanun Malacca is drawn in comparison with the credible source of Islamic legislation namely al-Quran and Hadith also Islamic legislative texts in the Shafi’i sect (Abdul Kadir b. Hj. Muhammad. 1996).


According to Liaw Yock Fang (1976), Islamic laws found in the Malacca Laws are extracted from the books of fiqh from the Shafi’i sect. He has the opinion that the family laws found in Clause 25-28 are translated from the books of fiqh in the sect. Meanwhile, clauses related to the process of muamalat or Buy-and-Sell and Procedures are taken directly from al-Taqrib composed by Abu Syuja’, Fath al-Qarib by Ibn al-Qasim al-Ghazi and Hasyiyah ‘ala Fath al-Qarib by Ibrahim al-Bajuri.

One of the examples of the influence of Shafi’i’s stream of thoughts in the Malacca Laws is one contained in the family laws which touches on the issue of tutelage. In Clause 25 of the Laws, there is a mention that the grandfather and father are the mujbir tutelage who are given the authority to marry off his daughters and granddaughter, even without the daughter and granddaughter’s consent. This regulation is in line with the opinion held by one of the al-Syafii scholars who is al-Syirazi in his book entitled al-Muhadhdhab ketiwhen discussing family legislations (Ahmad Ibrahim et. al. 1990).

In the context of orthodox Malay legislations in Malaysia, the Islamic laws leaning on the sect of Shafi’i remain as one of the three large groups of the legislative texts available at the time. Two other legislative texts were the laws of Adat Pepath and Adat Temenggung (Pepath and Temenggung customary laws) (Abu Hassan Mold Sham. 1973).

On the above elaboration, the depiction is clear that the Malacca Laws are based on Shafi’i related laws, despite the fact that there existed the customary laws thought to be suitable to what happened in the communities at the time. Bearing this in mind, Hukum Kanun Malacca or the Malacca Laws can well influence the laws prescribed in the states under its colonization.

The influence of Shafi’i’s Sect in the system of legislation was not only reported in the era of the Malacca administration until its decline in 1511M into the hands of the Portuguese, but the influence of the sect was still observed in the legislative system adopted by the government of Johor-Riau that had come to replace the Malacca government, when it collapsed and lost to the colonizing Portuguese (Leonard Y. Andaya. 1975; R.O Wenstedt. 1958; M.B Hooker. 1970).

From Mosye Yegar (1979), the utilization of Shafi’i based Islamic laws and local customary laws has also been applied in other states like Pahang, Perak, Kedah, Kelantan, Terengganu and others, regardless if they are affiliated or otherwise. The legislation that came into practice in Malaya was not only in the written form, but also in the unwritten form. An interesting thing is that the non-written form of Islamic laws was introduced
earlier and had become more robust, in terms of the way it was implemented. This is because, when implementing a law, the rulers at the time had referred to various resources including the al-Quran, hadith and the books of fiqh composed by fellow scholars especially scholars from the sect of al-Syafii as shown in the book of Minhaj al-Talibin by al-Nawawi and al-Taqrib by Abu Syuja’ al-Isfahani (A. Samad Ahmad. 1974; Abdul Kadir b. Hj. Muhammad. 1996; Mahmood Zuhdi Abd. Majid. 1996; Abdul Halim el-Muhammady. 1982; Sidek b. Abdullah. 1998).

At the same time, Mackeen (1969) has raised a point that the sources of reference in Islamic legislation in Malaya in the 14th century was taken from the books of fiqh of the sect. Among them was the law concerning the mujбир tutelage. In the case of Abdullah vs Syarifah Munirah (Kedah Pledge Mal No. 1/1970). In the said case, the wife that was divorced had demanded for a mut’ah worth RM1,000.00. Meanwhile, the other party being demanded from (husband) said that he had divorced his wife on some specific reasons in order for him to be freed from having to pay mut’ah to his divorced wife. The court decided that the wife (Answer) had the right to demand for mut’ah from the husband (Demand) under Section 125 Number 9 Laws in 1962. With this, the Court had verdicted that the husband should provide for mut’ah to the Answer (wife). The verdict had been based on the Shafi’i sect fiqh namely I’anah al-Talibin written by al-Sayyid al-Bakri (Ahmad Ibrahim, Nik Abdul Rashid, Mohd Zain Othman, Othman Ishak et. al. 1987).

There were also some provisions in the state enactment which adopted the sect of al-Shafi’i directly. Among them was the law concerning the mujbir tutelage. In the case of Syed Abdullah Syatiri vs Sharifah Salma (MLJ 137 (159), the Islamic laws implemented in this case have been compatible with the sect in question. This is because, according to the sect, when a young girl is married off by her father it is vild, even without her own consent. Therefore, the marriage in this case is valid.

Other than that, the interpretation of kitabiyah in the Islamic family laws in Malaysia has accepted the interpretation proposed by the Shafi’i sect. As an example, Section 2 of Islamic Family Laws Act (Federal Territory), 1984 defines kitabiyah as (Ahmad Mohamed Ibrahim. 1997):
(a) a woman from the Ya’qub tribe; or
(b) a Christian woman before Prophet Muhammad was named the Prophet; or
(c) A Jewish woman before Isa was named the Prophet”.

From the above elaboration, it is clear that there exists the influence of the Shafi’i sect in the Islamic legislation in Malaysia although there have been several enactments in the Islamic law administration in Malaysia that gives consideration to other sects as well.

The Issuance of Fatwa:

The Malaysian constitution does not mention that the sect of Shafi’i should be made the principle sect and practised by the Muslim society in Malaysia. However, the religious authorities in Malaysia especially JAKIM have accepted the proposal of the National Council for Islamic Affairs suggesting that there should be some kind of uniformity in the sect-based practise in Malaysia in the effort to combat the understandings and sects that oppose the teachings of Islam. The proposal does mention that the other understandings and sects need to be supervised in terms of their spreading to the society, even though the understanding and sect are acknowledged by the Syara’. However, should there be any society that wishes to practise the understanding or sect other than the sect of Shafiim they need to register at any of the State Islamic Departments. The practice only applies to oneself and not for others. It is important to prevent any issue of conflicting sects being spread by any irresponsible parties (Federal Territory Fatwa (1975-1986) Minute No. 55).

Simultaneously, in Malaysia Islamic laws are administered at the state level and every state is given the power to formulate enactments concerning Islamic law administration. Thus, in every state the Islamic Council is established and officers like Mufti, Kadi Besar and Kadi are appointed. Mufti would normally hold the position of the Chairman of The Shari’a Committee who is assigned to issue a fatwa if necessary (Ahmad Mohamed Ibrahim. 1997).

In legalizing the laws of the mufti or the fatwa committee appointed in the Malaysian states, generally speaking this is based in the finalized opinion contained in the sect, be it qawl qadim or qawl jadid. This is because, following the law provision, every state in Malaysia except for Perlis must give the priority to the sect of Shafi’i when it comes to issuing fatwa. Yet again, if the fatwa contradicts the needs of the public, the mufti or Fatwa Committee is permitted to follow the opinion given by other sects Maliki, Hanafi dan Hambali deemed plausible and reasonable with the benefits of the public (The Enactments of Kelantan (Item.4/1994), s.37(1); Malacca (No.5/1991), s.35(1-3); Negeri Sembilan (No.1/1991), s.35(1-3); Pahang (No.3/1991), s.41(1-3); Perak (No.2/1992) s.39 (1-3); Penang (item.7/1993), s.41(1-3); Sabah (No.13/1992), s.40(1-3), Sarawak [cap. 105];
From the study done by Ahmad Hidayat (2004), there has been no fatwa decided by the mufti and the fatwa committee based on their own opinion or principle. The guidance is given by the opinions of the sect the way it is with the books. The majority of references and guidelines in issuing a fatwa are reliant on the sect of Shafii even though there are also references based on other sects and books that come in the form of contemporary comparative of sects.

One of the clear examples that reflect the domination of Shafii in the decisions over which fatwa that is to be established is sampled by the Kelantan Scholars Committee. In the Fatwa Collection Book, the second volume, as much as 85% from the total number of fatwa used as reference is based on the fiqh of the sect of Shafii. Among the books referred are I'anan al-Talibin, Buhyah al-Murtarsyidin, Fath al-Mu'in, Hasyiyah Qalyubi, Tuhfah al-Muhtaj and a few others.

We look at an example which is a fatwa on the position and the validity of collective prayer done by a Shafi'i sect follower, led by an imam (head of prayer) whose sect is not Shafi'i. From the fatwa issued by the Kelantan Scholars Committee it states that it is not valid for one whose sect is Shafi'i to be led in prayer by one whose sect is Hanafi, if the latter does not leave behind compulsory steps in the prayer and does not commit things that invalidate the prayer following the sect of the person or people he leads and the fact that his reading must be precise. If such a thing happens, a prayer led by one whose sect is Hanafi is better than praying independently or alone. The fatwa mentioned above is clearly taken from the opinion of Shafi'i as mentioned in the book of al-Majmu' (Noor Naemah Abd Rahman et.al. 2004).

Based on the above elements, clearly Shafi'i-based practices go in line with the environment of the general public in Malaysia. This is due to the fact that, in the journey of Imam Shafi'i who was the founder of the sect, he had taken into consideration various situations and cultures. It clearly demonstrates that the suitability and adaptability of the sect with the Malaysian community comprising of various ethnic groups and cultures have generated unity and harmony among themselves.

As the reality would have it in Malaysia, the upholding of the sect of Shafi'i has mostly concentrated on issues related to the acts of worship and marriage or put simply, what is termed as fardhu 'ain. Nonetheless, in other fields like the buy-and-sell system, crime, judiciary, legislation and other contemporary issues, the Islamic government and community are not bound by the sect alone.

Holding on to the sect of Shafi'i in the affairs of fardhu 'ain the way it is practiced now does not mean that the Islam community rejects and condemns other sects. The stand is made, only based on the incapability of someone in doing good. It is indeed the original law that holding on a particular sect is not made compulsory but other than mujtahid, doing good by looking up to fatwa mujtahid (a sect) is compulsory, given that there is no other way to know the laws of the syara’ other than adhering and complying to a particular sect.

The lack of capability requires one to hold on to the sect that he follows only. This is due to the fact that the mastery of high knowledge discipline can only be done by one who has the expertise in selecting any opinion of the most credible scholars of the sects acknowledged by the Ahl al-Sunah wa al-Jamaah. Yet, this is of course not easy matter and almost impossible to occur to the people of the mass.

Conclusion:

The practice of the sect of Shafi’i has been inseparable from the Malaysian Muslims’ way of life since the very beginning of the emergence of the religion in the country. The sect is not only influential to the acts of worship, but it also gets a special place in the learning and education, legislation and fatwa practice traditions. This is added by the emergence of several prominent scholars who had contributed to the better development of the particular sect in Malaysia. This goes to show that the sect-based practice particularly based on Shafi’i, needs to be retained as a culture in the lives of the Muslim Malay community in Malaysia through the elements that have been discussed earlier. The background of the sect has left such a great impact on the harmonious nature of the Malay society in Malaysia. The scenario needs to be defended in the context of the Malay communities in this country, even though the intellectual progress and advancement in this era, do more or less affect the status and position of this sect in Malaysia.

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