

### SHARĪ'AH AS THE CRITERIA OF JUSTICE IN UNDANG-UNDANG KEDAH VERSI KU DIN KU MEH

Elham Ahmad Khidir<sup>i</sup> & Tatiana Denisova<sup>ii</sup>

<sup>i</sup> (Corresponding author). Raja Zarith Sofiah – Centre for Advanced Studies on Islam Science and Civilisation (RZS-CASIS), Universiti Teknologi Malaysia, Kuala Lumpur. denistat@yahoo.com

<sup>ii</sup> Professor, Center on Advanced Studies on Islam, Science and Civilization (CASIS), Universiti Teknologi Malaysia. tatiana@utm.my

#### Article Progress

Received: 19 March 2025

Revised: 27 March 2025

Accepted: 16 May 2025

<b>Abstract</b>	<p><i>Studies on Undang-undang Kedah have underestimated the influential role and position of Shari'ah in the laws and administration of the Kedah Sultanate in the 19<sup>th</sup> century. The colonial narratives expounded two aspects on Undang-undang Kedah; firstly, that Adat was supreme over Shari'ah and secondly, an autocratic ruler could render the laws ineffective. However, the colonial narratives did not consider Undang-undang Kedah versi Ku Din Ku Meh. Although contemporary scholars in their studies on Undang-undang Kedah versi Ku Din Ku Meh highlighted that many of the laws were Shariah-based, the relationship between Shari'ah and Adat was not properly demonstrated. In addition, the role of Shari'ah in the administration was not demonstrated sufficiently. Specifically, present studies on Undang-undang Kedah versi Ku Din Ku Meh does not properly demonstrate the extent and influence of Shari'ah in the laws and administration of the Kedah Sultanate in the 19<sup>th</sup> century. Based on Undang-undang Kedah versi Ku Din Ku Meh, this paper shall demonstrate how Adat was made compatible with Shariah and how Shariah was made as the criteria of justice in 19<sup>th</sup> century Kedah Sultanate. The paper employs a textual and content analysis on Undang-undang Kedah versi Ku Din Ku Meh. With reference to Tarikh Salasilah Negeri Kedah and Salasilah atau Tarekh Kerjaan as the narrative sources, a comparative analysis is based on two types of sources, narrative and non-narrative based on Undang-undang Kedah versi Ku Din Ku Meh. The narrative sources represents the historical realities during the 19<sup>th</sup> century which reflects the Kedah Sultanate's criteria of justice based on Undang-undang Kedah versi Ku Din Ku Meh.</i></p> <p>Keywords: Shariah, Adat, Criteria of Justice, Undang-Undang Kedah Versi Ku Din Ku Meh, Kedah Sultanate</p>
-----------------	--

#### INTRODUCTION

British colonial administrators-scholars<sup>1</sup> in their studies on the Malay legal tradition have classified the tradition to consist of Islamic law (*Shari'ah*)<sup>2</sup> and Malay customary

<sup>1</sup> British colonial administrator-scholars such as Stamford Raffles (d. 1826), John Crawfurd (d. 1868), R. J. Wilkinson (d. 1941), Richard Olaf Winstedt (d. 1966).

<sup>2</sup> Other terms such as Islamic Law or Muslim law were adopted by the British colonial administrators-scholars instead of *Shari'ah*. For the purpose of this research, reference will be made to *Shari'ah* instead of Islamic Law.

laws known as *Adat*.<sup>3</sup> In their evaluation on the relationship between *Shari'ah* and *Adat*, some perceived the relationship as insignificant as they held *Adat* to be supreme over *Shari'ah* (Wilkinson, 1923; Winstedt, 1945).<sup>4</sup> Therefore, concluding that *Shari'ah* had an insignificant role and influence in the Malay legal tradition. Their views underestimate the role and influence of *Shari'ah* in the Malay legal tradition. The colonial narratives have remained influential and continue to be developed and extended in the discourse on the influence of Islām in the Malay legal tradition (Buxbaum, 1968; Hooker, 1973). Contemporary scholars have challenged the colonial narratives by emphasising the relevant *Shari'ah*-based laws in the Malay legal tradition to dispel such misinterpretation (Sham, 1995; Ishak, 2003).<sup>5</sup>

The same manner of perception by the British colonial-administrator-scholars appears to have been applied in their studies on the history of the Kedah Sultanate's legal tradition where the legal code is known as *Undang-undang Kedah* (Winstedt, 1945; Hooker, 1968). *Undang-undang Kedah* consists of several versions which includes *Undang-undang Kedah versi Ku Din Ku Meh*.<sup>6</sup> However, the colonial narratives on *Undang-undang Kedah* did not consider UUKKDKM in their studies, especially on their estimation of the role and position of *Shari'ah* (Winstedt, 1945; Hooker, 1968). Generally, present studies on UUKKDKM by contemporary scholars have highlighted the *Shari'ah*-based laws to emphasise the influence of *Shari'ah* as well as the legal code's comprehensiveness (Musa, 2006; Kamaruddin, 2017; Harun et al., 2021). Possibly, it can be said the motivations for these works on UUKKDKM were owing to contemporary consciousness and public interest on the history of the Malay legal tradition prior to the British colonial period. Nevertheless, the present studies on UUKKDKM does not sufficiently emphasise the relationship between *Shari'ah* and *Adat*, in particular demonstrating how *Adat* was made compatible with *Shari'ah* and how *Shari'ah* was made the criteria of justice for the Kedah Sultanate's administration. What appears to be the analysis of the content from these studies are mainly being descriptive in nature, analysing the explicit aspects and minimally uncovering the implicit aspects that refers to the historical meaning of the legal code. Consequently, there is a lack of studies demonstrating the extent and influence of *Shari'ah* in the laws and administration of the Kedah Sultanate in the 19<sup>th</sup> century.

Therefore, it is the aim of this paper to demonstrate how *Adat* was made compatible to *Shari'ah* and how *Shari'ah* was made as the criteria of justice in 19<sup>th</sup> century Kedah Sultanate based on UUKKDKM together with the type of justice with special focus on the basis of the Sultanate's institutional aspect of justice.

## LITERATURE REVIEW

The survey on the literature review is based on two broad categories that will take into consideration the concept of justice, and UUKKDKM. A further sub-category under the

---

<sup>3</sup> For the purpose of the paper, Malay *Adat* is henceforth referred to as *Adat*. According to their evaluation, *Adat* referred to Malay customary laws. Wilkinson further classified *Adat* into two categories being *Adat Perpatih* and *Adat Temenggung*, see Wilkinson, *Papers on Malay Subjects*. It is not the purpose of this research to criticise this classification, but further research should be made to reexamine this classification. Winstedt further described that *Adat Perpatih* and *Adat Temenggung* consisted of Islām and Hindu influences. British colonial administrator-scholars such as R. J. Wilkinson (d. 1941), R. O. Winstedt (d. 1966) were among the early proponents in evaluating Malay legal codes against what they understood as *Shari'ah* and *Adat*. For instance, Wilkinson used various terms "...Moslem law...*hukum shara'* or Muhammadan law..." which he believed to encapsulate to be the meaning of *Shari'ah*. Their works have been generally influential and held to be authoritative in the Malay legal tradition.

<sup>4</sup> As the colonial narratives emphasized that *Adat* had Hindu influences alongside Islām (which perhaps they had meant *Shari'ah*), they concluded that Islām was not influential.

<sup>5</sup> For further readings on a critical appraisal about the colonial narratives on Malay legal codes, see Noor Aisha Abdul Rahman. 2006. *Colonial Image of Malay Adat Laws*. Leiden: Brill.

<sup>6</sup> This text is hereinafter cited as UUKKDKM.

heading of justice will be included to cover the institutional aspect of administration of justice.

Syed Muhammad Naquib al-Attas' (1931) *On Justice and the Nature of Man* (al-Attas, 2015) provides the general framework on the meaning of the concept of justice in particular based on the interpretation and explanation of Sūrat al-Nisā' relating to trust (*amānah*) and recognition and acknowledgement of authority.

﴿ إِنَّ اللَّهَ يَأْمُرُكُمْ أَنْ تُؤَدُّوا الْأَمَانَاتِ إِلَىٰ أَهْلِهَا وَإِذَا حَكَمْتُمْ بَيْنَ النَّاسِ أَنْ تَحْكُمُوا بِالْعَدْلِ ۚ إِنَّ اللَّهَ نِعِمَّا يَعِظُكُمْ بِهِ ۗ إِنَّ اللَّهَ كَانَ سَمِيعًا بَصِيرًا ﴾

Meaning, "Indeed, Allah commands you to render trusts to whom they are due and when you judge between people to judge with justice. Excellent is that which Allah instructs you. Indeed, Allah is ever Hearing and Seeing" (Al-Quran. Al-Nisa': 58).

Under the sub-category of administration of justice, there are two streams which are divided into administration of justice from the perspective of its principle and administration of justice in history. Studies under the sub-category of administration of justice from the perspective of its principle is by Wan Mohd Nor Wan Daud (1955-) in *The Timelessness of Prophet Muhammad and the Nature of a Virtuous Civilisation of Islam* (2020) where the relationship between Islamisation and a virtuous civilisation is related to the process of *adab* being the discipline of mind, body and soul. For administration of justice in history, Imam al-Māwardī's (d. 1058) *al-Ahkām al-Sultāniyya w'al-Wilāyāt al-Dīniyya* (Wahba, 1996) is a treatise written in the 10<sup>th</sup> century on the form of government to safeguard and implement the rules of *Sharī'ah*. The genre of *naṣīḥat al-mulūk* (advice for rulers) in the *Siyāsat-Nāmeḥ* of Niẓām al-Mulḳ Tūsi (d. 1092) (Drake, 1978) and Imam al-Ghazālī's (d. 1111 ) (Bagley, 1964) *Naṣīḥat al-Mulūk* provides advice on the spiritual and ethical norms and rules for rulers in political governance.

In the Malay world, Khalif Muammar A Harris' *Ilmu Ketatanegaraan Melayu Raja Ali Haji Huraian Terhadap Thamarāt al-Muhimmah dan Muqaddimah fi Intizām Waḳā'if al-Malik* (Hariss, 2016), is a study on the advisory work by the prominent Malay scholar, Raja Ali Haji in the tradition of *naṣīḥat al-mulūk* (advice for rulers) or known as the genre of mirrors for princes in the Western tradition. The text was written in the 19<sup>th</sup> century for the Lingga-Riau Sultanate. The relationship between a scholar and a ruler is seen as an enduring source of strength in the foundations of a Sultanate.

Moving to UUKKDKM, Khoo Khay Jin (Khoo, 2006) studied the aspect of land administration and ownership in Kedah during the 19<sup>th</sup> to early 20<sup>th</sup> century. He considered UUKKDKM covered a wide aspect of land dealings and some laws were still applicable in Kedah towards the end of the 19<sup>th</sup> century. Allauwiyah bt Jusoh (2006) demonstrated that UUKKDKM was an important source on the application of Islamic law based on the Al-Qur'ān, *hadith* and *fiqh* texts.

According to Siti Fairus Kamaruddin (2017) from a language perspective UUKKDKM had more Islamic ethnography compared to the other version of *Undang-undang Kedah*. The laws comprising of forty *fasals* in the first part of UUKKDKM was briefly accounted by 'Aisyah Kamaruddin (2017). She provided a brief background on Ku Din Ku Meh, as the governor of Setul until his retirement in 1916. In the 2021 publication of UUKKDKM, the editors (Harun et al, 2021) analysed several aspects of UUKKDKM. Among them were a brief biographical account of Ku Din Ku Meh, the language and style, utilisation of certain phrases and local dialect. Also, the relationship between the sultan and the officials or ministers were examined which showcased an emphasis on cooperation and consultation. Some of the laws and the corresponding punishments were examined.

In her Ph.D research, 'Aisyah Kamaruddin (2022) showed that *Undang-undang Kedah* was proof that the society had awareness to live in a civilised manner. She evaluated UUKKDKM together with other versions of *Undang-undang Kedah* from the

political, economic and social aspect of the Kedah Sultanate which placed the institution at the highest hierarchy in the social mobility of the society. All in all, the works on UUKKDKM have yet to sufficiently uncover and demonstrate the relationship between *Shari'ah* and *Adat* and how *Adat* was made compatible with *Shari'ah*.

## METHODOOGY

### Data Collection and Methodology

The paper utilises library and archival resources as well as online resources to develop the paper through a textual and interpretative analysis on UUKKDKM as the main source of the research. In addition, classification and systemitisation including formulation of the type of justice from the institutional aspect. To elicit the application of the laws in the 19<sup>th</sup> century, reference is made to two narrative sources: *Tarikh Salāsilah Negeri Kedah*<sup>7</sup> and *Salāsilah atau Tarekh Kerjaan*<sup>8</sup> as additional sources. Together with a comparative analysis between two different types of written sources; UUKKDKM as the non-narrative source and *Tarikh Salāsilah* and *Tarekh Kerjaan* as the narrative sources, were utilised for the purpose of the research.

## SOURCES

### Undang-Undang Kedah Versi Ku Din Ku Meh

UUKKDKM is a manuscript comprising of seven parts, namely as follows :-

- (a) *Undang-undang* with forty *fasal*
- (b) *Adat Undang-undang Jong dan Segala Jenis Perahu*
- (c) *Fasal Undang-undang nobat Kedah*
- (d) Kejadian iblis dan syaitan, and other stories about djin, angels, and Prophet Adam a.s.
- (e) Stories about Prophets and pious scholars including Prophet Khidir a.s.
- (f) A copy of a tin license during the reign of Sultan Abdul Hamid Halim Shah (1881-1943)
- (g) A list of the Kedah Sultans up to 1893 beginning from the 1<sup>st</sup> Sultan to the 17<sup>th</sup> Sultan.

Part one of the manuscript<sup>9</sup> which is the focus for this paper contains a set of laws in forty *fasal* (chapters) believed to have first been written during the reign of Sultān Rijāluddīn Muḥammād Shāh (r. 1619-1652). The author is unknown. The manuscript was copied for Ku Din Ku Meh (d. 1932) in Shawwāl 1311/ April 1893 who was the then Superintendent of the Kedah prison. The scribe is Muhammad Said Bin Nasir. The manuscript was completed on Wednesday, 22 Rabiulawal in 1311 which corresponds to 1 October 1893.<sup>10</sup> There are views that UUKKDKM may have been the last of the laws from the Malay legal tradition, that was applied in Kedah up to the early

---

<sup>7</sup> Hereinafter referred as *Tarikh Salāsilah*.

<sup>8</sup> Hereinafter refereed as *Tarekh Kerjaan*.

<sup>9</sup> The reference shall be based on the 2021 publication of UUKKDKM.

<sup>10</sup> According to the editors of the 2021 publication, the original manuscript is believed to be kept with the beneficiaries of Ku Din Ku Meh in Pulau Pinang. The National Archives of Malaysia has a microfilm copy of the original manuscript as verified by Jelani Harun and is known as the only existing copy. There are no known versions or copies apart from the original manuscript and microfilm copy. The National Archives of Malaysia does not have a record of the history of the microfilm copy except that it was gifted by Yang Mulia Tengku Ibrahim al-Haj, care of 45, Jalan Patani, Penang in November 1970. At folio 191, the date of completion of the legal code as well as the place of completion is stated by the scribe Muhammad Said Bin Nasir and this could be the colophon of the manuscript. Although the colophon is not at the end of the manuscript, i.e in folio 195, perhaps part six and seven was later on added. Furthermore, it may have not been originally part of the manuscript. This may be possible as folios 192 to 195 has double line page borders with visible chain lines unlike folios 2 to 191 of the manuscript.

20<sup>th</sup> century (Kamaruddin, 2017). Namely, prior to the introduction of laws as legislated by the *Majlis Mesyuarat Negeri* (Kedah State Council)<sup>11</sup> in 1905 and subsequently British colonial rule in 1909.<sup>12</sup> The manuscript was published in 2021 (Harun et al, 2021). The main part of UUKKDKM contains a set of laws comprising of forty *fasal* governing the conduct of individuals on every level of society as well as political, economic and social activities.

### **Tarekh Kerjaan**

*Tarekh Kerjaan* is a narrative source on the history of the Kedah Sultanate from the pre-Islamic era in 650 and mentions the period when the first Sultan of Kedah embraced Islam in 15<sup>th</sup> century up to 1910 during the reign of Sultan Abdul Hāmid Halim Shah (r. 1864-1943). It is written by Wan Yahya bin Wan Taib (d. 1935) in Alor Setar, Kedah on 1 Muḥarrām 1329 H and published in 1911 by the British Malaya Press Limited. Wan Yahya was the Government Secretary and also District Officer of Changlun in 1902 (Taib, 1911). It is a short text published with thirty pages in *Jawi* and the transliteration in twenty five pages. A list of government officials and district officers in 1910 are included. The titles of the kingdom's officials and ministers together with some members of the royal family are included.

### **Tarikh Salāsilah**

*Tarikh Salāsilah* is a narrative source on the history of the Kedah Sultanate written by Mohd Hassan bin Dato' Kerani Mohd Arshad (d. 1942) in 1927. A list of the sultans, princes and their titles of the ministers and officials are also included. The original manuscript is kept in Dewan Bahasa dan Pustaka and recorded in the catalogue as MS. 100. The manuscript was published in *Jawi* in 1928 by Jelutong Press, Pulau Pinang (Arshad, 1928). In 1968, *Tarikh Salāsilah* was transliterated by Mohd Zahid Mohd Shah and published by Dewan Bahasa dan Pustaka<sup>13</sup> (Arshad, 1968).<sup>23</sup> Later it was digitised in 2016 by DBP (Harun, 2019). In 2018, the manuscript was transliterated by Ibrahim Bakar and published by Persatuan Sejarah Malaysia Cawangan Kedah. (Arshad, 2018). In 2024, *Tarikh Salāsilah* was published by DBP and edited by Ibrahim Bakar (Arshad, 2024).<sup>14</sup> *Tarikh Salāsilah* was recently recently listed on the regional UNESCO register on 10 May 2024.<sup>15</sup>

These texts provides the legal-historical sources in analyzing the sultanate's criteria for justice in their administration. The methodology showed the elaborate set of information required in order to examine how justice was executed from the institutional aspect and to demonstrate how Adat was made compatible with *Sharī'ah*. The reflection of the historical reality as represented in the narrative sources is an important methodological consideration in the context of the research. The methodology showcased the usage of a complex set of analysis that permits the research to conclude that justice had been executed not only from a theoretical aspect but also the practical aspect in accordance with *Sharī'ah*.

## **RESULTS AND DISCUSSION**

---

<sup>11</sup> The Majlis Mesyuarat Negeri was the first formal legislative body in Kedah. According to Mohammad Isa Othman, this was the beginning of the decline in the Sultan's absolute power in state administration (Othman, 1990, 74).

<sup>12</sup> Under the Anglo-Siamese Treaty of 1909, Siam transferred its rights over Kedah, Perlis, Kelantan and Terengganu to Great Britain. This marked British control over the entire Malay Peninsula.

<sup>13</sup> Hereinafter referred to as DBP

<sup>14</sup> This paper relies on the 2024 publication by DBP.

<sup>15</sup> Memory of the World Asia-Pacific Regional Register (MOWCAP) under the United Nations agency, UNESCO to enable preservation of the world's documentary heritage. *at-Tarikh Salāsilah Negeri Kedah* along with the Royal Correspondence of Baginda Omar which is an important collection of letters on the history of Terengganu was selected. See Ministry of Tourism, Art and Culture Press release, MOTAC. 100-2/1/18 JLD4 (53).

The analysis according to the methodology verifies that UUKKDKM expressed and demonstrated the sultanate's intention to formulate laws according to *hukum Allah Ta'ala*,<sup>16</sup> Before engaging further on the discussion, the meaning of *Shari'ah* shall be firstly explained. Usually *Shari'ah* has been understood and termed to mean Islamic law.<sup>17</sup> However, Syed Muhammad Naquib al-Attas' description of *Shari'ah* was encompassing. He describes *Shari'ah* as: "The injunctions of the Holy Qur'an or the commandments of God therein and the Tradition of the Holy Prophet constituting the Law is the *Shari'ah*, and this is more than the moral and legal ordinances that come under the science of jurisprudence (*al-fiqh*), but encompasses the theological, metaphysical, philosophical, and ethical principles of the religion of Islām and the worldview projected by it (al-Attas, 2015, 3). In this context, reliance is made on al-Attas' conceptual description of *Shari'ah* due to the extensive and encompassing aspects.

There is no doubt that the laws in UUKKDKM were intended be in accordance with *Shari'ah*. Two important details from the preamble exhibits this fact. Firstly, Sultan Rijaluddin Muhammad Shah (r. 1626 - 1652) conveyed that the proposed laws must be in conformity with "...*hukum Allah Ta'ala*..." (God Almighty's Law) (Harun et al, 34).<sup>18</sup> The intention is clearly expressed which indicates the sultanate's intention to have *Shari'ah*-based laws was preeminent.

Secondly, to establish that such laws was in accordance with *Shari'ah*, the sultanate sought the advice and guidance of the scholars and judges (*'ulamā'* and *ḥukamā'*) to determine the permissibility of the laws. The *'ulamā'* were knowledgeable on *Shari'ah*. Whereas the *ḥukamā'* imparted their knowledge on established customs of the society, meaning to say *Adat*.<sup>19</sup> Therefore, it is evident that prior to UUKDKM, both *Shari'ah* and *Adat* were in operation as stated in the legal code (Harun et al, 34).<sup>20</sup>

UUKKDKM places on record the sultanate's act of seeking the advice and guidance from the *'ulamā'* and *ḥukamā'* to draft *Shari'ah*-based laws. The *ulamā'* and *ḥukamā'* are whom al-Attas has identified as Keepers of Trust (al-Attas, 2015, 2). In relation to this aspect, reference to al-Attas' interpretation on *Sūrat al-Mā'idah*, 4: 58 on the position of trust and the role of the Keeper (*ahl*) of trust (2015, 1) is crucial. In *Sūrat al-Mā'idah*, 4: 58, Allāh commanded the following: "Allāh commands you to deliver the

---

<sup>16</sup> The text widely uses the term *'Hukum Allāh Ta'alā* (God Almighty's Law) instead of *Shari'ah*. For the purpose of this research, the phrase *Hukum Allāh Ta'alā* (God Almighty's Law) from UUKKDKM shall mean *Shari'ah*.

<sup>17</sup> Wael B Hallaq described the problem with utilising the term Islamic Law to mean *Shari'ah* which he described as problematic. (Hallaq, 2005, 151-152). To this notion, he says that "Arguably, cultural and conceptual ambiguities related to this term [law] (never to my knowledge identified, let alone problematized, by legal Orientalism) are responsible for a thorough and systematic misunderstanding of the most significant features of the so-called "Islamic law", itself a modernist creation." In identifying the conceptual problems attached to the term of Islamic law in relation to *Shari'ah*, he critically discerned multiple aspects of *Shari'ah* ranging from the theoretical, legal methodology to the historical development of *Shari'ah* to which he described in great detail.

<sup>18</sup> *Maka pada zaman masa Duli Hadrat Maulana Paduka Seri Sultan Rijaluddin Muhammad Syah yang Mulia semayam di atas kerajaan negeri Kedah di Kota Wang Naga, lengkap dengan menteri pegawai hulubalang. Maka ketika itu keluar titah kepada Datuk Bendahawa suruh muafakat dengan segala menteri pegawai himpulkan segala ulama dan hukama perbuat undang-undang peraturn segala dat negeri dengan segala alat kerajaan negeri dan peraturan menteri pegawai.... yang bersabit dengan hukum Allah Ta'ala.*

<sup>19</sup> *Adat* is a Malay word that is derived from the Arabic word *'ādah* which is generally synonymous with the word *'urf* according to Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence* (1991; repr., Subang Jaya: Ilmiah Publishers) 283-94). Hereafter cited as *Islamic Jurisprudence*. *'Ādah* means habit, custom, usage or practice. *Adat* is usually defined as a local custom which regulates the interaction of the member of a society. Adopted from Ratna Lukito (Masters thesis, McGill University, 1997), fn1.

<sup>20</sup> *"Maka muafakatliah Datuk Bendahara dengan segala menteri pegawai himpulkan segala hukama yang ada dalam negeri dengan segala ulama yang ada pada masa itu ke balai besar raja bertanya perintah segala hukum Allah Ta'ala. Tatkala ditanya oleh ulama atas perkara masa'ilah itu hukumnya maka disuruh segala hukama tilik kepada keadaan perintah di dalam negeri kepada segala ulama menurut kitab Allah Ta'ala, barang yang tiada dapat dilakukan dalam negeri itu dikisarkan atas sepatut padanya yang bersabit pada hukum Allah Ta'ala yang di dalam perlakuan dalam negerinya"*

trusts to keepers worthy of them, and when you judge between people, that you judge with justice” (*Sūrat al-Mā'idah*, 4: 58)<sup>21</sup>

Al-Attas (2015) put forth that there are two parts of the *surah* pertaining to justice that complements each part; the first part refers to trust (*amānah*) and the due recognition and acknowledgment of authority in the Keeper of Trust. The second part refers to the act of settling disputes between two people in which the judge should deliberate with justice. He further elucidated (2015, 1) that deliberating with justice is to decide on a particular dispute, justly. It involved:-

“...not simply strict observance of man made laws of the rules and regulations formulated in legal texts, and the obiter dicta of legal precedents, but demands personal exercise of prudence, discretion and estimation based on deeds in accordance with moral and ethical principals recommended by religion and reason in involves knowledge of the Truth and not solely on theory, of what justice is, of what is right and what is wrong in the understanding and practice of religious and worldly affairs. ”

Al-Attas' conception of justice based on his interpretation of *Sūrah al-Mā'idah*, provides the conceptual understanding of justice on the laws in UUKKDKM. By unfolding these two parts as expounded by al-Attas, the question whether the laws in UUKKDKM are just, shall inherently be answered. The method to establish this is by determining the fulfillment of the two parts which complements one other. Therefore, the discussion shall adopt the same sequence, the first which is related to the recognition and acknowledgement of the authority of the Keeper (*ahl*) of trust. Secondly, is the act of judgment or adjudication among people involving a judge.

In relation to UUKKDKM, the sultanate appointed the '*ulamā*' and '*ḥukamā*' to draft *Sharī'ah*-based laws. This act by the sultanate is a major feature that needs to be highlighted owing to the fact that the '*ulamā*' and '*ḥukamā*' were appointed based on their moral integrity and authentic knowledge to provide advice on the laws to be in accordance with *Sharī'ah*. Thus, serving the very intention of the sultanate for the laws to be compatible with *Sharī'ah*. Therefore, seeking the advice and counsel of the '*ulamā*' and '*ḥukamā*' means that the Keepers of Trust had been sought and considered by the Kedah Sultanate to provide their knowledge. Thus, this is in fact the recognition and acknowledgement of the Keepers of Trust by the Kedah Sultanate. Therefore, the discussion on the recognition and acknowledgement of the Keeper of Trust based on the first part has thus been established. Hereafter, the discussion shall focus on the second part.

Reflecting from the recognition and acknowledgement of the '*ulamā*' and '*ḥukamā*' (as the Keepers of Trust) by the sultanate, a pertinent question arises pertaining to the method utilized by the '*ulamā*' and '*ḥukamā*' to determine the permissibility of *Adat* with *Sharī'ah*. In the history and development of *Sharī'ah*, jurists developed a science known as the principles of Islamic jurisprudence (*usūl al-fiqh*) (Kamali, 1997). Under *usūl al-fiqh*, custom ('*urf*' or '*ādah*') is accepted as one of the sources of *Sharī'ah*. It is considered as one of the secondary sources (Kamali, 1997). In order for custom ('*urf*' or '*ādah*') to be upheld, certain requirements are to be fulfilled such as, the custom must be a common and recurrent phenomenon, the custom must be in existence at the time a transaction is concluded and the custom does not infringe on the principles of the *Sharī'ah* (Kamali, 1997).

In addition to *usūl al-fiqh*, jurists developed general legal principles derived from Islamic jurisprudence (*fiqh*) or Islamic legal maxims known as *al-qawā'id al-fiqhiyyah*. The *al-qawā'id al-fiqhiyyah* are abstract statements on the general legal principles of *fiqh* (Kamali, 1997). The interpretation and application of the general legal principles

requires the knowledge of the jurists or in particular known as the *fuqaha*. One of the main general legal principles is *al-‘Addah Muḥakkama* (Custom is Authoritative) (Kamali, 1997). Considering that the *ulamā’* and *ḥukamā’* verified *adat* to be compatible with *Sharī‘ah*, perhaps it is not unreasonable to deduce that the *ulamā’* and *ḥukamā’* applied *usūl al-fiqh* and *al-qawā‘id al-fiqhiyyah* to clarify and verify if the existing *adat* met the criteria of *Sharī‘ah*. Corresponding to this, the exercise of *ulamā’* and *ḥukamā’* in deliberating and verifying *Adat* is an indication of an act of adjudication.

The adjudication or act of judgment also includes the method of dispute resolution by the judge in evaluating and estimating the issues and reconciling the facts to deliberate and produce a judgment. The judgment will effectively identify and restore the rights of the people in the dispute. In such circumstances, al-Attas (al-Attas, 2015, 9) described this aspect of judgment as “...the practical application in the making of judicial decisions and administration of justice”. In connection with this aspect of judgment based on the laws in UUKKDKM, it relates to the estimation and discernment by the judge in clarifying, reconciling and unifying aspects on a particular issue to produce a judgment that must be compatible with *Sharī‘ah*.

Consequently, the act of judgment or the adjudication in UUKKDKM is an important aspect to be evaluated. In operation of this, the fourth *fasal* provides the clue on adjudicating justly according to *hukum adat* that can be relied upon in settling disputes or determining the rights and liabilities. This assumes that the *hukum adat* shall be compatible with *Sharī‘ah*. For the purpose of a clear discussion in deciphering the clue, relevant parts of the fourth *fasal* is extracted as follows:-

*“Bab yang keempat menyatakan hukum adat yang telah ditentukan itu. Adapun hukum itu tiga perkara. Pertama, hukum Allah Ta’ala yang tersebut di dalam kitab Allah Ta’ala dan kedua hukum akal yang disyurahkan oleh segala budiman yang dahulu menurut akalnya. Ketiganya hukum naqli yang disyurahkan orang yang kebiasaannya merasai dia, ertinya yang memegang janji dan memberi janji kerana segala hukum tiada boleh mukatib melanggar janji. (Harun et al, 47)”<sup>22</sup>*

From the above, the order of descending priority of judgment constituting *hukum adat* comprises firstly, Revelation, which the source is the Holy Qur’ān. Secondly, is rational proof established through consensus of the wise and learned of the past or *qiyās*. Thirdly, is judgment through the consensus by persons belonging to a craft or profession. The fourth *fasal* has determined that in considering and utilizing the three judgments, the judgment under *hukum adat* is arrived through the application of the earlier three judgments.

Thereafter, an illustration is given on how each of the principles derived from these judgments are harmoniously adopted and applied in order to form a judgment under *hukum adat* (Harun et al., 2021).<sup>23</sup> This *hukum adat* arrived by the *ḥukamā’* is determined to be compatible with *Sharī‘ah*. The illustration indicates a dynamic and creative discernment that wisely adopts the principles from the three judgments to produce a judgment under *hukum adat* which is compatible with *Sharī‘ah*.

The term *hukum adat* refers to the rules, regulations and sanctions according to *Adat*. Mohammad Hannan Hassan (2014) in his analysis of the term ‘law’ asserted that “in expressing the idea of law (rules, regulations, sanctions, and social controls, the Malay language uses *hukum*, which is then annexed to sources from which the hukum (law)

---

<sup>22</sup> The fourth chapter establishes *hukum adat*. Judgment consists of three aspects, firstly judgment derived from Revelation; the Holy Qur’ān, secondly judgment based on rational proof arrived at a consensus by the learned scholars or *qiyas*. Thirdly, judgment through those who are associated with a craft or a profession. Translation is mind. Although this translation may not appear to be faithful to the text, it includes some interpretation that is useful to the discussion.

<sup>23</sup> “Maka adalah ketika hukum ini dimisalkan oleh hukuma yang empunya membayangkan adat ini.

derives; hence *hukum shari'at ...hukum adat...*” Thus, relative to this discussion, the term *hukum adat* or law may be used interchangeably to capture the expression of the rules, regulations of Adat. To properly describe and analyse the aspect of adjudication or establishing a ruling, the relevant passages from the fourth *fasal* are extracted with interpretation in English as follows:

Table A: Illustration – UUKKDKM (Harun et al., 48)

Original text	Interpretation
<p><i>Seperti masalah adalah berjalan dua orang pada suatu padang hendak pergi pada suatu tempat, ada ia membawak buah tembikai. Seorang yang membawak tiga biji dan seorang membawak lima biji. Jadi dulapan biji sama besar dan sama bangsanya, ertinya serupa rasanya. Maka berhenti ia kedua di bawah suatu naung kayu hendak menanti teduh matahari, hendak berjalan. Maka datang seorang pula daripada sahabatnya daripada sesuatu tempat hendak pergi pada suatu tempat dengan sebab panas, ia pun singgah berhenti bersama dua orang itu, maka dahaga airlah ketiganya.</i></p>	<p>For example, two people were walking in a field heading to a place and brought along with them some watermelons. One person had three watermelons. The other had five watermelons. Along their journey, they stopped under a shade of a tree seeking protection from the heat of the sun. Along came a third person to the whom stopped by in his journey and shared the same shelter with the two persons. Soon the three of them became thirsty.</p>
<p><i>Dikeluarkan buah tembikai daripada salah seorang sebiji dibelah tiga menjadi tiga jurai sama banyaknya dan sama besarnya, dibahagikan makan seorang sejurai. Habis pula dibelah pula sebiji. Demikan juga tembikai itu habis, suatu tuan dibelah setuan lagi itu pula dibahagi makan, demikian juga sehingga habis tembikai kedua tuan dulapan biji itu makan sama-sama. Haripun teduh hendak berjalan maka diberi oleh sahabatnya yang makan tembikai sama itu akan tuan tembikai kedua orang dulapan kupang sebanyak tembikai kedua tuan itu.</i></p>	<p>One person took out their watermelon and divided it into three equal slices in size and each person took one slice. Upon finishing the watermelon, another watermelon was sliced and the owners sliced another until all eight watermelons were eaten. As the heat of the day had subsided, the third person intended to continue on with his journey and having eaten the watermelons together with the two persons, he thus gave eight kupang<sup>24</sup> to them for the watermelons.</p>
<p><i>Betapa ia kedua hendak berbahagi dulapan kupang itu dibawaklah kepada qadi yang memegang hukum Allah Ta'ala. Dikhabarkan perintah tembikainya dan pemberi orang yang makan sama dipinta dibayangkan hukum pembahagian ia kedua.</i></p>	<p>To resolve the issue on how to divide the eight kupang among both persons, the issue was brought to a <i>qadi</i> who was learned in the laws of Allah Ta'ala. Both persons asked for a resolution on their issue on the division of the eight kupang.</p>

The issue that arises is the method on distributing the eight kupang between the two persons. The fourth *fasal* further describes and establishes the method of distribution based on the three aspects of judgment that was earlier referred to, namely; *Hukum Allāh Ta'ala* (God Almighty's Laws), Secondly, rational proof established through consensus of the wise and learned of the past or *qiyās*. Thirdly, judgment through the consensus by persons belonging to a craft or profession. The descriptions according to these three types of judgments are produced in Table B, C and D.

<sup>24</sup> Kupang refers to the currency that was used at the time with was attached with a value. See Kamus Dewan Edisi Keempat, s. v. "Kupang,". The reference to *kupang* is still used in Kedah till this day. See Kamus Dewan Edisi Keempat, s. v. "Kupang,".

Table B: *Hukum Allah Ta'ala* - UUKKDKM (Harun et al., 46)

Original Text	Interpretation
<i>Maka dihukum oleh qadhi tembikai itu tiada engkau berjual kepadanya melainkan engkau perjamu ia makan. Maka kupang dulapan itu pemberian ia kepada engkau berkias namanya. Bahagilah engkau kedua ambil seorang empat kupang.</i>	The <i>qadi</i> held that there was no sale transaction on the watermelon to the third person on the basis that the third person was clearly invited to consume the watermelons. Thus, the eight kupang was a gift. Thus, each person is to be given four kupang.

Table C: *Hukum Naqli* - UUKKDKM (Harun et al, 47)

Original Text	Interpretation
<i>Maka ia kedua bawak pula perkataan itu kepada orang yang memegang hukum naqli dikhabarkan segala perintah ini, dipinta bayangkan perbahagian ia kedua. Maka kata orang yang memegang hukum itu, tiada boleh engkau berbahagi dua kerana tembikai engkau tiga sahaja, tembikai kawan seorang itu, berbahagilah engkau turut banyak harta masing-masing, yang empunya tembikai tiga biji ambil tiga kupang dan yang empunya tembikai lima biji ambil bahagiannya lima kupang. Disyaratkan oleh hakim itu janji banyak tembikai itulah janjinya.</i>	Consequently, both persons brought the judgment of the first judge to the second judge. The second judge was a person whom had specific knowledge associated with a craft or profession. The second judge held that the division of the kupang cannot be divided equally as one person had three watermelons, while the other had five watermelons. Therefore, the division of the kupang was held to be on the quantity of watermelons each person had. Thus, the person with three watermelons is given three kupang. The person with five watermelons is given five kupang. The condition of the judgment was based on the quantity of the watermelons owned by each person

Table C : *Hukum Aqli* – UUKKDKM (Harun et al, 47)

Original Text	Interpretation
<i>Maka dibawak pula kedua mereka itu kepada orang yang pegang hukum akal. Dikhabarkan segala perintah itu pintak dibayan bahagiannya. Maka kata orang yang memegang hukum akal itu tiada patut orang yang membawak tembikai tiga biji dia ambil bahagiannya lebih daripada sekupang kerana tembikai tiga biji itu dibelah tiga pada sebiji jadi sembilan jurai, dirinya sendiri sudah makan dulapan jurai, sejurai juga dimakan oleh sahabat kamu itu. Maka yang empunya lima jurai itu dibelah tiga menjadi lima belas jurai, sudah dirinya sendiri makan lapan jurai, maka sahabatnya termakan di dalam tembikainya, tujuh jurai itulah yang patut boleh tujuh kupang. Demikianlah pembahagiannya.</i>	Thereafter both persons raised the issue to the judge whom relied on rational proof as established through consensus of the wise and learned of the past or <i>qiyās</i> . The judge held that the person with three watermelons should not take more than one kupang as the watermelons were sliced into three which equaled nine slices of watermelons. The owner had taken eight slices, leaving one slice for the third person. Whereas the owner of five watermelons, had fifteen slices and ate eight slices. The remaining seven slices were eaten by the third person. Thus the seven slices is valued at seven kupang. This is the division.

Based on these three types of judgment, the matter was brought to the *ḥukamā'* whom resolved the issue according to *hukum adat*. Before proceeding further on the discussion regarding the deliberation by the *ḥukamā'*, some observation is made on the illustration. Evidently, the illustration involving the watermelons and the manner of distributing the eight kupang between the two persons is allegorical in nature. The allegorical expressions not only captured the attention of the reader but fundamentally applied the theoretical aspect of each judgment. The theoretical aspect of the laws involving *fiqh* and *usul fiqh* were explained by way of allegory, with the underlying message to show the application of these theoretical aspects. By including allegory in a legal code, indicates that UUKKDKM was written for a wider audience, and not meant specifically for administrators within the Kedah Sultanate's administration. Meaning to say, the general public was able to understand the laws in UUKKDKM.

The allegory aids the general public of the kingdom on two levels. Firstly, to understand the difference on how a *hukum adat*-based judgment is arrived and secondly, how a *hukum adat*-based judgment is made compatible with *Shari'ah*. For this reason, UUKKDKM is a legal code that is accessible to the public. This is an important particular as a legal code contains laws regulating the rights and liabilities of individuals, some of whom generally may not have the requisite knowledge to understand the complexities of theories and methods of laws. Therefore, probably it can be said that amongst the aims of UUKKDKM was to be made understandable by the general public. This provides a fair and equitable opportunity to all levels in the kingdom of the Kedah Sultanate to grasp how *hukum adat* is produced. The effect of which, spreads a kind of non-discriminatory treatment in ensuring that understanding of the laws of the kingdom is obtainable to all. Further explanation on the *ḥukamā'*'s deliberation in producing *hukum adat* as provided from UUKKDKM is found in Table E below.

Table E: Judgment by *ḥukamā'* (Harun et al., 47)

Original text	Interpretation
Tiga jenis hukum sudah jadi tiga jenis pembahagiannya, makan masalahnya suatu juga tiada berlain-lain. Maka diambil oleh hukama yang menghimpunkan segala hukum adat ini ketiga perkara hukum itu tiada ditolakkan suatu pun kadar dijelahnya ambil ikut keadaan hal negerinya atas sepatut jalannya. Seperti masalah ini, kata hukama yang menghimpunkan hukum adat ini, buah tembikai itu bukan harganya sebiji sekupang di dalam negeri kamu, boleh dibeli dengan harga dua biji sekupang, kedelapan tembikai itu jadi harganya empat kupang. Dikeluarkan harga tembikai itu yang selebih empat kupang. Itulah pemberiannya, nama berkias, patutlah dibahagi dua ambil seorang dua kupang.	Three types of judgment produced three types of division of watermelons, yet the issue is still the same. Thus the <i>hukama</i> collected all three judgments without dismissing any part of the judgments and applied it based existing condition of the kingdom. The issue, according to the <i>hukama</i> is that in this place, watermelons are not sold for one kupang in your place of domicile. Two watermelons can be bought for one kupang. Therefore, eight watermelons are valued at four kupang. The value of the watermelons was established as four kupang leaving a balance of four kupang. The gift of four kupang should be divided equally to two kupang each.
Maka yang jadi harga tembikai empat kupang. Itulah atas banyak tembikai masing-masing yang ia termakan itu dibahagi ambil yang empunya tembikai tiga biji itu, ia termakan sejurai patutlah ia ambil harga sejurai itu setengah kupang. Dan yang empunya tembikai lima itu ia termakan tujuh jenis, patut ia ambil tengah empat kupang, jadi ia beroleh tengah enam kupang,	As the value of the watermelons is four kupang, the evaluation for the division of the remaining four kupang is based on the quantity eaten by each person. The person who owned three watermelons, ate one slice each. Each slice is half a kupang in value. The one who owned five watermelons, took seven slices, and should take four minus half kupang. Therefore, he obtains six minus half

dan seorang boleh tengah tiga kupang. Demikianlah rupa ambilan hukama yang menghukumkan hukum adat.	kupang and the other three minus half kupang. This is the decision of the <i>hukama</i> in arriving to the judgment of <i>adat</i> law
---	--

To recapitulate this illustration, the issue before the *hukamā'* was on the division of the eight kupang between two people. Two testimonies were adduced. Both testimonies corroborated each other. The established facts are that the first person had three watermelons, whereas the second person had five watermelons. All the watermelons were sliced into three pieces; Fifteen pieces in total. There was no sale transaction. Based on the facts, the following was established based on the three types of judgment:-

- (a) The first ruling relied on the first source of *Sharī'ah*; Revelation. At the outset, the two persons had no intention to sell the watermelons. As there was no intention for a sale transaction, the eight kupang given away by the third person was not in payment of the watermelons. Instead it was a gift for the two. Therefore the judge held that eight kupang was to be divided equally among the two. The principle under the first ruling scrutinized the intention of the parties.
- (b) The second judgment relied on knowledge of a certain craft or profession. In resolving the issue, the first judgment was made known to the second judge. After considering the facts, the judge held that that the eight kupang could not be equally divided. The determining factor was the quantity of watermelons that each person had. One person had three watermelons. The other person had five watermelons. The judge awarded three kupang to the person with three watermelons and five kupang to the person with five watermelons. The principle under the second ruling relied upon the quantity of watermelons owned by each person.
- (c) The third judgment relied on *qiyās*. The judge held that the first person with three watermelons be awarded with only one kupang. Whereas the second person with five watermelons be awarded with seven kupangs. The division was based on two conditions, firstly the total number of slices consumed. Secondly the quantity of slices consumed by each person. The judge held the person with three watermelons consumed eight slices and the third person had only once slice. Whereas the second person had fifteen slices and consumed eight slices and the third person consumed seven slices. Based on this judgment, the principle concerned the number of slices consumed by the third person.

The *hukamā* adjudicated the issue and referred to the three judgments as sources and held the following :-

- (a) The value of one watermelon according to the place of domicile of both persons was one kupang for two watermelons, thus half a kupang for one watermelon. Eight watermelons were worth four kupang. Thus, two kupang was given to each person leaving a balance of four kupang.
- (b) The third person consumed one slice of the person whom owned three watermelons and seven slices of the watermelon owned by the person having five watermelons.
- (c) The person who had three watermelons was given two and half kupang whereas the person who had five watermelons was given five and half kupang.

The *hukamā's* judgment did not dismiss the three earlier judgments but adopted the principles of each judgment. The judgment in *hukum adat* was arrived through ascertaining the price of the watermelons from the place of domicile of both persons. The *hukamā* had evaluated and accepted the existing price of the watermelon accordingly. This illustration shows the judge's evaluation and application of theoretical aspects of

the laws, such as various *usul fiqh* to the problem which included *Adat*, that is the price of watermelons according to the owners' place of domicile. In addition, the judge accepted the principles of the three judgments which were harmoniously clarified and consolidated to produce *hukum adat*. Therefore, in adjudicating a problem to be in accordance with the *Shari'ah*, the various *usul fiqh* are applied to extract the principle or sources to a problem.

To sum up this section, the act of adjudication included the judge's consideration of the customs of the community. The dynamic relationship between *Shari'ah* and *Adat* in UUKKDKM required the complex understanding and knowledge of the principles of Islamic jurisprudence as well as the community's customs in order for the existing laws or customs to be compatible with *Shari'ah*. As these laws were compatible with *Shari'ah*, the laws protected the individual and community from harm and oppression by way of facilitating the improvement and perfection of the conditions of the society. Corresponding to this, the laws promoted benefits to the individual as well as the community. Thus, from the political, social, and economic aspects within the kingdom, the laws protected these activities. Based on *Shari'ah* as the criteria of justice, and focusing on the institutional aspect of the Kedah Sultanate during the 19<sup>th</sup> century, the achievement of justice as reflected in the laws will be examined based on the type of justice which is limited to the institutional aspect of the Kedah Sultanate during the 19<sup>th</sup> century.

#### **JUSTICE IN THE POLITICAL ORDER**

In Kedah, the conditions of the system of government is determined by the sultan as he holds the highest power and authority in the administration (Taib, 2011; Arsyad, 2024). UUKKDKM corroborates this based on the sequence and order of the *fasals*. The sultan begins as the subject matter in the first *fasal* and the last *fasal* ends on the sultan, thus indicating the centrality of the sultanate's authority in the administration.

As the sultan holds the highest authority in the kingdom, the individual character of the sultan is fundamental for just governance, with emphasis on the two characteristics of the ruler. The first being *adil* and the second being *ihsan*. These characteristics relate to the spiritual and moral-ethical values which must be inherent or possessed by the sultan. Considering that the ethics of the sultan is of great importance, therefore it can be seen that the moral-ethical values of the sultan represented an aspect of justice. The emphasis on spiritual and moral-ethical values was the main criteria for Wan Mohd Nor (2020) in determining the Golden Age of Islam. He evaluated that as the criteria and standards of "...spiritual and moral excellence have been finalized in the Age of the Prophet" thus "The Golden Age of Islam, which reflects the true spirit and character of man according to Islām, is defined and measured by the spiritual and ethical standards and criteria set by the Prophet and the early Muslims generation (Nor)." Entrenched on the importance of the spiritual and moral-ethical values of the sultan being *adil* and *ihsan*, the legal code further elaborated and provided illustrations or representation of this in the exercise of the sultan's duties. The historical realities of 19<sup>th</sup> century Kedah Sultanate as reflected in *Tarekh Kerjaan* (Taib, 1911) and *Tarikh Salāsilah* (Arsyad, 143-238) demonstrates the importance of the spiritual and moral-ethical values of the sultan.<sup>25</sup>

The concept of the sultan as being the Caliph of Allah as well as the Shadow of God on earth reflects the duties of the sultan in providing security and protection for the maintenance and perfection of human order and life in the kingdom. This secures the overall public interest over the sultan's personal interest. If the individual self of the

---

<sup>25</sup> The Sultan's authority in the kingdom is demonstrated exceptionally during the occupation by Siam (1821-1842 where several valiant attempts were made to wrest the kingdom while Sultan Ahmad Tajuddin Halim Shah 2 (r. 1804-1845) was in exile. The sultanate relied on diplomacy and negotiations after resistance attempts were not sustainable for a long period of time.

sultan does not possess the two characteristics of *adil* and *ihsan*, the sultan will secure preference for his own individual benefit, instead of the public interest. Consequently, the system of governance will be corrupted.

UUKKDKM can be seen to counter this condition by exhortation and reminding the sultan of his duties and relationship with his subjects (Harun et al, 2021). It is in fact a form of command and prohibition governing the moral and ethical conduct of the sultan. In the same *fasal* where these characteristics are emphasized, the sequence then follows the elaboration of his duties which must be upheld accordingly to the characteristics of *adil* and *ihsan* (Harun et al., 2021). Springing from these characteristics, in the course of the performance of the duties, justice is achieved. These spiritual and ethical-moral values are also applicable to the sultan's officials or ministers in the central and provincial administration (Harun et al., 2021). For instance, in relation to the role and duties of the imam khatib performing the marriage ceremonies, the moral and spiritual duties are clearly expressed in the sixteenth *fasal* (Harun et al, 2021, 80). The manner in which the imam khatib has to be accountable for any dereliction of duty for failing to perform their duties, is indirectly tied with their role as a representative of the sultan. *Tarekh Kerjaan* (Taib, 1911) and *Tarikh Salasilah* (Arsyad, 2024) narrates the events in the 19<sup>th</sup> century of the sultan and the ministers who were responsible to perform their duties justly.

## CONCLUSION

The laws in UUKKDKM were compatible with *Shari'ah* and governed the conduct of all levels of society, from the sultan, ministers and officials to the people, Muslim and non-Muslim alike in the kingdom. The aim of the laws in UUKKDKM represented the objectives of *Shari'ah* which was to uphold and preserve essential values of religion, life, intellect, lineage and property. As these essential values were protected and upheld, justice was established and achieved in the 19<sup>th</sup> century. The relationship between *Shari'ah* and *Adat* was examined which revealed that *usul al-fiqh* played a fundamental role in synthesizing and unifying aspects of *Adat* with *Shari'ah*, thus showcasing the extensive role of *Shari'ah*. The act in making judgment or adjudicating an issue or disputes, involved judges and scholars that were learned in various aspects of knowledge, among them knowledge of the local customs or *Adat*. As the laws were compatible with *Shari'ah*, it has been demonstrated that *Shari'ah* was the criteria of justice for 19<sup>th</sup> century Kedah Sultanate. Thus, the primary objectives of *Shari'ah* were upheld, being the preservation of the religion, life, intellect, property and lineage. Consequently, justice was achieved as oppression was avoided or diminished through the preservation of these essential values.

From the historical perspective, UUKKDKM is an important text on the legal history of Kedah and had unique characteristics as it provided not only legal content but also included didactic elements. In addition, the legal code showcased the dynamic relationship between *Shari'ah* and *Adat*. *Shari'ah*, through the application of *usul fiqh* demonstrated how *Adat* was made compatible with *Shari'ah*. The legal code contained moral and legal ordinances relating to what was incumbent (*fardu 'ain* and the *fardu kifayah*) upon all levels of society, including the sultan.

The types of justice that was identified indicate that the administration was concerned about civilized living of all levels of society.

## REFERENCES

### Book

- A. Harris, Khalif Muammar. (2016). *Ilmu Ketatanegaraan Melayu Raja Ali Haji: Huraian Terhadap Thamarat al-Muhimmah dan Muqadimmah fi Intizam Wazā'if al-Malik*. Kuala Lumpur: Dewan Bahasa dan Pustaka.
- Abdul Rahman, Noor Aisha. (2006). *Colonial Image of Malay Adat Laws*. Leiden: Brill.

- Abdullah, Taufik. (1966). *Adat and Islām: An Examination of Conflict in Minangkabau*. Indonesia 2.
- Abu Bakar, Abdul Latiff. (2001). *Adat dan Patriotisme: Ke Arah Penubuhan Lembaga Adat Melayu Melaka dan Majlis Adat Melayu Serumpun*. Melaka: Perbadanan Muzium Melaka.
- Ahmad, Abu Talib. (2007). *Re-Reading Adat Laws and Legal Texts as Sources of Malay Social Stability*. In Cheah Boon Kheng (Ed.) *New Perspectives and Research on Malaysian History (Essays on Malaysian Historiography)*. Monograph 41 Puchong: Malaysian Branch Royal Asiatic Society.
- Ahmat, Sharom. (1984). *Tradition and Change in a Malay State: A Study of the Economic and Political Development 1878 – 1923*. Monograph no. 12. Petaling Jaya: Malaysian Branch of the Royal Asiatic Society.
- al-Attas, Syed Muhammad Naquib. (2015). *On Justice and the Nature of Man: A Commentary on Sūrah al-Nisā (4): 58 and Sūrah al-Mu'minūn (23): 12-14*. Kuala Lumpur: IBFIM.
- al-Attas, Syed Muhammad Naquib. (2018). *Preliminary Statement on a General Theory of the Islamization of the Malay-Indonesian Archipelago*. Kuala Lumpur: Ta'adib International.
- al-Attas, Syed Muhammad Naquib. (2020). *Islām and Secularism*. Kuala Lumpur: Ta'dib International.
- al-Ghazālī, Abū Hāmid Muhammad ibn Muhammad. (1964). *Naṣīhat al-Mulūk Counsels for Kings. Translated from Persian by F. R. C. Bagley*. London: Oxford University Press.
- al-Mawardī. Abū al-Ḥassan. (1996). *al-Ahkām al-Sultāniyya w'al-Wilāyāt al-Dīniyya. The Ordinances of Government*. Reading: Garnet Publishing.
- al-Mulk, Nizām. (1978). *The Book of Government (Siyāsat-Nāmeḥ) Translated from Persian by Hubert Drake*. London/Boston: Routledge and Kegan Paul.
- Bonney, R. (1971). *Kedah 1771-1821: The Search for Security and Independence*. Kuala Lumpur: Oxford University Press.
- Buxbaum, D. C. (1968). *Some Notes on Indian Influence on Malay Customary Law, Family Law and Customary Law in Asia*. Dordrecht: Springer.
- Dato' Kerani Muhammad Arsyad, Muhammad Hassan. (1928). *At-Tarikh Salāsilah Negeri Kedah Darul Aman* (ed. Ibrahim Bakar). 2024. Kuala Lumpur: Dewan Bahasa dan Pustaka.
- Dato' Kerani Muhammad Arshad, Muhammad Hassan. (1928). *At-Tarikh Salāsilah Negeri Kedah* (ed. Ibrahim Bakar Langkawi). 2018. Alor Setar: Persatuan Sejarah Malaysia Cawangan Kedah.
- Hallaq, Wael B. (2009). *Sharīa: Theory, Practice, Transformations*. New York: Cambridge University Press.
- Harun, Jelani, Musa, Mahani, Mansor, Idris & Kamaruddin, 'Aisyah. (2021). *Undang-undang Adat Negeri Kedah Abad ke-19 Milik Ku Din Ku Meh*. Pulau Pinang: Penerbit Universiti Sains Malaysia.
- Hj. Hassan, Abdullah Alwi. (2001). *Adat Melayu Mengikut Perspektif Perundangan Orang Islam di Malaysia*. In Abu Bakar, Abdul Latiff (Ed.), *Adat Serumpun Melayu*. Melaka: Perbadanan Muzium Melaka.
- Ibrahim, Ahmad & Ahilemah Joned. (1985). *Sistem Undang-Undang di Malaysia*. Kuala Lumpur: Dewan Bahasa dan Pustaka.
- Ibrahim, Ahmad. (1992). *Towards a History of Law in Malaysia and Singapore*. Kuala Lumpur: Dewan Bahasa dan Pustaka.
- Idris al-Shāfi'ī, Muḥammad. (2015). *al-Risalah fi usūl al-fiqh. Translated by Lowry, Joseph E. The Epistle on Legal Theory*. New York: New York University Press.
- Ishak, Othman. (2003). *Hubungan antara Undang-undang Islam dengan Undang-undang Adat*. Kuala Lumpur: Dewan Bahasa dan Pustaka.

- Kamali, Mohammad Hashim. (2009). *Principles of Islamic Jurisprudence*. 1991. Reprint. Subang Jaya: Ilmiah Publishers.
- Khoo, K. J. (1991). Undang-undang Kedah dengan tumpuan khusus kepada pengawalan hak milik tanah. In R. Saripan, M. Abd. Rahman, M. K. Suhaimi, N. H. Abd. Rahman, M. S. Hj. Mustajab, S. H. Hassan, & A. M. Jan (Eds.), *Masyarakat Melayu abad ke-19*. Kuala Lumpur: Dewan Bahasa dan Pustaka.
- Musa, M. (2006). *Undang-undang Kedah versi Ku Din Ku Meh (1311 Hijrah/1893 Masihi)*. In R. A. Hamid & M. Salim (Eds.), *Kesultanan Melayu Kedah*. Kuala Lumpur: Dewan Bahasa dan Pustaka.
- Sham, Abu Hassan. (1995). *Hukum Kanun Melaka*. Melaka: Perbadanan Muzium Melaka, 1995.
- Wan Mahamad Taib, Wan Yahya. (1911). *Salāsilah atau Tarekh Kerjaan Kedah*. Penang: The British Malaya Press Ltd.
- Wheatley, P. (2010). *The Golden Khersonese*. Kuala Lumpur: Penerbit Universiti Malaya.
- Wilkinson, R. J. (1923). *Papers on Malay Subjects*. Kuala Lumpur: FMS Government Press.
- Winstedt, R. O. (1961). *The Malays: A Cultural History*. London: Routledge & Keegan Paul Ltd.

### Journal

- Abdul Aziz, Adi Yasran, Mohamad Zaid, M Z, Hashim M, Halimah H, Mohd Sharifudin, S. A., Syed Nurulakla, J., Nurhidayaj, Asmadi, S. Ahamad. (2012). Undang-Undang Kedah Manuscript: A Law Canon of an Early Malay State. *Advances in Natural and Applied Sciences*, 6(3): 459-466.
- Ahmat, Sharom. (1970). The Political Structure of the State of Kedah 1879-1905. *Journal of South East Asian Studies*, 1: 115-28.
- Ahmat, Sharom. (1971). Kedah-Siam Relations, 1821-1905. *Journal of the Siam Society*, 59(1), 9-117.
- Hooker, M. B. (1968). A Note on the Malayan Digests. *Journal of Malayan Branch of Royal Asiatic Society*, 23: 157-170.
- Winstedt, R. O. (1928). Kedah Laws. *Journal Malayan Branch Royal Asiatic Society*. 6(2): 1-44.
- Winstedt, R. O. (1945). Old Malay Legal Digests and Malay Customary Law. *Journal of the Royal Asiatic Society*, 77(2): 17-29.

### Proceeding

- Bakar, Ibrahim. (2024). *Pembesar-pembesar dan Peranan dalam Pemerintahan Kesultanan Kedah Zaman Tradisional Hingga 1905*. In Prosiding Kolokium Daulat Tuanku: Kepimpinan Tradisional dalam Institusi Kesultanan Melayu. Kuantan: Perbadanan Muzium Negeri Pahang.
- Kamaruddin, 'Aisyah. (2017). *Undang-undang Kedah versi Ku Din Ku Meh (1893) Satu Pengenalan Awal dalam Konteks Pensejarahan Kedah abad ke-19*. In Persidangan Nasional Sejarah dan Sejarawan Malaysia 2017 Memperkasa Sejarah Nasional Dalam Melestarikan Pembangunan Negara. Pulau Pinang: Penerbit Universiti Sains Malaysia, 2017.
- Wan Daud, Wan Mohd Nor. (2020). *The Virtuous Civilisation of Islam*. Keynote address presented at International Symposium on Syed Muhammad Naquib al-Attas: Philosophical and Civilisational Dimensions, Kuala Lumpur, February 15, 2020.

### Thesis and dissertation

- Hassan, Mohammad Hannan. (2014). *Islamic Legal Thought and Practices of Seventeenth Century Aceh: Treating the Others*. Ph. D Thesis. McGill University, Montreal, Canada.
- Jusoh, Allauwiyah. (2006). *Analisis Teks Undang-undang Kedah berasaskan Perspektif Hukum Islām*. Master's thesis. University of Malaya.

Kamaruddin, 'Aisyah. (2022). *Peraturan Tentang Adat, Pemerintahan dan Sosioekonomi dalam Undang-undang Kedah*. Ph.D. Thesis. Universiti Sains Malaysia, Pulau Pinang, Malaysia.

Siti Fairus. (2015). *Manuskrip Undang-undang Kedah: Kajian Unsur-unsur Etnografi Islām*. Master's thesis. Universiti Malaya, Kuala Lumpur, Malaysia.

**Disclaimer**

*Opinions expressed in this article are the opinions of the author(s). Al-Qanadir: International Journal of Islamic Studies shall not be responsible or answerable for any loss, damage or liability etc. caused in relation to/arising out of the use of the content.*