



INTERNATIONAL JOURNAL OF ACADEMIC RESEARCH IN BUSINESS & SOCIAL SCIENCES



Ancient Malay Laws Regarding Business Rules and Ethics Enacted in the Malaysian Peninsula

Mohd Hasanuddin bin Mohd Yusof, Zuliskandar bin Ramli, Muhammad Uzair bin Ismail

To Link this Article: <http://dx.doi.org/10.6007/IJARBSS/v12-i1/11509> DOI:10.6007/IJARBSS/v12-i1/11509

Received: 08 November 2021, **Revised:** 13 December 2021, **Accepted:** 26 December 2021

Published Online: 06 January 2022

In-Text Citation: (Yusof et al., 2022)

To Cite this Article: Yusof, M. H. bin M., Ramli, Z. bin, & Ismail, M. U. bin. (2022). Ancient Malay Laws Regarding Business Rules and Ethics Enacted in the Malaysian Peninsula. *International Journal of Academic Research in Business and Social Sciences*, 12(1), 202–210.

Copyright: © 2022 The Author(s)

Published by Human Resource Management Academic Research Society (www.hrmars.com)

This article is published under the Creative Commons Attribution (CC BY 4.0) license. Anyone may reproduce, distribute, translate and create derivative works of this article (for both commercial and non-commercial purposes), subject to full attribution to the original publication and authors. The full terms of this license may be seen at: <http://creativecommons.org/licenses/by/4.0/legalcode>

Vol. 12, No. 1, 2022, Pg. 202 – 210

<http://hrmars.com/index.php/pages/detail/IJARBSS>

JOURNAL HOMEPAGE

Full Terms & Conditions of access and use can be found at
<http://hrmars.com/index.php/pages/detail/publication-ethics>



INTERNATIONAL JOURNAL OF ACADEMIC RESEARCH IN BUSINESS & SOCIAL SCIENCES



www.hrmars.com

ISSN: 2222-6990

Ancient Malay Laws Regarding Business Rules and Ethics Enacted in the Malaysian Peninsula

Mohd Hasanuddin bin Mohd Yusof

Doctor of Philosophy (PhD) Student Institute of the Malay World and Civilization National University of Malaysia 43600, Bangi Selangor, Malaysia
Email: mohdhasanuddin82@gmail.com

Assoc. Prof. Dr. Zuliskandar bin Ramli

Senior Fellow Institute of the Malay World and Civilization National University of Malaysia 43600, Bangi Selangor, Malaysia
Email: ziskandar@ukm.edu.my

Muhammad Uzair bin Ismail

Doctor of Philosophy (PhD) Student Institute of the Malay World and Civilization National University of Malaysia 43600, Bangi Selangor, Malaysia
Email: uzairismailmy@gmail.com

Abstract

The strategic geographical location and wealth of natural resources had placed the Malay Peninsula as the centre of trade since the Hindu-Buddhist era and continued after the advent of Islam, where the trading activity became increasingly active. Due to this, the Malays had created a set of laws concerning business regulations and ethics which were legislated and enacted long before the arrival of the British in the 19th century. Therefore, it is important for us to discuss and analyse the existing pre-colonial laws of the Malays as this will prove that the Malay Kingdom in ancient times were already highly civilized. In order to do this, this study will adopt the qualitative method to analyse four (4) ancient laws in the Malay kingdom, namely the *Hukum Kanun Melaka*, *Hukum Kanun Pahang*, *Undang-Undang 99 Negeri Perak* and *Undang-Undang Kedah*. This study also has two (2) objectives: (i) to examine the legal provisions related to business rules and ethics contained in the law, (ii) to prove that the Malay Kingdoms before the arrival of the British were already civilized based on the ancient laws which highlights the importance of ethics and rules in trade. Findings from this study discovered that several provision of the relevant laws and rules pertaining to business ethics had already existed in the canons of Malay law before the 17th century AD. This includes ethics in usury (*riba*), prohibition of selling items prohibited in Islam (alcohol, dogs and pigs), condition and certainty of the price, quantity and quality of the item, freedom of choice and buying, return policy and real estate to name a few. This proves that the government and people of Peninsula Malaysia were already concerned about ethics in business. Hence, further

studies should be conducted in order to analyse and highlight the value of trade ethics found in the Malay *hikayat*, poems, verses and proverbs.

Keywords: Business, Rule, Ethic, History, Malay Law, Peninsula of Malaysia

Introduction

The Malaysian Peninsula was once known as the Malay Peninsula. Their inhabitants, namely the Malays, who reside in the Malay Peninsula were actively engaging in business activities for hundreds of years before the birth of Christ. This is evident by the discovery of the Dongson drum in Terengganu which highlights the trade relationship between the community in Terengganu with the Vietnamese community. Furthermore, Shaffer (1996) mentioned that in the first century BC, the Malays were already established as brave sailors that are capable of sailing long distances to carry out trading activities. Shaffer also added to his claim that the Malay sailors were also responsible for the spread of the Dong Son drums to various regions in Southeast Asia that commence around 300 BC.

In addition to this, the discovery of ancient boat fragments in the Malay Peninsula further strengthens evidence that the Malay community are actively engaging in trading activities. Among them is the wooden bark boat found in Ulu Rompin, Pahang by W. L. Abbot in 1902, and a boat wreckage found in Kuala Pontian, Pahang by I. H. N. Evans, an English anthropologist in 1927. The boat is estimated to have been used in 60-293 AD based on the C-14 analytical dating (Wahab et al., 2014)

Subsequently, Kedah which is located in the north-eastern part of the Malay Peninsula had emerged as one of Srivijaya's trade city since the 7th century AD, making the Malay community to become increasingly active in commerce and trade activity. In light of this, a Buddhist monk known as I-Ching in the 7th century AD had recorded that Kedah was a part of Srivijaya, in which Maharaja Jayanasa of Srivijaya and his future successors had exercised their ruler over Kedah (Munoz, 2016). It was in this period that Kedah had become an important trading destination and port for trader from India as Kedah has become a warehouse port that collects all local products and produce along the Straits of Melaka (Andaya, 2001).

Based on the Tanjore inscription, Kedah had become the capital of Srivijaya in the 11th century AD, in which the capital and administrative centre of Srivijaya was based in Kedah in 1017 AD (Razzaq, 2017). Due to this, Kedah was attacked by the Chola King of India as the Srivijaya King, Sangrama Vijayattungavarman was residing in Kedah (Karashima & Subbarayalu, 2009).

A prominent Islamic geographer of the 12th century AD, Muhammad al-Idrisi (d. 1165 AD) recorded that Srivijaya traders had conducted their trade as far as east Africa where they sold and exported iron to east Africa (al-Idrisi, 2002). It is most likely that the Srivijaya traders mentioned by al-Idrisi were from Kedah as al-Biruni, an 11th century AD Arab writer stated that the Arabs had imported iron swords from Kedah to the middle east (al-Biruni).

In the 12th century AD, Kedah had become the first Islamic kingdom in the Malay Peninsula after the king was converted and embraced Islam around 1137 AD Salleh (1991); Arshad (1968) Subsequently, Terengganu in the north-eastern part of the Malay Peninsula had also established as an Islamic kingdom in the 13th century. This is evident based on the Terengganu Inscription Stone dated 1303 AD (702 H) which not only testifies to the establishment of the

Islamic Sharia Law in the land, but correspondingly verifies that trading activity were also conducted in Terengganu. It was later in the 15th century that the Malacca Sultanate had established as an Islamic government in the Malay Peninsula, where the city had become one of the most important and busiest trading port in the world. This establishes the Malay Peninsula as one of the important trading centre in Southeast Asia.

Rules and Business Ethics in the Old Malay Legislation Code

The arrival of Islam to the Malay Peninsula had led the trade and business activities to bloom rapidly. The establishment of Islamic kingdoms in the Malay Peninsula had contributed greatly in the increasing flow Muslim traders from Arabia, Persia, India and Turkey. This had caused the local community to become actively involved in the field of business and trading, making it their major source of income. Trading was not a problem to the Malays as they are already acquainted and possess a systematic accounting and management system (Collins, 1997).

Therefore, a set of law concerning means to maintain and harmonize rules and ethics in the field of trade as well as business were codify based on the Islamic laws and values. This had given birth to a set of codify law for every state in the Malay Peninsula such as the *Hukum Kanun Melaka*, *Hukum Kanun Pahang*, *Undang-undang 99 Negeri Perak* and *Undang-undang Kedah*. *Hukum Kanun Melaka* or *Undang-undang Melaka* was originally a royal rule written during the reign of Sultan Muhammad Syah (d. 1444 AD). This set of rule was later added and codified during the reign of Sultan Muzaffar Syah (d. 1458 AD). Subsequently, the *Hukum Kanun Melaka* continued to be enacted and added until the time of Sultan Mahmud Syah, the last Sultan of Malacca (Fang, 2007).

In light of this, is it acknowledge that the Islamic law was considered as the primary source for the *Hukum Kanun Melaka* in addition to the Malay customary in Malacca. For example, there is a clear prohibition in the *Hukum Kanun Melaka* regarding usury (*riba*) on traders who conducts business in Malacca. This is stated in Clause 30 of the *Hukum Kanun Melaka* which states that:-

“On stating that all business laws are forbidden (haram) for all who take usury”ⁱ (Fang, 2016).

In addition to this, traders in Malacca were not allowed to trade in things or items that is considered unholy according to the Islamic law, such as alcohol, pigs and dogs. This is mentioned in Clause 30 of the *Hukum Kanun Melaka* which states that,

“Primarily, pure and clean items should be sold and it is not legal to trade in impure items, such as tuak and alcohol and dogs and pigs and everything that is illegal”ⁱⁱ (Fang, 2016).

Furthermore, another important business rule and ethics emphasized in the *Hukum Kanun Melaka* is certainty of prices and goods. Hence, it not valid or advisable to sell items which is uncertain, whether in terms of pricing, quality and quantity. Clause 30 of the *Hukum Kanun Melaka* clearly states that,

“Starting a business requires two things. An (object) that can be seen. The second, the object/item described should be (or mean) like what is mentioned. Do not say false things or

*lie about the item/object. If found guilty, based on what is uttered, the business is illegal*ⁱⁱⁱ (Fang, 2016)

The *Hukum Kanun Melaka* also emphasizes the freedom of choosing and buying an item. In fact, the buyer can even return the purchased goods if he is not satisfied, provided that he is still at the place where the goods were sold or both parties can make an agreement so that the purchased goods can be returned to the seller within three days. This is stated in Clause 30 as follows,

“For a businessman, should he choose. If he wants to conduct his business or to be returned while (the item) has not parted from his place of business or promise in three days. If he pleases, he buys it. If not satisfied, returned”^{iv} (Fang, 2016)

After the Malacca Sultanate had declined, several governments have been established in the Malay Peninsula, such as the state of Johor, Perak and Pahang, all of which are heir and successor to the Malacca Sultanate. Therefore, the *Hukum Kanun Pahang* which was written in the 17th century during the reign of Sultan Abdul Ghafur Muhiyuddin Shah (d. 1614 AD) was also influenced by the *Hukum Kanun Melaka* (Yaakob Isa, 2003). In addition to this, the *Hukum Kanun Pahang* contains 93 legal clauses, in which it was copied and developed from the *Hukum Kanun Melaka*. Despite of this, the Islamic influence was much more perceptible than the *Hukum Kanun Melaka*.

Equal with the *Hukum Kanun Melaka* is the *Hukum Kanun Pahang*, in which it also comprises legal provisions related to business order and ethics. Among them is the prohibition of usury as contained in Clause 24 of the *Hukum Kanun Pahang* which stated that:-

“The matter to state the conditions in business...That is, Allah has made business lawful, and Allah has forbid to take multiple usury (riba)”^v (Isa, 2003).

“To begin with, it is not lawful to trade gold with gold and silver with silver except of a different kind...”^{vi} (Isa, 2003).

In the spirit of forbidding usury in all business dealings, the *Hukum Kanun Pahang* also concerns about the rules of selling a house, in which every house sold must include all the basic parts of the house such as stairs, pillars, roof, doors, windows and so on. Clause 25 of the *Hukum Kanun Pahang* states as follows:-

“The condition on stating the law of selling a house, every aspect that meets (permanent structure/part of the house) is included in the business, every that can be detached (removed) from the house is not included”^{vii} (Isa, 2003).

Apart from the ethics and rules in selling a house, the *Hukum Kanun Pahang* also outlines the ethics and rules in selling land. Clause 25 of the *Hukum Kanun Pahang* states that the land seller must include every crop of the land except the paddy that is to be harvested. Meanwhile, if the fruit tree has sprouted before the land is sold, then the fruit becomes the property of the seller when it has ripen. The clause states as follows:-

“Beginning when selling the earth (land), all the timbers in the earth (land), except paddy field (huma) will be sold, if nothing is mentioned; if something is pruned repeatedly like pepper, the first produced will be sold, then the fruit will be bought by people. If there is a tree in the earth (land) that bears fruit, make no mention of the fruit, however if it bears buds while trading it, it would be sold, if it has not sprouted while trading, it will be bought (together with the land)”^{viii} (Isa, 2003).

Clause 26 of the *Hukum Kanun Pahang* further explains the ethics and rules in returning goods purchased by the buyer to the seller if the goods is damaged. The clause states that the buyer can return the damaged goods to the seller. However, if the buyer delays the return of the damaged goods without any reasonable reason, then the buyer can no longer return the goods to the seller. This provision clearly states that there is a reasonable period for the buyer to return the defective goods to the seller. Clause 26 of the *Hukum Kanun Pahang* states as follows:-

“The condition on stating the law to return things bought due to flawed goods. When making a purchase, and the flaw/defect of the goods is visible, then return it. If the return of the item is purposely delayed without any excuse, it should not be returned...”^{ix} (Isa, 2003).

The *Hukum Kanun Pahang* also requires a sale and purchase agreement in every transaction between the seller and the buyer, where the seller must pronounce the ‘*ijab*’ (offer) and the buyer must pronounce the ‘*qabul*’ (acceptance). The ‘*ijab*’ is the act that signifies the willingness of a party to enter into a binding contract or sales agreement with another. This sale and purchase agreement is very important to prove that the transaction took place without coercion between the two parties. The obligation to pronounce the *ijab* and *qabul* in the sale and purchase agreement is in accordance with the law of *fiqh muamalat* in the *syafie* school of thought (*Mazhab*). Clause 31 of the *Hukum Kanun Pahang* states as follows:-

“The condition on stating the law of selling but gaining no profit from the business. The seller will say ‘I will sell this to you’. The buyer will answer ‘I will accept it’”^x (Isa, 2003).

On the other hand, the *Undang-undang 99 Perak* also provides legal provisions on compensation claims that can be made by the buyer to the seller when buying livestock, such as buffalo or goats. The *Undang-undang 99 Perak* is the official law of the Perak government in the middle of the 16th century, during the reign of Sultan Ahmad Tajuddin Shah (Basri, 1986). In Clause 46 of the *Undang-undang 99 Negeri Perak* is stated as follows:-

“The law for people buying and selling buffaloes or goats, then lost: If a person buys a buffalo on that day and it is lost in his place, and unable to find it nowhere, and has not yet left the district, then returned the price is divided by two (half), if it dies on the day of purchase in the hamlet where the transaction is done, then return the price (money) divided by two (half). If it is lost and stolen, the person who purchase it is the one responsible, if the people from the parish (mukim) buys it, if it has been taken away from within the village where the purchase was done and later was lost or die, no further prosecution can be made; if the animal was lost in the place of purchase, return the price (money) but divide it by two (half)”^{xi} (Basri, 1986).

Amongst several manuscripts of the Kedah Law that were discovered, one of the earliest manuscript is known as the Port Law (*undang-undang pelabuhan*) dated 1060 Hijrah, equivalent to 1650 AD. This Kedah Law (Port Law) was written during the reign of Sultan Rijaluddin Muhammad Syah (d. 1651 AD). Other than this, there is also another manuscript pertaining to the Kedah Law known as “His Majesty’s Law” (*undang-undang Seri Paduka Tuan*) dated 1078 Hijrah, equivalent to 1667 AD (Salim, 2005). Both copies of the Kedah Law comprises rules related to business.

In addition to this, the prohibition of being deceitful in weighing goods (scales) is clearly stated in the *Undang-undang Kedah*. The provisions of this law are clearly based on the verses of the Holy Quran, surah al-An’am. The provisions in the *Undang-undang Kedah (Undang-undang Pelabuhan)* are as follows:-

“And, it is obligatory to regulate the measurement of the ‘cupak’ and ‘gantang’ (a bowl/object made for measuring) and scales, do not change the sizes (big and small), regularize it, because the words of Allah Almighty (meaning), ‘Let all the measure and scales be perfected by you’ for all the produce in your state”^{xii} (Salim, 2005)

In addition to this, Clause 4 of the *Undang-undang Kedah (Undang-undang Seri Paduka Tuan)* further explains the obligation to register a business where every trader must report his business to the state officer (*kweng*). The Clause is stated as follows:-

“Whoever trades must be stated/reported to the ‘kweng’ (state officer). When they are recorded, the ‘kweng’ must check and issue an stamping letter as proof of being checked”^{xiii} (Salim, 2005).

Hence, the four legislation manuscripts, namely the *Hukum Kanun Melaka*, *Hukum Kanun Pahang*, *Undang-undang 99 Negeri Perak* and the *Undang-undang Kedah*, are the legislative script of the Malay kingdom before the 17th century which are deemed the best and most complete discovered so far in Peninsula Malaysia (Aaron, 2008). Although the ancient Malay Kingdom did not enact the business law in a specific legislation text as practiced in modern times, but the existence of legal provisions related to trade and commerce in the legislation text indicates the importance of this law, which is comparable to other laws – for instance, criminal law, marriage law, land law and many others.

However, it is not accurate to state that the laws pertaining to business regulations and ethics in the ancient Malay Law only exist in the Malay Peninsular, as the law was also enacted in the existing laws of other Malay kingdoms in the Malay Archipelago, such as Sumatra, Java, Kalimantan and Sulawesi. This can be seen in the “Amanna Gappa Sea Law” where rules related to business ethics was enacted by La Patello Amanna Gappa, the leader of the Wajo community in Makassar in 1676. The Amanna Gappa Sea Law contains 21 legal clauses which includes laws relating to business ethics. This can be seen in Clause 7 of the Amanna Gappa Sea Law which states that a person who allows a traders debt to be treated as his business capital should not be charge with interest. While clause 12 states that the capital debt earned by traders is prohibited for gambling and prostitution (Sulistyo, 2020).

In addition to this, the text of the Minangkabau law in Sumatra also includes provisions regarding ethics in business. It is important to know that the Minangkabau laws and customs are also known as “*Tambo Alam Minangkabau*”. In the Tambo Minangkabau, there is a legal provision called ‘*cupak nan ampek*’, where every trader and merchant dealing in the Minangkabau lands are obliged to weigh and measure their goods correctly and accurately in their business (Ibrahim, 2009). Based on the history of Minangkabau, the Minangkabau laws and customs (or the Tambo Minangkabau) was enacted and compiled by Datuk Ketumanggungan and Datuk Perpatih Nan Sebatang since the 13th century AD (Asril, 2008). Furthermore, there is a law in Aceh known as the “*Kanun Syarak Kerajaan Aceh*” (the Islamic Canons of the Kingdom of Aceh) enacted in 913 Hijri (equivalent to 1507 AD) that also focuses on ethics in business. In this law, the Sultan is obliged to monitor the ethics of traders and merchants that conduct business in the domains of the Kingdom of Aceh Darussalam through the appointed members of the “*jasasa*” (investigator / detective) (Usman, 2005).

Conclusion

Provision regarding business rules contained in the ancient law practiced in the Malaysian Peninsula demonstrates that the leader of the community were once very concerned about ethics in business. The responsibility of performing and maintaining the rights and carrying out the responsibilities of each stakeholder in the business of either government, traders and buyers as contained in the Malay canons can also organize and facilitate business and economic of the Malay kingdoms in the Malay Peninsula. By establishing an orderly set of law which is efficient, the trading ports in the Malay Peninsula were once thriving as one of the important trading centre in the region.

References

- Al-Biruni. (without year), *Al-Jamahir fi Ma’rifatu al-Jawahir*. www.islamicbook.ws
- Al-Idrisi, M. (2002). *Nuzhat al-Musytaq fi al-Ihtiraq al-Afaq*. Kaherah: Maktabah ath-Thaqafah ad-Diniyah.
- Arshad, M. H. M. (1968). *Al-Tarikh Salasilah Negeri Kedah*. Kuala Lumpur: Dewan Bahasa dan Pustaka.
- Asril. (2008). *Rantau Nan Kurang Esa Dua Puluh*. Jurnal Ilmu Budaya, 4 (2), 1-63.
- Basri, M. A. F. (1986). *Cempaka Sari : Sejarah Kesultanan Negeri Perak*. Ipoh: Yayasan Perak.
- Collins, J. T. (1997). *Ciri-ciri Bahasa Melayu Abad Ke-17*. In Tradisi Penulisan Manuskrip Melayu. Kuala Lumpur: Perpustakaan Negara Malaysia.
- Fang, L. Y. (2016). *Undang-undang Melaka dan Undang-undang Laut Melaka*. Kuala Lumpur: Yayasan Karyawan.
- Fang, L. Y. (2007). *Naskah Undang-Undang Melaka: Suatu Tinjauan*. Sari : Jurnal Alam dan Tamadun Melayu, 25, 85 - 94.
- Harun, J. (2008). *Undang-undang Kesultanan Melayu Dalam Perbandingan*. Pulau Pinang: Penerbit Universiti Sains Malaysia.
- Ibrahim, D. S. D. (2009). *Tambo Alam Minangkabau*. Bukittinggi: Kristal Multimedia.
- Isa, Y. (Ed.). (2003). *Hukum Kanun Pahang : Manuskrip Agung Negeri Pahang*. Pekan: Lembaga Muzium Negeri Pahang.
- Karashima, N., & Subbarayalu, Y. (2009). *Ancient and Medieval Tamil and Sanskrit Inscriptions Relating to Southeast Asia and China*. In Kulke, H. (Ed.). *Nagapattinam to Suvarnadwipa: Reflections on the Chola Naval Expeditions to Southeast Asia*. Singapura: Institute of Southeast Asian Studies.

- Salim, M. (Ed.). (2005). *Undang-undang Kedah*. Kuala Lumpur: Dewan Bahasa dan Pustaka.
- Salleh, S. H. (Ed.). (1991). *Hikayat Merong Mahawangsa*. Kuala Lumpur: Penerbit Universiti Malaya.
- Shaffer, L. N. (1996). *Maritime Southeast Asia to 1500*. New York: M.E. Sharpe.
- Sulistyo, B. (2020). *Trade and Ethnicity: Business Ethics and the Glory of Maritime Trade of The Makassar's Wajorese in the 18th Century*. *Journal of Maritime Studies and National Integration*, 4 (2), 108-114.
- Usman, A. S. (2005). *Nilai Sastera Ketatanegaraan dan Undang-undang dalam Kanun Syarak Kerajaan Aceh dan Bustanus Salatin*. Bangi: Penerbit Universiti Kebangsaan Malaysia.
- Wahab, M. R. A., Rahman, N. H. S. N. A., Ramli, Z., Zakaria, R. M. A., Hassan, H., Haron, N., & Hasan, S. N. I. S. (2014). *Artifak Perahu di Alam Melayu Sebelum Abad Ke-19*. In Abdul Latif Samian dan Nazri Muslim (Ed.). *Isu-Isu Sains & Teknologi Di Alam Melayu*. Institut Alam Dan Tamadun Melayu. Bangi: Universiti Kebangsaan Malaysia.
-