

STATECRAFT IN THE 18TH AND 19TH CENTURY MALAY
SOCIETY WITH REFERENCE TO PERAK SULTANATE
AND ITS TWO LEGAL TEXTS

BY

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A thesis submitted in fulfilment of the requirements for the
Degree of Doctor Philosophy in Islamic Thought and
Civilisation

International Institute of Islamic Thought and Civilisation
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MARCH 2022

ABSTRACT

The main objective of this study is to redefine the framework for the study of Malay statecraft. Instead of confining it to the specific statecraft literature such as *Tāj al-Salāṭīn*, *Bustan al-Salāṭīn*, and *Thammarat al-Muhimmah*, this study aims to explore further and expand the proposed idea by several scholars such as Norazit Selat, Mohd Taib Osman, Liaw Yock Fang, and Jelani Harun to include Malay legal texts as one of the sources of information regarding Malay statecraft. Besides that, this study also would like to expand further Wan Ahmad Fauzi Wan Husain's idea on the eligibility of Malay legal texts as a form of constitution for the Malay states before the intervention of the British colonial power in these states. Hence, one of the oldest Malay sultanates, and the first one to receive direct British intervention was the Perak Sultanate. Its two legal texts, *Undang-undang Sembilan Puluh Sembilan* and *Undang-undang Pahang, Perak, dan Johor* were selected for this study. Through historical analysis of the content of both legal texts and supported by other relevant primary documents on the Perak Sultanate and its history, this study aims to analyse and conceptualised the idea and practised of statecraft in this state, especially during the 18th and 19th centuries before the coming of British into the state. In this study, statecraft was defined as 1) the idea and concept of justice, and 2) ruler's sovereignty and legitimacy as understood by the Malay society, 3) the ideal characteristics and responsibilities of the ruler and state officials, 4) the advice to the ruler and state officials regarding their responsibilities to uphold justice and preserving the well-being of the people, and 5) the interdependence relationship between the ruler, state officials, and the people. It was proven that both legal texts fulfilled the definition and characteristics of the constitution and, able to provide the conceptual framework underlying the idea and practised of statecraft in the Perak Sultanate. This study is also significant in terms of providing evidence that Malay traditional literature should not be seen and studied as mere literature, but it should be regarded as a testament to the capability of the Malay scholars in discussing complex issues. As argued by Zainal Kling, this information and knowledge should be explored and studied further to ensure its relevancy in the current era.

ملخص البحث

تهدف هذه الدراسة إلى إعادة تحديد الإطار على دراسة فن الحكم الملايوي. بدلاً من حصرها في أدبيات فن الحكم المحدد مثل تاج السلاطين وبستان السلاطين وثامرات المحيمة، تهدف هذه الدراسة إلى مواصلة استكشاف وتوسيع الفكرة المقترحة من قبل العديد من العلماء مثل نورازيت سلات، ومحمد طيب عثمان، ولياو يوك فانغ، وجيلاني هارون الذين اقترحوا في جعل النصوص القانونية الملايوية من إحدى المصادر للمعلومات في دراستها. بالإضافة إلى ذلك، قام هذا البحث بتوظيف نظرية التي سلكها أحمد فوزي حسين، حيث يرى بأن النص القانوني الملايوي مؤهلاً لأن يكون شكلاً من أشكال الدستور لدول الملايو، خاصة قبل تداخلات القوة استعمارية البريطانية فيها. اعتمد هذا البحث بنصين قانونيين لسلطنة بيراك، وهي من أقدم السلطنات الملايوية، ومن أولها تتلقى تدخلاً بريطانياً مباشراً، وهما: قانون تسعة وتسعين، وقانون باهنج، وبيراك، وجوهور تم اختياره لهذه الدراسة. وبناء على ذلك، يحاول هذا البحث تحليل ووضع تصور فن الحكومة وطرق ممارستها عند ولاية بيراق، خاصة طوال القرنين الثامن عشر والتاسع عشر، أي قبل تدخل بريطاني فيها. ويتحقق ذلك من خلال تحليل الخطاب للنصين القانونيين المذكورين، وأيضاً بتأييد ذات وجهة مستمدة من مصادر أولية. في هذه الدراسة، تم تعريف فن الحكم على: (1) الفكرة ومفهوم العدالة (2) سيادة الحاكم شرعيته كما يفهمه المجتمع الملايوي (3) الخصائص والمسؤولية المثالية للحاكم وموظفي الدولة (4) تقديم النصائح للحاكم وموظفي الدولة عن مسؤوليتهم في تحقيق العدل والحفاظ على مصالح الرعية ورفاهها (5) العلاقة الترابطية بين الحاكم وموظفي الدولة والرعية. في نهاية المطاف، طوال المناقشة في هذه الدراسة، توصلت إلى أن هذين النصين قد استوفيا تعريف الدستور وخصائصه، وأكثر من ذلك بكثير، فهي قادرة على توفير الإطار المفاهيمي الذي يقوم على الفكرة وممارسة فن الحكم في سلطنة بيراك. بعد كل شيء، تقوم هذه الدراسة الهامة أيضاً بتقديم المزيد من الأدلة على أن الأدب الماليزي التقليدي لا ينبغي أن ينظر ويدرس كمجرد الأدبيات، ولكن ينبغي أن ينظر إليها على أنها شهادة على قدرة العلماء الملايويين لمناقشة القضايا المعقدة وإنتاج المعرفة المناسبة لاحتياجاتهم والنظرة إلى العالم لمواجهة تحديات العصر. وكما قال زين كلينغ، ينبغي مواصلة استكشاف هذه المعلومات والمعرفة ودراستها لضمان أهميتها في العصر المعاصر.

APPROVAL PAGE

The thesis of Mohamad Hazizie bin Sulkaflle has been approved by the following:

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DECLARATION

I hereby declare that this thesis is the result of my own investigation, except where otherwise stated. I also declare that it has not been previously or concurrently submitted as a whole for any other degrees at IIUM or other institutions.

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Signature.....

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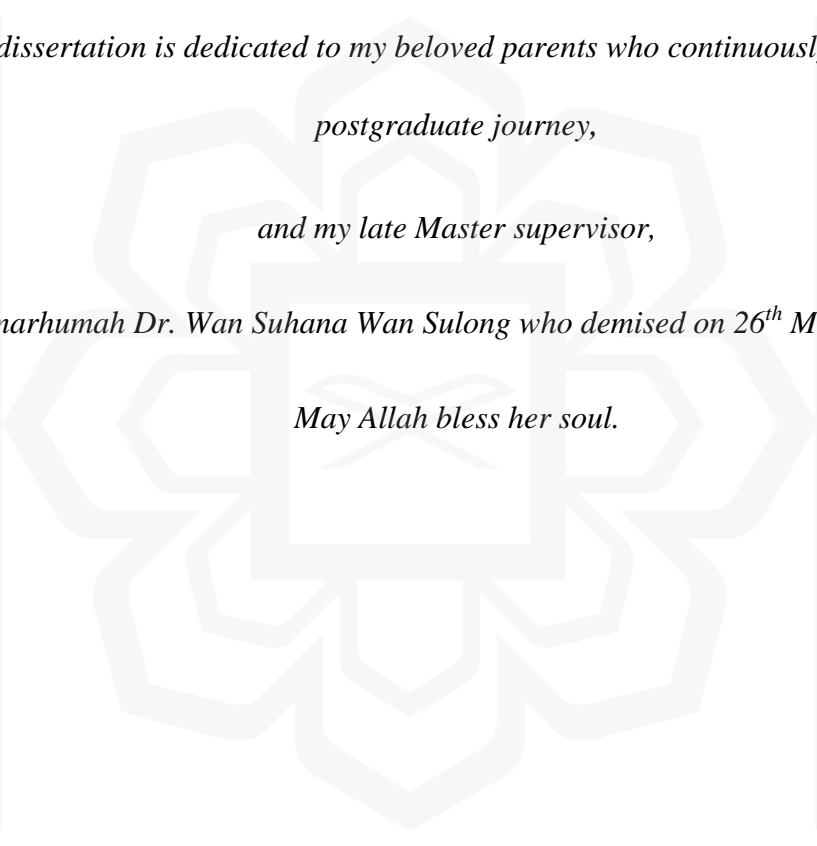
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*This dissertation is dedicated to my beloved parents who continuously support my
postgraduate journey,
and my late Master supervisor,
Almarhumah Dr. Wan Suhana Wan Sulong who demised on 26th March 2019.
May Allah bless her soul.*

ACKNOWLEDGEMENTS

All glory is due to Allah the Almighty, whose Grace and Mercy have been with me throughout the duration of my programme. Although it has been a challenging task, His Mercy and Blessings on me has eased the herculean task of completing this dissertation.

I am most indebted to my supervisor, Dr. Wan Ali Wan Mamat, whose enduring disposition, kindness, promptitude, thoroughness and friendship have facilitated the successful completion of my work. I would like to put on the record and appreciate his detailed comments, useful suggestions and inspiring queries which been considerably improved this dissertation. His brilliant grasp of the aim and content of this work led to her insightful comments, suggestions and queries which helped me a great deal. Despite his commitments, he took the time to listen and attend to me whenever requested. The moral support he extended to me is in no doubt a boost that helped in building and writing the draft of this research work. I am also grateful to my former supervisor, Prof. Datuk Dr. Awang Sariyan, whose support and cooperation contributed to the outcome of this work. Other than that, Prof. Datuk Dr. Ahmad Murad bin Mohd Noor Merican also deserved acknowledgement. He had contributed his idea and thought for the writing of this work through several sessions of discussion with him. Last but not least, I also would like to express my indebtedness to Assoc. Prof. Dr. Hafiz Zakariya who had continuously supported my journey throughout the postgraduate studies. Accordingly, a proper acknowledgement also should be given to ISTAC-IIUM for partially sponsoring my PhD studies. My two close companions at ISTAC – Muhammad Hafiz Abdul Karim and Nazirul Mubin Hamdan – also deserved to be acknowledged for their support throughout my study period.

Lastly, my gratitude to my beloved family especially my parents, for their prayers, understanding and endurance while I was away.

Once again, we glorify Allah for His endless Mercy on us which enabled the successful writing of this dissertation. Alḥamdulillāh.

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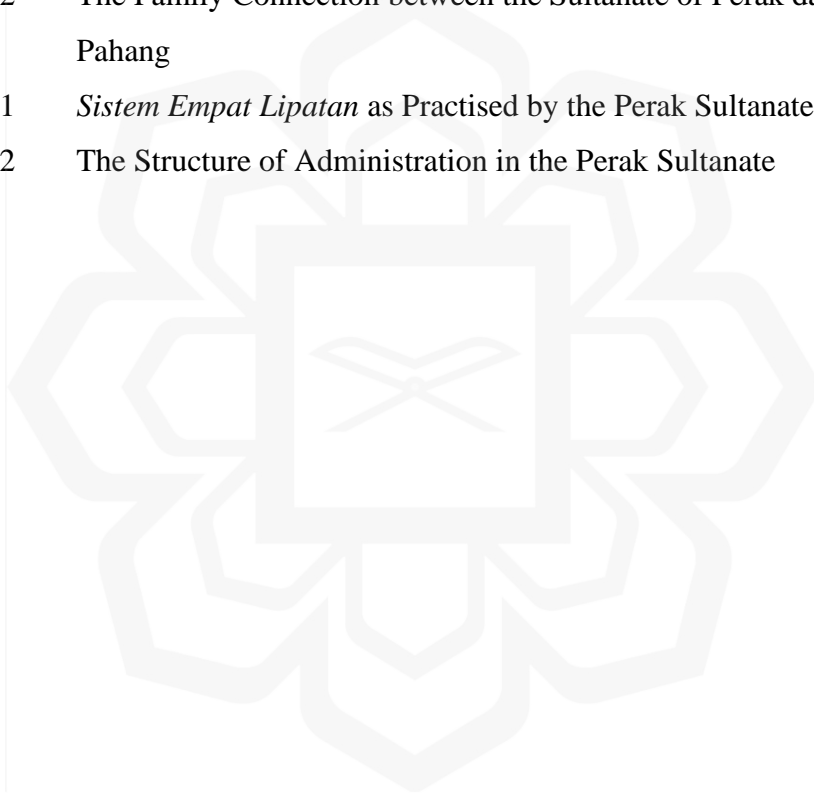


TABLE OF TRANSLITERATION

ء	'	خ	KH	ش	SH	غ	GH	ن	N
ب	B	د	D	ص	Ṣ	ف	F	ه	H
ت	T	ذ	DH	ض	<u>Ḍ</u>	ق	Q	و	W
ث	TH	ر	R	ط	Ṭ	ك	K	ي	Y
خ	J	ز	Z	ظ	Ẓ	ل	L		
ح	Ḥ	س	S	ع	'	م	M		

Short Vowels	
أ	a
إ	i
أ	u
Long Vowels	
آ	ā
ي	ī
و	ū

CHAPTER ONE

INTRODUCTION

1.1 BACKGROUND OF THE STUDY

The stability, prosperity, and tranquillity of one country largely depend on good leadership and good governance. As a comprehensive system of life, Islam heavily stresses these aspects. This led to the emergence of various writings by Muslim scholars on the issues of good leadership and governance. Among the issues discussed by them were the concept and idea of leadership and justice, together with their importance in Muslim society. The discussion was further expanded on the proper structure of government as well as the characteristics and responsibilities of the ruler and state officials. Among the famous work on this aspect is *al-Aḥkām al-Sulṭāniyyah* written by Abū al-Ḥassan ‘Alī ibn Muḥammad ibn Ḥabīb al-Baṣrī al-Baghdadī al-Mawardī (d. 1058).¹

This development led to the emergence of one unique statecraft literature genre in the Islamic civilisation, which is also called the “Mirrors for Princes” literature. According to M.R. Waldman, the “Mirrors for Princes” literature is a “book written for the practical and ethical guidance of rulers, usually by their servants”² and simply described by G.E. Marrison as the “Book of Instruction for Princes”.³ Julie Scott Meisami further explained that this genre, which is “composed in Arabic, Persian and Turkish, testify to the

¹ Al-Mawardī, *The Ordinances of Government: Al-Aḥkām al-Sulṭāniyyah w'al-Wilāyāt al-Dīniyya*, translated by Wafaa H. Wahba (Reading: Garnet Publishing Limited, 1996). He was born in Baṣrah in the year 974 and obtained all his education there. He served the Abbasids dynasty mainly in judicial field and being posted in several places before went to the capital; Baghdād and being appointed by the Caliph as *Aqḍā al-Quḍāt*. He also was a prolific writer; mainly in the field of law and politics. Besides his famous work of *al-Aḥkām al-Sulṭāniyyah*, he also wrote several other works such as *Kitāb al-Hāwi*, *al-Iqnā*, and *Siyasāt al-Mulk*. For further discussion about him, see for example, Muhammad Qamaruddin Khan, “Al-Māwardī”, in *A History of Muslim Philosophy: With Short Accounts of Other Disciplines and the Modern Renaissance in Muslim Lands*, vol. 1, edited by M.M. Sharif (Weisbaden: Otto Harrassowitz, 1963), 717-731.

² Cited in Jelani Harun, Introduction to *Nasihāt al-Muluk: Nasihat kepada Raja-raja*, edited by Jelani Harun (Kuala Lumpur: Dewan Bahasa dan Pustaka, 2006), xvi.

³ G.E. Marrison, “Persian Influences in Malay Life (1280-1650)”, *Journal of the Malayan Branch of the Royal Asiatic Society*, vol. 28, part 1 (1955): 61.

widespread medieval preoccupation with kingship, government, and justice problems.”⁴ Among the famous examples of the works of “Mirrors for Princes” in Islamic literature are⁵ *Kitāb Al-Sulṭān* by Ibn Qutaybah (d. 889),⁶ *Kitāb al-Taj* by al-Jāhiz (d. 865),⁷ *Sirāj al-Mulūk* by al-Ṭurtūshi (d. 1126),⁸ *Siyasatnama* or *Siyār al-Mulūk* by Nizam al-Mulk (d. 1092),⁹ *Qabusnama* by Kay Kaus ibn Iskandar (d.1082),¹⁰ *Naṣīḥat al-Mulūk* by Imām al-Ghazali (d. 1111),¹¹ *Mau’izah-i Jahangiri* by Muḥammad Baqir Najm-i Sani (d. 1637),¹²

⁴ Julie Scott Meisami, Introduction to *The Sea of Precious Virtues (Baḥr al-Fawā'id): A Medieval Islamic Mirror for Princes*, translated by Julie Scott Meisami (Utah: University of Utah Press, 1991), vii.

⁵ Jelani Harun, Introduction to *Nasihah al-Muluk* . . . , xv – xvi.

⁶ ‘Abd Allāh Abū Muḥammad ‘Abd Allāh ibn Muslim ibn al-Qutaybah al-Dīnwari, a prolific writer who wrote on many fields such as on tafsīr al-Qur’ān, ḥadīth, theology, philosophy, law and jurisprudence, philology, history, astronomy, agriculture and botany. He was born in 828. *Kitāb Al-Sulṭān* is the first part or volume of *Kitāb Uyun al-Akhbar* which was made up of ten parts or volumes. This *Kitāb Al-Sulṭān* was discussed extensively by Fiqih Risallah, *Islamic Political Ethics in Advice Literature: A Study of Ibn Qutaybah’s Kitāb al-Sultan (Book of Authority) of Uyun al-Akhbar* (Springs of Narratives (London: LAMBERT Academic Publishing, 2012). This book was originally Fiqih Risallah’s Master’s dissertation in ISTAC, IIUM in 2011. See also G. Lecomte, “Ibn Kutayba”, in *The Encyclopaedia of Islam: New Edition, Volume 3*, edited by B. Lewis, V.L. Menage, Ch. Pellat, & J. Schacht (Leiden: E.J. Brill, 1986), 844-847.

⁷ Abū ‘Uthman ‘Amr ibn Baḥr al-Kinānī al-Baṣrī al-Jāhiz. He wrote this book of *Kitāb al-Tāj fī Akhlāq al-Mulūk* for his patron, al-Fath ibn Khāqān, the vizier for Caliph al-Mutawakkil of the Abbasids Caliphate. He was born in 776. See Ch. Pellat, “Al-Djāhiz”, in *The Encyclopaedia of Islam: New Edition*, vol. 2, edited by B. Lewis, Ch. Pellat, & J. Schacht (Leiden: E.J. Brill, 1991), 385-387.

⁸ Abū Bakr Muḥammad ibn al-Walīd al-Ṭurtūshī was among the prominent political philosophers in al-Andalus. His books of *Sirāj al-Mulūk* (The Lamp of Kings) was acknowledged as one of the prominent books on political theory. See A. Ben Abdesslem, “Al-Ṭurtūshī”, in *The Encyclopaedia of Islam: New Edition*, vol. 10, edited by P.J. Bearman, Th. Bianquis, C.E. Bosworth, E. Van Donzel, & W.P. Heinrichs (Leiden: E.J. Brill, 200), 739-740.

⁹ His real name is Abū Alī Ḥassan ibn Alī ibn Ishāq al-Tūsi. He served a vizier for two Seljuq dynasty rulers; Alp Arslan and Malik Shah. This book served as political treaties that use historical examples to discuss justice, effective rule and the role of government in Islamic society. See H. Bowen & C.E. Bosworth, “Nizām al-Mulk”, in *The Encyclopaedia of Islam: New Edition*, vol. 8, edited by C.E. Bosworth, E. Van Donzel, W.P. Heinrichs, & G. Lecomte (Leiden: E.J. Brill, 1995), 69-73.

¹⁰ ‘Unṣur al-Ma’ālī Kay Ka’us was a ruler of the Ziyārids dynasty who ruled over the Caspian provinces of Ṭabāristān. He wrote this book to serve as guidance for his son and successor, Gīlān Shāh. It speaks of duty to God and the necessity of ethical behaviour. It contained about 44 chapters covering many aspects of discussion. See C.E. Bosworth, “Kay Kā’ūs b. Iskandar”, in *The Encyclopaedia of Islam: New Edition*, vol. 4, edited by E. Van Donzel, B. Lewis, Ch. Pellat, & C.E. Bosworth (Leiden: E.J. Brill, 1997), 815.

¹¹ Abū Ḥamīd Muḥammad ibn Muḥammad al-Ghazālī was among the most important and influential ‘ālim in the Muslim world. He divided *Naṣīḥat al-Mulūk* (Counsel for Kings) into two parts; the first part is on the topic of theology and the second part on the “Mirror for Princes”. See for example, F.R.C. Bagley, trans., *Ghazali’s Book of Counsel for Kings (Naṣīḥat al-Mulūk)* (London: Oxford University Press, 1964).

¹² Muḥammad Baqir Najm-i Sani was an Iranian in the service of the Mughal court. His career in administrative field rose to its peak when he was appointed as governor for several provinces by the Mughal ruler. Being married to the niece of Jahangir’s (r. 1607-1625) wife, he was able to secure close connection with the Mughal court. *Mau’izah-i Jahangiri* (Admonitions to Jahangir) was written by him for Jahangir. See Gavin R.G. Humbly, “Sani Muhammad Baqir Najm-i, Advice on the Art of Governance, An Indo-Islamic Mirror for Princes, trans. Sultana Alvi Sajida (SUNY Series in Near Eastern Studies) (Albany: State University of New York Press, 1989). Pp. 225.” *International Journal of Middle East Studies*, vol. 24, no.1 (1992): 163-164.

and *Kutadgu Bilig* by Yusuf Khass Hajib.¹³ As argued by John E. Tashjean, in the context of Islamic history and civilisation, this literature was developed and spread all across the Muslim world, albeit with differences in geographical location and cultural setting.¹⁴

The same case also happened among the Muslims in the Malay world. The coming of Islam into this part of the Muslim world led to this genre's infusion into the Malay literature. In his research, Jelani Harun found at least eight works written in the Malay world under this genre.¹⁵ Those works are 1) *Tāj al-Salāṭīn* by Bukhari al-Jauhari (1603),¹⁶ 2) *Bustān al-Salāṭīn* of Nuruddin al-Raniri (1638),¹⁷ 3) *Safīna al-Ḥukkām* written by Syeikh Jalaluddin for Sultan Alaidin Johan Syah of Aceh (1735-1760),¹⁸ 4) *Muqaddimah fi Intizam Waza'if al-Malik* and 5) *Thamarat al-Muhimmah* by Raja Ali Haji (1857),¹⁹ 6)

¹³ He was a 11th century Uyghur poet, statesman, vizier and philosopher from the city of Balasaghun, the capital of Karakhanid Empire in modern day Kyrgyzstan. He wrote *Kutadgu Bilig* (Wisdom which Brings Good Fortune), which completed in 1069-1070 for the ruler of the eastern Karakhānids; Abū 'Alī Ḥassan Tabghac Bughra Khān. See A.J.E. Bodrogligeti, "Kutadghu Bilig", in *The Encyclopaedia of Islam: New Edition*, vol. 5, edited by C.E. Bosworth, E. Van Donzel, B. Lewis, & Ch. Pellat (Leiden: E.J. Brill, 1986), 538-539.

¹⁴ John E. Tashjean, "On Theory of Statecraft", *The Review of Politics*, vol. 35, no. 3 (1973): 380-381.

¹⁵ Jelani Harun, "Kitab Kumpulan Ringkas Berbetulan Lekas: Karya Ketatanegaraan Melayu yang Terakhir", *SARI: Jurnal Alam dan Tamadun Melayu*, vol. 19 (2001): 138-139.

¹⁶ Bukhari al-Jauhari, *Taj al-Salatin*, ed. Khalid M. Hussain (Kuala Lumpur: Dewan Bahasa dan Pustaka, 1992). *Taj al-Salatin* (The Crown of Kings) was divided into 24 chapters. It is interesting to note that the Dutch in Netherland East Indies (modern day Indonesia) highly regarded this book and even instructed their officials to read it. There is hotly debated issue on the real identity of Bukhari al-Jauhari, the writer of this book. Early researchers tend to claim him as come from Bukhara (Bukhari) and a jewellery merchant (al-Jauhari). However, current researchers incline to accept him as a person name Bukhari from Johore (Bukhari al-Johori). See for example, Liaw Yock Fang, *Sejarah Kesusasteraan Melayu Klasik* (Jakarta: Yayasan Pustaka Obor Indonesia, 2011), 412-419.

¹⁷ Shaikh Nuruddin ibn 'Ali ibn Hasanyi ibn Muḥammad al-Ranīrī was a Gujerati 'ālim who served in the court of Aceh Sultanate. *Bustan al-Salāṭīn* (Garden of Kings) was consisted of seven parts or volumes. Since it also included history of the Sultanate of Melaka and Aceh, it had been considered as the Malay world's version of Islamic historiography of universal history. The concept of *Bustan al-Salāṭīn* was similar to the *Tārīkh al-Rusūl wa al-Mulūk* of al-Ṭabārī and *al-Bidāyah wa al-Nihāyah* of Ibn Kāthīr. See Jelani Harun, *Bustan al-Salatin, The Garden of Kings, A Malay Mirror for Rulers* (Pulau Pinang: Penerbit Universiti Sains Malaysia, 2009).

¹⁸ *Safīnat al-Ḥukkām fī Takhlisil Khassām* was written by Syeikh Jalaluddin bin Syeikh Muhammad Kamaluddin bin Kadi Baginda Khatib of Terusan. Not much is known about this figure but looking from his name, it is possibly he came from a well-established religious family. This book been used as reference by the judges in the Sultanate of Aceh. See Jelani Harun, *Undang-undang Kesultanan Melayu dalam Perbandingan* (Pulau Pinang: Penerbit Universiti Sains Malaysia, 2008), 310-322.

¹⁹ His full name was Tengku Haji Ali al-Haj bin Tengku Haji Ahmad bin Raja Haji *al-syāhid fī sabilillāh* bin Opu Daeng Chelak. He was born in Pulau Penyengat, Riau in 1808. He was known as a great 'ālim until been appointed as advisor to several rulers such as Temenggong Abu Bakar of Johore. He was also a prolific writer. Among his works besides the two mentioned above were *Bustan al-Kātibīn*, *Tuḥfat al-Nāfis*, *Silsilah Melayu-Bugis*, *Gurindam Dua Belas*, and *Syair Hukum Fara'id*. For further discussion, see Khalif Muammar A. Harris, *Ilmu Ketatanegaraan Melayu Raja Ali Haji: Huraian Terhadap Thamarat al-Muhimmah & Muqaddimah fi Intizām Wazā'if al-Malik* (Kuala Lumpur: Dewan Bahasa dan Pustaka, 2016).

Kitab Undang-undang Raja Nati by Syarif Sukma Wira ibn Syarif Jaafar Baqabah (1876),²⁰ 7) *Kitab Nasihat Raja-raja*, written by Syeikh Duyong for Sultan Zainal Abidin III of Terengganu (1881-1918),²¹ and 8) *Kitab Kumpulan Ringkas Berbetulan Lekas* by Raja Haji Ali (1910).²²

In the Malay literature, this genre is widely known as *sastera ketatanegaraan*,²³ which according to Jelani Harun, served as strong evidence of the influence of Islamic literature on Malay literature.²⁴ In his published Ph.D. thesis, Jelani Harun defined *sastera ketatanegaraan* as:

“a work about the state and statecraft, concentrating on principles for the guidance for rulers in carrying out their duties, a genre which is most identical to that of “Mirrors for Princes” in Islamic literature”.²⁵

²⁰ Not much is known about Syarif Sukma Wira ibn Syarif Jaafar Baqabah. However, from several sources, it is believed that he was once an advisor to the court of Sultanate of Kutai, Kalimantan, during the reign of Sultan Muhammad Adil Khalifatul Mukminin (1845-1899). It was recorded that his father, Syarif Jaafar was being trusted by the father of Sultan Muhammad Adil to educate the royal princes. See Jelani Harun, *Undang-undang Kesultanan . . .*, 285-300.

²¹ Syeikh Duyong real name was Syeikh Wan Abdullah bin Muhammad Amin bin Yaqub al-Fathani. He was born in Cabang Tiga, Patani in 1802 and died in 1889. He was a well-known *‘alim* and several prominent figures of Terengganu were his students. Among them were Sayyid Abdul Rahman bin Sayyid Muhammad al-Idrus (Tokku Paloh), and two sultans of Terengganu; Sultan Omar and Sultan Zainal Abidin II. See Wan Mohd. Saghir Abdullah, “Tok Syeikh Duyong Syeikhul Ulama Terengganu,” *Utusan Online*, <http://www1.utusan.com.my/utusan/info.asp?y=2006&dt=0306&pub=utusan_malaysia&sec=Bicara_Agam a&pg=ba_01.htm&arc=hive> (accessed February 1, 2017).

²² His full name was Raja Haji Ali ibn Raja Muhammad Yusuf al-Ahmadi and a grandson of above-mentioned Raja Ali Haji. He was also known with several other names such as Raja Haji Ali Kelana, Raja Ali Bukit and Raja Ali Riau. He went to Makkah for his education and had the opportunity to learn under Sheikh Ahmad al-Fathani who largely influenced him. He even got the opportunity to go to Istanbul during the era of Ottoman Empire with Sheikh Ahmad al-Fathani. Later on, when he returned to the Malay world, he still kept a close contact with Sheikh Ahmad al-Fathani and involved in Sheikh Ahmad al-Fathani scheme for the independence of the Malay world. Due to the conflict with the Dutch, he later on moved to Johore and being appointed as Syaikhul Islam. He was died in 1927. See Jelani Harun, “Kitab Kumpulan Ringkas Berbetulan Lekas . . .”, 133-158.

²³ This term only began to be adopted in the 1980s onwards. See for example Ismail Hamid, *Perkembangan Kesusteraan Melayu Lama* (Petaling Jaya: Longman Malaysia Sdn Bhd, 1987), 215-230; Zalila Sharif & Jamilah Haji Ahmad, *Kesusasteraan Melayu Tradisional* (Kuala Lumpur: Dewan Bahasa dan Pustaka, 1993), 494-504 and Siti Hawa Haji Salleh, *Malay Literature of the 19th Century* (Kuala Lumpur: Institut Terjemahan Negara Malaysia, 2010, originally published in Malay in 1997), 238-250. Prior to the 1980s, scholars tend to include these literatures under ‘Religious Literature’ or ‘*Sastera Kitab*’ genre such as by R.O. Winstedt, *A History of Classical Malay Literature* (Kuala Lumpur: The Malaysian Branch of the Royal Asiatic Society, 1991, 3rd edn., originally published in 1940), 94-108, and Liaw Yock Fang, *Sejarah Kesusasteraan Melayu Klasik* (Jakarta: Yayasan Pustaka Obor Indonesia, 2011, originally published in 1975), 382-432.

²⁴ Jelani Harun, Introduction to *Nasihat al-Muluk . . .*, xiii.

²⁵ Jelani Harun, *Bustan Al-Salatin: A Malay Mirror for Rulers* (Pulau Pinang: Penerbit Universiti Sains Malaysia, 2008), 91.

This definition will be the basis of this research. Jelani Harun further explained that this genre, written by the palace's writer or people who are close to the palace, usually served as guidance on the statecraft and governance for the Malay rulers and state's aristocrats. It stressed the importance of leaders' proper action and behaviour, exemplar morality, and noble personality.²⁶ The main purpose of this literature is to remind the rulers of the idea of justice in Islam and to adhere to it in their ruling.²⁷ This idea of justice is not only on the punishment of crimes, but also includes justice in the interaction between the ruler and the Creator, and the ruler with his subject.²⁸

Nevertheless, the emergence of the "Mirrors for the Princes" genre in Malay literature signified that there were concerted efforts made by the scholars closely associated with the palace to strongly reminded Malay rulers that in order for them to be qualified as *zillullāhu fī al-‘ālam* – "Allāh's shadow on earth" – they must adhere to the idea of justice in Islam.²⁹ At the same time, regardless of any deficiencies in its contents or implementation, it signified the Malay society's intellectual legacy in the past³⁰ and the consciousness of the Malay rulers and aristocracy at that time on the need for systematic and good governance in the Malay society.³¹

1.2 STATEMENT OF THE PROBLEM

Generally, the study of statecraft or *ketatanegaraan*, especially in the Malay world, only confined to the specifically "Mirrors for Rulers" literature such as *Tāj al-Salāṭīn*, *Bustān al-Salāṭīn*, *Thamarat al-Muhimmah*, *Kitab Nasihat Raja-raja*, and *Kitab Kumpulan*

²⁶ Jelani Harun, Introduction to *Nasihat al-Muluk* . . . , xvi, and Jelani Harun, "Kitab Kumpulan Ringkas Berbetulan Lekas . . . , 133.

²⁷ Jelani Harun, "Kitab Kumpulan Ringkas Berbetulan Lekas . . . , 135.

²⁸ Jelani Harun, "Idealisme Keadilan Undang-undang: Karya Ketatanegaraan Sebagai Respon Intelektual Terhadap Undang-undang Adat Melayu", in *Kesusasteraan dan Undang-undang*, edited by Mohamad Mokhtar Hassan, Mohd. Taufik Arridzo Mohd. Balwi & Bazrul Bahaman (Kuala Lumpur: Akademi Pengajian Melayu, Universiti Malaya, 2003), 130.

²⁹ Jelani Harun, "Kitab Kumpulan Ringkas Berbetulan Lekas . . . , 134.

³⁰ Jelani Harun, "Idealisme Keadilan Undang-undang . . . , 144.

³¹ Jelani Harun, "Kitab Kumpulan Ringkas Berbetulan Lekas . . . , 148.

Ringkas Berbetulan Lekas. As Jelani Harun's remarked, the aspect of statecraft that existed in the traditional historical narratives such as *Sulālat al-Salāṭīn*, *Misa Melayu*, and *Tuḥfat al-Nāfīs* has never been seriously studied by scholars. More than that, the aspect of statecraft in the traditional Malay laws has even been less studied by scholars.³² Hence, this research would like to fill up these significant gaps in the academic literature by focusing on the aspect of statecraft from the traditional Malay laws.

The study of Malay laws began as early as 1820 with the publication of three volumes of *History of the Indian Archipelago* by John Crawfurd. In the third volume, he explained various Malay laws from his point of view.³³ His views were inherited by the subsequent British officers such as Stamford Raffles, R.J. Wilkinson, R.O. Winstedt, and Frank Swettenham. According to Noor Aisha, there were some biased and prejudiced elements in their writings, either explicitly or implicitly. For example, they mostly agreed that Malay laws are backward, cruel, barbaric, unjust, and are only intended to safeguard the interests of the Malay rulers.³⁴ John Crawfurd, for example, remarked:

“ . . . all of them display a remarkable character of rudeness and barbarism Institutions so imperfect, indeed, have never, in all probability, been, among any other people, committed to writing. No attempt is made in them of arrangement or classification, but the most incompatible matters are blended together, and the form of judicature, criminal and civil jurisprudence, maxim of morality, and commercial regulations, are incongruously intermixed.”³⁵

This negative view of Malay laws later continued, for example, by R.J. Wilkinson. The Malay laws are arbitrary, exploitative in their system of administering justice and uphold a despotic administrative system of government.³⁶ The Malay system of governance also, according to him, “did not lend itself at any time to the proper administration of justice”.³⁷ He further stated that:

³² Jelani Harun, *Pemikiran Adab Ketatanegaraan Kesultanan Melayu* (Kuala Lumpur: Dewan Bahasa dan Pustaka, 2003), 3.

³³ See John Crawfurd, *History of the Indian Archipelago*, vol. 3 (Edinburgh: Archibald Constable and Co., 1820), 75-139.

³⁴ Noor Aisha Abdul Rahman, *Colonial Image of Malay Adat Laws: A Critical Appraisal of Studies on Adat Laws in the Malay Peninsula during the Colonial Era and Some Continuities* (Leiden: Brill, 2006), 7-20.

³⁵ Crawfurd, 78-79.

³⁶ Noor Aisha Abdul Rahman, 13.

³⁷ R.J. Wilkinson, *Papers on Malay Subjects: Law Part I, Introductory Sketch* (Kuala Lumpur: Federated Malay States Government Press, 1922), 32.

“The first duty of the student is therefore to clearly understand the composite nature of Malay law. He must not look for uniformity where no uniformity can possibly exist. Above all, he must not allow himself to be blinded by any European preference for written or recorded laws. He should not take the so-called “codes” (*undang-undang*) too seriously. When he reads about the “Malacca Code” or the “Malay Maritime Code” or about the “Laws of Bencoolen and Palembang” he has to remember that these so-called “codes” were never actually enacted by any legislative authority; they are only digest of Malay law. There is a very great difference between digest and a code. A digest may give a very faithful picture of its subject, but it is, at best, a picture and not the actual law – no man can be charged in court with violating some section or sub-section of a digest”.³⁸

Noor Aisha opinion was in line with Syed Muhd Khairuddin Aljunied’s remarks on the perceptions of Thomas Stamford Raffles toward Malay law. According to Aljunied, Raffles regarded the infusion of Islamic laws into the Malay law had further promoting the despotic rule amongst Malays. Raffles further added that Islam and its laws advocated cruelty and autocracy of the ruling groups towards the peasants. All these perceptions, as noted by Aljunied, was part of Raffles schemes to degrade the influence of Islam towards the Malay society and to uplift the status of Hinduism and its law as the real civilizing force for the Malays³⁹ and to detach the Malay people from Islam and made them more tolerance in accepting the British influences and domination in the Malay world. Islam had been seen by Raffles and the British in general as the unifying force of the Malay which create obstacles for their colonial schemes in this archipelago.⁴⁰

Ironically, these negative views had influenced the subsequent scholars who studied Malay laws. Abu Hassan Sham, and Ahmad Jelani Halimi, for example, tend to agree that the Malay legal texts were written mainly to preserve the dignity of the Malay rulers.⁴¹ Their argument was usually based on several articles in the Malay legal texts which preserved certain privileges for the Malay rulers, such as the usage of yellow clothing and

³⁸ Wilkinson, *Papers on Malay Subjects*. . . , 3.

³⁹ Syed Muhd Khairudin Aljunied, *Raffles and Religion: A Study of Sir Thomas Stamford Raffles’ Discourse on Religions amongst Malays* (Petaling Jaya: The Other Press, 2004), 33.

⁴⁰ *Ibid.*, 14-39.

⁴¹ See Abu Hassan Sham & Mariyam Salim, *Sastera Undang-undang* (Kuala Lumpur, Dewan Bahasa dan Pustaka), 5, and Ahmad Jelani Halimi, Ahmad Jelani Halimi, ““Undang-undang 99” Perak: Undang-undang Melayu Abad ke-18,” in *Kesultanan Melayu Perak*, edited by Harun Mat Piah (Kuala Lumpur: Dewan Bahasa dan Pustaka, 2019), 203.

special language.⁴² However, it seemed unfair to put that judgement only based on those articles that usually numbered not more than ten from the overall number of articles in one legal text. For example, in *Hukum Kanun Melaka*, only 6 articles – Article 1.1, 2.1, 2.2, 3, 44.7 and 44.8 – were related to the privileges of the ruler out of 44 articles contained in it, and yet, it must be remembered that those 44 articles were further divided into several sub-articles, which made the actual number of articles more than 100 articles.⁴³ Another example can be seen from *Undang-undang Pahang, Perak, dan Johor*, which will be discussed in Chapter Four, where out of 106 articles, only Articles 1 and 85 were on the privileges of the ruler.⁴⁴ Hence, their opinion should be re-considered, if not rejected.

These views on Malay legal texts and system of governance eventually enhance by cherry-picking anecdotes from the recorded history, such as several episodes recorded by Abdullah Munshi in his *Hikayat Abdullah* and *Kisah Pelayaran Ke Kelantan*. His criticism on the Malay society's condition and the behaviour of the Malay rulers during his time, i.e., during the 19th century, usually being quoted by later scholars to support their argument on the exploitative and manipulative nature of the Malay rulers in general. However, on further readings of Abdullah Munshi writings, he explained that those situations were mainly due to a lack of education among the Malay society in general. In one case, he even suggested the Malay rulers of Kelantan make *Tāj al-Salāṭīn* as their guidance in administering the state.⁴⁵ This eventually proved that the Malay already have their guidance on good governance, which the Malay themselves have neglected.

After all, the above-mentioned arguments basically can be deduced into three main issues: 1) The question of the idea of justice in the Malay legal texts and way of governance, 2) The question of the existence of established laws in the Malay society, and finally, 3) The question of the systematic mechanism of administration – statecraft – in traditional Malay society. Hence, this research aims to answer all those three questions by analysing the existing Malay legal texts. Instead of discussing every single article in those legal texts,

⁴² Ibid.

⁴³ The calculation was based on the version by Liaw Yock Fang, *Undang-undang Melaka: The Laws of Melaka* (The Hague: Martinus Nijhoff, 1976).

⁴⁴ See Table 4.1 on the list of all articles in *Undang-undang Pahang, Perak, dan Johor* and their classifications in Table 4.2 of the following Chapter Four.

⁴⁵ Abdullah Munshi, *Kisah Pelayaran Abdullah: Ke Kelantan dan ke Judah*, edited by Kassim Ahmad (Kuala Lumpur: Penerbit Fajar Bakti Sdn. Bhd., 1981), 72-73.

this research would like to focus on the idea and concept of statecraft, which existed in those legal text. This research would also like to put a statement by Mohd. Taib Osman as its main hypothesis:

“Lagipun gambaran yang sering digembar-gemburkan penulis Barat tentang ‘Oriental Despotism’ adalah berlawanan dengan ethos pemerintahan raja-raja Melayu mengikut naskhah-naskhah ketatanegaraan yang kita warisi.”⁴⁶

However, studying each one of the Malay legal texts that existed will be unpractical for this research. According to Jelani Harun, there are currently at least 20 legal texts produced by various Malay sultanates in the Malay world.⁴⁷ To overcome this issue, one of the oldest existing sultanates, the Perak Sultanate, was selected as a reference for this study. The Perak Sultanate is the only sultanate that is selected based on three separate legal texts, which are:⁴⁸ 1) *Undang-undang Sembilan Puluh Sembilan*, 2) *Undang-undang Pahang, Perak, dan Johor*, which was also known as *Undang-undang Kerajaan*, and 3) *Undang-undang Dua Belas Minangkabau*.⁴⁹ However, only *Undang-undang Sembilan Puluh Sembilan* and *Undang-undang Pahang, Perak, dan Johor* will be chosen to be included in this study due to two reasons, which are: 1) Both legal texts belong to the same category, i.e. *Undang-undang* under *Adat Temenggung*, while *Undang-undang Dua Belas Minangkabau* was under *Adat Perpatih*, and 2) As will be further discussed in the following chapter, both legal texts were considered the constitution under the Perak Sultanate.

⁴⁶ Mohd Taib Osman, “Manuskrip Melayu dalam Bidang Ketatanegaraan”, in *Sejambak Mawar: Secebis Bingkisan Kesarjanaan Mohd Taib Osman*, edited by Omar Farid Hashim and Farid Ahmad (Kuala Lumpur: Persatuan Sejarah Malaysia, 2015), 9.

⁴⁷ See Jelani Harun, *Undang-undang Kesultanan*.

⁴⁸ This make the case of Perak Sultanate is different from the Sultanate of Kedah. Although Kedah has four legal texts, namely 1) *Undang-undang Pelabuhan* (Laws of Port), 2) *Undang-undang Seri Paduka Tuan* (Laws of *Seri Paduka Tuan*), 3) *Hukum Kanun Datuk Kota Setar* (Canon Laws of *Datuk Kota Setar*), and 4) *Undang-undang Hijrah Seribu Seratus Sembilan Puluh Sembilan* (Laws of 1099H); these sets of laws had been combined together with manual on making gold flowers (*bunga emas*) to form a single text of *Undang-undang Kedah* (Laws of Kedah). See Mariyam Salim (ed.), *Undang-undang Kedah* (Kuala Lumpur: Dewan Bahasa dan Pustaka, 2005).

⁴⁹ See footnote no. 74 in the following page 15.

1.3 RESEARCH OBJECTIVES AND QUESTIONS

This study aimed to answer the following questions:

- 1) What are the historical circumstances that led to the existence of these two legal texts in the Perak Sultanate?
- 2) Do these two legal texts be considered as a form of constitution for the Perak Sultanate?
- 3) What are the ideas and concepts of statecraft expounded by these two legal texts?
- 4) To what extent did those ideas and concepts of statecraft as laid down by these two legal texts contribute to the existence of an established structure of governance in the Perak Sultanate?

Hence, by answering the above questions, the following objectives are expected to be achieved:

- 1) To understand the historical circumstances that led to the existence of these two legal texts in the Perak Sultanate.
- 2) To determine whether these two legal texts can be considered as a form of constitution for the Perak Sultanate or not.
- 3) To identify the ideas and concepts of statecraft expounded by these two legal texts.
- 4) To analyse the contributions of these two legal texts towards establishing a structure of governance in the Perak Sultanate.