

1.1. Yanwar Pribadi Book Review BKI Volume 174 Issue 1 2018.pdf

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Ayang Utriza Yakin

Sejarah Hukum Islam Nusantara Abad XIV–XIX M. Jakarta: Kencana, 2016, xvi + 231 pp. ISBN 9786024220402, price IDR 62,000.00 (paperback).

3

Sejarah Hukum Islam Nusantara Abad XIV–XIX M. (The History of Islamic Law in the Malay World, 14th–19th Centuries) contains details of investigation of the history of Islamic law and *adat* (customary) law in the Malay world between the fourteenth and nineteenth centuries. Using mostly travel literature, such as those of Marco Polo and Alfonso de Albuquerque, and manuscripts, such as those of Ahmad Rifai's *Baḥt al-Iftā'* and *Hikayat Raja-raja Pasai*, this book attempts to reconstruct the implementation of Islamic law and *adat* law in a Muslim region that has often been regarded as 'peripheral' compared to the 'center' of the Islamic world in the Middle East. Based on the author's published articles in various journals in Indonesia, this book shows that there were complex relationships as the result of the encounter between Islamic law and *adat* law in the Malay world. Firstly, Islamic law was possibly ruled out and *adat* law became the main preference. Secondly, Islamic law served as an alternative option to the existing *adat* law. Thirdly, Islamic law and *adat* law were implemented concomitantly. Lastly, *adat* law faded somewhat and Islamic law became increasingly dominant (p. vii).

Chapter 1 focuses on the Islamization and the application of Islamic law in the Sultanate of Samudera Pasai in the fourteenth century. The author indicates that the application of Islamic law in Samudera Pasai was at its early stage, in line with the whole processes of Islamization in the Malay world. In relation with the main argument in the previous paragraph, Yakin argues that Islamic law was simultaneously applied with *adat* law in the Sultanate.

This account becomes interesting as the author attempts to make a link between the implementation of law in the Sultanate of Aceh in 1516–1688 and in present-day Aceh. Yakin suggests that today's implementation of Islamic law in Aceh through various *perda* (*peraturan daerah*; regional regulations) has no historical link with what happened in the past. Instead of Islamic law, in Chapter 2, he illustrates the application of *adat* law in the Sultanate throughout the sixteenth and seventeenth centuries.

In relation with today's situation in many regions in Indonesia, we should recognize that the attempts to formulate and apply Islamic law at the sub-national level are not unique to the country. Various developments in Muslim-majority states in the last forty years demonstrate that all major political currents that include Islamism, authoritarianism, secularism, populism, and many others exist, thrive, and form new political environments. These environments are dominated by movements attempting to transform the state and question

1

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the legitimacy of existing governments. The first notorious example was the 1978–1979 Iranian Revolution, when Ayatollah Khomeini began a revolution to overthrow the Pahlavi dynasty and replaced it with an Islamic government. One of the most recent examples was when the Taliban held power from 1996 to 2001 in Afghanistan and enforced a strict interpretation of *sharia* (Islamic law).

The events have signified the entanglement of Muslim-majority states in dealing with the challenge of adapting politics and governance to the requirements of Islam. The existence of Islamic governments and radical Islamist political groups is now irrecusable (Brown 2000: 2). In all over the Muslim world, the rise of Islamism was partly due to weak, corrupt, and essentially discredited elites who turned to Islam as a discourses of legitimation to perpetuate their own power and right to rule (Noor 2004: 750–751). Islam continues to act as a key mobilizing ideology and social movement frame in Muslim-majority states. Islam, however, is not only the subject of political contention, but also its object (Bayat 2010: 8).

In Indonesia, there have been efforts to idealize Muslim-majority states as the myth of the Islamic state, religiously based, and defined and governed by God through political means. Following the New Order, it is seen in Islamization of politics expressed in, among other things, the adoption of local Islamic laws in the context of democratization; the rise of political Islam; and the growth of modern political Islamic fundamentalism that claims to (re)-create a true Islamic society.

Again, in Chapter 3, 4, and 5, the author throws the reader into the Islamization and the application of Islamic law and *adat* law in the Sultanate of Terengganu and Malacca between the fourteenth and sixteenth centuries and sketches the dynamics of the encounter between local interpretations of law that were influenced by Hinduism as well as animism and foreign comprehensions of *sharia* that were predisposed by various *madāhib* (schools of thought within Islamic jurisprudence). For instance, in Chapter 4, Yakin describes the influence of *Shāfiʿī madhab* in a number of laws, such as marriage, trade, and criminal (p. 159). Meanwhile, in Chapter 5, he investigates the frequent use of *adat* law instead of *Undang-Undang Melaka* (Laws of Malacca, the legal code of the Sultanate of Malacca that contains *adat* law and Islamic principles). Despite its reputation as the most important Malay legal digest and the legal resource for other major Malay sultanates, such as Perak, Johor, and Brunei, the Islamic part of the law was only partially applied, as *adat* law became the main preference (p. 197). Meanwhile, Chapter 6 (which curiously, has no direct relation with other chapters) describes Ahmad Rifai of Kalisalak's fatwa on opium and cigarettes in nineteenth century Java.

This book suffers from a number of weaknesses: one, it has neither introduction nor conclusion chapters. Therefore, we cannot expect to have discussions on, for instance, the author's arguments and his position within the broader subjects of debate in the history of Islam and law in the Malay world. Likewise, this book provides only a few rather naïve understandings of the consequences that socio-political configurations had in the application of Islamic and *adat* law in the region, such as, who took advantages and received disadvantages from the laws? Or, what were the wider implications of the application of the laws for the development of politics of religion in the Malay Archipelago?

Two, the chapters in this book show little coherence amongst each other; they seem like independent articles loosely cobbled together. The author fails to build arguments that may connect the chapters. In addition, the stories discussed by the author do not explicitly produce theoretical frameworks that give rise to scholarly debate in the field of the history of Islamic law because the main focus is rather the reconstruction of the past.

Three, in relation with this book's propositions, there is no critical discussion on socio-religious transformations in the Malay world's Muslim kingdoms. The author does not pay much attention to the socio-cultural and socio-political landscapes of newly Islamized states. For instance, there are several pages of disapproval for the many examples of the application of *adat* law, instead of Islamic law in the sultanates, without any mention of the many reasons that the rulers in these sultanates only recently experienced 'Islamic euphoria' from Islamization (for instance, p. 55, 71, 81, and 82). The book might have been stronger if the author had included a fifth proposition, namely 'the law applied is local views-based Islamic law'.

As the book is mostly intended for law, Islamic law, and history students, the author could have demonstrated that there have been continuities and changes in the application and entanglement of Islamic law and *adat* law in the contemporary Malay world. It could be done by showing the incorporation of Islamic and local beliefs in Islam and the ongoing state-building processes in the region that has some of the more interesting, mostly non-violent manifestations of Islamic social and political life for centuries (Saravanamuttu 2010: 3).

Despite these critiques, this book is a very welcome addition to scholarship on the subject matter. This book offers avenues to engage with the study of history of law and opens wider and more comprehensive discussions about the history of Islamic law in the Malay world, particularly in the eighteenth and nineteenth centuries. Overall, while not necessarily the ideal publication to begin one's study of history of Islamic law in the Malay world, Yakin's study certainly complements existing scholarship.

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