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ELITE POLITICS, JURISDICTIONAL CONFLICTS AND THE LEGACY OF COLONIAL
STATE BUILDING IN MALAYSIA

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CHAPTER ONE

ELITE POLITICS, JURISDICTIONAL CONFLICTS, AND THE LEGACY OF COLONIAL STATE BUILDING IN MALAYSIA

Introduction

In recent years, cases of jurisdictional conflicts have intensified in Malaysia.

Jurisdictional conflicts occur when the federal, civil, and state shari‘a courts dispute cases in the exercise of personal law.¹ Personal laws and the specialized courts where they are administered are legal concessions for ethnic and religious communities to apply customary and/or religious laws on selected matters.² Increasingly, jurisdictional conflicts are no longer constrained to

¹ State religious courts dispense shari‘a law, which is religious law in the Islamic tradition. Since this is the first of many non-English words I use in the dissertation, a note regarding Romanized spelling is in order. For Arabic and Persian words I follow the authoritative *International Journal of Middle East Studies* Romanization standard. This system follows both diagraphic and diacritical notations. The rules can be found at https://ijmes.chass.ncsu.edu/IJMES_Translation_and_Transliteration_Guide.htm For Malay words, the sources I refer to are in either jawi script that is a mix of Arabic and Persian script (I refer to as Malay jawi), or in the Romanized script (I refer to as Malay *rumi*). Malay words do not present problems of transliteration in the same way as Arabic and Persian words do since Malay jawi have undergone Romanized standardization over several stages since the early twentieth century. Since the 1972 updated New Rumi Spelling system was implemented, it was institutionalized rigorously by the authoritative Malaysian *Dewan Bahasa dan Pustaka* (Institute of Language and Literature) and that is the version I follow. Both shari‘a and *syariah* are used in this dissertation. The former is transliterated from Arabic while the latter from Malay. Where I use shari‘a it is in reference to Islamic law more generally and where I use *syariah* it is in reference to the Malaysian courts more specifically. I also retain any other variations to spelling from the sources I refer to and in these instances I indicate those with quotations. Regarding the use of proper nouns, notably names of Malay states such as Johor and Aceh, can also be spelled Johore and Aceh. In both cases I use the current spelling of these states which is Johor and Aceh even though I refer to these states during the historical time period when they were spelled as Johore or Aceh. In the case of Malacca, I retain this more common English spelling rather than Malacca, which is its Romanized Malay spelling. I do note that the Malaccan state government has recently called for the standardization of spelling in favor of the Romanized Malay. My choice is pragmatic so as to ease the reader’s encounter with the text, but I address this here from the outset to acknowledge and honor the politics of postcolonial place names. In the Malay language, the plural form of a word is repeated such as one *penghulu* and many *penghulu-penghulu*. For the reader’s ease, I dispense with this and simply follow the English language convention of the plural form. In this case, one *penghulu* and many *penghulus*. Chinese words follow the *hanyu pinyin* transliteration system while Japanese words follow the Hepburn Romanization system. Finally, I italicize all non-English words in the first encounter and dispense with the italics thereafter.

² Civil and *syariah* courts may conflict in one of two ways: (i) when cases involve a Muslim and a non-

personal matters. In a highly prominent case involving the translation of the Bible into the Malay language that garnered the attention of Malaysians, the question of whether the translation of the Bible contravened state religious laws that restricted the propagation of religion to Muslims—most of whom claim Malay as their native language—was debated. At the same time, it was debated whether this state law contravened the right to religious freedom provided for in the Federal Constitution. These cases implicate larger concerns for Malaysians, including personal and religious freedoms, the right to equal citizenship, and what the constitution holds as an aspirational document for the future of the nation.

While jurisdictional conflicts recur every now and then, every so often they become even more contentious, becoming fodder for inter-group mobilization and violence.³ In these instances, jurisdictional conflicts signal deeper problems with the politics of legal administration in a plural legal system. The process where courts render judgment on the appropriate place of religion in the political order is referred to in the literature as the “judicialization of religion.”⁴ This process speaks to the heightened prominence of religion in public life, but also alerts us to religion as a growing source of conflict. In a postcolonial state with developing institutions, the judicialization of religion on the one hand indicates that citizens are more reliant on the courts

Muslim litigant such as in cases of divorce, marriage, property inheritance, and custodial rights; or (ii) when cases dispute regarding constitutional law such as in the criminalization of apostasy such as religious conversion, blasphemy such as insulting religion or heresy such as heterodox religious beliefs and practices.

³ As in the Bible translation case, it was reported that a total of ten churches, two mosques and one Sikh temple were targeted in a string of attacks in 2010. These attacks occurred in Selangor, Kuala Lumpur, Sarawak, Negeri Sembilan, Perak, Malacca, and Johor.

⁴ Tamir Moustafa, “The Judicialization of Religion,” *Law and Society Review* 52, no. 3 (September 2018): 685–708. Tamir Moustafa, *Constituting Religion: Islam, Liberal Rights and the Malaysian State* (Cambridge, UK: Cambridge University Press, 2018). This term is adapted from its earlier use in the North American context. In this case, the concern was the “judicialization of politics” where there was an increasing reliance on courts to weigh in on matters to do with core moral questions that impinge upon public policy and politics.

for due process. By most counts this is a positive development since it speaks to the strength of the government and growing trust in public institutions.⁵ But on the other hand, the judicialization of religion can and often does open up the judiciary to abuse where courts become weaponized for political gain.⁶ This threatens the development of a strong and independent judiciary required for a functioning democracy.

Like other postcolonial states, Malaysia inherited a plural legal system fashioned over its long colonial history. The legal system was central to the political administration of the Malay states and featured provisions for state legislative autonomy on religious and customary matters. This was done so as to incorporate existing structures of traditional authority towards effective colonial state governance. Today, legal administration in Malaysia still retains many of the important features of the plural legal system, including political and legislative concessions for state autonomy in the regulation of religion and customs. State autonomy, especially with regard to the application and regulation of Muslim personal law, is a heated matter in Malaysia. Notably, the states of Kelantan and Terengganu, vanguards of religious paternalism and stronger state intervention, represent jurisdictional conflicts especially combustible for the politics of federalism in Malaysia. Over recent years, a bill was proposed to extend the jurisdiction of personal laws beyond what is currently limited by the constitution. Specifically, the bill seeks to amend the Shariah Courts (Criminal Jurisdiction) Act of 1965 (also referred to as Act 355) to empower Islamic courts to enforce any punishment provided in shari‘a laws for Islamic offences listed under a state jurisdiction in the federal constitution, except for the death penalty.⁷ The

⁵ Where state institutions are weak, people usually take recourse to extra-legal measures of solving conflict.

⁶ Fiona Shen-Bayh, “Strategies of Repression: Judicial and Extrajudicial Methods of Autocratic Survival,” *World Politics* 70, no.3 (2018): 321–57.

⁷ Trinna Leong, “All Eyes on ‘hudud Bill’ as Malaysia’s Parliament Sits,” *The Straits Times*, October 18,

president of the leading opposition party, the Pan-Malaysian Islamic Party (PAS), insisted that this bill was meant to strengthen state *syariah* courts, a provision provided for in the federal constitution.⁸ Opponents of the bill, including lawmakers and rival parliamentarians from other states, argue that the bill jeopardizes the democratic principles that underlie the nation's constitution. They argue that this contradicts the original intent behind the provision for personal laws within a plural legal system and threatens the strength of the federation.⁹

In addition to the strength and partiality of state institutions, jurisdictional conflicts in the federal and state courts threaten to weaken the federation. Composed of thirteen states and three federal territories across two land masses, the highly centralized government of Malaysia very rarely encounters resistance from member states whose jurisdictions are provided for and specified in the constitution.¹⁰ Yet the few cases of jurisdictional conflict expose and further aggravate what existing fault lines there are between the two, and in some states these fault lines are rent asunder. As *syariah* courts become heightened symbols of state power, religion is politicized and cases of jurisdictional conflict provide a platform for state governments to agitate for increased rights and autonomy.

2016, <http://www.straitstimes.com/asia/se-asia/all-eyes-on-hudud-bill-as-malaysias-parliament-sits>.

⁸ Zurairi Ar, "How Hadi's Bill Went from hudud to 'Upgrading' the Shariah Courts," *The Malay Mail Online*, October 17, 2017, <http://www.themalaymailonline.com/malaysia/article/how-hadis-bill-went-from-hudud-to-upgrading-the-shariah-courts>.

⁹ Baru Bian, "Hadi's hudud bill Not for Malaysia," *Malaysiakini*, October 19, 2016, <http://www.malaysiakini.com/news/359572>. Shannon Teoh, "Rising Tension over PAS' Bill," *The Straits Times*, March 10, 2017, <http://www.straitstimes.com/asia/se-asia/rising-tension-over-pas-bill>. Channel NewsAsia Agency, "Thousands rally in Malaysia to Support PAS Bill to Strengthen Sharia Court," *Channel NewsAsia*, February 17, 2017. <http://www.channelnewsasia.com/news/asiapacific/thousands-rally-in-malaysia-to-support-pas-bill-to-strengthen/3530078.html>.

¹⁰ Articles 73 to 79 of the Federal Constitution specify the areas where state and federal laws may legislate. Matters under the federal list include citizenship, defense, internal security, civil and criminal law, finance, trade, commerce and industry, education, labor and tourism. Matters under the state list include land, local government, shari'a law and *syariah* courts, state holidays and state public works. There is also a concurrent list where both federal and state have overlapping jurisdictions such as water supply and housing.

Puzzles and argument

Against this backdrop, my dissertation asks: Despite a highly centralized government, why do jurisdictional conflicts in the civil and religious courts become politicized and even turn violent in some states more than in others? Further, why do these conflicts mobilize for radically different outcomes—i.e., constitutional reform on the one hand, and the strengthening of state institutions on the other? Current explanations suggest that jurisdictional conflicts become salient in some states more than in others due to the political distance between the state and federal governments.¹¹ Where the federal and state governments are aligned, jurisdictional conflict will not occur, or when they do, they are less politicized than where federal and state governments are competing. This follows that in Kelantan and Selangor where the states are led by opposition governments, courts will be weaponized for political gain. The argument of political distance is essentially one about party politics. Even as political parties compete with one another and drive conflicts in Malaysia to a significant extent, this explanation is not sufficient to explain why Kelantan pushed for strengthening religious institutions and increasing the jurisdiction of the shari‘a courts on the one hand, while Selangor pushed for constitutional reform on the other. That jurisdictional conflict in both states drove divergent responses, require a deeper explanation of state variation.

Yet another common explanation for state variation is demographic composition.

¹¹ Political distance refers to variance between political parties in the federal and state governments. When the state and federal governments are competing, the political distance is big. When the state and federal governments are aligned, the political distance is small. This will predict whether states will agitate against the federal government or not. There is much literature on party politics in Malaysia. Joseph Liow’s *Piety and Politics: Islamism in Contemporary Malaysia* (Oxford, UK: Oxford University Press, 2009) is a definitive read on party competition between UMNO and PAS that fuels one-up piety claims by either party that they better represent Islam and Muslims. In fact, this literature does not only focus on jurisdictional conflicts but political conflicts more generally.

Scholars argue that states with an overwhelmingly Muslim population will politicize jurisdictional conflicts more so than demographically diverse states. In this case, we would expect the states of Kelantan, Terengganu, Perlis, or Kedah where there are large majority Muslim populations to politicize jurisdictional conflicts to a greater extent than in Selangor, Johor, or Penang where Muslims only make up about half of the state population. But here again, the outcome of state variation is not as clear. For example, even as Perlis and Kedah have overwhelmingly Muslim populations, jurisdictional conflicts are not as politicized as they are on Kelantan and Terengganu. Similarly, among demographically diverse states, cases of jurisdictional conflict are not as politicized on Penang or Melaka as they are on Selangor and Johor. This argument is essentially one about populist-driven politics where political parties appeal to a large Muslim base because of their religious identity.¹² That the outcomes are not as clear across states in Malaysia discounts such an essentialist explanation of identity politics.

What is clear from the empirical cases above is that explanations that only look to the framework and dynamics of contemporary politics are insufficient. In the case of a postcolonial state like Malaysia with less than six decades of modern state independence, state politics developed out of historical processes of social change and regime transformation. Two centuries of colonial encounter sustained deep changes to the structure of the Malay states but these changes were not felt equally among them since the colonial encounter was highly uneven. In some states, colonial intervention was strong and committed, and in others, it was weak and reluctant. It also waxed and waned over time as the administration decided to pay more attention

¹² Hussin Mutalib, *Islam and Ethnicity in Malay Politics* (Singapore: Oxford University Press, 1990). Amri Baharuddin Shamsul, "Identity Construction, Nation Formation, and Islamic Revivalism in Malaysia," in *Islam in an Era of Nation-States: Politics and Religious Renewal in Muslim Southeast Asia*, eds. Robert W. Hefner and Patricia Horvatich (Honolulu, HI: University of Hawaii Press, 1997), 207–27.

to a previously neglected state or to cut loose a formerly prized colony. Most significantly, the administration of indirect rule on the Malay states retained native state structures and incorporated them within state administrations to lesser or greater extents. As a result, when the colonial administration wound down to usher in the newly independent postcolonial federation in 1957, some Malay states were entirely transformed while others retained many of their precolonial attributes.

I argue that the uneven development of state formation in the colonial period accounts for why jurisdictional conflicts are more politically salient on some states than on others. State formation entailed two connected but uneven processes. The first process was the introduction of state administrations that altered the structure and domain of the ruling class. Indirect rule on the Malay states divided state administration into two domains. All state extractive activities including collecting taxes, organizing trade, land, and labor, and other municipal matters on the district level were rendered to the colonial government. All matters to do with religion and customs conceived within the domain of traditional rule and legitimacy were left to the native ruler. These were state regulative activities. Arising out of this division of state administration, native elites were also divided to perform state functions in either domain. This division of labor among native elites had the effect of managing competition among them and stabilized the ruling class to a degree.

More significantly, it opened up positions of employment across state administrations, but not equally between the extractive and regulative domains because each domain had different barriers to entry. The domain of state extraction was more stratified and limited to members of the aristocratic classes. Eventually, this opened up to include non-aristocratic members but only much later into the early twentieth century when the ruling classes on these states flattened out to

a greater degree. On the other hand, the domain of state regulation had a lower barrier to entry because access was based on whether one had the requisite religious capital, which could be gained through multiple ways, including studying with a renowned religious person, attending a religious school, or having gone on the Haj. As such, these positions could be filled by those from outside of the state as well as from within the state and were not limited to members of the aristocratic class. The variation between these two domains—that is, entry by qualification in the regulative domain and entry by ascription in the extractive domain—eventually rendered the regulative domain a much more dynamic and consequential space for social change to transform the structure of the state.

The second process and a corollary of the first was the formation of a religious bureaucracy within the colonial state administration. The formation of a religious bureaucracy increased the demand for religious experts to fill up positions in the state administration and consequently raised the profile of religious elites. The formalization of religious processes and the codification of religious laws systematized religion alongside a class of new religious professionals most prominently in the administration of state religious laws. But the profile of religious elites and the extent to which they further transformed the dynamics of collective rule on each state depended on the type and length of colonial administration, which would have either split the native elites into two distinct domains or kept them relatively intact. In the case of the latter more so than the former, precolonial state dimensions—especially how the ruling class was constituted—continue to influence colonial state administration to a greater degree. Additionally, it also determined how more or less amenable they were to encouraging the pathways of new religious elites from outside of the state. Taken together, colonial administration divided the ruling class into two state functions and erected a religious

bureaucracy with lower barriers to entry. This transformed the composition of collective rule on each state, but how and to what extent depended on the interaction between the type of colonial administration and composition of the ruling class on the native state.

Literature review

My dissertation builds on, yet significantly departs from, literature that links colonial state formation to institutional legacies of state building.¹³ I make two key interventions into these literatures. First, I seek to improve literature on colonial state formation by shifting the focus away from the overdetermined role of the colonial government to examine the dynamics among local elites.¹⁴ Specifically, I study elite competition for political power and the strength of religious elites in the colonial state.¹⁵ Second, I revise existing approaches to the institutional legacies of state building in order to examine elite group dynamics and how they shape key institutional outcomes.¹⁶

¹³ See Atul Kohli. “Where Do High-Growth Political Economies Come From? The Japanese Lineage of Korea’s ‘Developmental State,’” *World Development*, (September 1994): 1269-93; Mahmood Mamdani, *Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism* (Princeton, N.J.: Princeton University Press, 1996); Stephan Haggard, David Kang, and Chung-In Moon, “Japanese Colonialism and Korean Development: A Critique.: *World Development*, 25 no. 6 (1997): 867–81; Daron Acemoglu, Simon Johnson, and James A. Robinson, “The Colonial Origins of Comparative Development: An Empirical Investigation,” *The American Economic Review* 102, no. 6 (2000): 3077–3110.

¹⁴ See George Steinmetz, *The Devil’s Handwriting: Precoloniality and the German Colonial State in Qingdao, Samoa, and Southwest Africa* (Chicago: University of Chicago Press, 2007); George Steinmetz, “The Colonial State as a Social Field: Ethnographic Capital and Native Policy in the German Overseas Empire before 1914.” *American Sociological Review* 73, no. 4 (2008): 589–612; Julian Go, *American Empire and the Politics of Meaning: Elite Political Cultures in the Philippines and Puerto Rico During U.S. Colonialism* (Durham: Duke University Press, 2008); Kofi Takyi Asante, “Colonial State Formation: A Conceptual Note.” (Paper presented at the American Sociological Association Conference August 23, 2015, Chicago, IL), 1-27.

¹⁵ For the role of religion in early state formation, refer to Philip S. Gorski, *The Disciplinary Revolution: Calvinism and the Rise of the State in Early Modern Europe* (Chicago: University of Chicago Press, 2003).

¹⁶ See Daron Acemoglu, Simon Johnson, and James A. Robinson, “The Colonial Origins of Comparative Development: An Empirical Investigation,” *The American Economic Review* 102, no. 6 (2000): 3077-3110; Matthew K. Lange, “Embedding the Colonial State A Comparative-Historical Analysis of State Building and Broad-Based Development in Mauritius,” *Social Science History* 27, no. 3 (2003): 397–423;

The current literature on the colonial state and the institutional legacies of state building privileges the dominance of the colonial government. Specifically, the literature on the colonial state often debates the identity of colonizers, type of rule, or the interaction between the two to explain the strength of institutions in the postcolonial state.¹⁷ The overdetermined view of the colonial government in the development of state institutions is hardly surprising. This is because state theorists argue that the colonial state is distinct for two reasons. One, colonial states are different from other states since sovereignty is wielded by foreign actors.¹⁸ Two, the core activity of the colonial state is colonial native policy exemplified by the “rule of difference,” which focuses on effective regulation for maximal extraction.¹⁹ As such, scholars seeking to explain variation in state institutions only look to variation in colonial governments. This is deficient in several ways. Like the current literature, I argue that this simplifies complex dynamics within the

Matthew K. Lange, “British Colonial Legacies and Political Development,” *World Development* 32, no. 6 (2004): 905–22; Nathan Nunn, “Historical Legacies: A Model Linking Africa’s Past to Its Current Underdevelopment,” *Journal of Development Economics* 83, no. 1 (May 2007): 157–75.

¹⁷ Scholars including Rafael La Porta, Florencio Lopez-de-Silanes, Andrei Shleifer, Robert W. Vishny, “Law and Finance,” *Journal of Political Economy* 106, no. 6 (, 1998): 1113–55; Rafael La Porta, Florencio Lopez-De-Silanes, Andrei Shleifer, “Corporate Ownership Around the World,” *The Journal of Finance* 54, no. 2 (April 1999): 471–517 and David S. Landes, *The Wealth and Poverty of Nations: Why Some Are So Rich and Some Are So Poor* (New York: W.W. Norton, 1998) suggest that identity of the colonizer—that is, if they were British or French—affected the level of postcolonial development. Others including Mahmood Mamdani, *Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism* (Princeton, N.J.: Princeton University Press, 1996) and Nathan Nunn, “Historical Legacies: A Model Linking Africa’s Past to Its Current Underdevelopment,” *Journal of Development Economics* 83, no. 1 (May 2007): 157–75 suggest that variation in postcolonial development is attributed to type of rule that is direct or indirect. Still others including Matthew K. Lange, “Embedding the Colonial State A Comparative-Historical Analysis of State Building and Broad-Based Development in Mauritius,” *Social Science History* 27, no. 3 (2003): 397–423 suggest that it is a combination of the two.

¹⁸ See Matthew Lange, James Mahoney, and Matthias vom Hau, “Colonialism and Development: A Comparative Analysis of Spanish and British Colonies,” *American Journal of Sociology* 111, no. 5 (2006): 1412–62.

¹⁹ “Rule of difference” was coined by Partha Chatterjee, *The Nation and Its Fragments: Colonial and Postcolonial Histories* (Princeton, N.J.: Princeton University Press, 1993). On discussions on the colonial native policy, see also George Steinmetz, *The Devil’s Handwriting* and Julian Go, *American Empire and the Politics of Meaning*.

colonial state.²⁰ However, I do not agree that this is primarily due to competitive dynamics among colonial rulers. Rather, I argue that dynamics among local elites in the colonial state are equally if not more important in examining processes of colonial state formation.

To be sure, literature on colonial state formation has theorized elite competition rather extensively. However, elite competition is often limited to the relationship (i) between colonial and local elites (inter) or (ii) among colonial officials (intra). For one, theories of indirect rule examine the extent of cooperation and/or competition between colonial officers and local elites and how this varies with effective state governance.²¹ Additionally, a growing body of literature examines competition among colonial officials in order to explain variation in colonial native policies.²² For example, Steinmetz (2008) argues that competitive dynamics among colonial officials over monopoly of symbolic ethnographic capital determined variations across German colonies overseas. Much less is theorized about complex relationships among local elites. As such, literatures on the colonial state often take local elites as an undifferentiated collective.²³

²⁰ George Steinmetz, *The Devil's Handwriting*.

²¹ See Alfred C. Stepan, *The State and Society: Peru in Comparative Perspective* (Princeton, N.J.: Princeton University Press 1978); Peter B. Evans, *Dependent Development: The Alliance of Multinational, State and Local Capital in Brazil* (Princeton, N.J.: Princeton University Press, 1979); Nelson Kasfir, *State and Class in Africa* (London; Totowa, N.J.: Cass and co., 1984); Dietrich Rueshemeyer and Peter B. Evans, "The State and Economic Transformation: Toward an Analysis of the Conditions Underlying Effective Intervention," in *Bringing the State Back In*, eds. Peter B. Evans, Dietrich Rueschemeyer and Theda Skocpol (Cambridge: Cambridge University Press, 1985) 44-77; Peter J. Katzenstein, *Small States in World Markets: Industrial Policy in Europe* (Ithaca, N.Y.: Cornell University Press, 1985); Ali A. Mazrui "The Triple Heritage of the State in Africa," in *The State in Global Perspective*, ed. Ali Kazangicil (Great Britain: Blackmore, 1986).

²² See Julian Go, *American Empire and the Politics of Meaning: Elite Political Cultures in the Philippines and Puerto Rico During U.S. Colonialism* (Durham: Duke University Press, 2008); Kofi Takyi Asante, "Colonial State Formation."

²³ Julia Adams, "Principals and Agents, Colonialists and Company Men: The Decay of Colonial Control in the Dutch East Indies," *American Sociological Review* 61, no. 1 (1996): 12–28, attributed the first wave of colonialism to the dynamics of patrimonial hierarchy between the metropolitan principals of the East India Companies and colonial agents. In *The Devil's Handwriting: Precoloniality and the German Colonial State in Qingdao, Samoa, and Southwest Africa*, George Steinmetz attributed variation in German colonies overseas to dynamics among colonial officials competing for symbolic ethnographic

This is unfortunate since relationships among local elites influenced and developed alongside strategies of colonial engagement and were inscribed accordingly within key institutions in the colonial state.

My argument builds on Haggard, Kang, and Moon (1997) who challenged revisionist literature that attributed the strength of Korean institutions to the colonial Japanese administration.²⁴ Instead, they argued that the strength of Korean institutions is due to postwar intra-elite politics that “fundamentally reshaped the polity, the economy and the social order” (879). While Haggard et.al. rightly acknowledged the role of intra-elite politics in state institutions, they overstated the point that intra-elite politics emerged during the postwar period.²⁵ While I agree with Haggard et.al. that local elites are “not passive recipients of an institutional and social legacy” (878), my conclusion differs from theirs. I argue that local elites are neither passive recipients nor are they independent of developments within the colonial state. Rather, local elites are deeply imbricated within the political development of the colonial state and only persist in the present administration of state institutions.

Colonial state administrations present these dynamics for our examination. In order to ensure effective governance, the colonial legal system retained existing structures of traditional

capital. In *American Empire and the Politics of Meaning: Elite Political Cultures in the Philippines and Puerto Rico During U.S. Colonialism*, Julian Go, attributed the dynamics of American colonies to the relationships between colonial officials and local elites. They do not consider how local elites play a role in the formation of the colonial state. Arguably, Go brings local elites more centrally into his analysis. However, his concern is limited to how local elites interacted with colonial officials (inter-elite). Indeed, dynamics among local elites may be less salient in the cases of Dutch, German, and American colonialism, as compared to British colonialism. However, this is an empirical question still open for further comparative investigation.

²⁴ See Atul Kohli, “Where Do High-Growth Political Economies Come From? The Japanese Lineage of Korea’s ‘Developmental State,’” *World Development* (September 1994): 1269–93.

²⁵ This is a common explanation even outside of the Korean case. In a highly celebrated classic, William R. Roff, *The Origins of Malay Nationalism* (New Haven: Yale University Press, 1967) explored postwar intra-elite competition in Malaya to explain postcolonial political developments in Malaysia.

authority and incorporated them within a shared model of political authority and legitimacy composed of colonial and local elites.²⁶ In most states, local elites were hardly an undifferentiated mass. For example, in precolonial Malay states, aristocratic elites commonly patronized religious individuals in their courts for political expedience. As religion grew in influence to become an unassailable fount of unity, it justified and further extolled aristocratic rule and connected the states with other Muslim empires from across the region and beyond. The influence of religious elites multiplied. In most states, religious elites surpassed the influence of aristocratic elites to eventually alter the structure and ethos of governance on these states.²⁷

My argument builds on Gorski's (2003) seminal work, which argues that religious actors, institutions, and ethos played a central role in the transformation of state institutions and infrastructure. I extend and further develop this thesis to examine the role of religious elites in colonial state development. Colonial policy protected the political power of aristocratic elites from the rise of a new merchant class.²⁸ Instead, political challenges came from a new class of religious elites who reformed state institutions. This is most evident in the growth of a religious

²⁶ See University of Chicago, Committee for the Comparative Study of New Nations, *Old Societies and New States: The Quest for Modernity in Asia and Africa*, edited by Clifford Geertz (New York: London: Free Press; Collier-Macmillan, 1963); Joel S. Migdal, *State in Society: Studying How States and Societies Transform and Constitute One Another* (New York: Cambridge University Press, 2001).

²⁷ See J. M. Gullick, *Indigenous Political Systems of Western Malaya* (London: University of London, Athlone Press, 1958); William R. Roff, *Kelantan: Religion, Society and Politics in a Malay State* (Kuala Lumpur, New York: Oxford University Press, 1974); and Carl A. Trocki *Prince of Pirates: The Temenggongs and the Development of Johor and Singapore, 1784-1885* (Singapore: Singapore University Press, 1979). In Clifford Geertz, *Islam Observed: Religious Development in Morocco and Indonesia* (Chicago: University of Chicago Press, 1971), Geertz shows how religion interacted with different social and political structures to shape religious experiences in both countries. In fact, the interaction between an aristocratic/feudal/tribal system with a new urban religious elite is a long and common motif for the study of Muslim societies. Ernest Gellner, *Muslim Society* (Cambridge; New York: Cambridge University Press, 1981) explored this in the case of North Africa, building on Ibn Khaldūn. *Al-Muqaddimah*. [Al-Qāhirah]: Al-Maṭba'ah al-Amīriyah bi-Būlāq, 1902.

²⁸ Racial policy within the colonial political economy of British Malaya developed and protected Chinese businesses from Malay aristocratic elites.

bureaucracy and the administration of the legal system, which led to the growth in strength of state power and the rationalization of the colonial state.²⁹ Specifically, I posit that the exogenous influence of the colonial administration interacted with endogenous dynamics of the ruling class to transform the composition of the state and the dynamics of collective rule. As the colonial administration split state administrative functions into two and erected a religious bureaucracy with lower barriers to entry, this raised the profile of religious elites who became active contenders for state leadership and who either competed or cooperated with other ruling elites to varying extents.

The policy, practice and theory of indirect rule

The study of state formation asks how state power is amassed and legitimate rule maintained.³⁰ This is especially so in the context of the colonial state when rule is imposed from the outside and from above, often through brute military strength, which can then become too fragile and too costly to maintain in the long run.³¹ At its height, the British Empire was the single largest empire in history, comprising one-quarter of the world's population. Much of this expansion from the nineteenth century into the twentieth century across Asia and Africa was

²⁹ Philip S. Gorski, *The Disciplinary Revolution*, especially underscored the growth of state disciplinary power through various modes of moral regulation and social control in early modern Europe.

³⁰ See Jeffrey Herbst, *States and Power in Africa: Comparative Lessons in Authority and Control* (Princeton University Press, 2000); Julia Adams "Culture in Rational-Choice Theories of State Formation" in *State/Culture: State Formation After the Cultural Turn*, ed. George Steinmetz (Ithaca, N.Y.: Cornell University Press 1999), 98-122; Philip S. Gorski, *The Disciplinary Revolution*; Jack A. Goldstone, "Pathways to State Failure," *Conflict Management and Peace Science* 25, no. 4 (September 2008): 285–96; Michael Mann, *The Sources of Social Power* (New York: Cambridge University Press, 2012).

³¹ See Julian Go, "The New Sociology of Empire and Colonialism." *Sociology Compass* 3, no. 5 (2009): 775–88; Tuong Vu, "Studying the State Through State Formation," *World Politics* 62, no. 1 (January 2010): 148–75; George Steinmetz, "The Sociology of Empires, Colonialism and Postcolonialism," *Annual Review of Sociology* 40 (July 2014): 77–103; Jonathan Wrytzen, *Making Morocco: Colonial Intervention and the Politics of Identity* (Cornell University Press, 2015).

attributed to indirect rule.³² This was a form of governance where key features of the native state, such as its laws, religion, and customs, were retained along with a co-opted native leadership.

The principal architect of indirect rule was Sir Frederick Lugard who coined the concept “dual mandate” to advance control in the African continent. In his treatise, *The Dual Mandate in British Tropical Africa* (1922), which served as a handbook for the British Empire in later years,³³ he explained that the design of indirect rule was mutually beneficial for the colonizer and the colonized where technological know-how met ample resources so as to be able to reap massive gains for both parties. This model explicitly recommended that authority be shared through the delegation of state power and activity into two separate domains. And yet, indirect rule was not only an economic ideology that served an expansive colonial political economy; it was an inexpensive organizational solution and a most supreme political innovation that solved the problem of legitimate rule in the colonial state. In this model of colonial administration, existing traditional political institutions in the native states were preserved and incorporated into the colonial administrative system. The role of traditional rulers and chiefs was paramount in enforcing colonial policies at the grassroots level. To do so, they retained sites of traditional political power in the form of maintaining and enforcing law and order, collecting taxes, and other local matters. The uninterrupted exercise of traditional power was essential in ensuring the efficacy of colonial administration in the native state.

In practice, the least legible areas of administration in the native states for the British

³² See Michael H. Fisher, “Indirect Rule in British Empire: The Foundations of the Residency System in India (1764-1858),” *Modern Asian Studies* 18, no. 3 (1984): 393–438; Francis Robinson, “The British Empire and the Muslim World,” in *The Oxford History of the British Empire: Volume IV: The Twentieth Century*, eds. Judith Brown and Roger Louis (Oxford: Oxford University Press, 1999).

³³ In chapter three of the dissertation I cite in some detail a section of Lugard’s book discussed in the colonial State Secretariat Office in British Malaya.

administration were native religions and customs. Not only were they least legible, but they were most emblematic of traditional authority.³⁴ And so when the British first intervened in Perak in 1874, the Pangkor Treaty (also known as the Pangkor Engagement) specified that the British administration would take over all state activities other than religion and customs, which would remain entirely under the authority of traditional elites.³⁵ Technically, the terms of the treaty specified that the British Resident had to be consulted on all state matters outside of religion and customs. To be sure, the manner of consultation really meant that the British Resident would make all state decisions and run it past the native ruler who because of his lack of knowledge and expertise often deferred indiscriminately to the Resident. Therefore, the practice of indirect rule across the British colonies—including in the Malay states—very quickly departed from its professed policy and vision of a “dual mandate.” Rather, this mandate was unbalanced in favor of the colonial administration as traditional elites merely exercised symbolic authority in most matters of state administration. To the extent that they were involved, they became the conduit through which colonial policy was disseminated to the masses, thus giving the pretense of native rule.

The practice of indirect rule was not only inconsistent in its policy, but also varied within a single colony. In the Malay states, there were two types: the Residential and Advisory systems. A Residential system of indirect rule was installed in the late nineteenth century in the western states on the Malay Peninsula, which consists of Perak, Selangor, Pahang, and Negeri Sembilan.

³⁴ This was learned knowledge from the British administration’s experience in multi-ethnic and multi-religious India. From early on, they learnt that all things related to religion and customs were especially combustible and decided henceforth that Hindus would be subjected to Hindu laws while Muslims would be subjected to Muslim law.

³⁵ The native ruler was commonly described to perform the function of a “rubber stamp” in these consultations on state matters. Iza Hussin, “The Pursuit of the Perak Regalia: Islam, Law, and the Politics of Authority in the Colonial State.” *Law & Social Inquiry* 32, no. 3 (2007): 759–88.

An Advisory system of indirect rule was installed in the remaining states during the early twentieth century in Johor, Kedah, Kelantan, Perlis, and Johor. The two systems varied in duration and intensity. The Residential states were eventually centralized under a federal administration and ruled by the governor of the Crown colonies.³⁶ The Advisory system of indirect rule was less intense, and some of this variation was because the colonial administration received criticism for its control of the western Malay states, which was increasingly divergent from the official policy of indirect rule. More than anything else, tweaks made from the earlier Residential to the later Advisory systems included reviewing the centralized administration of the federated states. This was motivated by the push to incorporate the remaining states on the peninsula under British control.

And so it is notable that even as indirect rule was a key feature of governance during late colonialism, it is severely under theorized. For one, the literature discussing variations in type of colonial governance is concerned with the institutional legacies of colonial rule. The central variation in these literatures is between direct and indirect rule, and they are mostly organized around two big theoretical questions: one, why was direct rule administered in some colonies and indirect rule in others, and two, how did state developmental outcomes vary under either form of administration?³⁷ The literature suggests that following the principle of “conservation of institutions,” colonial administrations retained existing institutions rather than dismantle them or

³⁶ The Crown colonies were Penang, Malacca, and Singapore, and they were administered under direct rule. When the western Malay states were federated and administered centrally by the governor of the Crown colonies, the administration of the western Malay states then looked increasingly like direct rule. But this did not sustain for long as traditional rulers on the Malay states expressed their dissatisfaction with the loss of their autonomy on these states.

³⁷ Matthew Lange, James Mahoney, and Matthias vom Hau, “Colonialism and Development: A Comparative Analysis of Spanish and British Colonies,” *American Journal of Sociology* 111, no. 5 (2006): 1412–62.

erect new ones, and it is in the overall interest of the administration to work with what was well and functioning on the native states rather than remodel things from scratch.³⁸ So it follows that where there was a higher degree of political organization in the precolonial state, a system of indirect rule was installed, and where there was a lower degree of political organization in the precolonial state, a system of direct rule was installed. Consequently, direct rule effected a more complete transformation of the native state compared to indirect rule where native institutions were retained to a degree. Because the transformation and transition towards a modern state was completed to a higher degree in directly ruled states compared to indirectly ruled ones, directly ruled states often produced long-term development. On the other hand, since indirectly ruled states retained more native institutions and could not effect complete transformation of the native states, they were often beleaguered with problems over the long term.

Unfortunately, the literature has focused disproportionately on the intensity of colonial penetration that was either direct or indirect rule. Too often, indirect rule is dismissed as a residual category of direct rule. If direct rule in a British colony meant control came from the colonial office in London, indirect rule meant that it did not; however, little else other than this was specified. Like most of the later scholarship within this tradition, I echo the point that the distinction between types of colonial administration is not clear. Here, I join the chorus of scholars who lament the fact that this has not been theorized as seriously as it should be.³⁹ Indeed, in between complete colonial imposition on the one end and complete independence

³⁸ Gerring, Ziblatt, Van Gorp, and Arevalo, “An Institutional Theory of Direct and Indirect Rule,” *World Politics* 63, no. 3 (July 2011): 377–433.

³⁹ Matthew Lange, *Lineages of Despotism and Development: British Colonialism and State Power* (Chicago: University of Chicago Press, 2009); Gerring, Ziblatt, Van Gorp, and Arevalo, “An Institutional Theory of Direct and Indirect Rule,” *World Politics* 63, no. 3 (July 2011): 377–433; Adnan Naseemulah and Paul Staniland, “Indirect Rule and Varieties of Governance,” *Governance* 29, no. 1 (2016): 13–30.

from colonial rule on the other lies a conceptual nether area where various permutations of rule exist and no two forms are alike.

Towards a comparative theory on the varieties of indirect rule

The Malay states are a good site to build theory on variations of indirect rule. For one, it presents the administration of a single colony that is British Malaya over nearly two centuries. Over this long time period, the colony was variably composed of states, protectorates, and possessions under different types of rule. The earliest possessions, which include the Straits Settlements of Penang, Singapore, and Melaka on the western coast of the peninsula, were first administered by the British East India Company and later changed hands to become Crown colonies that were directly ruled from the India Office in London.⁴⁰ On the Malay Peninsula, the Malay states were ruled indirectly but divided into two big systems of indirect rule, which were the Residential and Advisory systems. And here lies the within-colony variation that is needed to build better theory on indirect rule.

Secondly, the case of the Malay states bucks the general trend in the colonial legacy literature that suggests that indirectly ruled colonies suffered from problems in the long term as opposed to directly ruled colonies, which enjoyed long-term stability and development. The Malay states show that this relationship is not as straightforward as it has been made out to be. Since its independence, the Federation of Malaysia has grown to become a prosperous country, and recent measures of electoral success in the parliamentary elections demonstrated that the process of democratization was enhanced.⁴¹ To account for why Malaysia breaks this mold

⁴⁰ Penang was first acquired in 1784, Singapore in 1819, and Malacca in 1824. All three possessions united as the Straits Settlements in 1826 and became Crown colonies in 1867.

⁴¹ The Fourteenth Malaysian general elections in 2018 saw an unprecedented upset for the ruling Barisan Nasional (BN) who formed the government since the country's independence. The Pakatan Harapan (PH)

despite indirect colonial rule is to re-examine the legacy literature so as to better distinguish between economic and political legacies of development and to better specify carriers of institutional legacies.

Finally, building theory on the varieties of indirect rule addresses literature on state formation more broadly. The Malay states encompass two big themes that are currently not discussed sufficiently within the literature on state formation. First is the relationship between bureaucracy and colonial state formation. From Tocqueville to Weber to Tilly to Mann, the formation of a state bureaucracy is associated with the decline of the *ancien regime* as bureaucratic apparatuses diffused the absolutist power of the feudal despot, and the institutionalization of the state guaranteed both its independence and permanence.⁴² However, the formation of a state bureaucracy in the colonial state does not quite effect the same change. This is especially so in the case of indirect rule, also referred to variably as hybrid rule, bifurcated state, rule by association, institutional segregation, and most notably, decentralized despotism. Thus state bureaucracies developed around—and most crucially, retained—forms of traditional authority that already existed. Mamdani (1996) argued that the shared governance of indirect rule produced the structure of mediated or decentralized despotism.⁴³ This was a system where native communities were reproduced within the context of a spatial and institutional autonomy led by a native ruler who was either selectively reconstituted or imposed on the hierarchy of the local state. In this case, natives were subjected to a different system of laws that

opposition coalition won a simple majority in this historical victory.

⁴² Pierre Birnbaum, "State, Centre and Bureaucracy," *Government and Opposition* 16, no. 1 (1981): 58–77.

⁴³ Both institutional segregation and rule by association were used in the French context of colonialism. Both bifurcated state and decentralized despotism were terms coined by Mamdani (1996) in the case of British rule in Africa.

organized relations of labor, land, and loyalty bound to native elites.

This leads to the second theme in the literature, which is the function of religion in state formation. While Gorski and several others after him resurrected the role of religion in the process of state formation, it is yet conceived of as a bottom-up process led by non-state actors and so separate from the state apparatus. Because of this, less is theorized about the role of religion within the state bureaucracy. Weber suggests that state bureaucratic apparatuses diffused the power of the feudal despot through the gradual process of rationalization as social actors become bound less by traditional authority and more by rational legal or bureaucratic authority. But this schema is complicated in the indirectly ruled colonial state where the relationship between state and religion was reinforced through an alliance between the despotic power of traditional rulers who control religion and the infrastructural power of colonial rule through its rationalized state bureaucracy. These two forms of power combined through the administration of religious law in the colonial state.

Two processes of (uneven) colonial state formation

Indirect rule in the Malay states meant that the colonial administration had to leverage existing institutions to advance control. For this reason, they meant to keep the native ruling class as intact as possible. Their strategy was to preserve the structure of traditional authority by protecting the domain of religion and customs. Due to this protectionist measure, the structure of the ruling classes on the Malay states was retained well into colonial rule. Despite this, it gradually changed over the years. However, the rate and type of change in the structure of the ruling classes across the states was not uniform. They depended on the timing and circumstances of colonial intervention, which were in turn motivated by specific conditions in each precolonial state. These conditions included state geography, economy, demographics, and patterns of

migration.

During the late nineteenth century, the western states on the peninsula—specifically Perak and Selangor—found themselves in deeply vulnerable positions shaped by their state conditions. For one, the riverine geography of Perak and Selangor resulted in a more fragmented ruling class where competing elites occupied and controlled either ends of the river. A growing mining economy and a large migrant labor force in these states compounded the situation. These states grew increasingly vulnerable to breakdown as a result of in-fighting among members of the ruling class and among rival gangs within the migrant labor force. The imminent breakdown of these western states and the chaos that was building up threatened British security in the area. Initial British intervention was precipitated by and limited to the western states on the peninsula, which were vulnerable to imminent breakdown.

British expansion into the remaining states on the peninsula was not until four decades later in the early twentieth century, and this was precipitated by a different set of factors. Unlike the western states, the remaining states were not facing imminent state breakdown. Johor was a traditionally strong state while Kelantan had by this time a well-consolidated ruling class, and so neither was fraught by internal tensions that threatened to implode. Despite unlike circumstances that precipitated intervention into Perak and Selangor, British security and supremacy in the region during this time depended on acquiring the remaining Malay states so as to consolidate British rule in the region.

Despite the variation in the circumstances in acquiring the Malay states during these two time periods, it was in the colonial administration's interest to minimize disruption and to preserve the structure of traditional rule on the Malay states as much as possible. However, this could not sustain in the long term. Eventually, colonial administration radically restructured the

native states to inadvertently transform the structure of the ruling class. These transformations were not uniform across the Malay states and depended on several factors, including the type and duration of indirect rule and the composition of the ruling class. Indirect rule on the Malay states interacted with the composition of the ruling class in the precolonial state to transform it in different ways. I argue that the colonial administration of indirect rule effected two broad changes to the structure of the Malay states. One change was the division of the ruling class into the extractive and regulative state functions, and the second was the formation of a religious bureaucracy that heightened the salience of religious elites.

Dividing the ruling class

Indirect colonial administration on the Malay states was one of two systems: the Residential or the Advisory systems. The Residential system on the four western states that include Perak, Selangor, Pahang, and Negeri Sembilan commenced in 1874, four decades earlier than the Advisory system on the remaining five states on the peninsula: Johor, Kelantan, Kedah, Terengganu, and Perlis. This variation, both in type and duration of colonial administration, shaped the structure of the ruling classes on the native states variably. With the Residential system, the ruling class was divided into two distinct functions from early on. I refer to these functions as extractive and regulative.

All state extractive activities such as collecting taxes, organizing trade, land and labor, and other municipal matters on the district and state levels were rendered entirely to the colonial government, while all matters to do with religion and customs were protected within the domain of the native ruler since they formed the bedrock of traditional state legitimacy. Because they functioned to regulate the relationship between the ruler and subjects, I refer to this as the state regulative function. This division of labor in state administration organized members of the

ruling class into two domains. This had the effect of managing competition among them and stabilized the ruling class in the long run as they tempered one another's power and influence. The Residential system came under a centralized administration in 1895, and this process only further accelerated the rationalization and systematization of state administration within them.

While the local elites were divided into two on the Residential states, this did not happen on Advisory states such as Kelantan and Johor until only much later into the twentieth century. At this time, the British administration was preoccupied with events both globally and locally that influenced the strategy of their intervention on the Malay states and abroad. By this time, state extraction was not the only matter foremost on their minds. Rather, how to administer the Malay states and how to do it while minimizing as much political fallout as possible was an even more pressing concern. The British administration on the Malay states also underwent extensive reform following considerable pushback against centralization from the rulers on the Residential states. Consequently, their engagement strategy with the Advisory states was shaped by heightened attention to state politics and greater sensitivity to local rulers. Four decades of non-intervention in Kelantan and Johor compared to the Residential system on Perak and Selangor followed by a decentralized administration of the Advisory system left the structure of the ruling classes in Kelantan and Johor relatively intact. This meant that the ruling classes on the Advisory states retained more of their precolonial features of state composition than in the Residential states.

Rise of a religious bureaucracy

The growth of a religious bureaucracy in the Malay states was an unintended consequence of the division of state administration. Religious elites have always played a central role in the Malay states, especially so as to support the function of the ruling elites. Traditionally,

religious elites were patronized by the courts and bolstered state legitimacy. It was typical for one or two persons to perform the role of multiple religious functionaries. But with the expansion and rationalization of the state, these roles were further circumscribed to prevent overlaps with one another. There was a greater demand for religious experts to fill positions in the state administration as increased rationalization of state functions led to higher specialization and a greater differentiation of roles. Thus, the formalization of religious processes introduced a new class of religious professionals. As a result, the religious office gradually expanded to include more people in different positions. While previously in the native states religious elites were patronized by the courts as the religious office expanded with the colonial administration, religious elites were no longer singularly bound to the ruler.

The formation of a religious bureaucracy on the Malay states had far-reaching consequences. For one, this led to a new demand for religious experts who were employed by the state. This paved the way to social mobility through positions within the state administration. Individuals could acquire religious expertise in different ways. Conventionally, this would include training from a center of religious learning either from the region or in the Middle East. But one could also acquire religious capital by virtue of having gone on the Haj. At this time, going on the pilgrimage was not an easy endeavor, and those few who had succeeded received the special distinction of honorary titles to their names. Consequently, this raised the profile of religious elites and developed a new field of expertise for state development.

In addition to building local expertise, the formation of the religious bureaucracy also encouraged migration pathways for new religious elites from outside of the state. Individuals who had the requisite religious knowledge found themselves in the enviable position of employment within the state administration who hired them where they were needed. Patterns of

in-migration varied across states and affected the dynamics among religious elites in different ways. Despite these variations, the formation of a religious bureaucracy across the Malay states raised the profile of religious elites and developed a new field of expertise for state development.

One of the central components of this religious bureaucracy was the legal system. This was because religious law formed the bedrock of native rule and bolstered the ruler's traditional legitimacy. Since regulative state functions were delegated to the native ruler, this inevitably led to strengthening religious laws and its institutions. The appointment of the *kathi* to settle instances of disputes concerning Muslim law strengthened the codification and application of Anglo-Muhammadan laws. Specialized *kathi* courts were gradually streamlined, and along with state expansion of the courts, this added differentiated functions including a chief and assistant *kathis*. This process expanded the religious bureaucracy as experts on Islamic jurisprudence and Anglo-Muhammadan laws were in demand. As a result, this opened up the position of the *mufti* who could weigh in with the religious position on a matter under dispute.

In the Residential states, the rise of a religious bureaucracy developed within the larger colonial state administration. The native ruler and other elites headed the religious bureaucracy and were represented on the state council alongside other members of the colonial government. During this time religious functions were systematized, laws were codified, and the religious office gradually expanded to accommodate more people into the administration of religion and customs. Even as the council sat frequently to discuss various state matters, it was understood that when it came to matters of religion and customs, the native ruler would take the lead. As a result, the western states developed in a similar but separate fashion from one another while retaining considerable autonomy.

Eventually, as the colonial government centralized processes on the western states and

united in a federation in 1895, states gradually lost their autonomy as state laws and other matters of state administration were streamlined. Instead of the state councils, the federal council became more instrumental in determining policies across the states. The religious bureaucracy was not spared in the efforts to further systematize administrative processes across the Residential states. As a result, the religious bureaucracy on the Residential states became more rationalized and grew stronger after federation. Religious elites opened up positions of employment for various religious functionaries.

On the other hand, the Advisory states only began rationalizing its religious bureaucracy in step with the Residential states during the early twentieth century. For example, the state of Johor did not have salaried imams until 1914 in contrast to Perak where imams had been on state salaries since the nineteenth century. The variance in the religious bureaucracies in the Advisory state had several implications. First, the religious bureaucracies on these states retained the structure of native rule closer than those in the Residential states. Unlike the Residential states where native elites were divided very early on according to type of state activity, the native elites on Advisory states were not divided in the same fashion, and so competing members of the ruling classes on these states were not tempered the same way as they were on the Residential states. This meant that religious elites continued to vie for prominence in the Advisory states and consequently shaped the ruling class. Where the ruling class was weak, religious elites were co-opted to strengthen the ruling class, and in some states, even capturing it. In other states where the ruling elites were strong, religious elites were effectively subdued. Consequently, the religious bureaucracies on these states only fortified the structure of native rule.

Comparative analysis of (uneven) colonial state formation

Taken together, these two processes produced different outcomes that explain why religious elites were more prominent on some states than on others in terms of the division of the ruling class and the formation of a religious bureaucracy. These variations fall under three types.

		Intensity of indirect rule	
		High (Residential)	Low (Advisory)
Dominant composition of religious bureaucracy	New elites	Religious elites are strong and compliant in Selangor	Religious elites are strong and defiant in Kelantan
	Old elites	Religious elites are weak and compliant in Perak	Religious elites are weak and compliant in Johor

Figure 1. Comparative states and religious elites by intensity of indirect rule and dominant composition of religious bureaucracy

One type was the variation in the duration and intensity of the formal colonial administration between the Residential states of Perak and Selangor on the one hand, and the Advisory states of Kelantan and Johor on the other. The duration of colonial administration in Perak and Selangor led to a longer process of state rationalization as local elites were effectively divided into two state domains for much longer thereby effecting the growth of a highly rationalized state administration and an effective religious bureaucracy. A less intense and

shorter duration of the colonial administration in Kelantan and Johor led to incomplete state rationalization. Even as local elites were divided into two state domains, they were not subjected to the same degree of rationalization, and as a result, retained many of the features of the precolonial state.

The second type was the variation in the composition of religious elites across the states. As the demand for religious experts increased in these states, it encouraged the professionalization of old religious elites from within the states as well as the introduction of new religious elites. New religious elites came from within or from outside of the state, but common among them was that they had acquired some form of religious training independent of the local traditional elites. As mentioned previously, some had travelled to the Middle East, while others kept to prominent centers of religious learning in the region. The composition of old and new religious elites on each state was determined by the degree to which the state encouraged the in-migration of new religious elites.

On this score, the Residential states Perak and Selangor were different from one another. This is because Selangor has a longer history of migration and was home to many foreign Malays (*anak dagang*). As such, the ruling class was more differentiated and fragmented along ethnic lines. This was not the case in Perak where the state was made up of local Malays (*anak negeri*) with a more consolidated ruling class. As a result, new religious elites—many of whom were from outside of the state—came in droves to fill positions in the religious bureaucracy in Selangor more than they did in Perak. This resulted in a more differentiated religious bureaucracy in the former than in the latter.

Like the Residential states, there were also similar variations in the Advisory states of Kelantan and Johor. In Kelantan, a weakened ruler consolidated rule by co-opting the new

religious elites into his administration even prior to colonial administration. These religious elites eventually captured the state. In Johor, however, a strong ruling class did not require the same reinforcement, and so religious elites were relatively subdued. Accordingly, where variation in terms of the composition of religious elites was concerned, Selangor and Kelantan were more like each other in that they had a higher number of new religious elites, while Perak and Johor were closer to one another since they had a lower number of new religious elites.

The third and final variation was the relationship between religious elites and other local elites in these states. Both Selangor and Kelantan had a higher number of new religious elites, and because of this, religion became more politically salient in them compared to Perak and Johor. Even so, the relationship of religious elites to other state elites influenced the extent to which religion could be more or less divisive. This variation is a result of whether new religious elites came prior to or after the formal colonial administration. In Selangor, the influx of new religious elites followed the formal colonial administration. As a result, these new religious elites filled up positions within a rationalized colonial state bureaucracy and were disciplined under a bigger state administration. In the case of the Residential state of Selangor, it joined the federation in 1895 and so was subsumed under a bigger federal government. In Kelantan, the influx of new religious elites preceded formal colonial administration. Religious elites were organized prior to colonial administration, and when it arrived, they planted themselves parallel to the state bureaucracy. In Kelantan, the religious elites immediately organized themselves into the Council of Religion and Malay Customs to make sure that they would be effectively represented with the new colonial administration.

Methodology

My dissertation builds an explanatory model to elucidate why jurisdictional conflicts become more politicized and mobilize violence in some states more than in others. Accordingly, the dependent variable to be explained is state variation in the strength of religious elites. Therefore, built into this framework of inquiry is the comparative analysis of states on Malaysia. By examining and contrasting different states with one another, the comparative method is able to isolate the explanatory variable that accounts for the difference in outcome. This comparative matrix builds on Mill's method of difference, which is to isolate as best as possible the independent variable that explains the difference in the outcome of states with otherwise close to equal dimensions. Current literature attributes state variation to political party competition that is affected by either political distance or state demographics. Either explanation conceives of mobilization as conditioned by party competition as political parties vie with one another for power. They do this through either resistance or cooperation tactics or by mobilizing populist support based on ascribed identity politics. As discussed in earlier sections, these explanations are deficient since they are not able to consistently account for empirical variations across states.

Against these explanations, I motivate my comparative analysis beyond the dimensions of contemporary politics to place variations within a historical analysis. This is because in a postcolonial state like Malaysia, six decades of modern and post-independent state governance is insufficient to explain state variation. Therefore, explanations of state variation are inherently embedded within a longer historical process of state transformation and the transition from one state formation to another. These long historical processes shape conditions of the present state including why party mobilization was more successful on some states than on others. By motivating my comparative inquiry in this manner, I place my method within the comparative-

historical tradition, which is driven to examine large-scale processes of social change. To this end, I build an explanatory model to account for the processes of state formation and examine how state structures, specifically those of the ruling class, were transformed in the colonial state with enduring consequences for contemporary state politics and institutions.

Case selection

The aim is to sample equally on either type of indirect administration. Accordingly, I chose two states under the Residential system, and two states under the Advisory system. Out of four states under the Residential system, I examine Perak and Selangor. Both states came under colonial administration in 1874. To help navigate these states, I provide a map (Figure 2) of the Malay Peninsula from 1875–89. The colors on the map correspond with competing imperial territories stretching from the Malay Peninsula into the mainland of Southeast Asia at the end of the nineteenth century. At this time, the northern Malay states (light orange) fell under Siamese rule. The western Malay states (yellow) fell under the British formal administration, while the eastern and southern Malay states (green) fell under British influence, soon to be integrated into its formal administration. The smaller territories on the periphery (red) were British settlements turned Crown colonies.



Figure 2. Map of the Malay Peninsula, 1875-89

The Pangkor Treaty was first signed on the state of Perak, and within the same year British Residents were sent to the states of Selangor and Pahang. The states of Perak and Selangor are adjacent to one another, and they set the stage for initial British incursions into Malaya, which were at this time fraught with internal tensions and threatening to break apart. Perak and Selangor make for good within-case comparisons of the Residential states because they share similar state dimensions. Both are western states and are adjacent to one another. Both are important mining centers and home to a large Chinese migrant community, which gradually split into competing groups and clashed with one another precipitating colonial intervention.

And yet, even with these similarities, the states of Perak and Selangor charted relatively different courses from one another. Presently, Selangor is a key state in Malaysia. It is adjacent to both the federal territories of Kuala Lumpur and Putrajaya, the country's respective economic and administrative centers. It is an economic powerhouse and is demographically diverse. Where jurisdictional conflicts are concerned, Selangor is active in mobilization and is prominent in the foreground of these cases, especially in pushing for constitutional reform. This is more the case than in the state of Perak, which despite similar colonial histories, economies, and migrant populations are not embroiled in jurisdictional conflicts in the same way. For these reasons, Perak and Selangor make for good comparative cases that represent the Residential system of colonial administration.

Out of the five states that eventually came under the Advisory system of indirect rule much later into the twentieth century, I chose the states of Johor and Kelantan. Unlike the western states that are proximate to one another and share relatively similar histories, the unfederated states are rather disparate from one another. For one, they are geographically

dispersed on the eastern, northern, and southern coasts of the peninsula. The dimensions of each state and the circumstances under which they received some measure of protection or advice from the colonial administration differed widely. So one of the motivations for within-case selection is to capture this variation as much as possible. Johor and Kelantan are highly contrasting states.

Johor is on the southern tip of the peninsula and is historically a strong state. Its ruling class was composed of members of the Malaccan ruling class who had fled Malacca after the Portuguese sacked it in 1511. They settled in Johor, thus relocating the center of Malay royalty. Johor came under British protection in 1885, but the British did not receive the right to advise the state until much later in 1914. Coming under British protection in 1885 only meant that the British had influence over the state's foreign affairs but did not have any domestic influence. And in 1914, the terms of engagement for the Advisor were changed to follow that of the Residential states, thus signing over substantial state autonomy to the colonial administration. Most notably and rather expectedly because of its strength, Johor was also the last of the unfederated states to formally come under colonial administration.

On the other hand, Kelantan first received a British Advisor in 1903. This was six years before the Anglo-Siamese Treaty of 1909, which formally signed over Siamese control of the northern states to the British. During this interim period of six years, a British advisor was employed in the state to work with the Siamese government so as to prepare for a smooth transfer of Siamese control to the British. With the signing of the treaty in 1909, the state of Kelantan was formally handed over to the British and officially designated as a British Protected State. Unlike the strong state of Johor, Kelantan was a historically weak state. It was a tributary state to Siam whose fate was always beholden to bigger surrounding powers. The circumstances

for the acquisition of Kelantan by the British administration had less to do with enviable state endowments; rather it had become embroiled in inter-empire politics during the early twentieth century.

For these reasons it is not surprising that the direction that state formation took on each state diverged from one another. Because of their limited histories of colonial administration compared to the western states, both the states of Johor and Kelantan retained the characteristics of their native states to a greater extent, and these persisted into the present configuration of state politics. Both Johor and Kelantan are presently important states on Malaysia despite the fact that they are not the administrative or economic centers of the federation. But where state characteristics are concerned, Johor and Kelantan are on either ends of the spectrum. Johor is an economically strong state and boasts the second largest state economy following Selangor. Like Selangor, it is demographically diverse. Kelantan, on the other hand, is a poor state with the smallest state economy in Malaysia based on primary industries such as farming and fishing. Also unlike the demographically diverse Johor, Kelantan is overwhelmingly Malay and Muslim. Kelantan more than Johor has featured most prominently in cases of jurisdictional conflicts as its state elites lobby to pressure the federal courts and government and mobilize the masses for this reason.

Data and methods

In line with the comparative-historical approach, data for this dissertation is driven by library and archival research. I make use of both primary and secondary data to construct my analysis. I use secondary data largely for the precolonial period to assess conditions on the native states. These secondary data examine several dimensions of the precolonial state including its history, geography, economy, demography, and other factors. Even as I depend on secondary

data to present the circumstances of the precolonial states, I put them together in novel ways to build a composite measure of native state strength and assess whether and how these factors conditioned the type of colonial administration within the native states.

Where primary data is concerned, I assemble historical data on colonial administration over seven decades of British administration of the Malay states from 1874 to 1948—more generally, from the Treaty of Pangkor in 1874 to the Federation of Malaya in 1948. However, I focus more specifically on the earlier five decades within this timeline, which is the pre-war period because this is the critical period where colonial state building took place on the Malay states. The Malay states were consolidated under British administration through either the Residential or Advisory systems before the Great War in 1914. Following the war, the federal and state councils were reshuffled as colonial administration adopted a different strategy. Throughout the early twentieth century, colonial administration heightened its internal surveillance of the native states. In the diagram below, I plot the timeline of this time period to indicate key moments of colonial expansion and administration on the states of Perak, Selangor, Johor, and Kelantan. (See Figure 3)

To identify the relevant documents for my analysis, I consulted two authoritative bibliographic sources. The first is Banton's (2008) *Administering the Empire, 1801-1968: A Guide to the Records of the Colonial Office in the National Archives of the UK*. This handbook is an extensively revised guide that takes into account records that have become accessible in recent decades, together with corrected and expanded lists of earlier eras. This handbook is an exhaustive index of all the British colonies and provides compact entries on Malaya. It is useful because it places Malaya against contemporaneous developments across the British Empire. The second bibliographic source is a much older but equally informative reference that is Kratoska's

(1990) *Index to British Colonial Office Files Pertaining to British Malaya*. This is a twelve-volume reference text published by the Arkib Negara Malaysia and contains detailed index lists of entries under each relevant administrative file. From these two sources, I identified relevant catalogs for my purpose.⁴⁴

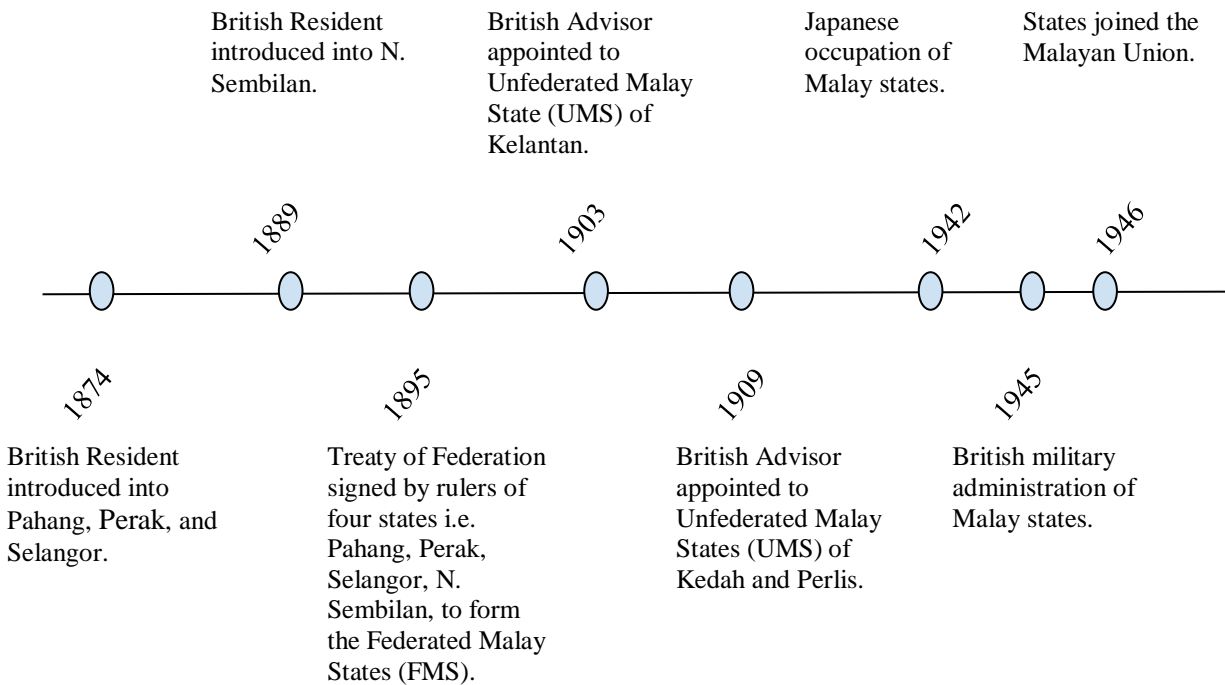


Figure 3. Timeline of colonial administration of the Malay states from 1874 to 1946

The catalogs from the Colonial Office, War Office, and Foreign and Commonwealth Office records contain files administered by these government departments of the United Kingdom. These files are stored in various archives but mainly in The National Archives at Kew. Several of them exist in microfilm or in digital format, and they are housed in several archives

⁴⁴ For the list of Colonial Office, War Office, and Foreign and Commonwealth Office files, please refer to the bibliography.

and libraries, including the National Archives of Singapore, the National University of Singapore Library, and the Lee Kong Chian Reference Library in Singapore. These sources are official sources of the United Kingdom, and because of this, they are more easily accessible and cited more frequently by scholars of British Malaya.

In addition to these more commonly referenced sources, one of the central empirical contributions of my dissertation is to present and examine data that are to date less discussed in the study of British Malaya. These are memos and files from the State Secretariat Offices that were produced by members of the state and later federal governments. They are correspondence memos or submissions that were circulated to either disseminate or request information, discuss a policy issue, or report on state matters. These memos were addressed to or by the British Resident or Advisor from each state through various members of the state and federal governments including the legal advisor, the High Commissioner, the Sultan, the mufti, the district officers and others.

These state documents are crucial to understanding how colonial state bureaucracies functioned, the concerns the colonial government raised on each state, policy developments, and other issues. They also suggest certain dynamics and relationships among members of the state and federal governments. Unlike the colonial office records that report on state affairs when most of them are settled, the State Secretariat Office memos record ongoing discussions among members of the colonial government as they work towards reaching a resolution. For these reasons, they are the most essential source of data for my analysis. These data are stored in the Arkib Negara Malaysia both at its main branch in Kuala Lumpur and across its state centers. I visited the central archive in Kuala Lumpur and each of its state centers in Johor, Kelantan, and Perak. Selangor state documents are co-located within the central archives in Kuala Lumpur. To

date, not all of the entries of the State Secretariat have been digitized. Those that are can be accessed via a search portal on online databases from computer terminals only accessible in the archives. In addition to these digitized entries, there remains a large volume of documents that are stored physically and can be accessed through a manual search of their indexes.

Roadmap of this dissertation

This dissertation is organized into six chapters. Chapter two introduces the four Malay states of Perak, Selangor, Johor, and Kelantan within a comparative framework that explains variations in type of indirect rule. Perak and Selangor were federated states, while Johor and Kelantan were unfederated states. This chapter asks the question: What explains varieties of indirect rule on the Malay states and how does this variation develop different forms of modern governance on each state? This chapter suggests that varieties of indirect rule depended on conditions within the precolonial polity that determined how vulnerable it was to state breakdown. Where states were facing imminent state breakdown, such as in Perak and Selangor, a Residential system was put in place. On the other hand, the Advisory system was put in place in Johor and Kelantan, and on these states, the circumstances of British intervention was not due to imminent state breakdown but motivated by British expansionist policy during this time. States under a Residential system developed a state council, which was centralized under a federal council. States under an Advisory system developed variably. For example, Johor established a modern state constitution, while Kelantan established a cultural and religious council.

Chapter three examines the rationalization and professionalization of state functions in Perak and Selangor. It asks: How did indirect rule (a Residential system) transform the political structure of the Malay states and how did this transformation vary across states? I argue that the

political structure of the Malay states was transformed as state administrative functions were split into two—extractive and regulative. The extractive function of the colonial state referred to matters of state land, labor, revenue, and other municipal issues. The regulative function of the colonial state referred to matters of religion and customs that fell under the domain of the ruler and served to keep state legitimacy intact. The British Advisor oversaw extractive state functions while the native ruler oversaw regulative state functions. Native elites from the ruling class were split to either assist the British Advisor in extractive state functions or to assist the native ruler in regulative state functions. This divided the ruling elites into two domains, delineated the tasks for each one, and removed overlaps between them. The specialization of functions managed competition among the ruling elites. I show how even as each domain of state administration was rationalized and opened up positions for employment, barriers to entry were higher for the extractive function than they were for the regulative function. I show how the colonial administration protected positions within the district office for aristocratic elites and only gradually opened it up to non-aristocratic elites much later into the twentieth century. Even so, they kept these positions between the aristocratic and non-aristocratic elites separate. As a result, the domain of extractive state administration remained stratified. On the other hand, I show that barriers to entry into the domain of state regulation—the administration of religion and customs—were much lower and could be gained through acquiring the requisite qualifications in a variety of ways, such as religious learning or going on the Haj. As a result, positions of employment within this domain were open to those from within the state or from outside of the state. This chapter shows that because the state regulative domain was more open than state extractive domain, it became a more dynamic space for state transformation.

Chapter four examines delayed bureaucratization in Johore and Kelantan. As in the

preceding chapter, it asks: How did indirect rule (the Advisory system) transform the political structure of the Malay state and how did this transformation vary across them? Compared to Perak and Selangor, both Johor and Kelantan were administered under the Advisory system. This variation was the result of several factors that included the motivation for British expansion and intervention across the peninsula and the growing resistance against the empire both at home and abroad during the early twentieth century (and especially post-World War I). It then presents the challenges faced by the Federated Malay States. I argue that the dissimilarities between the Advisory system and the Residential system represented a difference of intensity but not of framework. As in the Residential states, the Advisory system of indirect rule also divided native elites into two groups to perform distinct state functions, which were extractive and regulative. But the lower intensity of the Advisory system in Johore and Kelantan meant that colonial intervention sustained a less deterministic effect on them as native rulers could and did exercise more autonomy in matters of state administration in the colonial state.

Chapter five examines the formation of religious bureaucracies in Selangor and Kelantan despite the fact that each state was subjected to different forms of indirect administration. I show that the colonial administration interacted with the structure of the ruling class on each state with varying outcomes. Using cases of religious dispute—especially those related to religious conversions—recorded in the State Secretariat Offices, I show that because the ruling class on the state of Selangor was less homogeneous, new religious elites streamed in from outside of the state, vying for positions within the state administration and thus strengthening religious elites in the state. But because Selangor was subjected to more intense and longer indirect administration, elites in both the state extractive and regulative domains developed in step with one another and checked each other's strength. As a result, even as religious elites in Selangor grew strong, they

were equally positioned with other state elites, and this tempered their influence to a certain extent. On the other hand, I show how a weaker ruling class in Kelantan co-opted religious elites to consolidate rule prior to colonial administration. As a result, colonial administrators coming into the state already had to deal with strong but more independent religious elites who organized themselves immediately into a council to be represented in the colonial state. These religious elites continued to compete with other state elites for power.

The concluding chapter will discuss how the cases of the Malay states can inform our understanding of colonial state formation more generally. It discusses how a processual and a comparative analysis of social change can reveal important processes of state formation in the colonial state and can edify literature on colonial state formation more generally and the administration of indirect rule more specifically, especially in relation to how it transformed the political structure on the Malay states and shaped elite dynamics, which persist into the present. I discuss how we should reconceptualize colonial legacies and how elite dynamics become carriers of legacies of the colonial state to shape state politics in the postcolonial state.

CHAPTER TWO

PRECOLONIAL ROOTS TO THE VARIETIES OF INDIRECT RULE: A COMPARATIVE ANALYSIS OF THE MALAY STATES

Introduction

British intervention in the Malay states lasted for almost two centuries.¹ The Malay states came under British administration in the midst of the latter's imperial expansion across the globe, and this relationship persisted until the collapse of the empire at the end of the Second World War. The Malay states were the final frontier for British imperial expansion. East of India and southwest of China, the Malay states and their abundant waterways were crucial circuits of trade and transport; for these reasons they were greatly coveted by competing imperial and regional powers. The British administration jostled for power and prominence on multiple occasions with the Dutch, the Portuguese, the French, the Siamese, the Bugis, and the Acehnese, while constantly wary of the Ottomans and the Germans.² By all measures, this was a busy neighborhood. It was a market of goods, a bustle of people, an interchange of ideas, and a clash of powers.

As Britain ventured into the Malay states, it encountered a complex terrain. This explains why the British avoided direct involvement with the Malay states for as long as they could. Even with the establishment of the Crown colonies in the region, British administrators always

¹ While formal British intervention in the Malay states began with the signing of the Pangkor Treaty in 1874, British presence predated that by several centuries. The earliest British presence in the Malay-Indonesian archipelago was in Bencoolen on Sumatra. The British East India Company (EIC) had an established presence there since 1685. Specifically on the Malay states, the EIC ceded Penang from the Sultan of Kedah in 1786. This was followed by the acquisition of Malacca in 1795 and Singapore in 1819. For the history of British intervention see Khoo Kay Kim, "The Origin of British Administration in Malaya," *Journal of the Malaysian Branch of the Royal Asiatic Society* 39, no. 1 (209) (1966): 52–91.

² There is plenty of good scholarship on the history of the Malay states and the region prior to the British. For a good one, see Anthony Reid, *Charting the Shape of Early Modern Southeast Asia*, (Chiang Mai, Thailand: Silkorm Books, 1999).

exercised caution when it came to meddling with the affairs of the Malay states. However, the inevitable came to pass as a result of the need to defend British economic interests against competing imperial forces and mounting strife and chaos in the region due to internal state conflicts. Even so, the British administration got to work rather slowly and very tentatively as they figured out the dimensions and stakes for each state. As a result, British administration across the Malay states was not only indirect, it was uneven.

Indirect rule, a hallmark of the British colonial administration, is a system of governance that incorporates the existing socio-political structures of native states. Like British rule in South Asia and Africa, indirect rule over the Malay states meant that colonial administration depended heavily on relationships with traditional rulers.³ These relationships ranged from collaboration to competition as traditional rulers and colonial administrators managed relations of mutual gain. British administration of the Malay states ranged from a policy of centralization to light intervention. Categorically, the Malay states fell into either one of two types of indirect rule: the Residential system or the Advisory system. A Residential system is where a Resident colonial administrator is appointed to care for state matters, and the traditional ruler is obliged to seek his advice on all matters other than religion and customs. The Resident would then report to the governor, who was based outside of the state.⁴ This system was first introduced into Perak and later expanded to the adjacent states of Selangor, Pahang, and Negeri Sembilan.⁵

³ The British policy of indirect rule most notably began with Frederick Lugard who administered West Africa in 1895. For his treatise on indirect administration, see F. D. Lugard, *The Dual Mandate in British Tropical Africa*. [5th ed.] (Hamden, CT: Archon Books, 1965).

⁴ The governor was based in the Straits Settlements. For the history of the western Malay states in the late nineteenth century there are excellent historical sources. See Emily Sadka, *The Protected Malay States, 1874-1895* (Kuala Lumpur: University of Malaya Press, 1968); Phillip Fook Seng Loh, *The Malay States, 1877-1895: Political Change and Social Policy* (Singapore, New York: Oxford University Press, 1969).

⁵ Perak, Selangor, and Pahang came under British administration at different times in the same year in 1874, while Negeri Sembilan followed suit in 1889.

The remaining five states came under an Advisory system of indirect rule. The Advisory system was less systematic than the Residential system, and it varied substantially across states. Colonial administrators' involvement in state affairs and the autonomy that traditional rulers exercised across these states also differed substantially. For example, the Advisor in Kelantan was much more involved than the Advisor in Johor.⁶ As a result of these differences, colonial administration took on very different forms across the Malay states. By the end of the nineteenth century, the four states that came under the Residential system were unified under a federation and referred to as the Federated Malay States. The remaining five states, which came under the Advisory system, remained decentralized and were referred to as the Unfederated Malay States. Against this backdrop, this chapter asks the question: What explains the varieties of indirect rule in the Malay states and how do these variations develop different forms of colonial state administration on each state?

This puzzle foregrounds the theoretical implications of the empirical case of colonial administration in the Malay states by calling attention to the category of indirect rule within the colonial state literature. Even as indirect rule constituted a substantial repertoire of colonial state building, it is too often treated as a residual category—i.e., what direct rule is not. As a result, we know systematically far less regarding conditions that motivated indirect rule and the many variations of governance that resulted out of it. Since indirect rule depended heavily on relationships with traditional elites, hybrid forms of modern governance developed as a result. These forms of governance adapted to the contours of the native states, specifically existing institutions and infrastructure that organized local elites.⁷

⁶ This was because colonial intervention was borne out of different circumstances on these states. To date, most scholarship on the Malay states focus on the western Malay states but much less on the remaining states.

⁷ These arrangements often persisted well beyond the colonial state to determine postcolonial state

This chapter builds a comparative schematic for the precolonial roots of colonial administration and institutions in the Malay states. The central argument is that British intervention was precipitated by conditions of vulnerability on the western states of the Malay Peninsula that threatened British presence in the region. The western states were vulnerable to breakdown because of internal conflicts both from within the ruling class and among the migrant tin-mining communities. Where the British first intervened, they installed a Residential system where a British Resident was sent to each state to administer their affairs. Under the Residential system, both Perak and Selangor established a state council that convened members of the colonial administration and native elites together in a model of shared rule. Over time, the four Residential states centralized under a federal administration, and their state councils united in a federal council.

The British administration kept their intervention to the western coast, but this was not for long. Eventually during the early twentieth century, the British administration extended control over the remaining five states of the peninsula. When the British eventually extended control over the remaining states, they installed an Advisory system where a British Advisor on each state participated in matters of state administration. These states retained considerable state autonomy and remained decentralized from the federal administration. Since colonial administration in these states varied from one state to another, modern state administration in them developed variably. For example, Johor established a modern state constitution to model a constitutional monarchy, while Kelantan established a cultural and religious council.

This chapter does several things. One, it introduces the ideal typical structure of political authority in the premodern Malay states. Two, it provides a descriptive discussion of each of the

development. Because of this, it further behooves us to better understand the category of indirect rule since it is a matter of present concern.

four states across several common dimensions including state geography, primary industry, and migrant and local demographics. Three, it traces the encounter of these states with the British administration, specifically how indirect rule was administered in them and how they developed different forms of modern state governance on each state. To this end, this chapter is organized into three sections. In the first section, I begin with an extended discussion of the political theology that underpinned legitimate authority in the Malay states. I discuss the coming of Islam to the Malay states, especially how the law was organized as the seat of Malay kingship. I then discuss the structure of political rule and the relationship between the ruling and subject classes.

Having established the political ideology of the Malay states, the second section moves to the material dimensions of the state. I set up a comparative analysis of four states: Perak, Selangor, Johore, and Kelantan, and discuss the precolonial history of each state and variations in geography, source of revenue, the composition of labor, and demographic composition. These are internal state factors that determine variations to the political structure on each state. Finally, I discuss external state factors and whether the state was a tribute to or independent of other polities. I discuss how the western states were facing imminent state breakdown in the late nineteenth century that precipitated British intervention.

The third and final section introduces British administration within the Malay states. I discuss the conditions for initial British intervention and show how it expanded across the western coast of the peninsula. I discuss forms of colonial governance across the Malay states. For example, Perak and Selangor—both located on the western coast of the peninsula—came under the Residential system, developed state councils that then unified under a federal council, and later formed the Federated Malay States. But Johore and Kelantan, located on either ends of the peninsula, came under the Advisory system and developed different forms of modern

governance. Johore developed a state constitution, thus establishing a model for constitutional monarchy on the Malay states, while Kelantan developed a cultural and religious council to further entrench the ethnic and religious bases for modern state organization.

Organization of the Malay polity

The structure of feudal Malay society

A meaningful discussion of the precolonial Malay polity can only begin with the Malaccan sultanate founded in the year 1400 by a Hindu king, Parameswara, who later converted to Islam and took on the name Iskandar Shah. He married the princess of Pasai of the Acehese Sultanate, thus establishing a powerful alliance with the only other formidable power in the region, thereby consolidating a Muslim presence in the region. Even as Iskandar Shah had converted to Islam, the earlier principles of governance modeled after Hindu political cosmogony persisted into the political arrangement of the new polity. This was rather seamlessly incorporated into the Islamicate kingdom as it mapped onto a Sufi political cosmogony. The only difference was that instead of the King as Lord incarnate, he was now a caliph or God's representative on earth.

Accordingly, the Sultanate held high symbolic power and was the organizing principle of the polity. The sultan stood at the apex of the polity and as the *Yang di-Pertuan* (literally, he who is made lord), or *Raja*,⁸ he was held in high esteem, and his position was sanctified with supernatural powers. This power was referred to as *daulat*, and it is believed that the wrath of the

⁸ The nomenclature referring to the head of the state varied across states. On most Malay states the head of the state was referred to as sultan after the coming of Islam in the thirteenth century, thus replacing the Sanskrit raja. Exceptions are Perlis that retained the title of raja and also Negeri Sembilan that referred to the head of the state as the *Yang di-Pertuan*. For Negeri Sembilan, the state is a confederation of nine smaller states and the head of the federation will rotate among the nine rulers.

sultan can befall anyone who challenged him.⁹ The position of the sultan was hereditary and would fall to his son, who is called the *Raja Muda* (literally, young lord). However, this arrangement may differ across states. For example, in Johore, the historical tussle for power among four aristocratic families turned over the throne to the *temenggong*, or the minister of state,¹⁰ instead of the sultan. In Perak, the *Bendahara*, who was the chief minister, can replace the Raja Muda. As was customary, the sultan would give land to a chief who was working on it. This followed the customs of Malay land laws, which served a subsistence economy. Land belonged to the person who cared to toil on it and would cease to be his once he stopped working on it. Only one-tenth of the produce would go to the chief, while the rest was owed to the sultan. The chief was also responsible for collecting taxes on behalf of the sultan.¹¹

Even as the sultan symbolized the pinnacle of state power, the responsibility for the routine organization of the state was not on the sultan himself, but rather on chiefs who held control of their own districts or *daerah*. Indeed, district chiefs wielded a lot of real power on the day-to-day level. Further, the district chiefs were not impotent in relation to the sultan. In fact, they held a lot of influence with regard to the appointment of the sultan. The story of Perak and the eventual incursion of British forces into Perak is one great example of this. In cases where the district chiefs did not agree to the ascension of an incoming sultan, as was the case with Raja Yusuf, it would be arranged that this ascension would not happen.¹² While the sultan resided at

⁹ *Daulat* is sacrality surrounding Malay sovereignty. For a discussion on this concept refer to A. C. Milner, "Islam and Malay Kingship," *Journal of the Royal Asiatic Society of Great Britain and Ireland*, no. 1 (1981): 46–70.

¹⁰ The *temenggong* can and did take on different functions including as minister of law, home affairs, and other matters.

¹¹ J. M. Gullick, *Indigenous Political Systems of Western Malaya* (London: University of London, Athlone Press, 1958).

¹² C.D. Cowan and Frank A. Swettenham. "Sir Frank Swettenham's Perak Journals, 1874-1876," *Journal of the Malayan Branch of the Royal Asiatic Society* 24, no. 4 (157) (1951): 1-148.

the apex of the organizational structure of the Malay states, his power was also checked by the district chiefs and chiefs under him. The district chiefs and chiefs may have come from royal lineage, but there were also many among them who were from the nonroyal but aristocratic class. They were aided by headmen (*penghulu*), who were each in charge of a settlement (*kampong*), which was further broken down into the commune (*mukim*). The penghulus in this case may or may not be chiefs themselves depending on the size of the settlement.

The feudal arrangement of the Malay states was hierarchical and can be diagrammed as a pyramid. The sultan was at the top, followed by his ministers and royal heir. This was followed by a wider base of district chiefs and headmen. Together, they made up the ruling class, which was composed of the royal and nonroyal aristocratic classes. The political organization of the precolonial polity was rather fixed and well-established for over four centuries before the coming of the British. It would indeed appear that the British had recognized this and had honored the arrangement to only build on it rather than to completely fracture it. At least this was the idealized arrangement that the British had entered into, yet variations in how the ruling and subject classes were organized in each state led to variations of British intervention on the traditional structure of the Malay polity.

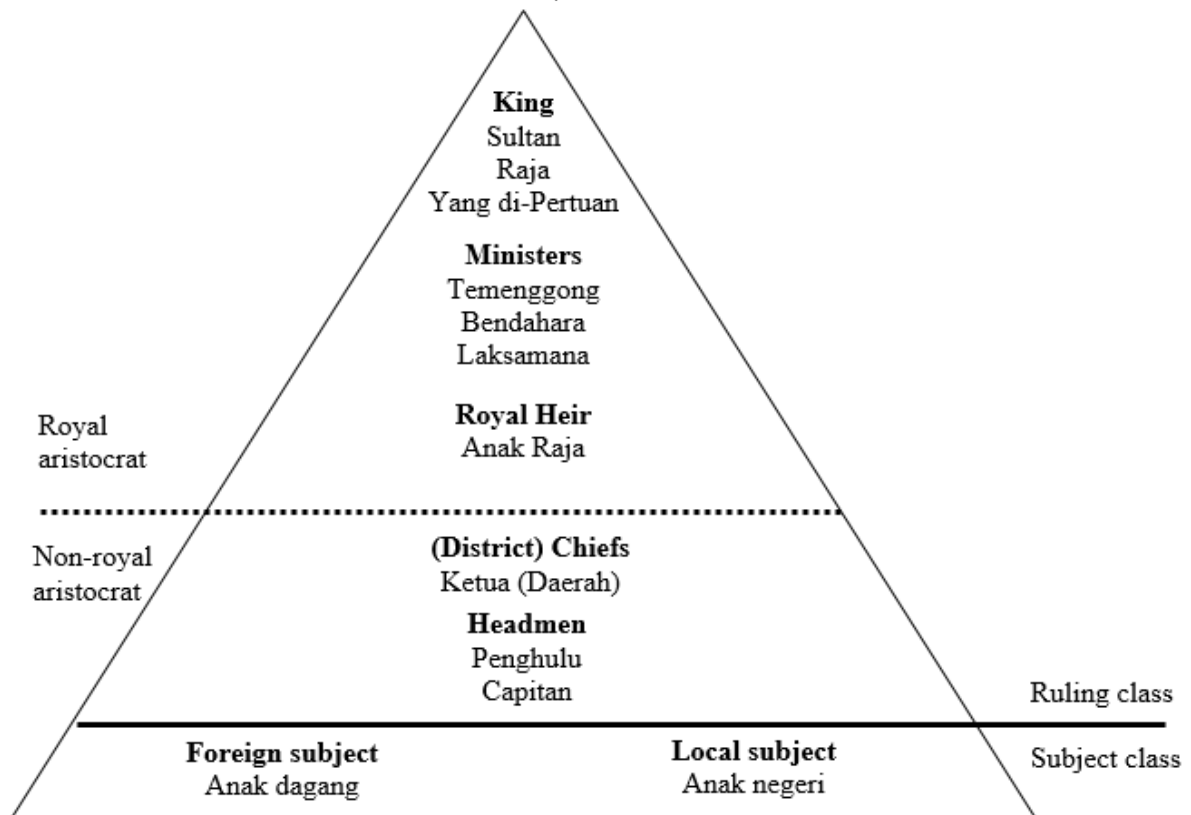


Figure 4. Feudal structure of the Malay state

Islamic law as symbol and site of Malay kingship

As with any story of social change, the ways in which Islam became central to the Malay polity—especially how it centered on the relationship between the ruler and his subjects—was the result of the interaction of several simultaneous processes. To enter into a discussion on the role of Islam in Southeast Asia is to enter a crowded room of scholars who have made this topic their lifetime’s preoccupation. It is important to note that insofar as the role of Islam in precolonial Malay polities were concerned, two of the most renowned scholars on this topic, J.M. Gullick and A. C. Milner, do not agree. Most notably, the question of Islam and the role that it played in precolonial Malay polity was significantly absent from the first edition of Gullick’s classic work *Indigenous Political Systems of Western Malaya* (1978) [1958], which Milner in

Kerajaan: Malay Political Culture on the Eve of Colonial Rule (1982) had singularly criticized.¹³

Milner argued that Gullick depended exclusively on colonial sources that obscured the role of religion, which featured front and center in the native sources, including the series of the *hikayats* (literally, stories), legal tracts, and other texts. Gullick addressed this controversy in the second reprint of his book, a riposte of Miller, which did not in any way settle the issue once and for all, but rather opened up an industry of productive scholarship theorizing the Islamization of Southeast Asia. Today, there is no dispute regarding the presence, influence, and role of Islam in the precolonial polity. The debate has now landed on the possible routes of the Islamization process, with contending theories that it had come predominantly from the Hadhramis on the Arabian Peninsula or from the Gujeratis in India, and most recently from early Chinese sojourners from the southern provinces of China.¹⁴

Considering the obvious role of Islam in the precolonial polity, what would then explain why it was conspicuously downplayed by several authoritative works on the area? The answer, it has been suggested, lies in the very nature of the Islamization process itself, and the peaceful and seamless ways Islam had grafted onto the region, to the extent that it was never conceived of as apart from or alien to the polity.¹⁵ Islam had infused very well with the local cultures or *adat*, and while there were in some instances conflicts that arose, in the precolonial polity this was an exception more than the rule. This is indeed very highly probable, and yet I propose that a more important explanation is the elite nature of the Islamization process of Southeast Asia. Itinerant

¹³ J. M. Gullick, *Indigenous Political Systems of Western Malaya*. (London: University of London, Athlone Press, 1958). Anthony Crothers Milner, *Kerajaan: Malay Political Culture On the Eve of Colonial Rule*. (Tucson, AZ.: University of Arizona Press, 1982).

¹⁴ Syed Farid Alatas, "Notes on Various Theories Regarding the Islamization of the Malay Archipelago," *The Muslim World* 75 (1985): 162–75. Anthony H. Johns, "Islamization in Southeast Asia," *Japanese Journal of Southeast Asian Studies* 31, no.1 (1993): 43–61.

¹⁵ Anthony H. Johns, "Sufism in Southeast Asia: Reflections and Reconsiderations," *Journal of Southeast Asian Studies* 26, no. 1 (1995): 169–183.

Sufis such as the great Hamzah Fansuri, Nurrudin Ar Raniri, Abdurauf As Singkili, Syamsudin Pasai, and others were patronized by the sultans in the courts.¹⁶ They advised the Sultan on the proper forms of conduct, his responsibilities as the caliph on earth as a representative of God, and inducted him into an expansive Sufi political cosmology in the tradition of the twelfth century Sufi Ibn Arabi, where the ruler resided at the apex.¹⁷ This meant that Islam manifested as high court culture, and this was showcased in the series of hikayats produced by the few elite literatis of the courts.

This elite high culture of Islam in the Malay states associated with the first wave of Islamization in the fifteenth century retained its form for at least the next four centuries. The initial encounter of colonial administrators to the Malay states was within these circumstances. That is to say, Islam was very much embedded within the framework of traditional rule squarely within the ruler's domain.¹⁸ Because of this, the colonial administration made sure to retain this arrangement by relegating all matters of religion and customs to the rulers while they took charge of everything else. If the first wave of Islamization can be diagrammatically represented, it would be a system of multiple centers with varying sizes in Malacca, Java, Aceh, and Patani, with smaller nodes in Perak and Pahang stretching across the archipelago. But across all of these cases, Islam centered within the courts.

¹⁶ For a great primer on Sufism in the Malay states as well as the role of Hamzah Fansuri, see Al-Attas, Muhammad Naguib, and Hamzah Fansuri, *The Mysticism of Hamzah Fansuri* (Kuala Lumpur: University of Malaya Press, 1970). Also see Al-Attas, Muhammad Naguib, and Malaysian Sociological Research Institute, *Some Aspects of Sufism As Understood and Practised Among the Malays*. (Singapore: Malaysian Sociological Research Institute, 1963).

¹⁷ Sani, Hanisah Bte Abdullah. "The Rise and Role of *Tariqa* among Muslims in Singapore: The Case of the Naqshbandi Haqqani." MA thesis, National University of Singapore, 2010.

¹⁸ For a good discussion on this topic, see A. C. Milner, "Islam and Malay Kingship," *Journal of the Royal Asiatic Society of Great Britain & Ireland* 113, no. 1 (1981): 46–70. R. O. Winstedt, "Kingship and Enthronement in Malayam" *Journal of the Malayan Branch of the Royal Asiatic Society* 20, no. 1 (1947): 129–39.

While a keen understanding of the process and the interactions of the pathways of Islamization is crucial for a firm foundation of the role of Islam in the Malay states, that alone is insufficient to understand why and how Islam became irrevocably tied to the station of the Malay ruler in the late nineteenth century. This process is sorely underdeveloped since most scholars attribute it to how Islam became infused into a comprehensive Malay political cosmogony. Beyond this political theology approach, there is little effort towards a sociological explanation for how Islam became a central organizing principle between the ruler and his subjects. By the late nineteenth century, the British colonial administration determined that matters of religion and customs should be left to the traditional ruler.

While Islamization theories focus on the external pathways of religious contact, how Islam became domiciled into the Malay states requires an explanation of its interactions with local structures and institutions.¹⁹ One of the earliest sites of the domestication of Islam into the Malay polities was the law. To trace this process within the legal system, we begin with an explication of the legal history of the Malay states. By the fifteenth century, a legal code out of the Malaccan sultanate was fashioned. The *Undang-undang Melaka*, or the Code of Malacca, the earliest authoritative legal digest of the Islamicate kingdom, is an amalgamation of Malay customary laws or *adat*, with Islamic precepts. Prior to Islam, there were two types of customary laws: *adat temenggong* and *adat perpatih*. The former was a system of laws based on a patrilineal system coming from port cities and adapted in adjacent states, notably in Perak and in Selangor. The latter was a system of laws organized through a matrilineal system adopted from the Minang people in Sumatra who had migrated to Negeri Sembilan on the western side of the

¹⁹ For theories on Islamization in the Malay-Indonesian archipelago, see S. F. Alatas, "Notes on Various Theories Regarding the Islamization of the Malay Archipelago," *The Muslim World* 75, 162–75. William R. Roff, "Patterns of Islamization in Malaysia, 1890s-1990s: Exemplars, Institutions, and Vectors," *Journal of Islamic Studies* 9, no. 2 (1998): 210–28.

peninsula. Precepts of Islamic law grafted onto preexisting adat systems and manifested in the earliest legal code of the Malay states. These laws were extensive and covered matters to do with trade and commerce, land, and personal relations, among other things. The Code of Malacca traveled beyond the Malaccan sultanate and could be found as far afield as in Brunei, Kedah, Pahang, and Riau and was respected in these states. It would seem that the Malaccan legal digest was the first of its kind, and it paved the way for subsequent legal codes on the Malay states. Reports of a second digest compiled by the ruler of Pahang, Abdul Ghafar (1592–1614), a descendant of the Malaccan royal house, was also respected in Perak, Pahang, and Johor. Legal digests originated from Malay royal houses, whose descendants can be traced to the Malaccan or the Johor royal family. The Pahang Legal Digest in 1595, the Laws of Kedah in 1605, the Laws of Johor in 1789, and the Ninety-nine Laws of Perak in 1878, are illustrations of this.

Law in the feudal state was not above the ruler, but rather embodied his power both literally and metaphorically. Customary laws, especially with regard to criminal punishment, revealed a despotic ruler who publicly exercised his power through arbitrary punishment. The effects of the formal incursion of the British into the Malay states with Perak in 1874 were multiple, but none more consequential than the transformation of the role of the law on the Malay states. In line with British policy of minimal intervention in the Malay states, the colonial administration was conscious to preserve the structure of the traditional polity as far as possible. In a shared model of political power, all matters other than religion and customs came under the jurisdiction of the British Resident. The notion that the ruler was the ultimate source of law never went away even with gradual legal reform over the nineteenth century when customary laws gradually gave way to Islamic laws. However, it was compartmentalized to matters regarding religion and customs. Sultan Abdullah of Perak demanded the retention of matters of religion

and customs, along with other matters, which traditionally fell within the ambit of the Malay kings, including the accumulation of debt slaves and the right to collect taxes. In effect, the British had maintained the feudal structure of the Malay states, reaffirming the ties between the ruler and his subjects.

Comparative precolonial states

This section enters into a comparative discussion of the parameters of each of the four Malay states. It begins with an overall discussion of structural variations across the Malay states focusing on several factors including state geography, state labor and economy, and state demographics. This is followed by the descriptive portraits of each of the four states consisting of Perak, Selangor, Johor, and Kelantan

Structural variation across the Malay states

While the Malay states shared common principles of political organization, there were variations on each state. These variations depended on state geography, trade and economy, state labor force, and demographics as well as independence from external forces. These variations determined the organization of power holders as well as their relationship with the chiefs and other subjects. The organization of political power in each state is keenly affected by its geography. There were two types of sovereign territories. The most common was one primarily based off the land, referred to as *negri* (state). The other included both land and sea areas and were referred to as *perentah* (dominion). The former characterized riverine states while the latter characterized coastal states.

Most premodern Malay states were organized around river systems that span a state's length or breadth, or both. However, in some states, the river system was not the only way the state was organized. Johor and Malacca are excellent cases in point. They are coastal states and

were important port cities. The river system was also essential for the state of Johore, but this was the case only much later in its development. For a state that was organized around a river system, the residence of the sultan is usually at the most important point of the river where he could control movement and trade that flowed through the river, either upstream (*hulu*) or downstream (*hilir*). In some states, rival powers to the throne controlled either ends of the river.

Peasants subsisted off the land, but there were also those who made a living through transportation and trade along the river. The relationship between labor and land was organized around a subsistence economy. Prior to formal land laws, claims to land were binding only when it was labored on.²⁰ If a subject moved and ceased to labor on a piece of land, it would no longer be his. Notably, the ruler's strongmen, (the chiefs) would organize subjects to work and live off land within their district (*daerah*). When subjects had accumulated enough debt, they would be bound to labor on the land in perpetuity. Debt slavery (*kerah*) was a common form of labor on the Malay states. Debt slaves were both practical and symbolic currencies of a ruler's power and influence. A debt slave was provided with a wife, accommodation etc. As a result, he would be indebted to the ruler forever and pay taxes on the land he worked on. One of the results of British rule was to gradually remove the institution of debt slavery to the great chagrin of the chiefs and rulers.²¹

The flow of Chinese migrants occurred gradually from the late eighteenth century to the Straits Settlements of Penang, Malacca, and Singapore. From there, Chinese migrants often

²⁰ M. B. Hooker, *Readings in Malay Adat Laws* (Singapore: Singapore University Press, 1970).

²¹ In fact, this was what precipitated the Perak war of 1875-76. The first British Resident James W.W. Birch was notably heavy handed in his ways. He came into Perak and started to dismantle the institution of debt slavery practiced on the Malay states for centuries. The native rulers protested, and eventually Birch was murdered. Following this, British forces were sent to Perak to quell the resistance. This led to a war on Perak that lasted almost a year. See Iza Hussin, "The Pursuit of the Perak Regalia: Islam, Law, and the Politics of Authority in the Colonial State," *Law & Social Inquiry* 32, no. 3 (2007): 759-88.

moved northwards and eastwards populating the states of Johore and Selangor, eventually settling in them. Even today, these states boast notable Chinese populations who have made the Malay states home for many generations. Malay rulers had already engaged Chinese laborers to work in the tin mines even before the advent of British administration.²² But it was not until formal British incursion into the Malay states in the late nineteenth century that systematic migration of Chinese workers to the western states—specifically in Perak and Selangor—was encouraged through a formal labor policy of the colonial government. Chinese laborers were put to work in the tin mines and were plugged into the political economy of the colonial state. Yet another substantial migration also happened among Indian laborers who were put to work on the railroads.

While non-Malay migration was notable, intra-Malay migration was also conspicuous. Migration occurred from outside of the peninsula, most notably from the Indonesian islands, but they also occurred across states on the peninsula. Traditionally, geographic mobility among peasant communities was not uncommon. Peasants often migrated to a different state if present conditions were not in their favor. Notably, this was often a method of protest against a despotic ruler.²³ But for the most part, migrants came in search of a better life and for mining or trading

²² The history of Chinese labor long predated colonial rule. But these were organized around individual states and were on a smaller scale. See W. L. Blythe, "Historical Sketch of Chinese Labour in Malaya," *Journal of the Malayan Branch of the Royal Asiatic Society* 20, no. 1 (141) (1947): 64–114. For more on Chinese migration, refer to Ronald Skeldon, "Migration from China," *Journal of International Affairs* (1996): 434–55. Qinghuang Yan, *Coolies and Mandarins: China's Protection of Overseas Chinese during the Late Ch'ing Period (1851-1911)* (Singapore University Press, 1985). Chee-Beng Tan, "Chinese in Malaysia," in *Encyclopedia of Diasporas: Immigrant and Refugee Cultures around the World* (2005): 697–706.

²³ The *Sejarah Melayu* or the Malay Annals, is replete with stories of the Malay kings and their kingdoms. It is a historical and literary tract following the tradition of the "genealogy of kings" or the *Salatus salatin*, a Persianate literature on kingship and statehood. The Malay Annals is an important historiographical source of the Malay world composed of literary tracts and stories, referred to as *hikayat* that is Arabic for stories. While these hikayats are based in history, they were often embellished and romanticized. See C.C. Brown and R. (Roelof) Roolvink, *Sĕjarah Melayu: Or, Malay Annals*. (Kuala Lumpur; Oxford: Oxford University Press, 1970).

opportunities. Selangor, for example, had a large number of foreign Malays who were called anak dagang as opposed to those who were native to the state, or *anak negeri*. Often enough, if foreign communities were sizeable in number, they would live together in a commune (mukim) and have one of their own appointed as a headman (penghulu). These headmen would then report to the chief (*ketua*). If the state was complex enough, the chief would come under a district chief (*ketua daerah*). Naturally, the political dynamics of rule would vary according to how many and how extensive demographic cleavages existed within each state.²⁴ Indeed, demographic variation—specifically the presence of a larger number of migrants—was essential to determine how the ruling class was organized in the Malay states.

The Malay states had always been a rather turbulent place. States warred with one another, and bigger states exacted tributes from smaller ones. The northern states of Kelantan and Trengganu sent tributes (*bunga mas*) to the Siamese king to acknowledge his overlordship. In return they were recognized as tributary states and fell under the ambit of Siam protection from external threats.²⁵ On the southern peninsula, the Sultanate of Johore boasted stories of conquest among warring factions, most notably the Malays from Riau, Bugis, and the Javanese.²⁶ Unending strife was punctuated by brief periods of peace. And yet, none of this was as consequential as internal strife within each state among the royal and aristocratic families vying for the throne. While succession was hereditary, the power of the chiefs who were of aristocratic

²⁴ The organization of the Malay states was not unlike other premodern states or empires in that it was communal. The more disparate the communities were on the state the more heterogenous was the state's demographic composition. The less disparate the state was the more homogenous was its demographic composition.

²⁵ For a history of Kelantan, see Anker Rentse, "History of Kelantan I." *Journal of the Hikayats*, and for an even earlier historiography of Patani, see A. Teeuw and David K. Wyatt. *Hikayat Patani: The Story of Patani*. (The Hague: Martinus Nijhoff, 1970).

²⁶ For a history of Johore, see Richard Olaf Windstedt, "A History of Johore: (1365-1895)" Reprint No. 6, *Journal of the Malaysian Branch of the Royal Asiatic Society* 66, no. 1 (1932): 87–89.

lineage kept the ruler in check. Sons of rulers, *anak raja*, were the most volatile and powerful actors in each state and could shore up enough support among chiefs to elevate them to the throne.

Internal disputes also occurred among the Chinese communities that were divided by place of migration and dialect groups. In Perak, quarrels between the rival gangs Ghee Han and the Hai San were contained among themselves, but in Selangor, gang rivalries dragged out into a civil war. The eventual incursion of the British, despite London's prolonged determination to resist involvement in the affairs of the Malay states, occurred amidst all of these events. Conflict on the western states had grown to such an extent that it was no longer possible to refrain from getting involved lest it disrupt affairs and peace in the rest of the peninsula as well as in the Crown colonies.

Perak

Perak, on the western coast of the peninsula, was a historically weak state.²⁷ Prior to discovering tin in the sixteenth century, Perak was not wealthy and did not possess armies. Its vast geographies made it very difficult to control. On top of it all, Perak was always caught in internal conflicts, which often destabilized its political system.²⁸ Because of this, Perak always

²⁷ For excellent and rather comprehensive histories of Perak, see R.O. Winstedt and R. J. Wilkinson, "A History of Perak" *Journal of the Malayan Branch of the Royal Asiatic Society* 12, no. 1 (118) (1934): V–180. Also see Barbara Watson Andaya, *Perak, the Abode of Grace: A Study of an Eighteenth-century Malay State* (Kuala Lumpur; New York: Oxford University Press, 1979). Andaya's is a great contribution to the historical account of Perak because it relied on Dutch sources that plenty of authoritative histories of the Malay states left out, focusing only on British sources.

²⁸ At different times, Perak came under the control of Aceh and Siam, two big forces in the region. They were also under threat from the Minangkabau and Bugis communities, two big and powerful communities in the region. The former were from Sumatra and settled along the western coast of the Malay Peninsula who mostly settled in Negeri Sembilan, but can also be found in Perak, Selangor, and Pahang. The Bugis was a seafaring community who mostly settled in Selangor, but can also be found on the other western states. Because they were perpetually under threat, Perak signed a treaty of trade and protection with the Dutch Vereenigde Oostindische Compagnie (VOC) from 1746 until the end of the century. During this time, Perak experienced relative peace.

found itself at the mercy of bigger powers. This included coming under the control of Aceh and Siam and stemming threats from the Minangkabau and Bugis communities. They entered into a treaty of friendship with the Dutch, and later the Pangkor Treaty with the British in 1874.

However, even when Perak required the patronage of a bigger power, it was anxious to retain its autonomy and tried to wrangle out of parasitic relationships in favor of those that could be of mutual benefit. Perak was always in search of security and independence. Protection from a bigger force was needed to protect and maintain the royal family and to protect the state from external attacks.²⁹

Despite being a weak state, Perak boasts a proud history that includes a decorated genealogy going back to Alexander the Great.³⁰ During the sixteenth century, things took an upward turn. Perak ceased to be a dependent of Malacca and became an autonomous state.³¹ The presence of a royal prince in Perak elevated the status of the state such that it was comparable to other stronger states in the region, like Johor and Aceh. Perak's fame also rose in the sixteenth century as a result of tin, a coveted natural resource that gave the state substantial economic advantage over other states, attracting traders from all over the world. However, this autonomy was short lived, as Siam vied to exert control over and annex the state of Perak. Perak did not have a strong standing army and lacked control over manpower, which was crucial to building its military strength. It could not defend its population and guarantee the security of its subjects. Throughout the four centuries of its early history, it has always been invaded and never assumed the role of invader. In addition, the topography and geography of the riverine state accentuated

²⁹ Andaya, *Perak, the Abode of Grace*, 1979.

³⁰ The narration of this genealogy is in the *Sejarah Melayu*, which tells the story of Bukit Seguntang (literally, Seguntang Hill) in Palembang, Sumatra believed to be sacred and one of the centers of the Srivijayan empire. The legend is that Perak was founded by a prince of Bukit Seguntang.

³¹ Andaya, *Perak, the Abode of Grace*, 1979.

the difference between the upstream (hulu) and downstream (hilir) communities.³²

The internal politics of Perak, like most other Malay states, was fraught with internal tension. Specifically, this had to do with the politics of succession, either hereditary or by appointment.³³ Within the royal family, the many sons of the king (anak raja) often posed a liability for the state.³⁴ Anak rajas who fell out with the royal family as a result of dynastic disputes often fled their homes and were left to their own resources. Those with arms, ships, and men could sell their services to Malay rulers or to the Dutch while those without resources had to fend for themselves. As a result, a number of them resorted to piracy and looting. This situation was further exacerbated under Dutch rule with its restrictive trading policies. Anak rajas who went rogue and dissolved their allegiance with the courts were a source of instability for the state because there was always the possibility of an unexpected and unprovoked attack from a wandering prince. In addition to the anak raja, there were also the big men (*orang besar*). These orang besar had a lot of power, and with numbers, could install a new king to the throne.

During the mid-nineteenth century, Perak found itself embroiled in bitter internal factionalism. For one, disagreements regarding the rightful successor to the throne threw the state into an extended civil war. Rajas Ismail and Abdullah fought one another to assume the

³² Premodern politics on the riverine Malay states were often shaped by the organization of communities up and down stream of the river. For a good account of the various political configurations as a result of the riverine organization, see J. Kathirithamby-Wells, "Hulu-Hilir Unity and Conflict: Malay Statecraft in East Sumatra before the Mid-Nineteenth Century," *Archipel* no. 1 (1993): 77. In the Malay vocabulary, the maritime and mainland communities were referred to as the *masyarakat pesisir* and *masyarakat pedalaman* respectively.

³³ Succession was always a problem for the Malay states. For a good discussion, see Khoo Kay Kim, "Succession to the Perak Sultanate," *Journal of the Malaysian Branch of the Royal Asiatic Society* 56, no. 2 (245) (1983): 7–29.

³⁴ Because the Malay states were fraught with conflict, the anak raja on the Malay states became key players in the balance of powers, the undoing of alliances and the forging of new ones. For a good account on the role of the anak raja in premodern Malay politics, see Barbara Watson Andaya, "The Role of the Anak Raja in Malay History: A Case Study from Eighteenth-Century Kedah," *Journal of Southeast Asian Studies* 7, no. 2 (1976): 162–86.

throne and succeed as state heir, dragging the ruling and aristocratic classes into a civil war.³⁵ On top of this, an entrenched Chinese mining community had also broken up into two big secret society factions under competing leaders. Perak was one of the few states on the peninsula with a substantial Chinese mining community, since it was rich in tin and other mineral resources. During the late eighteenth century, the British East India Company had invested substantially into tin mining in the state, and as a result, encouraged the passages of Chinese migrants to the state to work in the tin mines. On the eve of British intervention, the demographic composition of the state was mixed, relative to other states. And together, the civil war between warring chiefs on the one hand, and warring miners on the other, threatened to tear the state apart and disturb peace in the region.³⁶

Selangor

Selangor, on the western coast of the peninsula and south of Perak, was also a state organized along its rivers. Its remarkable early modern history shaped the trajectory of the state in very important and distinct ways. It is important to note that for the most part, prior to the early nineteenth century, the boundaries of Selangor and its adjacent state of Perak were unclear. Prior to several treaties (such as the Anglo-Dutch treaty of 1824 and the Anglo-Siamese Treaty of 1825) the Bernam River, which runs from the west coast to several kilometers inland of the peninsula, served as the formal state border dividing Selangor to the south and Perak to the north. This is to say that despite the peculiarities of each state, Selangor and Perak shared many commonalities with one another, as neighboring states often do.

³⁵ This is rather characteristic of succession problems they have in Perak. In addition to Khoo Kay Kim's piece above, also see C. D. Cowan and Frank A. Swettenham, "Sir Frank Swettenham's Perak Journals, 1874-1876," *Journal of the Malayan Branch of the Royal Asiatic Society* 24, no. 4 (157) (1951): 1-148.

³⁶ For a great resource on the history of instability and conflict involving tin-mining in Perak, see John Gullick, "The Economy of Perak in the Mid-1870s," *Journal of the Malaysian Branch of the Royal Asiatic Society* 83, no. 2 (299) (2010): 27-46.

With that said, an early modern history of the state of Selangor can be traced to the early eighteenth century with the expansion of the Bugis.³⁷ The Bugis were a seafaring community that populated southwestern Sulawesi for centuries. They were a formidable presence in the region—great warriors and accomplished traders. They were also ethnically distinct from the Malays of the Johor-Malacca stock and the Sumatrans. They posed a threat to the Johor-Malacca Kingdom as well as the Dutch powers in the area. On many occasions, the Malays of the Johor-Malacca Kingdom, with help from Sumatrans and the Dutch, came together to fight the Bugis or to at least stave off their presence from the peninsula. Eventually (in 1721) the Bugis seized power in Johor to mark the beginning of the expansion of the Bugis across the region.³⁸

Even as the Bugis had established themselves in part of the Malay states, they held the Malaccan Sultanate and the Johor Kingdom in high esteem and had only the greatest respect for members of the Malay royal family. Despite the tenacity of the Bugis wars, the Bugis takeover of the Malay kingdoms was respectful. They left intact the edifice of traditional rule and only grafted onto this existing structure in order to expand it. They created the appointment of the Under-King (*Yang di-Pertuan Muda*), who was designated deputy of the Malay sultan and could rule the Malay kingdom on his behalf. They also established their presence on the Riau Islands, took hold of the seat of Aceh, and established colonies on the west coast of the peninsula. In fact, they strategically incorporated themselves into the royal lineage of the Malay kingdom through

³⁷ For historical accounts on premodern Selangor, see R.O. Winstedt, "A History of Selangor," *Journal of the Malayan Branch of the Royal Asiatic Society* 12, no. 3 (120) (1934): 1–34. More specifically, there are great accounts of the early Bugis diaspora and settlement in Selangor: Leonard Y. Andaya, "The Bugis-Makassar Diaspora," *Journal of the Malaysian Branch of the Royal Asiatic Society* 68, no. 1 (268) (1995): 119–38. The Bugis eventually took over the state, see: Barbara Watson Andaya, "The Installation of the First Sultan of Selangor in 1766," *Journal of the Malaysian Branch of the Royal Asiatic Society* 47, no. 1 (225) (1974): 41–57.

³⁸ For the Bugis influence in Johore, see Carl A. Trocki, *Prince of Pirates: The Temenggongs and the Development of Johor and Singapore, 1784-1885* (Singapore: Singapore University Press, 1979).

intermarriage with the Perak royal family.³⁹ By the third generation after the establishment of Bugis rule in Selangor, members of the royal family were equal parts Malay and Bugis and saw themselves as distinct from a monolithic Bugis lineage. Selangor was integrated into an expanding Bugis mercantile empire with the Riau Islands at the center, eventually superseding the Riau Islands to become the most important Bugis state in the straits.

Selangor gained fame for its tin mines much earlier than did Perak, and like Perak, the tin industry had singularly driven the fate of the state. During the mid-eighteenth century, the ruler Sultan Ibrahim found himself in an enviable position as Malaccan prospectors invested in opening new mines with Chinese labor.⁴⁰ This new booming industry came with several repercussions. For one, Selangor became a haven for new migrants. Chinese miners came in droves, as did migrants from elsewhere in the region, including from the Riau Islands, Java, Sumatra, and other states on the peninsula. To be clear, the natives of Selangor did participate in tin mining but on a local and much smaller scale before the big boom of the tin industry.⁴¹ With new migrants on the scene, the entire mining operation was scaled up to eventually squeeze out small-scale miners.

Chinese miners were exclusively male and sojourned without their families. They organized themselves into factions for protection and participated in other forms of community building (*kongsi*). They domiciled in groups and appointed a leader who represented them to the district chief. This leader was called the *Capitan Cina* (literally, Chinese captain), and in

³⁹ For the account of intermarriage between the Bugis and Malay royal families, see W. E. Maxwell, "The Ruling Family of Selangor," *Journal of the Straits Branch of the Royal Asiatic Society*, no. 22 (1890): 321–24. Also see Khoo Kay Kim, "The Perak Sultanate: Ancient and Modern," *Journal of the Malaysian Branch of the Royal Asiatic Society* 59, no. 1 (250) (1986): 1–26.

⁴⁰ James C. Jackson, "Chinese Agricultural Pioneering in Singapore and Johore 1800-1917," *Journal of the Malaysian Branch of the Royal Asiatic Society* 38, no. 1 (207) (1965): 77–105.

⁴¹ Lin Ken Wong, *The Malayan Tin Industry to 1914: With Special Reference to the States of Perak, Selangor, Negeri Sembilan and Pahang* (Tucson, AZ: University of Arizona, 1965).

Selangor this position produced one of the most prolific icons in the history of modern Malaysia, the prodigious Yap Ah Loy.⁴² As Chinese miners grew in number, so too did these kongsi groups who organized themselves into secret societies. Eventually two competing secret societies arose, the Ghee Hin and the Hai San, and they soon charted the way for an illustrious yet turbulent history of Selangor and Perak. As mentioned previously, migrants from across the region flocked to the tin mines in Selangor. Even though some among them were ethnically Malays (those from neighboring states or from Sumatra or the Riau Islands), they were differentiated and referred to as anak dagang (trader) as opposed to anak negeri (citizen). With the tin industry, the state became demographically diverse, and this diversity peculiar to the state of Selangor would shape the trajectory of the state in important ways.

Johor

Unlike the riverine states of Perak and Selangor, the state of Johor, located on the southern tip of the peninsula, was a port city. Because of its strategic position as a center for commerce and trade in the straits, Johor had always featured as a powerful Malay polity and a significant force in the region.⁴³ Following the fall of Malacca to the Portuguese in the early sixteenth century, the Malaccan royal family fled to Johor, thus effectively relocating its seat of power south of the straits. Ever since, Johor became the new seat of the Malay kingdom. Much like Malacca, Johor was a maritime kingdom. However, its territory was more extensive as it

⁴² Yap Ah Loy was the captain of the Chinese community in Kuala Lumpur since 1868; see Ernest Chew, "Frank Swettenham and Yap Ah Loy: The Increase of British Political 'Influence' in Kuala Lumpur, 1871-1885," *Journal of the Malaysian Branch of the Royal Asiatic Society* 57, no. 1 (246) (1984): 70–87. For a biography of Yap Ah Loy prior to his appointment, see S.M. Middlebrook, J. M. Gullick, and C. A. Gibson-Hill. "Yap Ah Loy (1837-1885)," *Journal of the Malayan Branch of the Royal Asiatic Society* 24, no. 2 (155) (1951): 1–127.

⁴³ For a comprehensive premodern history of Johor, see first Leonard Y. Andaya, *The Kingdom of Johor, 1641-1728* (Kuala Lumpur; New York: Oxford University Press, 1975), followed by Trocki, *Prince of Pirates*, 1979.

encompassed groups of islands south and east of the peninsula, west of Sumatra, and east of Borneo. These were the Riau and Lingga Islands, which included Singapore. As a maritime kingdom, the polity was organized in such a way that the ruler held territorial control over groups of seafaring people (*orang laut*) within the dominion (*perintah*) of the sovereign. This was in contrast to sovereign claim to landed territory (*negri*). And yet, the story of Johor illustrates how a maritime empire transformed into a land-based polity through three centuries of regional dominance.⁴⁴ It is possible that the fame of the Johor kingdom as the seat of Malay power is attributed to its resilience despite multiple aggressive attempts by competing regional and imperial forces to subdue and even decimate it entirely.

The political structure of Johor replicated the Malaccan Constitution. Accordingly, below the ruler is the Bendahara who acted as the equivalent of the Prime Minister. He was in charge of the peasantry, both inland and seafaring. This was followed by the *temenggong* who was in charge of city affairs. He was also in charge of law and order and assumed the role of Minister of War and Justice. Thereafter was the *Laksamana*, who was in charge of the navy. It followed that there were three spheres of influence as they corresponded with these distinct positions and areas of influence. Together they formed the royal and aristocratic classes, and while these assignments were either hereditary or by appointment, competing royal or aristocratic families could usurp ultimate power to assume the position of ruler. In the mid-eighteenth century, there were five such competing lineages to the throne—three Malay and two Bugis. The *temenggong* family, who had intermarried with the invading Bugis power, ultimately assumed control as the ruler of Johore.⁴⁵ It was also the case that the *temenggong*'s sphere of influence and his control of the ports became exponentially more important following the growth in entrepot trade.

⁴⁴ Andaya, *The Kingdom of Johor*, 1975.

⁴⁵ Malek Munip, "The Pioneers of Modern Johore." *Malaysia In History* 20, no. 1 (June 1977): 1–7.

Accounts of the early history of Johor often revolve around the founding of Singapore, and rightly so since the seat of the Johor and Malay government had remained on Telok Blangah in Singapore until 1860. The maritime kingdom of Johor always centered on the port as the locus of traditional power. And so, in the early nineteenth century when the British East India Company proposed to the Johor royal family the establishment of a port in Singapore, it was received favorably since it appeared to emulate traditional patterns of Malay power. Despite the eventual success of Singapore as the new maritime center for the region, it got off to a slow start.⁴⁶ In the meantime, it attracted Chinese labor and investment in the pepper and gambier plantations from the Riau Islands to the new city port. This transition from maritime trade and commerce to an agricultural plantation was one of the key transformations for Johor. For one, as agriculture required settled land, it encouraged the move inland onto the peninsula. In 1855, Temenggong Daeng Ibrahim founded the new capital of Johor and named it Johor Baru (literally, new Johor). Johor Baru became the center for a new trade polity, one that was organized along its river systems.

Unlike in Perak and Selangor where large-scale Chinese migration was planned by foreign entrepreneurs and colonial administrators, in the state of Johor the temenggong himself fervently welcomed and incorporated Chinese labor. He devised the *kangchu* (master of river) system to delegate power to Chinese headmen who would in turn report to the Malay chiefs.⁴⁷ This had a transformative effect on members of the ruling class who turned from seafaring petty lords to local administrators incorporated into an extensive system of landed commerce, labor, and governance. The state of Johor saw rapid progress in the decades that followed due to a

⁴⁶ C.H. Wake, "Raffles and the Rajas: The Founding of Singapore in Malayan and British Colonial History," *Journal of the Malaysian Branch of the Royal Asiatic Society* 48, no. 1 (227) (1975): 47–73.

⁴⁷ Arthur E. Coope, "The Kangchu System in Johore," *Journal of the Malayan Branch of the Royal Asiatic Society* 14, no. 3 (126) (1936): 247–63.

rising global demand for pepper and gambier. This set the stage for the takeover of Daeng Ibrahim's son, the illustrious Sultan Abu Bakar, who became the most important Malay political figure of the nineteenth century.

The relationship between the rulers of Johor and the British colonial administrators was special, to say the least.⁴⁸ Johor represented the hinterlands for Singapore, the prized British East India Company settlement turned British Crown colony. As the seat of the Malay kingdom, the influence of the Johor ruler extended across the peninsula into Pahang, Perak, Selangor, Terengganu, and Negeri Sembilan. British colonial administrators depended greatly on Johor to negotiate affairs with local lords in these states. Johor also had established firm relationships with private traders and prospectors. These relationships were independent of the British administration, which only strengthened its autonomy. With an independent and long history of modern governance and trade, the Johor ruler was a cut above the rest. Abu Bakar was a cosmopolitan man. He traveled extensively, visited London often, and stayed for extended periods of time. He was a self-styled Anglophile and dabbled in typical European fancies.⁴⁹ Most significantly, he became firm friends with Queen Victoria herself and was awarded multiple honors and eventually knighted with the Grand Cross of the Order of St. Michael and St. George (GCMG) and the Commander of the Order of the Star of India (KCSI). Outside of the United Kingdom, he was also decorated with multiple foreign honors.

Because of the inflated importance and fierce autonomy of Johor, the relationship between Abu Bakar and British colonial administrators, including the governor of Singapore and

⁴⁸ For a great resource on the history of British intervention in Johore, see Nesalamar Nadarajah, *Johore and the origins of British control, 1895-1914* (Arenabuku, 2000).

⁴⁹ He also gave himself an English name and went by Albert Baker. In *Mighell v. Sultan of Johor* [1894], Miss Jenny Mighell sued a certain Albert Baker for breach of a marriage contract. The Sultan of Johor assumed the name Albert Baker when traveling incognito in the United Kingdom. See: "Mighell v. the Sultan of Johore" *Straits Times Weekly* 12 December 1893, p.5.

later Resident-General of the Federated Malay States as well as other Residents of the Malay states, was ambivalent. They held him in high esteem and were anxious to be in his good graces, but at the same time, they were wary and kept him in check. In fact, the long colonial history of the state of Johor tells the story of this back and forth. While Johor accepted British protection in 1885, it was unclear how firmly this was policed.⁵⁰ In 1914, the British administration obtained the right to advise Johor. All through this time, even as the British administration found ways to gradually rein in the Johor ruler during a time of increasing control of the western states, Johor remained autonomous and maintained its status as an Unfederated Malay State.

Kelantan

Unlike the Malay states on the west and south of the peninsula, a concise early history of Kelantan in the English language is unfortunately less comprehensive and not as widely available.⁵¹ This is not surprising since British involvement with Kelantan and several other northern states on the Malay Peninsula (such as Perlis, Kedah, and Terengganu) was only established later in the early twentieth century. Located on the eastern coast of the peninsula, Kelantan shares a northern border with Siam (modern day Thailand) and specifically the southern Thai province of Pattani.⁵² Historically, the Pattani province was the seat of the Malay Sultanate of Patani, and even today it is Thailand's most populated Muslim region consisting of both ethnic Malays and Thais.

Kelantan's political history exemplifies the common fate of most small states surrounded

⁵⁰ Even until the early twentieth century the Sultanate of Johor maintained a firm friendship with the Ottoman Empire. The British kept a close eye on this relationship but did not seem to come in the way of this.

⁵¹ I referred to more Malay sources for the state of Kelantan than I did for the other states, which were written much more extensively in the English language.

⁵² Note the variation in spelling between Pattani and Patani. The former refers to a southern province of Thailand while the latter refers to the historical northern Malay state that encompassed Pattani, Yala, Narathiwat and Songkhla, all of them modern day southern Thai provinces.

by bigger regional powers.⁵³ In the fifteenth century, it was a vassal state to the Malay Sultanate of Malacca. Following the fall of Malacca to the Portuguese, Kelantan broke up into smaller territories led by petty chiefs who paid tribute to the northern Sultanate of Patani. This continued up to the seventeenth century, when smaller territories in Kelantan were unified and established an alliance with Terengganu, east of its border. By the eighteenth century, the ruler of Terengganu was a member of the Johor Malay ruling class. Even so, all through this time, Kelantan, Patani, and Terengganu came under the vassalage of the Siamese kingdom. Every year, these Malay states would send a tribute, bunga mas, to the Siamese court in recognition of this subject relationship.

This is all to say that for at least over three centuries, the northern Malay states, including Kelantan, were historically, politically, and culturally distinct from the Malay states on the western and southern coasts of the peninsula. Kelantan is ethnically and linguistically different from the other Malay states with a dialect distinct from standard Malay. Despite these variations, they were Muslim. In fact, one of the most celebrated Malay sufi who was patronized by the Acehnese courts, Hamzah Fansuri, hailed from Patani. Additionally, one of the earliest archaeological artifacts claiming the presence of Islam on the peninsula, the *Batu Bersurat* (literally, inscription stone), written in Malay *jawi* was found in Terengganu in the early fourteenth century. Indeed, the northern states of the Malay Peninsula were notable traditional centers of Islam, which bound them with the regional Muslim kingdoms, consequently setting them apart from the Hindu-Buddhist Siamese empire. Kelantan, like other northern Malay states, occupied a historically fascinating liminal category within the political and social cartography of the region, a distinction that echoes even today.

⁵³ For a brief history of Kelantan, see Anker Rentse, "History of Kelantan I" *Journal of the Malayan Branch of the Royal Asiatic Society* 12, no. 2 (119) (1934): 44–62.

The Anglo-Siamese Treaty of 1909 marked a new era for the northern Malay states. For one, Siamese control of the states of Perlis, Kelantan, Terengganu, Kedah, and the adjacent islands was relinquished to the British.⁵⁴ As a result, boundaries between states were established clearly, and these persist to the present day. One significant example is that the contiguous areas of Patani and Kelantan were formally demarcated. Patani remained under Siamese sovereignty, while Kelantan was designated anew under the British sovereign. In the year 1903, in the transition towards the inevitable, the Siamese government allowed the British colonial administration to appoint an Advisor to the state of Kelantan, forming a joint government with Siamese administrators. Eventually, six years later, the Anglo-Siamese Treaty sealed British rule over the state. This year was also significant for another reason. This was the year when the British administration of the western Malay states formed a federal council for the Federated Malay States, fourteen years after these individual states signed a Treaty of Federation. Imperial ambitions towards consolidation of Malay territories was at its peak. And yet, the state of Kelantan (like other northern states) would remain unfederated throughout its time under the British colonial administration.

British Administration on the Malay states

British presence on the Malay states

British presence on the Malay Archipelago predate its formal incursion into Perak in 1874 by at least a century. And yet, until the nineteenth century, British presence was limited to the periphery. The earliest British presence on the Malay states was on Penang, off the coast of

⁵⁴ For the history of British takeover of Malay states under Siamese control, see Thomas A. Marks, *The British Acquisition of Siamese Malaya (1896-1909)* (Banglamung, Thailand: White Lotus Press, 1997). Chan Su-ming, "Kelantan and Trengganu, 1909-1939," *Journal of the Malaysian Branch of the Royal Asiatic Society* 38, no. 1 (207) (1965): 159–98.

Kedah in 1786. But strictly speaking, the East India Company had been established in Bencoolen on Sumatra since 1685. The story of the formal incursion of the British into the Malay states begins with Perak, on the western coast of the peninsula. The British had always been reluctant to get involved in the affairs of the Malay states as they had always been a turbulent area fraught with internal and external conflict. It was also surrounded by strong regional powers, notably the Siamese kingdom, which had tried to annex Perak earlier in the nineteenth century.

It has been suggested rather authoritatively that British interference was a result of internal strife in the tin mines in Perak that threatened British investment. The situation was becoming untenable and threatened the peace the British had always counted on for smooth administration of the region. Internal strife occurred on two fronts. One, rival Chinese gangs who worked in the mines had organized themselves into competing secret society groups for control over the mines. Two, rival heirs to the throne each backed by loyal chiefs were fighting one another for state authority. Indeed, on the eve of the British incursion into the Malay states, Perak was embroiled in a conflict of succession between Raja Abdullah and Raja Ismail. Abdullah reached out to the governor of the Straits Settlements, Andrew Clarke, to request assistance in putting an end to the strife and to support his claim to the throne. Out of this came the Pangkor Treaty of 1874, when Raja Abdullah was installed on the throne. He was to hand over all state matters other than religion and customs to the British administration, and to this end, a British Resident was appointed to the state.⁵⁵

The first British Resident of the Malay states, James W. Birch, was notably heavy-handed

⁵⁵ For an account of the Pangkor Treaty, see Khoo Kay Kim and Andrew Clarke. "The Pangkor Engagement of 1874," *Journal of the Malaysian Branch of the Royal Asiatic Society* 47, no. 1 (225)(1974): 1–12. Also, for several other excellent historical accounts of British intervention in the Malay states, see Emily Sadka, *The Protected Malay States*, 1968; Eunice Thio, *British Policy in the Malay Peninsula, 1880-1910* (Singapore: University of Malaya Press, 1969); Philip Fook Seng Loh, *The Malay States*, 1969.

in his ways and bulldozed sweeping changes to the state, many of which were not favorable to the ruling class. Among these changes was freeing debt slaves, who were a traditional symbol of power for the ruler and his chiefs. These changes proved too much for them, and too much for Sultan Abdullah himself. Shortly after his appointment, James Birch was assassinated by a group of chiefs. Horrified that they had underestimated the grievance of the chiefs, the British government responded forcefully and started a war that lasted for almost a year. At the end of the Perak war, several chiefs were executed by public hanging, and Sultan Abdullah was exiled.⁵⁶ Consequently, this event ended what minimal commitment the British had reserved for the Malay states. A new British Resident, Hugh Low, was installed. Unlike Birch, Low was well versed in the Malay language and culture, and because of this, proved to be a more capable administrator.

To a large extent, this unfortunate set of circumstances set the tone for the administration of the Malay states. For one, it became clear to the British administration that it would be costly for them to manage an antagonistic ruling class. It would be more expedient to generate buy-in and solicit cooperation from the ruling class in matters of state administration. The appointment of Hugh Low was one such move in this direction. He proved to be a capable administrator both politically and administratively. For over twelve years of his administration, there was peace in the state of Perak.

During the same year that the British colonial administration took control of Perak, they also expanded their control to the adjacent states of Selangor to the south and Pahang to the southeast, whose land mass stretched all the way to the eastern coast of the peninsula. A British

⁵⁶ As punishment, Sultan Abdullah was exiled to the Seychelles. Kheng, Cheah Boon. "Letters from Exile—Correspondence of Sultan Abdullah of Perak from Seychelles and Mauritius, 1877–1891," *Journal of the Malaysian Branch of the Royal Asiatic Society* 64, no. 1 (260) (1991): 33–74.

Resident was appointed to each of these states, and his advice had to be sought on all state matters other than those related to religion and customs. Fifteen years later, in 1889, nine small states to the south of Selangor were united and collectively referred to as Negeri Sembilan (literally, nine states) and incorporated into the British colonial administration. Like the states before it, a Resident was appointed to Negeri Sembilan on equal terms. The Resident of each state administered its affairs and would report to the governor.

Types of colonial administration across the Malay states

State and Federal Council in Selangor and Perak

Following the standard model of indirect rule, governance was shared with traditional rulers of the state. This arrangement was honored through the formation of a state council where representatives from the colonial administration and traditional rulers would come together to deliberate on state matters. The state council was represented by the Resident, the secretary of the government, magistrates, the native ruler, selected district chiefs, *orang kayas*, penghulus, representatives from the tin mining industry, the members of the Chinese Protectorate and others. The primary function of these councils was legislative. The council met about once every two months for a total of six or seven meetings in a given year. They discussed existing matters and drew up new legislation referred to as the Order in Councils. These legislations pertained to municipal arrangements, law and order, safety and health matters, taxation, immigration etc. Issues regarding Muslim law and the management of the ruler's subjects were also brought up at these meetings.

The state council was introduced by Hugh Low, the second Resident of Perak. It was well received since it mirrored the arrangement of the traditional polity where the ruler, his chiefs, and other elected officials would convene and discuss matters pertaining to the state. Because it

replicated the traditional form of state legislation and administration, it was not disruptive to the continuity of traditional forms of governance, and for this reason was very well adapted to the Malay states. The state councils enhanced the relationships between the ruler and the Resident in each state as they deliberated and legislated on state issues.

The state councils under the Residential system persisted in the western states for over two decades. In 1895, it was proposed that the four states should come under a centralized administration and legislative body. The reasons for these were multiple. One of the more popular reasons was that revenue earned from these states was not equal. The state of Perak, for example, had more bountiful reserves while other states were in debt. Most notably, among the western states, Pahang was an acute problem for the colonial administration. By the year 1889, a little over fifteen years after the Residential system was first instituted in the western states, it was clear that Pahang was different from her neighbors, Perak and Selangor. Unlike Perak and Selangor, the much-touted prospects of Pahang did not deliver. It did not have sufficient mineral resources unlike Perak and Selangor where alluvial tin was abundant. It appeared that the promise of mineral wealth had been exaggerated by company men and ambitious officials; further, it did not have the sizeable Chinese miner population as did Perak and Selangor. Finally, it was inaccessible by sea for half of the year due to the northeast monsoon. It was also a large state and required substantially more investment than did Perak and Selangor, and for significantly fewer if no returns. By 1891, Pahang had already racked up over half a million dollars in debt with no foreseeable way to pay its way through.⁵⁷ To further compound the situation, a rebellion in Pahang broke out in the same year. Efforts to quell the resistance only

⁵⁷ See: Sadka, *The Protected Malay States, 1874-1895*, 1968. Also J. De Silva, "British Relations with Pahang, 1884-1895," *Journal of the Malayan Branch of the Royal Asiatic Society* 35, no. 1 (197) (1962): 1-50.

further drained the finances of the colonial government. Because of this, the reason touted for the federation was primarily economic in that the four states could benefit from a common purse and assuage difficulties met in less lucrative states. To be sure, the idea of a federation was not new to the Malay states. Albeit on a smaller scale, the confederation of the nine states of Negeri Sembilan was an earlier case in point and had succeeded rather well. Because of this, the colonial administration had in mind that bringing the four western states together under a federation would be a replication of the previous model but on a larger scale.

A less explored but crucial reason for federation had to do with apparent inefficiencies associated with separate legislative councils and administrative bodies in each state. For one, federation provided the opportunity to standardize some of the stipulated agreements that the Malay states had come to individually. Most crucially, the Residential system was not instituted in the same way across the four states. Unlike in Perak and Negeri Sembilan where the Residential systems were instituted via treaties, in Pahang and Selangor they were instituted through letters of invitation and acceptance from the Malay rulers. Therefore, a federation would iron out these discrepancies and allow for formal legal sanctions to standardize administration within these states.

In addition, expansion across these states over time and the extension of colonial administration in them for over two decades proved to be a strain on the governor, who was responsible for all the Residents. This was not only detrimental for the Malay states but also weighed heavily on the governor's duties in the Crown colonies. A federation would introduce the position of the Resident-General who functioned as an in-between for the Residents and the governor. This expanded administration would better serve the officials on the four states and improve administration in the colonies as well. Together, the four states signed the Treaty of

Federation in 1895. Since then, efforts to further streamline and standardize legislation led to the institution of the federal council in 1909. The federal council was intended to be a meeting of the four Residents and other representatives they deemed suitable. The federal council would then report to the Resident-General. This had deleterious effects on present state autonomy, and especially dealt a severe blow to the power of the ruler. While the initial response to federation was exceedingly positive, it slowly took a turn over the years, and by 1927, plans were underway to reorganize the federal council.

State constitution in Johor

Aside from the troubles and general unhappiness that ensued among the traditional rulers as a result of the federal council, an added motivation that weighed on the colonial administration was the incorporation of the remaining states on the peninsula under British administration. These were the five states of Johor, Terengganu, Kelantan, Kedah, and Perlis. Johor was a priority for the British since it was by far the most successful and lucrative state on the peninsula. Because of this reason, the British relationship with Johor was special and set it apart from the other Malay states. Throughout the nineteenth century, Johor signed several treaties of friendship with the British. The history of modern Johor began with the treaty of 1885, where Tengku Ali, from the House of Sultan, ceded control of Johor to Daing Ibrahim, from the House of Temenggong. This laid to rest the internal conflicts among the aristocratic families that were becoming untenable and disruptive to trade and administration.

While this treaty was cited as the most significant for the beginning of British involvement in Johor, the parameters of British intervention other than supporting the temenggong's claim to the throne was unclear. That is to say, the ruler still retained substantial autonomy on state business and other matters. But even then, the treaty had established British

soft power on the state, especially to the sovereignty of the temenggong. They would often enough threaten to change the terms of the treaty should they be less than happy with the temenggong's actions on state matters and conduct on state administration. In 1895, Sultan Abu Bakar of Johor, a political maverick, drew up a state constitution, *Undang-undang Tubuh Negeri Johor* (literally, laws of Johor).⁵⁸ This was the first piece of modern legislation in the Malay states. The constitution stipulated terms of state independence, including prohibition from entering into any agreement to cede Johor to any party; terms of the ruler's sovereignty and rules for the appointment; and replacement and installation of the sultan. The constitution also provided for the appointment of twelve cabinet ministers led by a chief minister to advise the sultan on administrative matters. It provided for the formation of a state executive council, which consisted of government officials appointed by the sultan on the advice of cabinet ministers. By all measures, the constitution was a modern artifact and molded the state into a constitutional monarchy. The effect of the constitution on Britain's relationship with Johor was ambivalent. It furthered the ruler's autonomy on state matters, including cabinet appointees, some of whom were antagonistic to British presence on the state. The history of Johor henceforth told the story of various schemes and machinations by the British administration to disband the state executive council and to break the hold that some native administrators had over the sultan. Finally, in the year 1914, the British obtained the right to advise Johor.

Religious council in Kelantan

On the other hand, Kelantan followed a different trajectory of indirect rule. Following the signing of the Anglo-Siamese Treaty of 1902, a British Advisor, William A. Graham, was appointed to assist in state matters and other developments. Graham encountered a very different

⁵⁸ Iza Hussin, "Textual Trajectories: Re-reading the Constitution and Majalah in 1890s Johor," *Indonesia and the Malay World* 41, no. 120 (2013): 255–72.

type of state in Kelantan. For one, traditional politics on Kelantan was shaped by the peculiar geography of the state. It was organized along the river systems, which came together at an estuary. In addition to trade along the river, Kelantan was rich in agriculture and so consisted of a mixed economy. Because of this, Kelantan was a state of many petty chiefs with loose ties to the ruler. But this would change over time as trade became more centrally organized around the city center, Kota Bahru, the domain of the ruler. There were several efforts to quell the power of competing chiefs, including the establishment of a rudimentary religious administrative body in order to further boost the ruler's legitimacy. This religious administration operated through local ritual leaders (*imam*) under a central religious court. While the enforcement of religious law bolstered the reputation of the ruler as a religious orthodox, religious law was not uniformly enforced and was more effective in the center, receding at the periphery.

When Graham entered the state in 1902, he encountered a tense aristocratic class.⁵⁹ He designed to establish an administrative apparatus that would dominate the indigenous institution. In turn, he propped up the ruler's authority and neutralized competing aristocratic chiefs. In an effort to enhance the influence of the ruler, he worked with the ruler to extend an otherwise limited religious administration beyond the capital to the rest of the state. Together, a new legislative and administrative body was created in 1915, the *Majlis Ugama Islam dan Isti'adat Melayu* (literally, the Council for Islam and Malay Culture). This new body further expanded the existing mufti's department, centralized *zakat* (tithe) collection, and further bolstered the authority of the *imam*. It also debated the administration of public education and other matters to do with daily administration.

⁵⁹ For a great history of Kelantan during British administration, see Clive S. Kessler, *Islam and Politics in a Malay State, Kelantan, 1838-1969* (Ithaca, N.Y.: Cornell University Press, 1978). Also see William R. Roff, *Kelantan; Religion, Society, and Politics in a Malay State*. (Kuala Lumpur, New York: Oxford University Press, 1974).

CHAPTER THREE

PROFESSIONALIZATION OF STATE FUNCTIONS IN PERAK AND SELANGOR

Introduction

Colonial administration produced deep changes in the structure of the Malay states. This was despite the claim that indirect rule retained native structures and institutions to resemble more closely the contours of the native state more so than colonies administered under direct rule. This chapter and the next ask: How did indirect rule transform the political structure of the Malay states and how did this transformation vary across states? In this chapter, I first consider the states of Perak and Selangor, which were administered through the Residential system of indirect rule. Within this system of indirect rule, a state council was established in each state. A state council convened members of the colonial administration and native elites. They met to deliberate on state affairs in a model of shared rule. Along with Pahang and Negeri Sembilan, Perak and Selangor eventually came together under a federation in 1895 and were referred to collectively as the Federated Malay States. Under the federation, the state councils on each state were subsumed under a federal council.

I argue that the transformation of the political structure on the Federated States involved two processes. First, the Residential system of indirect rule divided native elites into two groups and subsumed them into two distinct state functions: extractive and regulative. The extractive function referred to matters of state land, labor, revenue, and municipal governance. It incorporated the traditional headmen or penghulus of the villages or mukims. The regulative function referred to matters of religion and customs that fell under the domain of the ruler and served to keep state legitimacy intact. It incorporated the kathis and muftis who were appointed to dispense religious rulings and perform religious rituals. This process of dividing native elites

into two distinct functions had the effect of systematizing state governance into two separate domains so as to prevent functional overlaps. It also had the effect of developing two sources of native elite power that could either compete or collaborate with one another.

Second, the Residential system of indirect rule led to the professionalization of native elites. This led to the expansion of a new class of native bureaucrats in the colonial state. As the state grew in size, the positions of the penghulus and kathis extended to include those outside of the traditional ruling class. I show that the professionalization of the penghulu and the expansion of the district office developed the Malay Officers Scheme. Similarly, the professionalization of the kathi and the expansion of the religious courts cultivated a new class of religious experts to form the Council of Ulamas. This had the effect of transforming the structure of power on the traditional state where one could gain entry into a previously closed off ruling class structure through expert knowledge gained through education and training.

Despite the common processes of rationalization and bureaucratization on both the extractive and regulative state domains, I show that barriers to entry were higher in the extractive domain since these positions were protected for members of the aristocratic class. While it eventually opened up to include those from outside of the aristocratic class, it was only the case much later, and even so, positions within the domain of state extraction were stratified to distinguish between aristocratic elites and non-aristocratic elites. On the other hand, barriers to entry into the regulative domain were lower because it was open to those who had the requisite religious qualifications, which could be gained through attending religious schools, studying with a religious teacher, or even performing the Haj. Because of this, the domain of regulative state activity was a more dynamic space for social change on the native states.

This chapter is organized into three sections. In the first section, I examine how the

penghulu was incorporated within the colonial administration to maintain the state and to perform state extractive activities. To be sure, the penghulu was a traditional function in the Malay state. He was the village headman. The colonial administration incorporated this traditional function and extended it in important ways that transformed his position in the colonial state. Using data from the State Secretariat Office, I show how the penghulu was governed and empowered by the district officer to collect land taxes, to settle disputes and collect fines, and to maintain state facilities and infrastructure etc. I show how his function was bureaucratized through a well-laid out salary structure and promotion scheme. I demonstrate how the state expanded over time to employ more native subjects through the Malay Officers Scheme to support the functions of the district office. This scheme was distinguished from the Malay Administrative Officers Scheme, which only recruited officers from the aristocratic class. Finally, in this section, I discuss growing tensions among the penghulu and other native elites over competing jurisdictions within their authority, as well as among the penghulu and native peasants over agriculture and land policies.

In the second section, I examine how the kathi was appointed by the colonial administration through the native ruler to perform religious rituals and other functions in the state and to keep native subjects subordinate so as to keep state legitimacy intact. Also, with data from the State Secretariat Office, I show how the kathi was empowered to administer Muslim law, and his function institutionalized through the religious courts. I show how an expanding court system opened up positions of employment for experts in Islamic jurisprudence and Anglo-Muhammadan laws. These positions were very well salaried and became highly coveted positions in these states. Finally, in this section, I discuss growing tensions between the kathi and other religious functionaries as a result of turf-guarding over duties, expert knowledge, and the

right to perform religious rituals in the native state.

In the third section, I show how the Federation of 1895 brought native rulers on each state together in a council. This was yet another unprecedented arrangement on the Malay states. For the first time, Malay rulers imagined themselves as sharing a common fate and not as jealous lords of separate states. I discuss how the native rulers met in a durbar in a Conference of Rulers, which was organized by the colonial state. This conference had two functions. First, the coming together of the native rulers mirrored the coming together of the Residents in the four states. As far as the colonial administration was concerned, this was to give a semblance of political parity between the functions of the Residents and the rulers of the native states.¹ Two, the coming together of the native rulers had the effect of standardizing religious laws and other state regulative functions within the four states. This had the unintended consequence of further systematizing religious functions as well as enhancing the political salience of religion in the federated states. I end this section by discussing the growing salience of religion in Perak and Selangor and the establishment of the Council of Ulama to protect the rulers and standardize religious teachings across the states.

Extractive state function and the penghulu in the district office

Control from the district office

The district office was the single most important office in the colonial state where all instructions from the colonial government were directed into the colonial state. Because of this,

¹ I say semblance because there is enough evidence to deduce that the colonial administration was not truly invested in pushing anything substantial through the conference of rulers other than to entertain the pretense that the rulers were equal to the Residents. For example, even as the Treaty of Federation was signed in 1895, the first durbar did not take place until two years later in 1897. It was postponed for a variety of reasons and reflected the non-urgency and rather offhanded treatment of the durbar. In contrast, the Resident's council was treated with utmost urgency and met several times in a year to discuss state extractive matters.

the position of the district officer is one of extreme political importance, and in the early years of the colonial administration, it was only assigned to the best officers of the British Empire. However, the problem was that the best officers among them might not want an appointment in the colony, preferring to remain in the headquarters for a variety of reasons to do with standard of living, comfort, and climate. By the early decades of the twentieth century, this surfaced as a problem in the Malay states. In a 1924 memorandum from the Chief Secretary to the Government of the Federated Malay States meant to resolve the problem of district officers requesting to leave their appointments before their time was due,² he quoted the second edition of Frederick Lugard's *The Dual Mandate in British Tropical Africa* for comparison with the administration of the Malay states:³

A District Officer's influence in his district naturally depends on the extent to which he has acquired the confidence of Chiefs and people, mastered their language, and studies their local customs. It is therefore important that he should not be transferred to another sphere of work, where he has to begin afresh—least of all should contiguous colonies have a single roster of promotion as has been suggested. It may be valuable for the newly-joined officer to serve under different Residents, and in different districts, in order to enlarge his outlook, and enable him to learn from each; nor is it possible to retain juniors permanently in the same district, or to gauge their qualifications and special aptitudes until they have had a varied opportunity. But as a District Officer gains seniority, and with it enlarged powers, it becomes increasingly important that he should remain in the district or province where he has acquired local knowledge and influence, for the African is naturally reserved and suspicious, and slow to give his confidence. It is moreover, disheartening to the zealous District Officer to begin all over again in a new sphere. There are some who like change. They are not the best. When eventually he becomes the Resident of a Province he should never be changed without strong reasons. The war, and the inadequacy of the staff even prior to it, has no doubt militated greatly against the application of this principle.⁴

This extract reveals several things. First and most importantly, the administration of the

² 1957/0224356 SEL: SEC: 446/1923: Government policy in respect of appointments of District Officers.

³ This memo from the Chief Secretary to the government of the Federated Malay States to the Under-Secretary stressed how the problem of district officers moving across positions was bad for the administration. While Lord Lugard referred to Nigeria in this case, the same problem was prominent in Malaya.

⁴ Frederick Lugard, *The Dual Mandate in British Tropical Africa*, 135.

Malay states was fashioned in the same spirit of indirect rule as in British Africa. This institutional isomorphism across the British colonies during late colonialism stressed the significance of the position of the district officer for the administration of indirect rule. Second, it revealed that the administration of indirect rule centered on the individual officer. In this case, he was a highly qualified individual, one who has acquired deep theoretical and practical knowledge of the state and its people. The district officer carried with him deep institutional and personal knowledge that was not easily transferrable.⁵ Over time, as the colonial state expanded, the office of the district officer grew and trained native Malays in matters of state administration.

The kuasa of the penghulus in Perak and Selangor

The foremost duty of the district officer was in matters of state administration. Since the colony was ruled indirectly, this meant that daily state activities were left to the charge of the penghulus of each mukim. The office of the penghulu was the longest surviving native office on the Malay states. Originating in the precolonial state, it persisted and strengthened in the colonial state. The penghulu is the headman or the chief of a mukim or village, and in many ways, his office was most critical since he brokered the relationship between the ruler and his subjects. The colonial administration of indirect rule leveraged this native office to a high degree so as to incorporate traditional legitimacy into the structure of political authority in the colonial state. The colonial administration did not only conserve this traditional office but reinforced it with additional powers and bound them with administrative processes through an elaborate system of state governance. The penghulu performed multiple functions. His was a political, administrative, and economic office all rolled into one.

⁵ In this case, the position of the district officer—like the position of the penghulu—also depended in large part on charismatic authority.

In the year 1878, the state councils of Perak and Selangor⁶ passed a government notice, which was in effect a contract that indicated in very clear terms the regulations that bound the penghulu to the district office and the colonial government.⁷ These regulations were related to matters of state extraction. Specifically, this concerned tin mining activity on the state, including his due from total revenue and the rest due to the state treasury.⁸ The regulations also determined that the penghulu exercised extensive powers because all tin mining prospectors had to go through him before he reported them to the district office.⁹ This had the effect of empowering the penghulu as key personnel within the colonial state bureaucracy. The paraphernalia of his authority included a certificate and a supporting voucher, which he dispensed to tin miners to indicate that he granted them permission to work on the mines.¹⁰

The position of the penghulu grew more expansive over time as his formal responsibilities increased. Beyond matters of state extraction and tin mining, the scope of his duties included many other municipal matters of state administration and state policing. The power of the penghulu was formalized in the final two decades of the nineteenth century. During this time, the colonial administration produced documents to detail his *kuasa*.¹¹ This document

⁶ I take this to come from both the states of Perak and Selangor since there seemed to be some overlap between these two states in this matter. This record was specified to come from the Resident in Selangor. But a copy of the contract of the penghulu was written in jawi and indicated that it came from the state of Perak, “Didalam negeri Perak daerah Kuala Kangsar” (translated: from the state of Perak in the district of Kuala Kangsar). It is possible that this contract was one version of many distributed in Selangor and Perak. Regardless, this was to show that there was hardly any difference in the formalization of the office of the penghulu in either state.

⁷ 1957/0001050 RESIDENT 54/80: Regulations Relative to Penghulus.

⁸ Regulation 4 stated that he was entitled to receive ten percent on the amount of duty collected on tin from the districts and the rest was due to the state treasury.

⁹ Regulation 6 stated that anyone can open a mine after giving written notice to the penghulu who will report to the chief officer in his district before a lease or license is given.

¹⁰ Regulation 5 stated that this certificate of consent must be signed and copied by the penghulu of the district, who must keep a copy of it for records keeping.

¹¹ *Kuasa* is Malay to indicate the domain of one’s authority. The closest one to one translation to English is power.

referred to the extent of his powers,¹² and on the state of Selangor, it was exceptionally expansive.¹³ The administrative innovation to his duties included book and records keeping, which would keep him accountable at the same time as it aided efficient state organization. This document also stipulated the chain of command in the native state. The *penghulu* worked with his *anak buah*,¹⁴ who were the hands and feet in the *mukim*, to gather information and happenings in the district. He would then report these issues to the district officer. He would convene meetings with his *anak buah* at the mosque, thus indicating that at this time the mosque was as much a community center as it was a place of worship.¹⁵ The *penghulu* also had the right to carry out arrests and dispense summons and fines in petty crimes; beyond that, he had to defer to the magistrates or the district officer.

The *kuasa* of the *penghulu* on the state of Perak, on the other hand, was brief.¹⁶ An order detailing his responsibilities was published in 1884.¹⁷ This order was also written in Malay jawi,

¹² 1957/0034347 KWALA: Instruction to Penghulus. This document was first written in Malay jawi. On September 8, 1892, the Acting British Resident of Selangor asked for a translation of this document into Malay rumi, and then later to the English language. Presumably, this document was first drafted by the *penghulu* himself with assistance and consultation from the district officer, who then consulted the Resident.

¹³ See appendix A for the *kuasa* of the *penghulus*.

¹⁴ *Anak buah* is a Malay idiom, and in this context refers to one's subordinates. It also can refer to one's nieces and nephews.

¹⁵ This aligned with how we understand the conflation of the Malay ruler's authority with religion. In this case, the mosque was also a place where state matters—especially to do with the ruler's instructions to his subjects—were disseminated. And yet, there was a gradual shift in the locus of religion in the Malay states through the centuries. During early Islamization, religion was a courtly phenomenon and resided mainly in the courts. Soon after, it permeated the markets, and in the colonial state, it entered the mosques that doubled as community centers. During late colonialism, mosques became a center for political assembly and agitation.

¹⁶ This file revealed some important things about the workings of the administration on the western states at this time. While this file originated from the Perak office, it included documents of the *penghulu*'s *kuasa* in Negeri Sembilan, Pahang, and Selangor. Together with Perak, they eventually came under a federation in 1895. This could indicate that common administrative procedures were already in place in these states from a decade prior to federation or that there was a lot of copying and referencing of state administration in these states. To a large extent, this administrative copying drove some measure of institutional isomorphism on these states.

¹⁷ 1957/0071932 4128/1897: Perak 'Kuasa' to Penghulus. See appendix B for the *kuasa* of the *penghulus* in Perak.

and translated into Malay *rumi* and later into English. This document specified common duties including the requirement to keep records, fines and summons for petty offences, beyond which cases had to be referred to the district officer. Compared to the kuasa of the penghulu in Selangor, the kuasa in Perak was not only much shorter but also provided for a process of appeal against the decision of the penghulu. These minor but important distinctions revealed variations in the office of the penghulu on either state.

This variation stemmed from the demographic composition on either states. In Perak, most of the Malays were local to the area, and so it was fairly easy for the colonial administration to organize the leadership of the penghulu on the state since there was a more streamlined identification of traditional authority between the penghulu and the masses. Because of this, the penghulu system could be streamlined to a much greater extent and incorporated into the colonial administration. This was different in the case of Selangor where the local Malay population consisted of migrants who came from across the region,¹⁸ meaning that the leadership patterns on Selangor were more diverse and with more distinct communities who required a differentiated system of leadership. In this case it was more challenging to incorporate the differentiated system of leadership into the colonial administrative bureaucracy.¹⁹ This explained the variation in the kuasa on both the states of Selangor and Perak. A doubly detailed list of penghulu responsibilities in Selangor showed that there was greater emphasis on standardizing the responsibilities among the penghulus in Selangor that was not required in Perak.²⁰

¹⁸ I explained this variation in Chapter two. Selangor received plenty of Bugis migrants since the early eighteenth century, and so the leadership on Selangor was already infused with Bugis and Malay ruling classes. The Malay masses in Selangor were also differentiated between foreigners (*anak dagang*) and locals (*anak negeri*).

¹⁹ Paul Kratoska, "Penghulus in Perak and Selangor: The Rationalization and Decline of a Traditional Malay Office," *Journal of the Malaysian Branch of the Royal Asiatic Society* 57, no. 2 (1984): 31–59.

²⁰ 1957/0072600 4811/1897: Applies for two copies each of the Pahang and Perak Penghulu's 'Kuasa' forms. This document is printed in Malay jawi and is the official kuasa form of the penghulu. This was

Bureaucratizing the penghulu office

Despite differences across states, the kuasa was expanded over time to include more and more penghulus into the fold of the colonial administration.²¹ A penghulu who was handed a kuasa was effectively working for the district officer.²² This office expanded over time, and the district officer on each state recorded a list of mukims and their penghulus who had yet to be granted the kuasa so as to facilitate this transition as quickly as possible.²³ For the most part, the penghulus were individuals of high stature either through ascriptive categories of belonging to the aristocratic class or as descendants of the Prophet. He may have also achieved renown by having gone on the pilgrimage and was so regarded as a person with high religious knowledge.²⁴ In line with indirect rule, the colonial administration strategically incorporated members of the aristocratic class or those with significant religious capital into state administration so as to maintain and build the colonial state around traditional authority of the Malay rulers. Over time, as the population of these states grew, the office of the penghulu was increasingly stratified and opened up additional positions including the chief penghulu to indicate seniority and the assistant penghulu, who was his subordinate.

The handover from one penghulu to another was also carefully organized. The colonial administration made records of the list of penghulus and assistant penghulus with systematic

presumably filed by the district officer for the appointment of penghulus on the state of Perak.

²¹ 1957/0093700 4666/1900: List of Penghulus who have not been granted Kuasa.

²² 1957/0072600 4811/1897: Applies for two copies each of the Pahang and Perak Penghulu's 'Kuasa' forms. This is a copy of the penghulu kuasa form in Malay jawi.

²³ For example, in the district of Kuala Langat there were eight mukims, i.e., Jugra-Bandar, Klanang, Morib, Batu, Telok Panglima Garang, Tanjong Duablas, Sepang Besar and Labu. A penghulu was assigned to each mukim.

²⁴ It is interesting to note that out of the eight penghulus, two carried the honorific Haji to indicate that he has gone on the pilgrimage, five carried the honorific Raja to indicate that he was a member of the aristocratic class, and one carried the honorific Sayid to indicate that he was a descendant of the Prophet Muhammad. However, those who belonged to the aristocratic class were privileged more than most.

notes of their attitudes and dispositions towards work.²⁵ In yet another record they noted how the penghulus were essential and specific to the composition of each mukim.²⁶ They also made note of how the present penghulu was related to the previous one. A clear relationship was important so as to ensure that the chain of authority would persist so that traditional leadership in the native state will not be disrupted. It was clear that even as this was slowly growing to be a well-oiled bureaucratic office of the colonial administration, the position of the penghulu was very much dependent upon his name and whom he was related to. Accordingly, distinctions among penghulus were indicated by their salaries.²⁷ The penghulu of Kuala Lumpur in Selangor, Abdullah bin Maharaja Lela Haji Abdul Rani, was placed on a special scheme, and his salary was almost double that of the others. This was because he was the son of Maharaja Lela who was one of the most powerful chiefs in Selangor. This indicated that the office of the penghulu was as

²⁵ 1957/0181317 SECRETARIAT SELANGOR 1383/1915: List of Penghulus and Assistant Penghulus in Perak.

²⁶ 1957/0193783 SECRETARIAT SELANGOR 975/1917: Estimates for 1918- Placing certain Penghulus, Kuala Lumpur, under the Penghulu's Scheme. This was a very comprehensive list published in the year 1915 that specified the different classes of penghulus and their grades. This document indicated the salary scheme for the penghulus. This list recorded their names, the native countries from where they came, age, length of service, personal qualifications, character for industry and efficiency, importance of mukim, present salary and other remarks. The mean age of the penghulu was thirty-five. The youngest penghulu was twenty-four-years-old while the youngest assistant penghulu was twenty-one years old. The oldest penghulu was 62. Under "Personal qualifications," the administration made notes such as "Haji Ahmad Nasib of Ijok. Grandson of the old Laksamana. Educated in the Seychelles. Writes Arabic character. Learning to Romanize." *Laksamana* was an admiral or the Minister of War. Another interesting entry recorded "Haji Husin bin Muhammad Ali of Gunong Semanggol. Has a very complete control over the raiats (literally, subjects) in his mukim, all of whom are foreign Malays. Was formerly of great assistance to Government in suppressing the White Flag Society, and was employed on special duty on several occasions before being made Penghulu. Writes Arabic character." Under "Character for industry and efficiency," the administration made notes such as "Raja Mahdi bin Raja Husin of Bukit Gantang. Industrious and efficient. Did good work in Matang in suppressing secret societies." The White Flag Society was a Malay secret society during the late nineteenth century. See Mahani Musa, "Malays and the Red and White Flag Societies in Penang, 1830s-1920s," *Journal of the Malaysian Branch of the Royal Asiatic Society* 72, no. 2 (277) (1999): 151-82.

²⁷ 1957/0106726 402/1903: Salaries of Penghulus. This entry shows the appointment of a salary warrant due to the penghulus in the year 1903. It also has a ledger noting the present salary for the penghulus in the mukim of Jugra in the district of Kuala Langat and the proposal to increase their salaries. The present salary for the penghulus ranged from \$20 to \$60, and they were looking to increase it by 10 percent.

much an administrative function as it was political, and in many ways, both of these functions went hand in hand.²⁸

Problems among the penghulu, native elites, and peasants

The earliest indicator of potential problems with the penghulu office was through a letter sent from the Malay ruler on the state of Selangor, Raja Laut ibni Almarhom Sultan Mohammad, to the Acting British Resident of Selangor, H.C. Belfield Esquire. The letter inquired about the extent of the penghulus' kuasa.²⁹ In this letter, he complained to the Resident about the fines system. Following his kuasa, if he fined a man and the man was not able to pay it off, the man would then be dispossessed of his property. Raja Laut inquired what would happen in the case where the defendant had no property or money because they were indigent and appealed for better processes and leniency on the matter.³⁰ This letter by Raja Laut precipitated a series of correspondence between the British Resident of Selangor and the Resident General.³¹

This series of correspondence indicated emerging problems with the kuasa of the

²⁸ An excellent illustration of this was in the case of the Raja Muda of Selangor. He was a member of the ruling class and was the rightful ruler to succeed but his position was usurped following a battle with yet another contending anak raja or prince. And so he retired in the periphery of the state. With the coming of the British administration he found his position renewed. Because of his high social and political capital, he was incorporated into the colonial administration as a chief in Selangor. This placed him in a powerful position to administer the activities of other penghulus in the state. In 1957/0095430 6533/1900: Instructions to Penghulus, he provided a set of instructions to the penghulu written both in Malay jawi and Malay rumi. See also J. M. Gullick, "A Short History of Ulu Langat to 1900," *Journal of the Malaysian Branch of the Royal Asiatic Society* 80, no. 2 (293): 1–18 for the history of the Ulu Langat district in Selangor and how it shaped leadership patterns in the district. It also gives a complementary sense of the situation in the state of Selangor more generally.

²⁹ This letter was written in 1898. Most notably, these problems with the penghulu started to surface after the Treaty of Federation of the Western States in 1895.

³⁰ 1957/0072600 4811/1897: Applies for two copies each of the Pahang and Perak Penghulu's 'Kuasa' forms. Here Raja Laut implied distance between him and the penghulu and that the penghulu office was gradually becoming an exclusive function of the district officer without consultation with the native ruler.

³¹ The Resident General was the new office established after the federation and his function was a broker between the Residents on each of the western states and the High Commissioner to whom he reported. The High Commissioner was also the governor of the Straits Settlements and based in Singapore.

penghulu.³² Specifically, they could not agree on what the penghulu could or could not do; that is, the penghulu's seemingly expansive jurisdiction was becoming a problem. The pushback was coming from members of the ruling class; in this case, Raja Laut of Selangor petitioned against the power of the penghulu. Most significantly the discussion surrounded the administration of civil and religious laws in the state. It was contended that the penghulu should not be allowed to administer criminal punishment based on religious laws.³³ The claim over his judicial powers was also contested.³⁴ In a separate set of correspondence between the Resident and the district officer, the penghulus' jurisdiction over non-Malays was raised as a problem. It was reported that injustice occurred as a result of penghulus presiding over cases that involved Tamils in the state. As a result, the district officer recommended that the Resident review the jurisdiction of the penghulus and that the magisterial powers of a penghulu be confined to cases where both the plaintiff and defendant were Malays or spoke Malay. Cases of injustice were especially prominent for the Tamil community.³⁵

I have the honor to draw your attention to section 9 of the Civil Procedure Code ... which provides that penghulus shall have jurisdiction in suits between Asiatics where the value

³² 1957/0081602 997A/1889: Penghulu's Kuasa.

³³ The Resident of Selangor requested for the copy of the kuasa to study the power of the penghulu. The line he took issue with mentioned that the penghulu had to follow the laws of the state and sharaa' (from the same root word as shari'a). He responded, "This might be taken to mean that he must log the hands of thieves and do all manner of other impossible things." He requested that this be rewritten so that it was clear that the penghulu only kept to the laws of the state. There were two issues here. First, following Raja Laut's protest the Resident was careful to ensure that the penghulu did not overstep his boundaries and intruded into the native ruler's jurisdiction. Second, the Resident was not keen on these punishments that offended his liberal sensibilities and so dissuaded the penghulus from executing them.

³⁴ Arising from native rulers problems regarding the penghulus' authority, the colonial administration argued that if the penghulus were entrusted with judicial powers their judgments must be enforced; if not, their judicial authority must be abolished. Eventually, the colonial administration decided in favor of the penghulus and provided them with means to enforce their authority.

³⁵ In a letter from the district officer of Kuala Selangor to the Resident, out of the total number of cases heard by the penghulu in the year 1912, seventy-four of them involved Tamils and the month average was 6.1. There were many cases like this in the administrative records. For example 1957/0079169 4219/1898: Re charges brought against Penghulu Siyid Mashor by certain Tamils. This was a long entry that discussed the problem of having a Malay penghulu adjudicate in cases where affected parties were not Malay or do not speak the Malay language.

does not exceed \$25.... The result is that penghulus alone in the first instance can try civil suits between Chinese, Malays and Tamils to the extent of their jurisdiction. This leads in many cases to gross injustice, especially where Tamils are concerned. In the first place summons are written in Arabic Malay which neither the coolie nor his employer can read, so that generally judgement goes by default because the defendant does not know on what day to appear. Secondly even when he does appear, the penghulu neither knows the language nor has any interpreter to interpret for him. Hence proceedings are merely a travesty of justice ... I recommend that the magisterial powers of a penghulu be confined to suits in which both plaintiff and defendant are Malays or of Malay speaking nationality.³⁶

In addition to problems with jurisdiction, yet another correspondence sought to clarify if the penghulu should be invested with the power of the police.³⁷ The resolution was that this was up to the discretion of the Resident, and this was consistent in the case of Selangor and Perak. Growing wariness with the penghulu developed as his office strengthened and became more rationalized. Now firmly under the employ of the colonial government, the traditional authority upon which this native function was incorporated into the system of indirect rule in the first place was gradually disrupted. The penghulus were increasingly seen as lackeys of the colonial government, and this precipitated more problems between him and the Malay subjects.

There were several developments in the colonial political economy during the early twentieth century that may have precipitated a renewed interest and unhappiness in municipal issues to do with peasant agriculture and land holding. These developments included the Malay Reservation Enactment and the Stevenson Restriction Scheme.³⁸ The Malay Reservation

³⁶ 1957/0168016 SECRETARIAT SELANGOR 966/1913: Magisterial powers of a Penghulu vide section 63 of the Courts Enactment, 1905.

³⁷ 1957/0208011 SECRETARIAT SELANGOR 5390/1919: The Police Enactment: 1905 - Enquires whether penghulus are invested with powers of Police. It is not clear why this issue was surfaced in the first place in the year 1905 when it was determined from 1878 that the penghulu did indeed have police powers. It was likely that there were growing disagreements surrounding the matter and required some type of repeal. It was determined that the Resident had full discretion to confer upon the penghulu the duties of the peace officer.

³⁸ Jomo K. S. (Jomo Kwame Sundaram), *A Question of Class: Capital, the State, and Uneven Development in Malaya* (Singapore, New York: Oxford University Press, 1986). Shamsul Amri

Enactment was passed on the Malay states in 1913 to protect the sale of native land to enterprising business owners including Chinese migrants and Indian chettiars.³⁹ Chinese business owners purchased land from the natives to grow commercial agriculture including rubber, while Indian chettiars invested in landholding. Native indigent peasants with no other source of capital ended up selling their land. The steady dispossession of native peasants was a recipe for instability and unrest thus requiring British intervention. The Stevenson Restriction Scheme on the other hand was a policy to restrict the produce of commercial rubber so as to avoid a glut in the rubber market. As a result, Malay peasants were discouraged from growing rubber and instead encouraged to cultivate rice.⁴⁰

During this period, the penghulus were taken to task by district officers to ensure that peasants abided by government policy. In a series of records from the year 1924 across four districts in Selangor⁴¹—that is Ulu Langat, Ulu Selangor, Kajang, and Kuala Selangor—district officers reported on various activities. District officers checked on rice planting to make sure that state laws were not flouted.⁴² Because of this restriction to only engage in subsistence farming,

Baharuddin, *From British to Bumiputera Rule: Local Politics and Rural Development in Peninsular Malaysia*. (Singapore: Institute of Southeast Asian Studies, 1986).

³⁹ They were the mercantile and land-owning caste in South India.

⁴⁰ Both these schemes placed unfair advantage on the native peasants. Even as the Malay Reservation Enactment was advertised to protect native land ownership, the colonial administration was more interested in preventing a growing landed migrant community among the Chinese and Indians in the Malay states. As a result, native peasants who required immediate cash flow could not sell the only asset they had that is their lands and further depressed their situation in the short term. The Steven Restriction Scheme prevented native peasants from developing commercial agriculture. They were instead diverted to subsistence agriculture thus preventing them from developing long term assets.

⁴¹ 1957/0229480 SEL: SEC: 449/1924: Minutes of Penghulu's conference held in the District Office, Rasa on 14.1.1924; 1957/0230491 SEL: SEC: 1480/1924: Penghulu's Conference: District Office Kajang - Minutes of: 1924, 1957/0231283 SEL: SEC: 2282/1924: Penghulu's Conference, 29.5.1924. District Office, Kuala Selangor. Minutes of; 1957/0235407 SEL: SEC: 1492/1925: Penghulu Conference: Minutes 1925 held at District Office, Kajang.

⁴² The penghulus provided copious notes regarding paddy-planting activity in the districts. In one case in Ulu Langat in October 1925, the district officer warned if rubber was planted instead, this would breach the rules of agriculture and the district will not receive coupons to subsidize peasants' daily provisions.

the state government attempted to create a market for their produce and organized weekly village fairs where peasants could sell them. The penghulus reported on the situation of village fairs but the response was rather lackluster among peasants who needed plenty encouragement to participate in them.⁴³ Other issues that came up in these meetings included the provision of dedicated prayer spaces in government buildings such as in the hospitals.⁴⁴ Most strikingly, the task of building the *surau*⁴⁵ was on the peasants themselves, who had to collect funds for this purpose. Taking all of this into consideration, it was clear that by this time in the early twentieth century, the role of the penghulu was much more aligned to the district officer than it was to the peasants. The penghulus were firmly under the control of the colonial government, and over time, a rift grew between them and the peasants.

Expanding the district office

The importance of the office of the penghulu grew over time. By the early twentieth century, it had become indispensable to state administration. This encouraged the state administration to consider improving the position and status of the penghulus.⁴⁶

Recommendations included bestowing more commendations and decorating the office with extra

⁴³ Plenty of work went into encouraging villages to hold fairs for their produce. The district officer directed the penghulus to consult the *ketua* (head) of kampongs to recommend places and dates for holding fairs. But this also showed the result of this colonial policy was that the peasant economy was not integrated into the larger political economy. It circulated internally and could not expand as a result to the further detriment of the peasants.

⁴⁴ In the district of Kajang, the penghulu suggested for a *surau* to be built in the hospital for Muslim patients. He stated that many Muslim subjects declined going to the hospitals because they thought that forbidden substances entered into the production of some medicinal drugs that were administered. This is a fascinating point that is reminiscent of the Sepoy Mutiny on 1857. One of the theories for the mutiny was that cartridges disbursed to the sepoys were greased with pig fat. A similar logic of suspicion is at work here to indicate growing distrust between the peasants and the colonial government.

⁴⁵ *Surau* is a small mosque.

⁴⁶ 1957/0197851 SELANGOR 5163/1917: Honours for Penghulus. Question to be dealt by the State Council.

honors and monetary awards.⁴⁷ These honors recognized the efforts of the penghulu that went above and beyond what was formally required of him by the colonial administration. Gradually, his position expanded to include extra duties. For example, on the state of Perak during the year 1906, the State Secretariat published a circular to announce that a penghulu could qualify as a demarcator for the district surveyor.⁴⁸ In this position, he was employed to demarcate subdivisions of new holdings of land. If he qualified he would be paid an additional amount on top of his present salary since this was extra work beyond the original designation of the penghulu.⁴⁹ Even so, the circular made clear that his job as a demarcator should not interfere with his work in the mukim, which should remain his top priority.

As the colonial state expanded, the relationship between the district officer and the penghulu alone was no longer sufficient to sustain growing operations in the district. Over time, the district office expanded and most significantly brought native officers into its fold. It was proposed that the district officers be assigned assistants from among the native elites to aid in matters of daily state governance. This position was titled Malay Deputy Assistant District Officers.⁵⁰ These positions were funded by the state budgets, but over time they were supported by the federal budget.⁵¹ This illustrated the growing importance of this position within the Federated Malay States, which grew indispensable to state administration. Even as the district

⁴⁷ In an extract from the proceedings of the federal council published in the Malay Mail of November 19 1917, it was suggested the penghulus receive a government service award for long and meritorious service. It was also recommended that penghulus should not receive less than \$50 a month of salary since his duties exceeded official working hours and he often had to entertain visitors in his home.

⁴⁸ 1957/0128196 1749/1906: Perak Circular No. 7 of 1906- Penghulus as Demarcators.

⁴⁹ He was to receive an additional allowance of \$5 a month. This was a substantial sum and could range from 25 percent to 8 percent of his present salary.

⁵⁰ 1957/0224880 SEL: SEC: 975/1923: Malay Deputy Assistant District Officers. At a Residents' conference in April 1920, the district office agreed that Malay assistants should be added to reduce the district officer's routine work.

⁵¹ By the year 1923, the appointment of the Deputy Assistant District Officer was no longer included in the Selangor estimates but paid from federal funds.

officer recommended these appointments,⁵² applicants still had to go through a rather rigorous training process and a probationary period.⁵³ Beyond the position of the Assistant District Officer, Malay candidates were also recommended to various other positions within the administration of the district office, and this included the appointment as a magistrate and as an assistant collector of land revenue. It was also often the case that an individual received multiple and overlapping appointments.⁵⁴

These were highly coveted positions for the native elites since they carried very good salaries.⁵⁵ These positions fell under the Malay Officers Scheme (Administrative Branch) and were distinguished from the Malay Civil Service Scheme.⁵⁶ Over time, yet an additional scheme was added into the administration of the district office, and this was the Native Subordinate Scheme.⁵⁷ This scheme employed natives to hold various clerical and runner positions such as the Malay writer, notice server, peon, etc.⁵⁸ The gradual differentiation and stratification of

⁵² There was only a small pool of qualified candidates for this position, and the district officer would have earmarked them as potential officers.

⁵³ Training included instructions in state law. They had to pass the First and Second Efficiency Bars to be appointed to these positions. These officers also had to go through a probation period of six months before they were confirmed in the service.

⁵⁴ A Malay assistant could be gazetted with two concurrent functions. For example, he could be the Assistant Collector of Land Revenue and also a Second-Class Magistrate. These positions, while overlapping, were strictly within the domain of the colonial government and did not extend to the domain of the native ruler.

⁵⁵ The salary for the position of the Malay Deputy Assistant District Officer could reach up to \$200 to \$300 per month.

⁵⁶ There was some confusion as to how this new scheme would develop alongside the Malay Civil Service Scheme (MCS) that was already underway. There was the initial sense that the Malay Officers Scheme was lower in rank to the MCS, but there were no further deliberations on why this should be the case. To get a better sense of the difference, I will have to compare the specific duties for each scheme. I have not come across literature comparing the various administrative schemes in Malaya. Most of the literature focused on the Malayan Civil Service, and this is understandably so since it replicated other civil service schemes across the British colonies. For more on the development of the Malayan Civil Service, see J. De Vere Allen, "Malayan Civil Service, 1874-1941: Colonial Bureaucracy/Malayan Elite," *Comparative Studies in Society and History*, 12, no.2 (1970): 149–78.

⁵⁷ 1957/0245029 SEL: SEC: 5774/1926 Promotions in the District Office, Kuala Selangor under the Scheme for Native Subordinate.

⁵⁸ In the context of the Malay states, the peon referred to an office or an errand boy. Unlike other usages

native positions in the district office revealed an emerging Malay administrative class within an expanding state administration.⁵⁹ The district office produced monthly reports,⁶⁰ and these were long documents that detailed municipal matters, including such issues as labor and agriculture. The rationalization and systematization of functions in the district office during the early twentieth century drove the professionalization of native functions. This is to the extent that the Japanese government during its interregnum years on Malaya relied heavily on the district office for its daily operations. Since they were by this time heavily manned by native officers who remained even as British officers fled, the Japanese administration (referred to as the *Syuseityo Kanbo*) built on and continued work through the district office.⁶¹ This included co-opting the

of the term that referred to it as an unskilled peasant laborer, the peon was a step up from peasant life.⁵⁹ This was after all the intent to develop a state apparatus that was composed of natives under the supervision of the colonial administrators. There were variations in the extent to which colonial administrators invested in natives across the colonies, and the case of the Federated Malay States provided a good example for the systematic expansion of native bureaucracy over time.

⁶⁰ 1957/0280543 SEL: SEC: G. 1530/1933: Monthly Reports from the District Officer - Kuala Selangor, 1935, 1936, 1937; 1957/0280548 SEL: SEC: G. 1535/1933: Monthly Report from District Office, Kuala Lumpur and Ulu Langat; 1957/0280555 SEL: SEC: G. 1542/1933: Monthly Reports from the District Office, Kuala Langat 1933-1937.

⁶¹ There are plenty of records just on the Japanese administration in Malaya, and it will require a separate exercise to examine these records in detail. Related files are tagged under “Syuseityo Kanbo.” See: 1957/0289984 Syuseityo Kanbo 32/2603 (1943): Annual Report of the District Office, Kuala Langat; 1957/0289985 Syuseityo Kanbo 40/2602: Suggestion that certain Malay Probationers with Malay College and Raffles College training be attached of District Officers; 1957/0289985 Syuseito Kanbo 33/2603 (1943): Annual Report of the District Office, Ulu Langat; 1957/0289989 Syuseito Kanbo 40/2603 (1943): Annual Report of the District Office, Ulu Selangor; 1957/0290004 Syuseito Kanbo 74/2603 (1943): Annual Report of the District Office, Kuala Selangor. These annual reports are very detailed documents that record state activity on each district. Matters included: finance, land office, agriculture, drainage areas, water supply, fisheries, municipal, food control, courts, census, *rakit* (ferry) and so presumably transportation, the activities of the mukim, penghulu and his anak buah, and other administrative matters. Under “The Mukim Penghulu, his anak-buah and their activities,” it was recorded: “The Malays as a whole were backward in business during the past regime. Since the NEW ORDER they have become interested in business and in fact many of them have been successful. There had been too much of Western ideas infused in the minds of educated people in the past. Since the NEW ORDER people are beginning to realise their folly and now happily they are adopting and reviving the Asiatic customs and habits laughing at their past follies.” Presumably, this “New Order” referred to the Greater East Asia Co-Prosperty Sphere and the ideology of economic empowerment for natives in the colonies. A final note regarding these documents for the interested scholar: these documents are especially precious since the Japanese government destroyed many documents they had access to, and so those that are presently available—even though scant—provide a great resource to reconstruct the history of Japanese

penghulu, the assistant district officers, and others.⁶²

By the second decade of the twentieth century, the penghulu office officially formed an esteemed part of the Malay Civil Service.⁶³ The bureaucratization of this office was complete with very systematic procedures regarding the scheme, salary, retirement, and other matters. Each successive entry in the colonial administrative record to do with the position better specified the penghulus's role and position. Even as the position of the penghulus was initially built around the traditional authority of his person so as to perform the political function of state legitimacy, it was bureaucratized such that this position gradually functioned independent of him and meant that the penghulu could be interchangeable and substituted for another. In fact, over time the political and administrative functions of the office of the penghulu grew independent of one another such that the colonial administrator preferred younger and more efficient persons rather than older but influential persons.⁶⁴ More improvements to the office of the penghulus were in place, such as an increase in salary of married penghulus and placing penghulus on the administrative pension scheme.⁶⁵ This developed at greater speed in Perak than in Selangor because of state demographics. Since Perak was more homogenous and consisted of more local Malays than Selangor, it was much easier to rationalize processes in the former than in the latter.

administration in Malaya.

⁶² There is a deep irony here that is worth consideration. The British developed a modern state administration and populated them with native elites that eventually endured to aid in the fascist Japanese occupation of Malaya.

⁶³ 1957/0216187 SEL. SECT. 2563/1921: Officers of Malay Civil Service. Major and Minor Chiefs: Penghulus etc. - Arrears of temporary allowance for 1920.

⁶⁴ This was discussed rather well in Paul Kratoska, "Penghulus in Perak and Selangor: The Rationalization and Decline of a Traditional Malay Office," *Journal of the Malaysian Branch of the Royal Asiatic Society* 57, no. 2 (1984): 31–59.

⁶⁵ There were many documents discussing pension payments to the penghulus. 1957/0125095 5260/1905: Pension Papers of Penghulus to be prepared in the Local Secretariat-; 1957/0133182 6839/1906: Preparation of Penghulu's Pension Papers. Draft will be prepared in Federal Secretariat.

Traditional functions in the colonial state

The kuasa of the kathi

Scholars debate whether or not the position of the kathi preceded the colonial administration.⁶⁶ Presumably, the exercise of laws, specifically religious laws, prior to colonial administration was not differentiated to the degree that it was in the colonial administration. In an earlier chapter, I discussed how the law was a symbol and site of Malay kingship.⁶⁷ In this case the legal code in the precolonial state was a composite of Malay customary law and Muslim religious law. This is to say that even if formally there were no kathis, laws were observed, and when they were contravened, punishment was meted out as stipulated in the legal code.⁶⁸ Like the penghulu, when a kathi was appointed to act on behalf of the colonial state, he was granted kuasa by the administration. In this case, the kuasa came directly from the native ruler who was in charge of these appointments. In an early correspondence between Sultan Abdul Samad of Selangor to the British Resident Frank Swettenham in 1888, the Sultan wrote to the Resident regarding his plans to confer his kuasa and to appoint a kathi on the state.⁶⁹ A year later he wrote

⁶⁶ Moshe Yegar asserts that there were no kathis on the Malay states prior to colonial rule. However, Anthony Milner disagrees and suggests that these functions were present, only that they were not formalized to the extent that they were on the colonial state. My approach is to moderate either positions by examining the process through which the kathi office was formalized. See Moshe Yegar, *Islam and Islamic Institutions in British Malaya*, (Jerusalem, Israel: The Magnes Press, 1979). Also see Anthony Crothers Milner, *Kerajaan: Malay Political Culture On the Eve of Colonial Rule* (Tucson, AZ: University of Arizona Press, 1982).

⁶⁷ Native rulers on the Malay states were guided by versions of the *Undang-undang Melaka* or the Laws of Malacca, which was the earliest code of the Sultanate of Malacca and established in the early years of the fifteenth century.

⁶⁸ In some cases of criminal activity such as stealing, the punishment was to cut off the perpetrator's hands. This followed a literalist interpretation of religious law and categorized under hudud. This position remains controversial among Muslim scholars.

⁶⁹ 1957/0013597 NATIVE 102/89: Forwards Kuasa for Kathi. The recommended kathi in this case was Sheikh Ahmad bin Mahyeddin. He further specified that Sheikh Ahmad came from "benua Syam." It was unclear if he meant to refer to present day Syria although this was highly likely since this area was commonly referred to as Syam in Muslim history. Syam was a historically important region for the development and expansion of Muslim economic and political activity. In any case, this suggested that the person recommended to the kathi position was foreign to the state, which is a significant variation

another letter to inform the Resident of his plans to appoint imams in the state.⁷⁰ This was in line with indirect rule where colonial administrators did not exercise control over matters of religious leadership, leaving the matter entirely to the native ruler. The process and the intensity of these appointments changed rather dramatically following the centralization of the four western states under a federation. For one, the extent of the *kuasa* as a binding document was discussed. In a memorandum in the year of the Federation of 1895, a discussion surrounding the position of the *kathi* implicated wider matters to do with the regulation of religion on the colonial state.⁷¹ A memo was addressed to the secretary to the government of Taiping in Perak regarding the application of Muhammadan laws, with a request to supply a copy of the *kuasa* form issued to *kathis* and imams. In response, the Raja Muda of Selangor sent a comprehensive report of the application of Muslim law and the appointment of imams and *kathis* on the native state and asked for the Resident's approval to circulate this document.

Institutionalizing and restricting the function of the kathi

Following the Treaty of Federation in 1895, the domain of native rule came under greater scrutiny. Colonial administrators grew more concerned with the exercise of Muhammadan laws and those appointed to administer them. This concern registered on several levels. First, they

from the office of the *penghulu*, for example. He was not asking the British Resident for permission; rather he was only informing the Resident of his decision. It seemed to be the case that this was done as a matter of courtesy but also to keep the Resident apprised of developments on his end.

⁷⁰ In this letter, he referred to “*imam-imam*” that implied more than one position but did not specify their names. But like the earlier letter, this was a letter to inform the Resident rather than to ask for his permission.

⁷¹ 1957/0055650 K’LANGAT 1796/1895: Memorandum regarding appointment of *Kathis* & others for regulation religious matters. This report was written in Malay *jawi* and transliterated into Malay *rumi*. Note that there was a gradual but distinct change in the relationship between the native ruler and the colonial administrator over time. If before the native ruler merely informed the Resident, now almost two decades since the Pangkor Treaty and with the states united under a federation, the native ruler sought the approval of the Resident before he proceeded. This observation is central to the argument I make regarding the transformation of the function of native rule in the colonial state. Over time, the autonomy granted to the native ruler was slowly taken away from him.

appeared to be concerned with the nature of religious laws in and of themselves, especially as they applied to the punishment of crimes, including such things as mutilation of the hand etc.

There are punishments laid down in the Muhammadan religious authorities the infliction of which could hardly be tolerated by the Government, and there are many conflicting authorities (and as I believe, so little real knowledge of them here) that legislation and regulation of the procedure—practice of such Courts, providing for penalties, appeals etc. would be quite essential, in my opinion.⁷²

Second, they were concerned that without a standardized code of laws that bound the kathis together, the exercise of justice was essentially despotic since it was tied to the discretion of each kathi. And yet even with these concerns, they expressed concern for and were committed to align the administration of religious laws with the general principles of government while leaving the administration of that law in the hands of local religious authorities. To this end, the government contended that the judicial office of the kathi must be supported by legislative authority and called for the courts that administered Muhammadan laws to be regulated in the same way as the civil and criminal courts.⁷³ This reined the kathi in within an institutional framework that would keep him accountable at the same time as it restricted his discretion in the exercise of Muhammadan laws.⁷⁴

Insofar as the institutionalization of the courts of religious laws was concerned, this aligned with the interest of native rulers who wanted a semblance of official authority and

⁷² This is similar to my observation earlier regarding the powers of the penghulu and the code of law he abided by. See footnote 33.

⁷³ This was one example through which native rulers gradually lost their autonomy. To be sure, the colonial administration was keen to preserve this arrangement but the logic of centralization required the systematization of some of these previously disparate conditions across the western states. As a result, the function of the kathi and especially his position in the religious courts was streamlined as aided by the colonial government.

⁷⁴ In the memo, the magistrate expressed reservations regarding the seemingly general and wide powers conferred upon the kathi and was particularly concerned they observed Anglo-Muhammadan laws in these cases.

institutionalization.⁷⁵ The Raja Muda also expressed the need for a kathi office with proper legislation so as to minimize any difficulties in the administration of Muslim law.⁷⁶ The alignment of their interests in this case, even though they arose from different imperatives, benefitted both parties equally. Colonial administrators mobilized to institutionalize the kuasa of the kathis because they were concerned to discipline the otherwise despotic power of the kathi. The native rulers, on the other hand, mobilized to institutionalize the kuasa of the kathis and the administration of religion so as to formalize the native office on a par with magistrates that administered the civil and criminal courts. Despite divergent interests, the result was similar, and the federation further systematized the position of the kathis through courts that administered Muhammadan laws.

The Raja Muda proposed that the Muhammadan courts provide three positions in the religious courts. They were the Hakim Shara' or the shari'a judge, the Naib al-Hakim or the assistant judge, and the Kathi Shara' or the shari'a judge.⁷⁷ This proposal was significant because it introduced functional differentiation between the *hakim* and the kathi. More significantly, it introduced two layers of supervision above the kathis. His work now came under the oversight of the hakim and the *naib hakim*.⁷⁸ In this memorandum to the government, the Raja Muda also further specified the duties of the kathi. Accordingly, his duties only pertained to personal

⁷⁵ This was interesting because the native rulers envied and aspired towards the systematic institutions of the colonial government provided in the administration of state extraction. Afterall, the penghulus were subsumed very effectively into this system of modern governance. This aspiration for a system of parallel and equal administration was reflected in the formation of the Conference of Rulers, which I will discuss later in this chapter.

⁷⁶ This memo suggested that an office of the kathi with official rules and regulations should be established to avoid difficulties related to Muhammadan laws.

⁷⁷ Presumably the difference between the hakim and kathi in this stratification was more to indicate seniority or stature than any functional differentiation to their work.

⁷⁸ Technically both kathi and the hakim refer to judge. So this differentiation is interesting as it introduced another layer to judicial functions in the religious courts. This arose out of greater variation in the functions of the native office partly driven by the need to provide some type of oversight over the work of the kathis. *Naib* means assistant.

matters, including in the case of marital conflicts, divorce, marriage, and matters to do with public indecency. In the same memo, he also specified that the kathi must receive support from the imams and the penghulus of each mukim for the proper exercise of his authority.⁷⁹

Expertise and employment of kathis

As the position of the kathi was incorporated into an expanding judicial office to administer Muhammadan laws, it opened up a demand for experts in religious law in the colonial state. This created a domain of expertise for those with very specific knowledge of Islamic jurisprudence as well as Anglo-Muhammadan law,⁸⁰ and the ability to facilitate between the two. This supplied applications for the employment of kathis as they were very lucrative positions. In a memo between the British Resident of Perak and the Resident General,⁸¹ it was recorded that the salary of a kathi was budgeted for the amount of \$900,⁸² which was much higher than the amount due to penghulus, which in the year 1903 was recorded at a range of \$20 to \$60.⁸³ Unlike the position of the penghulu, the kathi need not be a native of the state but can come from across

⁷⁹ That this matter was specified in the memo was interesting, as if to imply that there may be conflicting interests, or at least some type of jurisdictional conflict between the kathi and the penghulu of the mukim who were fully backed up by the colonial administrators. Presumably the expertise of the kathi in the dispensation of religious laws should complement the authority of the penghulu in managing the mukim. What this shows pretty clearly was that the office of the penghulu came much more under the domain of the colonial administrators while the office of the kathi, since it dealt with religion more specifically, fell under the domain of the native ruler, and that these two offices while in theory should complement one another, often come under dispute.

⁸⁰ Anglo-Muhammadan law refers to codified Muslim law and was a mixture of English and Islamic laws. This started in the colonial courts of British India during the eighteenth century by the first Governor General of Bengal, Warren Hastings. In Section 15 of the Bengal Regulation IV of 1793, the administration specified that in matters to do with inheritance, marriage, caste, and other religious usages and institutions Muhammadan laws applied to Muslims and Hindu laws applied to Hindus.

⁸¹ 1957/0067907 982A/1896: Applies for employment as Kathi in Perak. In this memo, the British Resident of Perak wrote to the Resident General to inform him that they had a vacancy for this position and that the annual estimates for the following year could afford to support this position.

⁸² Also see 1957/0068725 MALAY MISCELLANEOUS 829/1897: Salary of Kathi, Kuala Lumpur.

⁸³ I noted this earlier. See footnote number 27.

the Malay states.⁸⁴ He had to indicate how he was qualified for the position and provide character references from esteemed members of the community.⁸⁵ The work of the kathi within the religious courts also generated revenue for the state. Even as this did not amount to much state revenue, it was a service provided by the public administration that came with a fee. The kathi collected \$1 each from applicant who applied for marriage or divorce.⁸⁶

Conflicts involving the kathis and other native elites

Since the function of the kathis was systematized and institutionalized to a high degree by the colonial state administration within an expanded courts system, it became a highly coveted position, especially since it was exorbitantly salaried. The kathi easily earned fifteen times that of the penghulu.⁸⁷ Over time, this induced clear jurisdictional boundaries fencing in the work that the kathis and other specialized personnel did in the religious courts, especially as it had to do with the personal matters of marriage and divorce in the native states. During the year 1897, the district officer of Ulu Selangor wrote the legal adviser, T.N. Kershaw, to consult him regarding a problem involving the native elites.⁸⁸ The kathi claimed that a man, Haji Abdul Kadir, performed an unauthorized marriage ceremony. This man was referred to as an imam who worked in the mosque. The kathi reported the matter to the ruler, the Raja Muda, who supported his claim against the imam and called for him to be punished. In turn, this matter was referred to the

⁸⁴ In this case the applicant for the kathi position in Perak was a Resident of Penang.

⁸⁵ Most interesting in these letters were appeals to symbols of religious authority including Sayyids, who claimed lineage to the Prophet, or Hajis who had gone on the Haj.

⁸⁶ 1957/0064435 KUALA LANGAT 4084/1896: Naib at Kathis Encloses a letter from His Highness The Raja Muda asking for the publication in the Government Gazette of the rules relating to Naib Kathis and for separate votes and headwigs to be inserted in the 1897 Estimates for their salaries etc. There are four types of divorces under Muslim law and they are *talak*, *khuluk*, *taklik* and *fasakh*. *Fasakh* is the annulment of marriage, and the kathi charged for this service. He also charged in the case of *rujuk*, or the application for reconciliation of marriage within a stipulated time from when the divorce was pronounced.

⁸⁷ Refer to footnotes 27 and 83 above.

⁸⁸ 1957/0072083 4281/1897: Mohammedan Marriage Ceremony - States that the Naib Kathi reports that an unauthorised person has performed the ceremony, & enquires whether the offence is punishable.

district officer who consulted the legal adviser on a way forward.⁸⁹ Upon investigation, the legal advisor found that this situation was not so straightforward and that it implicated procedural and substantive conflicts with regard to the administration of Muslim law.

According to Islamic law, a marriage was binding if it satisfied several requirements, which are the presence of a rightful custodian of the bride (usually her father or a close male relative), a dowry gifted by the groom to the bride, and the verbal proclamation of a contract witnessed by at least two adult men. In most cases, the kathi would act as an officiant, especially when the custodian who gave the bride away or any other witness present lacked the knowledge of marriage procedure and contract. This was the common situation and so required the presence of the kathi to render his service at a fee. However, if any one present had knowledge of the marriage contract and procedure, the kathi was not technically needed for the marriage to be binding under God. The investigation of the legal adviser found that the imam accused of performing an unauthorized marriage ceremony had sufficient knowledge of a marriage contract and procedure and also served as the bride's custodian in lieu of her kin, as a *wali-hakim*.⁹⁰ The district officer wrote the government secretary,

Haji (or Imam) Abdul Kadir received authority from a former Kathi to marry persons if they have wali, but he extended his powers on his own responsibility and performed the marriage service between persons who were not her wali. This limited powers of marrying persons who are attended by wali or witnesses, is frequently conferred by a Kathi on an Imam, who acts as his deputy. But it is a very serious matter if the deputy usurps to himself the powers of his superior and makes a wrong use of them.... Imam Abdul Kadir did not pretend to hold the office of Kathi: he only acceded the powers conferred on him and as far as we see he can only be reached by Mahomedan law.

⁸⁹ The district officer of Kuala Kubu addressed this letter to the government secretary of Kuala Lumpur on September 1, 1897.

⁹⁰ A *wali-hakim* is a non-kin relation of the bride and often an expert in Islamic law who is delegated to perform the function of a guardian when her rightful custodian—in this case her father, brothers, or paternal male cousins—were unavailable due to extenuating circumstances, such as if they were deceased, could not be located etc.

While the marriage was valid under God, it offended His representatives on earth who felt that he had usurped their authority. The legal adviser replied that he did not have evidence to show that the imam had exceeded his authority, and so could not decide if what he did was in contravention with Muhammadan laws. However, he raised the point that it was illegal if the imam pretended to hold the office of the kathi, which was a public office. Only if the petitioners could show that the imam pretended to assume a public office was he liable to prosecution. This case is revealing of the emerging tensions among native elites in the colonial state, especially when religious functions were institutionalized and backed by the power of the colonial administration. In addition to transforming the traditional religious function and layering it with new administrative requirements, it professionalized the position of the kathi, specified his duties, and bounded his domain to the exclusion of everybody else, and even sanctioned a practice that was otherwise legitimate. It imbued upon the role of the kathi a new authority. The designation of his position as a "public servant" empowered the kathi and strengthened his position within the colonial bureaucracy.

Old elites, or those who did not come under the kuasa of the native ruler and the colonial state, were consequently fenced out of state affairs and liable for persecution. Insofar as the relationship between the kathis and the native ruler and his chiefs were concerned, the colonial administration was careful to maintain this balance and ensured that the kathis were at all times subordinate to the ruler and that any expansion of the former's authority or scope of work was sanctioned by the ruler himself.⁹¹ Over time as the colonial state grew to require more services, the jurisdiction of the kathis increased to include wider matters concerning religion beyond just

⁹¹ Notice that this was different in the case of the penghulu. Earlier in the chapter I discussed how over time, the penghulu's jurisdiction extended to encompass a wider range of state activity. Often this conflicted with the native ruler and other traditional elites. See section 1.4, "Problems among the penghulu, native elites, and peasants," in this chapter.

personal matters of marriage and divorce, including criminalizing the consumption of intoxicating liquors.⁹² The ruler and his chiefs expressed concern with the expansion of the powers of the kathis but agreed to establish a Court of Appeal over which the ruler would preside so that he would be the final arbiter on matters of religion and religious laws. At all times the native ruler exercised authority over the kathis and moved to revoke or contest their appointments whenever needed.⁹³

The kuasa of the mufti

In addition to the kathi, who was equipped with expertise in Islamic jurisprudence and Anglo-Muhammadan laws and for this reason served a specific function within the legal administration of the colonial state, there were other functions specific to religious practice cultivated in the Malay states. These positions included the mufti who was the highest authority on Islam in each state and men with religious knowledge, or the ulama, who were consulted for various matters to do with religion.⁹⁴ Prior to the colonial state, there were clear overlaps among these positions. It was often the case that only a few esteemed individuals in the state performed these functions. With the colonial administration, these functions were systematized and streamlined.⁹⁵ Consequently, it expanded the pool of religious elites and diffused traditional

⁹² 1957/0115268 2014/1904: Increases of jurisdiction of Kathis.

⁹³ 1957/0063832 KULA LANGAT 3469/1896: Naib Kathi Kuala Lumpur District - Memo from His Highness the Raja Muda notifying that the Naib Kathi is of unsound mind and desiring the Imams to act for him.

⁹⁴ Ulama is Arabic for religious scholars. A member of the ulama or an *alim* could be consulted for a variety of reasons from religious theology to religious rituals, etc. Note that in the Malay vernacular, ulama can refer to one scholar or a group of scholars.

⁹⁵ Most significantly, these positions became more prominent in late colonialism and towards the mid-twentieth century. To a large extent this had to do with the establishment of the Council of Religion and Malay Customs. This council was first established in the state of Kelantan in 1915 and gradually adopted across the Malay states. I will discuss this in greater detail in chapter five of the dissertation. See William R. Roff, *Kelantan; Religion, Society, and Politics in a Malay State*. (Kuala Lumpur, New York: Oxford University Press, 1974).

authority across several positions and offices instead of concentrating on certain individuals. In addition, this council and the expansion of the religious office extended the domain of the religious elites beyond just personal matters to include religious practices, etc.

The mufti worked hand in hand with the kathi to dispense religious laws derived from a mix of Islamic jurisprudence of the Shafi'i school and Anglo-Muhammadan law.⁹⁶ Like the kathi who received a kuasa form from the Resident, the same was the case for the mufti to effect his formal employment in the state.⁹⁷ Unlike the kathi whose work was mainly administrative, as the highest Islamic authority in the state, the mufti has the power to dispense fatwas.⁹⁸ In most cases, when adjudicating over religion, the legal adviser and the British adviser would consult the mufti for him to weigh in on a contested issue and specify the position of Islamic law on the matter. As religious courts became more institutionalized with multiple religious functionaries supporting its function, they ceased to be referred to as kathi courts. By the early twentieth century, there was a shift in the nomenclature as kathi courts were referred to as syariah courts.⁹⁹ The office of the mufti prepared annual reports on state affairs, and for the most part, these reports also

⁹⁶ There are four big schools of Sunni jurisprudence or *madhhab*. They are the Shafi'i, Maliki, Hanbali and Hanafi madhhabs. The Malay states, as with most of Southeast Asia, follows the Shafi'i madhhab. As a point of comparison, the South Asian subcontinent follows the Hanafi madhhab. Often the distribution of madhhab across Muslim societies gave clues to pathways of Islamization. In this debate, the theory that Islamization to Southeast Asia had come primarily from the South Asian subcontinent is dismissed because of the difference in the school of law between Southeast and South Asian Muslims. Rather, it is believed that Islamization in Southeast Asia largely came from the Arabian Peninsula, specifically from Hadhramaut in Yemen where they follow the Shafi'i madhhab. This method of determining pathways of Islamization is by no means conclusive and the debate is still ongoing with multiple theories.

⁹⁷ 1957/0150653 852/1910 Asks to be furnished with copies of the 'Kuasas' granted to Mufti and Naib Kathis in Selangor.

⁹⁸ Fatwas are religious rulings. While they are non-legally binding in the colonial state, they hold a very strong social influence over public opinion and shaped the religious culture of the state.

⁹⁹ This transformation is fascinating and indicated the move away from identifying the courts with the kathi himself but with an institutionalized system of laws that is the shari'a in contrast to English or common laws in the civil courts. This move is one example of many of the gradual rationalizing and bureaucratizing of state functions in the Malay states. Earlier, I discussed how the overlapping political and administrative functions of the penghulu were decoupled and that the traditional authority of the penghulu gave way to the formal authority of his office.

recorded activity in the *syariah* courts. The mufti was also responsible to dispense his opinions on religious matters and to answer any and all religious queries.¹⁰⁰ Even as the position of the mufti became a highly public office, it was also one that was jealously regulated by the ruler and the council.¹⁰¹ The authority of the mufti was gradually rationalized within the bureaucracy of the religious council. Over time, the office furnished annual reports in the same fashion as the *penghulu* and the district office.¹⁰²

Extending the office of the mufti

While the mufti's authority is disciplined within the framework of the religious council, at the same time it conferred upon the council institutional legitimacy to operate within a new rule-bound framework in the colonial state. As a result, the powers of religious functionaries (including the mufti and kathi) expanded. In a conference of kathis that included the muftis and *kathis besar*,¹⁰³ they were exhorted to be more proactive in their duties. Previously their functions were limited to personal matters, including officiating marriages and divorces, but now they were encouraged to become more involved in the daily lives of the people under their charge and to extend their duties to a wider sphere of state life especially for the Malay and Muslim subjects in the state:

I understand this is the first majlis convened since the formation of the Office of Religion

¹⁰⁰ A lot of these queries were directed to the mufti through public channels such as the newspapers and radio. It was common to find in the Malay papers a question and answer forum dedicated to religious queries from the public directed to the mufti. For example, see: 1957/0330827 901/1336: [Minta Petua Al-Mufti Suatu Soal Perkara Yang Berkenaan Dengan Syariah Muhammadiyah [Versi Melayu-Jawi. Also see: 1957/0329210 PJ SU KJAAN KELANTAN 775/1930: Appeal keputusan Dato' Mufti dalam perkara [] [Versi Melayu-Jawi]. This last document however is currently in rather bad shape.

¹⁰¹ 1957/0320731 PJ SU KJAAN KELANTAN 842/1930: Duli Yang Maha Mulia Tiada Bersetuju Dato' Mufti Menjawab Apa-apa Masalah Atau Soal Jawab Dalam Surat-surat Khabar Atau Majalah Dikecualikan Dengan Kehendak Kerajaan [Versi Melayu-Jawi].

¹⁰² 1957/0318401 PJ SU KJAAN KELANTAN 166/1928: Annual Report Pejabat Mufti dan Mahkamah Shari'ah Kota Bharu Tahun 1927 [Versi Melayu-Jawi].

¹⁰³ *Kathis besar* were head kathis, which showed that as time went on there were more layers to the kathi office.

and Malay Customs. I believe with this majlis and more like it you can exchange ideas and share problems that you encounter in your districts for clarification and discussion at this majlis and in this way your work will improve. The old responsibilities of the kathi included matters of marriage, divorce, alimony and inheritance. Visiting districts were not a priority. But in today's context and demands requires you to take on more responsibility and to include district visits so that your subordinates can receive closer mentoring and good advice. These (sic) advice should include all religious matters, education, and what can help to ensure the success of Islam. By spreading this message your subordinates will attain goodness in this world and in the hereafter. Afterall you illuminate their paths.¹⁰⁴

Additionally, they were exhorted to tackle social problems such as ensuring Malays were on their way to attain material progress on the state, and also to stamp out social vices such as prostitution and other evils.

In the past the work of the kathis had been, more or less, confined to questions connected with marriage, divorce, maintenance and distribution of properties. There were no definite arrangements for visits in their areas. Beginning from this year, kathis are requested to make regular contact visits to give advice on religious matters generally. They are also requested to help the people in the proper organization, management and maintenance of religious training, religious institutions and burial grounds. They are also to explain the need of the Malays for a general advancement compatible with modern conditions. In short they are to try and put into the people such an outlook on life generally as to achieve the spiritual and material progress as demanded by Islam. The question of prostitution and the means of combating this evil is engaging the attention of all civilized people. Kathis have been asked to carry out investigations as to what extent divorces are a contributory factor. They have also been asked to analyse the causes of divorce and to suggest remedial measures. At this meeting the advice on the question of marriage, the rights, objections and responsibilities of married people, prepared by the kathi besar, will be discussed. The idea is to issue leaflets on the subject for distribution. Kathis have been asked to prepare suitable Friday khutbahs in Malay, to meet present day needs. The object is to take advantage of the Friday gatherings to explain the true aims and objects of Islam. If the khutbahs could be made very attractive and effective, they would be the best medium of spreading religious doctrines to thousands of Muslims every Friday throughout the State. Most of these people do not get religious instructions otherwise.¹⁰⁵

¹⁰⁴ This is a translated note from Malay rumi: 1967/0000209 4087/1951 Conference of Kathis including Kathis Besar and Mufti. It is interesting to note that the ruler mentioned that this was the first of such meetings on the state. This was rather late in the year 1951.

¹⁰⁵ This was a note from the president of the Council of Religion and Malay Customs in Perak; Raja Musa bin Raja Mahdi concurred with the ruler's suggestions.

By this time there was a distinct shift from the administrative function of the mufti and kathi, into a social mission for Malays and Muslims.¹⁰⁶ There was a newfound sense of responsibility towards Muslims in the states, and that the council should be more proactive in dispensing religious advice and become the custodians of the people. The religious council only strengthened in influence over the decades to continue the tradition of their annual meetings, which over time grew in scale into a national convention.¹⁰⁷

The federal council and the rise of the ulama

The conference of rulers or durbar

Upon the signing of the Treaty of Federation among the four western states that are Perak, Selangor, Pahang and Negeri Sembilan in the year 1895, it was devised such that the rulers on each state would come together in a council. This was to facilitate discussions regarding the Federated Malay States that would apply across all of them, including matters to do with mining, trade and other state building projects, such as infrastructure, including the building of roads and railways across states to benefit from economies of scale. While an important reason to come into a federation was to streamline government administration and laws across the states so that extractive activities could be facilitated, state regulative activities were not

¹⁰⁶ The drive towards making Islam compatible with modernization efforts accelerated in the early twentieth century, and this was a notable development. It showed that by this time religious scholars in the Malay states were heavily influenced by modernist thinkers whose influence was gaining momentum over the past decades. Muslim modernist thinkers coming out of Egypt including Muhammad Abduh, Jamal Ad-din Al-Afghani, and Rashid Rida, and from Pakistan including Abdul Ala Maududi and Muhammad Iqbal preached how Islam was compatible with modernity and modernization.

¹⁰⁷ 1984/0009862 P P P M 1556: Perjumpaan Mufti-Mufti dan Kadhi-Kadhi Malaysia. This was a meeting among the muftis and kathis and was held as a nationwide convention. This is interesting since we can see that over time, the council on each state worked with one another. This file was striking to me because it contained the invite for the event. The invite was on white stock card and decorated in royal blue ink. It looked exactly like the invites I prepared for the annual minister meetings with the religious council during my employment with the Singapore Government. This uncanny resemblance, more symbolic than anything, stresses the point that the Malay states and the Straits Settlements shared similar procedures and structures that go back to the colonial government.

spared. In fact, the Council of Rulers (later renamed the Conference of Rulers) was convened for the first time to collect Malay rulers from each state. This council mirrored the Residents' Conference held for British Residents from each state to come together. The dual structure of authority between the ruler and the Resident in each state was replicated on the federal level, which had the gradual effect of strengthening the federal council at the expense of each of the state councils of the Malay states. This was problematic as the loss of state autonomy weakened the administration of indirect rule on the Malay states, and only three decades after its introduction, a decentralization policy was proposed to realign the federation model.

Rulers and Residents

The Council of Rulers first convened in 1897 at the Astana Negara in Kuala Kangsar and was hosted by the Sultan of Perak. For the Malay rulers, the council was an unprecedented political innovation and one that was lauded as a great achievement. This was because Malay rulers were highly jealous of their states and state affairs and did not consult with one another regarding state matters. In fact, the durbar was the first time the rulers had travelled to Perak.

From every point of view the meeting has been an unqualified success, and it is difficult to estimate now the present and prospective value of this unprecedented gathering of Malay Sultans, Rajas and Chiefs. Never in the history of Malaya has any such assemblage been even imagined. I doubt whether anybody has ever heard of even one Ruler of a State making a ceremonial visit to another; but to have been able to collect together, in one place, the Sultans in Perak, Selangor, Pahang and the Yang di Pertuan of Sri Menanti, is a feat that might well have been regarded as impossible. People who do not understand the Malay cannot appreciate the difficulties of such a task; and I confess that I myself never believed that we should be able to accomplish it. It was hardly to be expected that a man of the great age of the Sultan of Pahang would join an assemblage where he could not himself dictate the exact part which he would play in it. It is not so many years since the Governor of the Straits Settlements found the utmost difficulty in getting speech with Malay Rajas in the States which are now Federated; and Sir Frederick Weld, even though accompanied by the present Sultan of Perak, by Sir Hugh Low and the present Residents of Selangor and Pahang, all officers accustomed to deal (sic) with Malays, had to wait several hours, on the bank of the Pahang River, before anybody could persuade the Sultan of Pahang to leave a game of chance in which he was engaged with a Chinese, in order to grant an interview to His Excellency. It is difficult to imagine

a greater difference than between then and now, and though the Sultan of Perak has been far more nearly associated with British officers than any other of the Sultans, he has always been extremely jealous of his rights as a Ruler; and I was surprised to hear the frank way in which, at the Council, he spoke of British Protection, which he did not hesitate to describe as control.¹⁰⁸

The durbar was held over five days with great pomp and ceremony. Each day was planned to include a round of discussions on various state matters.¹⁰⁹ Before and after each council meeting, various entertainment activities were scheduled followed by an elaborate dinner to wrap up the day's events.¹¹⁰ It was clear that even as the council was a gathering of four rulers, they were not equal amongst one another. The Sultan of Perak, Idris Mersid-el Aazam Shah K.C.M.G.,¹¹¹ led the pack. Following him was the Sultan of Selangor, Abdul Samat bin Almerhum Raja Abdullah K.C.M.G., while the Sultan of Pahang, Ahmad Maatham Shah Ahmad bin Ali, and the Yang di-Pertuan Besar of Sri Menanti, Tungku Muhammad C.M.G. bin Yam Tuan Antah, either agreed with the Sultan of Perak or had nothing further to add to the

¹⁰⁸ The chief of the Federated Malay States, Frank Swettenham noted this in 1957/0282980 SEL: SEC: G. 127/1934: Proceedings of the Darbars held in 1897, 1903 and 1927. That the Sultan of Perak described British Protection as control was very telling. By this time any pretenses of equal but separate state administration had failed. The rulers knew that they were losing autonomy by the day and this eventually precipitated the reorganization of the federation.

¹⁰⁹ 1957/0070749 PERAK 2915/1897: Rules of Procedure & Programme of the Durbar Meeting to be held in Kuala Kangsar in July next- Forwards ten copies-. The first day was reserved for general comments and addresses by the Sultan of Perak and the governor. The second day discussed financial arrangements, Pahang debt, and tin and opium duties. The third day discussed railway and road extensions. The fourth day discussed land and mining codes, irrigation, and labor regulations. The final and fifth day discussed Muhammadan questions, Malay claims to land in Negri Sembilan and Pahang, registration of marriage and divorce, and the appointment of kathis and construction of mosques.

¹¹⁰ 1957/0064771 RESIDENCY 4421/1896: Durbar to investigate the Federation of the Protected Malay States - Appointment of Executive Committee. These entertainment events included a morning picnic at Batu Caves, an intricate temple cave system; breakfast at Kuala Kubu, an area known for its hot springs; visits to the coffee estates, torchlight procession, fireworks, and a dance.

¹¹¹ These are esteemed titles of British knighthood from the Most Distinguished Order of Saint Michael and Saint George. K.C.M.G. or Knight Commander, second in the ranks followed by C.M.G. or Companion. These decorated titles were awarded to British appointees who performed duties in the Commonwealth countries. It is notable that the Sultans of Selangor and Perak received these titles but not the Sultan of Pahang, while the Yang di-Pertuan Besar of Sri Menanti received a smaller title. This revealed the hierarchy among the states.

discussions.¹¹²

It was unclear if at the outset the rulers and Residents had different expectations coming into the durbar. The structure of the deliberations was such that it did not afford room for extensive deliberations on state matters. Rather, they were more informational and consultation sessions. And for the most part, the Residents relayed the policies of the colonial administration to the rulers so as to come to a verbal consensus on the matter and to sound out any concerns they may have had. It is hardly the case that the rulers objected to any government proposal. When discussions related to tin mining were concerned, the council meeting included Chinese captains to sit in these meetings.¹¹³ The mood was one of mutual deference where both the colonial administrators and native rulers acknowledged one another's positions and areas of expertise. Setting the tone for this event, the High Commissioner was fully alert to the political significance of this historic meeting and praised the rulers. He did not neglect to stress that the

¹¹² This was the case for several reasons. First, Perak was the first Malay state that came under British administration and so had the longest experience with the colonial administration. Second, Perak was a relatively wealthy state. This was also the case for Selangor. This was due to the industry of tin mining on these states. In contrast, the state of Pahang was a poor state and had incurred a lot of debt. In fact, one of the reasons for coming together in a federation was to bail out the state of Pahang. Negeri Sembilan, a confederation of nine states, rotated the head of its federation every few years, and perhaps because of this peculiar political structure, it prevented a more active participation on the part of the current Yang di-Pertuan. The distinction among the rulers across the four states placed the Sultan of Perak in a leading position and could also be the reason why he hosted the first durbar. But also very clearly evident from these meetings, the Sultan of Perak was highly amenable to the colonial officers and was fairly liked by them.

¹¹³ This point is less noted in prevailing literature that in fact Chinese representatives were present in the Council of Rulers meeting. In Perak, Capitan Chang Ah Kwi, Capitan Chin Ah Yam, and Mr. Leong Fi were present. In Negeri Sembilan, Capitan Li Chin Sam and Mr. Chin Woh were present. Representatives from Selangor and Pahang were absent. No reasons were given to account for their absence. It is unclear if these men were official members of the council since official photographs of the durbar do not capture them, which is a curious point that prods the question if Chinese representatives were merely nominal or ad-hoc members of the council or official ones. See 1957/0282980 SEL: SEC: G. 127/1934: Proceedings of the Durbars held in 1897, 1903 and 1927. Recorded in the minutes of meetings, discussions regarding duties on tin were entirely between the Resident General and the Chinese representatives, namely Capitan Chang Ah Kwi and Towkay Leong Ah Fee. The Malay rulers were conspicuously absent in these discussions.

Malay states were not colonies but were independent states under the protection of the British:

The beginning of prosperity began with the Treaty of Pangkor. At that time there was war almost from Malacca to Larut: since then the wealth and prosperity of these States have never stopped increasing. They are not a Colony, but independent States with protection from the British Crown. And it must never for a moment be forgotten that these four countries were primarily Malay States and that the Malay population—its prosperity and well-being must be the first care of the State Governments. As long as he continued to be High Commissioner, he would not cease to preserve the Malay nationality and to uphold its laws and customs. He would endeavor to open and develop, but always be mindful that these are Malay States, and that the Malays are their original inhabitants.¹¹⁴

Where matters of state governance were concerned, the rulers were happy to leave them entirely to the colonial administrators.¹¹⁵ If the first durbar was only politically symbolic for the coming together of the Residents and rulers in the newly erected federation, it grew increasingly significant over the years. It would seem that it was more significant for the rulers than the Residents because only the former registered requests for the durbar to be held more than once a year so that state matters could be discussed more regularly. By the early decades of the twentieth century, the rulers led by the Sultan of Perak sent requests that the durbar be organized more frequently or that they organized a “Durbar Kechil” (literally, small durbar) in addition to the big annual meetings.¹¹⁶ This proposal was circulated among the Residents for their opinion.¹¹⁷ For the most part there was general agreement, but the High Commissioner declined

¹¹⁴ 1957/0250619 SEL: SEC: 5144/1927: Proceedings of the Durbar. This was quoted from the minutes of meeting for the durbar. This point is fascinatingly at odds with the earlier admission of the Sultan of Perak that the Malay states were effectively under the control of the British administration. See the previous long quote and footnote 109.

¹¹⁵ 1957/0282980 SEL: SEC: G. 127/1934: Proceedings of the Durbars held in 1897, 1903 and 1927. The Sultan of Perak expressed concerns regarding the railway construction across the Malay states into Pahang, but he deferred to the government noting that he had no experience in this.

¹¹⁶ 1957/0253331 SEL. SEC. G. 103/1928: Letter from His Highness the Sultan of Perak suggesting that the Durbar should take place twice a year. In a memorandum from the Secretary of the Resident of Perak to the High Commissioner he noted that the Sultan of Perak wanted to have a “really business-like meeting” where he could discuss state matters at the durbar.

¹¹⁷ 1957/0253331 SEL. SEC. G. 103/1928: Letter from His Highness the Sultan of Perak suggesting that the Durbar should take place twice a year. The proposal was circulated among the British Residents and all of them were agreeable on the matter.

this proposal and suggested that it be taken up for discussion during the durbar meeting already scheduled for the year.¹¹⁸

This was the year 1927 during the same time that the federal council was reorganized as problems with the federation were emerging over time. Most incensed with this arrangement were the rulers of the states who found themselves increasingly left out of the management of their states since the federal council determined policies and standardized them across states. The federal council gradually sidelined the rulers and replaced them with appointed members who were not from the ruling class. Over time, the colonial administrators had to reckon with the dissatisfaction of the rulers and devised a way to reorganize the structure of the federation in a way that was palatable to the rulers but at the same time was able to perform the functions of streamlining administrative procedures and benefit from cost savings across the states. By the year 1932, High Commissioner Sir Cecil Clementi addressed the meeting of the federal council with a proposal to decentralize some of the functions of the federal council. He went to great lengths to stress the benefits of federation, stressing that the states have come too far with shared debts and institutions to break apart. While the intent of the federation was never to remove state power at the expense of the rulers but to benefit from an improved state organization, he added:

Indeed I welcome this opportunity of correcting various rumours that are rife, so I understand, to the effect that the Federal Council and even the Federation itself are doomed to eventual extinction under the new order of things. People who talk irresponsibly in this strain need to be reminded that these four States have jointly entered into international agreements and have accepted joint liability for a common public debt. The extinction of the Federation would, therefore, be impossible, even if (which is not the case) it were considered for a single moment to be desirable.... In actual fact, of course, the cement which binds these States together is of very different substance from a mere partnership in debt or in obligation. They possess many things in common. They are joint owners of institutions such as the Malay College at Kuala Kangsar, the Sultan Idris College at Tanjong Malim, the Agricultural College at Serdang, the Forestry Head-quarters at

¹¹⁸ The High Commissioner thought to keep the durbar annually as planned and to discuss holding it twice in a year only at the coming durbar. It was unclear if his resistance was simply due to administrative or procedural concerns or that he had deeper political concerns with it.

Kepong, the Institute for Medical Research, and many others. They also possess joint services, of which the Police Force and the Volunteer Corps are prominent examples. All these institutions and services have long acquired a tradition and a prestige transcending the limitations of individual ownership by any single State. Moreover, in the process of acquiring a joint proprietorship in material things the four States have undoubtedly achieved something else, which is no less real because it is intangible, I mean that affinity of interest and understanding which is evinced so markedly not only at the durbars of Their Highnesses the Rulers, nor only at the meetings of this Council, but in the every-day thought and conversation of the inhabitants of the Malay Peninsula. To regard my policy of decentralization as destructive of the federal ideal is completely to misunderstand it. The policy has indeed become necessary for the very reason that the federal ideal had in many respects been travestied, and its place usurped, by a tendency to amalgamate rather than to coordinate. My policy aims at purging the federal concept from incongruous accretions by a restoration of complete autonomy to each of the four States in all matters other than those in which common control and uniformity are dictated by identity of interest. The word "Federation" has become so much associated in the past history of these States with the very different process of centralization that in my recent address to the Legislative Council of the Colony I substituted for it the word "League." Whichever term you prefer, I desire to make it quite clear that the Federation, or League, of these four States will remain intact under my policy, and that the only contemplated change lies in the direction of an extension of the League to embrace other Malayan administrations desirous of joining it."¹¹⁹

He pursued the aim of extending the federation to the unfederated states in Malaya to include Kelantan, Johor, Kedah, Perlis and Terengganu, and the states on Borneo including Brunei and Sarawak,

I wish copies in English and Malay to be handed to each Ruler in the U.M.S. by his Adviser. Brunei should be included, and a copy should be sent to the Tuan Muda of Sarawak under cover of a personal letter to him from me, which please draft saying that as I explained these proposals to him when he was staying with me in Singapore, he may be interested to see the actual text of what I said to the Rulers. The Advisers in the U.M.S. should endeavour to make quite clear to the Rulers exactly what is now contemplated to be done in the F.M.S. I shall myself be visiting Kelantan and Trengganu

¹¹⁹ 1957/0517245 KELANTAN. 946/1931: Outline of the decentralisation policy in the F.M.S. Forwards copy of a minute by the H.E. the High Commissioner together with copies in English and Malay of the address and memoranda which were read out at the Sri Menanti Durbar on the 18th August 1931 and requests necessary action to confirm with his Excellency's instructions. By this time there were growing problems and apparent unhappiness with the federation. Even key members of the colonial administration could not agree on the best policy forward. For a great resource on the politics of federation and decentralization and rivalry between Frank Swettenham and W. E. Maxwell, see Kim Wah Yeo, *The Politics of Decentralization: Colonial Controversy in Malaya, 1920-1929* (Kuala Lumpur; New York: Oxford University Press, 1982).

in September, and I will then talk to the Rulers of those States about this matter. I will also take an opportunity of speaking to the Regent of Johore when I am at Singapore during the latter part of September. In November I hope to visit Kedah and Perlis, and I will then speak to the Rulers of those two States on these subjects.¹²⁰

Muhammadan questions, native education and employment

If the Malay rulers did not weigh in on matters to do with trade, expenditure, and infrastructure, leaving these matters to the colonial administrators and Chinese representatives, they were centrally involved in matters to do with religion and Malay customs. This was reserved for the final day of the durbar over which several matters were discussed including legislating the zakat.¹²¹ The issue was if the payment of zakat should be made compulsory and legislated. While the initial consensus was that the zakat should not be legislated,¹²² this eventually shifted in favor of a more conservative approach to the zakat. The rulers also discussed matters to do with native elite appointments including the position of the penghulu.

¹²⁰ The High Commissioner required that minutes of his meeting and speech at the durbar be sent to the Unfederated Malay States. It is notable that even as controversies surrounding the federation were brewing with the rulers expressing their unhappiness with how it had turned out, Cecil Clementi was resolute to push through with the federation and to include the remaining five states and even the states on Borneo into the federation. It is not clear why Sabah was not mentioned in this note.

¹²¹ Zakat refers to charity payments, and they are of two kinds. One is the *zakat fitr* that is due at the end of the month of Ramadan. This is charity for the indigent and is compulsory on every Muslim regardless of income bracket if they were not indigent themselves. The measure for this is four handfuls of grain. In Southeast Asia the grain of measure is rice. Because the collection of grains grew unwieldy, the form of this charity was commuted to its cash value. So for example, the 2019 rate of *zakat fitr* in Malaysia was MYR\$3.30, which was equivalent to about USD\$1. Two is *zakat harta*, which is a tax due to assets and property not in circulation for over a year. A tax is due on this property if it exceeded the *nisab* that is the minimum amount of non-taxable wealth. For an illustration, in the year 2019 this amount was pegged onto the value of 87.48 grams of gold or 612.36 grams of silver.

¹²² 1957/0282980 SEL:SEC:G. 127/1934: Proceedings of the Durbars held in 1897, 1903 and 1927. The proceedings revealed different rulers held different positions. The Raja Muda of Selangor and the Sultan of Perak felt that the payment of zakat was a matter of conscience and should not be legislated. The Yam Tuan of Negeri Sembilan concurred but also noted that there were punishments for missing mosque attendance, and the Resident of Pahang agreed with him. Following this conversation, the question of legislating the zakat was put to a vote, and it was determined that it should be made compulsory. It is interesting that the federal council seemed to align rulers in a general trend of increased conservatism. More interesting is that this one-upmanship of religious piety that translates to increased conservatism is still a motif in the politics of religion in Malaysia. See Joseph Chinyong Liow, *Piety and Politics: Islamism in Contemporary Malaysia* (Oxford; New York: Oxford University Press, 2009).

They lobbied to raise the status of the penghulus since they were doing indispensable work for the state. They also suggested that he should be aided with the help of kranis or secretaries and that these appointments should only be filled up by the anak negri or native residents.¹²³ In addition to restricting employment to the native subjects, the rulers were also concerned with keeping the penghulu position to members of the aristocratic class.¹²⁴ They discussed Muhammadan laws referred to as “Hukum Shara”. These discussions included the kuasa of the kathis, the registration of marriages and divorces, and inheritance.¹²⁵ On the regulation of Muhammadan laws, the Residents were quick to propose to standardize and codify them uniformly across states. This appeared to cut the deliberations short as the Sultans reiterated that customs were different from one state to another and such variations should be taken into consideration. They insisted that matters to do with Muhammadan laws should not be discussed at the federal council and instead taken up at the state councils.¹²⁶

In the durbar of 1929, the rulers discussed “Sekolah Melayu dan Sekolah Koran” or

¹²³ In chapter two I discussed the distinction between the anak negri and the anak dagang that organized the demographic compositions on premodern Malay states. It resurfaces here yet again and is interesting that such a distinction was still salient well into the twentieth century.

¹²⁴ This note mentioned that candidates for the penghulu position should be selected from the sons of people of good position from the state where the district is situated and that this was always the rule in Perak. Only when this was not possible should the position of the penghulu be given to a foreign Malay. This is an interesting matter to note especially when compared with the penghulus in Selangor where more of them were the anak dagang since Selangor had a big foreign Malay community.

¹²⁵ It is very significant that the matter of a registry for Muslim marriages and divorces came much later in the Malay states. In contrast, the Arab communities in the Straits Settlement of Singapore petitioned for this much earlier in 1875. See Nurfadzilah Yahaya, “Craving Bureaucracy: Marriage, Islamic Law and Arab Petitioners in the Straits Settlements,” *The Muslim World* 105, no.4 (2015): 496–515. Also see: Moshe Yegar, *Islam and Islamic Institutions in British Malaya: Policies and Implementation* (Jerusalem: The Magnes Press, 1979).

¹²⁶ The Sultan of Perak was quick to note that it was very important to recognize local customs since they varied across states, and as such was difficult to standardize them in a federal enactment. The Resident General suggested that an *orang alim* (literally, pious man) be appointed to decide which customs to include in the enactment. In response, the Sultan of Perak stressed that questions affecting the Muhammadan religion should not be brought up for consideration in the federal council and should be left to the local state councils.

Malay schools and Qur'anic schools.¹²⁷ At this time, there was greater interest among the rulers to regulate instructions in schools that provided religious learning. For them, religious schools not only provided religious knowledge but were also important venues for cultivating righteous character and to mold good citizens.¹²⁸ They were also concerned with an increasing number of those who went overseas for religious training, including to Egypt and Saudi. They worried that their religious training was incompatible with the customs of the Malay states.¹²⁹ It was during the durbar of 1929 that it was proposed among the rulers that the ulama or religious experts come together to form a council just like the council of rulers. This was called the Jummaah Ulama (literally, council of religious men), and they would consist of representatives of religious people in each state elected by the ruler. They would meet several times in a year to discuss religious matters of concern in each state and across the states and would come to a consensus or ijma on

¹²⁷ Qur'anic schools were essentially schools that provided religious education. They were referred to as Qur'an schools because they provided instructions to recite the Qur'an but was certainly not only limited to that.

¹²⁸ 1957/0253331 SEL. SEC. G. 696/1929: Durbar of Rulers. The function of religion to cultivate good civic behavior is interesting in this case and was well unprecedented. If before religion bound the subject to his ruler, by the early twentieth century the function of religion had changed. The reasons for this were several. First, there was an increase in mass religious instruction in schools. Second, the rationalization of religious laws bound subjects to learn the new rules to follow them. Together, they reflected the changing nature and function of religion in the Malay states. Also refer to the influence of modernist Muslim movements discussed earlier in this chapter. Refer to footnote 107.

¹²⁹ This was an exceptionally revealing note. By this time in the early twentieth century, the rulers had cautioned against sending students to Egypt or to Saudi for fear that the students would be influenced by events in the Middle East. They noted, however, that the reasons why students left for the Middle East was that Arab schools or schools of religious learning in Singapore, Penang, and in other places did not provide sufficient training for them and so they needed to seek out training in other places. They expressed caution for religious teachings from the Middle East that may enjoin students not to follow their governments or to do things that are not right. Because of this they insisted that local state governments should conduct training for religious elites in their own states. Also in 1957/0250619 SEL: SEC: 5144/1927: Proceedings of the Durbar, the Sultan of Selangor raised the advantages of having a central school system in the state. The Sultan objected to sending students to Egypt because it was expensive and had undesirable results on the boys. The (High Commissioner?) agreed with this and recalled the time when he objected the request for the Sultan of Trengganu's son to visit Egypt. He suggested bringing in teachers from Arabia to the Malay states and to develop a secondary course of religious learning. This point is fascinating since it speaks to anxieties surrounding political and religious developments in the Middle East and the need to protect the Malay states from them.

the matter.¹³⁰ This consensus would be related to the ruler on each state so as to achieve standardization on religious questions and other issues. This proposal was conceived in reaction to growing disagreements among religious people in the Malay states. Most notably, new religious elites were coming into the Malay states and suggesting that some of the religious practices among the older elites were wrong, and this led to conflict among religious elites. This proposal, along with other matters related to religion, reflected the growing significance of religion more generally in the Malay states at the turn of century.

¹³⁰ In Sunni Islam, *ijma' ulama'* or consensus of religious persons, is one of the methods of determining matters to do with Islamic jurisprudence. This method followed reference to the Qur'an and the Sunnah that is the teachings and actions of the Prophet.

CHAPTER FOUR

DELAYED STATE ADMINISTRATION IN KELANTAN AND JOHOR

Introduction

Like the preceding chapter, this one asks: How did indirect rule transform the political structure of the Malay states and how did this transformation vary across them? In this chapter, I consider the states of Kelantan and Johor, which were administered under the Advisory system of indirect rule. Unlike the four western Malay states that were administered under the Residential system of indirect rule during the late nineteenth century, formal British administration in the remaining five Malay states on the peninsula only started in the early twentieth century. This accounted for four decades of variation in formal British administration between the Federated Malay States and the Unfederated Malay States¹—the collective title given to the remaining five states on the peninsula that are Perlis, Kedah, Johor, Kelantan, and Terengganu.

As the collective title of these states suggests, there were notable differences in their administration compared to the earlier Malay states. This variation was the result of several factors that included the motivation for British expansion and intervention across the peninsula, growing resistance against empire both at home and abroad during the early twentieth century (and especially post World War I), and present challenges with the Federated Malay States. Unlike the western states where British intervention was precipitated by imminent state breakdown that threatened British interests in the region, formal intervention in each of the remaining states had a different story to tell, and none more different than Kelantan and Johor. The first section of this chapter tells this story. It begins by examining the circumstances of

¹ The last state to come under British administration was Johor in 1914. Between 1874 and 1914 were four decades of variation.

British expansion into the remaining states on the peninsula during the early twentieth century and discusses conditions of formal intervention into Kelantan and Johor. I show that unlike the western states, Kelantan and Johor were not facing imminent state breakdown. They were not internally vulnerable as were Perak and Selangor, but for different reasons had become consequential in maintaining British supremacy in the region. The acquisition of Kelantan and Johor was the result of active British expansionist policy, which was building momentum from the end of the nineteenth into the twentieth century, competing against other imperial forces in the region and thus motivating a different approach to British intervention.

I argue that the Advisory system, while different from the Residential system, was a difference of intensity but not of framework. As in the Residential states, the Advisory system of indirect rule also divided native elites into two groups to perform distinct state functions: extractive and regulative. This is so as to systematize state governance and prevent functional overlaps. But more importantly, this was in line with the policy of indirect rule to protect the traditional authority of native rulers in matters of religion and customs. Similar to the Residential states, I show that the division of state labor led to the professionalization of native elites within an emerging colonial state bureaucracy. But even as the same framework of state administration was instituted in the Advisory states as in the Residential states, they sustained different outcomes.

The lower intensity of the Advisory system of indirect rule in Kelantan and Johor meant that colonial intervention had a less deterministic effect on them as native rulers exercised more autonomy in matters of state administration in the colonial state. If the professionalization of native elites in the Resident states led to a differentiated native elite structure—one where the domain of state regulation had lower barriers to entry thereby effecting a dynamic space for

social change, this process was not as straightforward in either Kelantan or Johor. In the second section of this chapter, I compare the division of the native elites in Kelantan and Johor into the extractive and regulative domains. I show how religious elites grew stronger to eventually capture the state in Kelantan while a strong ruling class subdued religious elites in Johor.

British expansion during the early twentieth century

During the late nineteenth century as the western states came under British administration, the other five states on the Malay Peninsula—Johor, Perlis, Kedah, Kelantan, and Terengganu—remained outside of British control. Johor was an independent state but signed several treaties of friendship with the British throughout the century, while Perlis, Kedah, Kelantan, and Terengganu formed the southern section of the Siamese Malay States. The Siamese Malay States referred to a group of states on the Malay Peninsula that fell under Siamese suzerainty. This meant that Siam controlled the Malay states' foreign policy while leaving internal affairs to the autonomy of the Malay rulers.

British expansionist policy during the late nineteenth and into the twentieth centuries in the Malay states began with the centralization of the western Malay states under a unified administration in 1895. Following the federation, control of the western states shifted to the governor based in the Crown colony of Singapore. During the first decade of federation, the Malay states thrived under federated rule. Among other things, they benefited from standardized legal and administrative systems and a common federal purse so as to alleviate debt and share revenue among them. It was also during this time that the British entertained designs of formally expanding into the remaining states on the peninsula. But British expansionist policy was not only motivated by internal gains, but more urgently by external pressures from competing imperial forces in the region, most notably the French.

Pushing into the northern Malay states

Hugh Clifford, then Resident of Pahang, made an expedition into the states of Kelantan and Terengganu in 1895 following growing interest in venturing into the frontier of the Malay states. In an address to the Royal Geographical Society in 1896, Clifford expressed,

Africa has been explored and re-explored during the last decade to such an extent that it no longer merits the name of the Dark Continent; Central Asia, too, has been forced of late years to yield up many of its secrets to energetic explorers; and all over the world the hidden things of darkness are daily being brought to light by adventurous spirits, not a few of whom, we may be proud to remember, are members of the great British race. It is comparatively difficult, therefore, to find at the present time any places on this over-handled Earth are unknown alike by name and reputation to most students of geography, and which have never previously been trodden by the feet of European explorers.

It chanced that my duty took me into such a place in the spring and early summer of last year, and I propose this evening to give some account of the country we traversed and of our journey through it. If I am right in thinking this little corner of the earth so completely unknown, few here present will be familiar with even the names of Trengganu and Kelantan, and if I therefore begin by stating somewhat elementary facts as to the exact spot occupied on the earth's surface by the States which bear these names, I trust that I shall not be considered to be performing a work of supererogation.²

The northern Malay states were the uncharted frontier, possibly only rivaling the Borneo states to the east and beyond. Pushing east was on the agenda as much as it was to fulfill the imperialist imperative to explore uncharted territory, uncovering new markets for an expanding colonial political economy. For one, the British administration on the Malay states discussed the advantage of extending the railway system to the northern states primarily to encourage trade but also for ease of travel across the peninsula.³ In addition to economic reasons, there were also

² For a wonderfully detailed and well-narrated account of his venture into Kelantan and Trengganu, refer to Hugh Clifford, "A Journey through the Malay States of Trengganu and Kelantan," *The Geographical Journal* 9, no. 1 (1897): 1–37.

³ The main protagonist in this story of expansion into Kelantan was Robert W. Duff. He was a colonial administrator who had served in Pahang and Selangor. He accompanied Hugh Clifford, then governor of the Straits Settlements, on an expedition to Kelantan and Terengganu in 1895. It was during this expedition that he learned of mineral wealth on the northern states and conceived an idea to expand into these states for commercial venture. He set up the Duff Development Company on personal terms and encouraged British expansion into the northern states. For more on Duff, see Ernest Levos, "Robert W.

important political reasons to extend the frontier of formal British administration into the northern Malay states. The fact was that the western Malay states were connected to the eastern states through long family histories, where dismissed and wandering princes had established themselves on either ends of the peninsula.⁴ Because they were connected, the internal politics of succession on the western state of Pahang were intertwined with the ruling class in Terengganu, who were belligerent against the British.⁵ Hugh Clifford, who held various administrative positions in Pahang and led the initial expedition, favored British expansion into these states so as to manage quiescent yet potentially rebellious influences that could upset stability on the western states. Also during this time in the late nineteenth century, the British were wary of French imperial interests growing and expanding south of Indo-China. The French were moving into the Siamese states and so alarmed the British, who had counted on Siam to act as a buffer between its colonies in Burma, India, and Malaya, and those of French Indo-China that is today's Cambodia, Vietnam, and Laos. As a result, British interests in the northern Malay states under Siamese rule grew stronger.⁶

Kelantan first received a British Advisor after the Siamese government and British administration came to a preliminary but informal agreement in 1903 that the British would aid in matters to do with Siamese administration of the northern Malay states towards the eventuality

Duff: A British Seigneur in Kelantan, 1892-1932," *Journal of the Malaysian Branch of the Royal Asiatic Society* 70, no. 1 (272) (1997): 1–19.

⁴ Barbara Watson Andaya, "An Examination of Sources Concerning the Reign of Sultan Mansur Syah of Terengganu (1741-1793), with Special Reference to the Tuhfat Al-Nafis," *Journal of the Malaysian Branch of the Royal Asiatic Society* 49, no. 2 (230) (1976): 80–106.

⁵ During the Pahang War (1857-1863), Sultan Baginda Omar of Terengganu received support from Siam and supported Wan Ahmad, who challenged the successor to the throne, Tun Mutahir, who received support from the British and the Johor government. This placed the Terengganu ruling family at odds with British administration and her allies.

⁶ For a brief history on French and British rivalry over Siam, see Minton F. Goldman, "Franco-British Rivalry over Siam, 1896-1904," *Journal of Southeast Asian Studies* 3, no. 2 (1972): 210–28.

of ceding these territories to British rule. W.A. Graham was the first British Resident employed by the Siamese government to aid in matters of state administration in Kelantan until 1909 when the Anglo-Siamese Treaty or the Bangkok Treaty was formally signed thereby relinquishing Siamese suzerainty over the northern Malay states.

Pushing into the southern Johor state

Where the southern state of Johor was concerned, the British administration was equally motivated by political reasons to incorporate Johor under its control. Apprehensions surrounding British rivalry with the French grew during the last two decades of the nineteenth century. Wary of French presence in the region, the British administration had heard that the French had expressed interest in financing commercial ventures in Johor. This immediately triggered the signing of the first treaty of friendship between the British and the Johor Sultanate in 1885 so that the former could exert influence over the latter's dealings and thwart French ambitions.⁷ This apprehension did not abate over the years, even after the signing of the treaty. Rather it grew insistent and was further compounded by the British's growing wariness of Sultan Abu Bakar himself.

Sultan Abu Bakar was an extremely independent man. With the aid of his assistant, Abdul Rahman, who was educated in England and possessed adroit political skills, he was always one step ahead of the governor of the Straits Settlements, Frederick Weld, to whom he was expected to defer to after the treaty of friendship. To Weld's chagrin, this did not happen in large part because Abu Bakar held important relationships with people in high offices in the

⁷ Earlier I noted that the extent of this "control" was unknown since the British were not too concerned that the Johor Sultanate maintain a close friendship with the Ottomans. It becomes clearer now that the concerns they harbored were mainly directed at the French so as to impede French influence in the region.

Colonial Office in London, which gave him the ability to resist Weld's authority at every turn.⁸ Weld himself was made to shoulder the blame for failing to keep Johor in line at the end of his tenure. Weld's successor, however, Cecil Clementi Smith, the thirteenth governor of the Straits Settlements, had a different temperament, and this influenced his relationship with Abu Bakar and the Johor ruling elites. Smith was savvy and understood that dealing with the Sultan of Johor needed a method different than dealing with other rulers of the Malay states. The two cultivated a good and friendly relationship, and because of this, Smith won some degree of trust from Abu Bakar. Smith never advocated applying pressure and insisted that he could influence the Sultan. Therefore, even as the other Malay states effectively lost their autonomy during the late nineteenth century, Johor continued to enjoy exceptional freedom, and any curtailment to the Sultan's authority as indicated by the treaty of 1885 remained only on paper.⁹

The turning point occurred during the year of the federation in 1895, when Sultan Abu Bakar died. The colonial administration saw this as an excellent opportunity to exert more control over Johor and to finally bring Johor in line with the other Malay states. Prior to his death, Sultan Abu Bakar drew up a constitution for the state. This was the first document of its kind on any of the Malay states and prescribed in clear terms rules to ensure that the state remained independent of foreign control.¹⁰ It included rules for the succession of the ruler, laws

⁸ Eunice Thio, "British Policy Towards Johor: From Advice to Control," *Journal of the Malaysian Branch of the Royal Asiatic Society* 40, no. 1 (211) (1967): 1–41. It is an obvious point but an important one to make that the British colonial administration was in no way a single-headed entity. Rather, they were driven by multiple interests and run by a gamut of personalities, and often these interests clashed with one another. Sultan Abu Bakar and his assistant, Abdul Rahman, understood this very well, and with the aid of important connections in high places, he could navigate this terrain so as to stave off British control every single time and preserve his autonomy of rule.

⁹ Thio, "British Policy Towards Johor."

¹⁰ Sultan Abu Bakar was pressured by the British administration to establish a state constitution. The British persistently threatened to install a Resident on the state. The state constitution was called the *Undang-undang Tubuh Negeri Johor* (literally, Laws of the State of Johor) and was inspired by the civil code of the Ottoman Empire—that is, the *Majallah*, also established during the late nineteenth into the

and responsibilities for the state assembly and the executive council, the elevated position of Islam as state religion, the code of laws as the basis for the courts of justice, and guidelines for international dealings. Succeeding Abu Bakar was his son and heir-apparent, Ibrahim, who was twenty-two-years-old at the time. Like his father, Ibrahim was an Anglophile who received the best in English education. Prior to his death, Abu Bakar made sure to introduce Ibrahim to his important friends in London, and with these connections, Ibrahim pursued the same policies with Governor Smith. But since he was not well trained in matters of state administration, his father's adviser, Abdul Rahman, took on most state affairs, much to the British administration's annoyance. For them, Abdul Rahman represented the last stand of the older Johor government, which resisted joining the ranks of British administration.

This turn of events involved yet another financial venture, namely the construction of the railway system running through Johor and across the peninsula. Resisting British growing influence on the state, Abdul Rahman counseled Ibrahim to turn down the administration's offer to finance the commercial venture and instead to seek out private investors.¹¹ This frustrated the British who interpreted this move as a belligerent assertion of Ibrahim's position against that of the colonial government in order to distance Johor from economic developments in the Crown colonies, especially Singapore. In the meantime, Ibrahim was spending most of his time in London and other places abroad, which gave the British administration cause to continue pressuring him. The pressure soon got the better of Ibrahim, and during the first decade of the twentieth century as stirrings of a global crisis filled the air, Johor finally ceded control to the British in May 1914, two months prior to the outbreak of the Great War.

early twentieth centuries. It was the first attempt to codify some religious laws into a legal civil code.

¹¹ Thio, "British Policy Towards Johor."

Variations in state dynamics in Kelantan and Johor

Despite the divergent circumstances for the acquisition of Kelantan and Johor, both states were administered indirectly. More importantly, unlike the centralized western states, colonial administration on both Kelantan and Johor remained decentralized as an Advisory system was installed there instead of a Residential system. Despite the early success of the Federated Malay States, enthusiasm for the federation soon tapered among the Malay rulers as they grew increasingly impatient with the obvious loss of autonomy in their states. As a result, federation in the western Malay states underwent review, and towards the end of the first decade of the twentieth century, a policy of decentralization was well underway. A significant move towards decentralization was motivated by the British administration's interest to include the remaining Malay states under its control, which would only become more palatable if they could convince the Malay ruler that his authority would not be diminished as a result. This influenced the approach of the British administration on the remaining Malay states where an Advisor instead of a Resident was installed to indicate that his role was less intrusive and only meant to advise the ruler on state affairs.

Because of both the unevenness and lag in colonial intervention in Kelantan and Johor, the histories of modern state formation were dramatically different from either Perak or Selangor. To be sure, similar processes of state formation were introduced on either state that divided the native elites into two distinct and separate state domains—i.e., the extractive and the regulative. However, both of these processes resulted in variable effects on both Kelantan and Johor, from either Selangor or Perak and from each other. This was because even as the framework of colonial state administration was the same across the Malay states, the newer acquisitions differed from the western states, where colonial administration was less intense.

The development of a modern state administration on Kelantan and Johor retained and relied on the contours of the native states. The variation between Kelantan and Johor lies in the strength of the aristocratic elites in either state. In Johor, conflicts among aristocratic elites were settled when the rule over Johor was delegated to the Temenggong, who had consolidated state power from as early as the eighteenth century. Since then, it was led by a series of strong and independent rulers, most notably Sultan Abu Bakar. In contrast, the ruling class on Kelantan was fragmented. Much of this was due to state geography that was unfavorable for centralizing power. As a result, Kelantan was internally factionalized and endured multiple civil wars over the centuries. It only attained some form of political unity in the nineteenth century beginning from Sultan Muhammad I, who expanded the state capital and co-opted warring chiefs into his regime as aristocratic appointees.¹² One of the measures he took to expand and consolidate rule was to create a rudimentary religious administration operating under a central religious court. This had the effect of centralizing religious functions and bringing religious elites under his charge. He also enforced religious law in the capital and attained a reputation for orthodoxy. This is to say that unlike on Johor where a stable and sufficient aristocratic class subdued the religious elites, on Kelantan, a fragmented aristocratic class that needed reinforcements co-opted and further enhanced the power of religious elites. Ultimately, the religious elites on Kelantan captured the state.

¹² Sultan Muhammad I ruled from 1800 to 1838. For a comprehensive history of Kelantan through the precolonial and colonial periods refer to C. Kessler, *Islam and Politics in a Malay State: Kelantan 1838-1969* (Ithaca, NY: Cornell University Press, 1978).

Dividing native elites into extractive and regulative state functions

Colonial state administration on Kelantan

Formal colonial administration was gradually introduced into Kelantan from the start of the twentieth century. In 1903 as the British and Siamese governments negotiated the boundaries of their territories between Siam and Malaya, the British administration sent an administrative representative to aid in state building efforts, especially when it came to modernizing the state administration. Six years later, in 1909, when the Anglo-Siamese Treaty (also known as the Bangkok Treaty) was signed, the British officially took over all matters of state administration from the Siamese government. They ruled Kelantan indirectly, which meant that like all other Malay states, state affairs were divided between the colonial administrators and the native rulers. Also like all other Malay states, all state affairs except religion and customs were under the purview of the colonial government. This is to say all state extractive activities including land and labor, trade, and taxes were managed by the colonial government while all state regulative activities, including religion and customs, were managed by the native ruler. Similarly, like on other Malay states, the native elites on Kelantan were divided accordingly into either form of state administration. Kelantan was rather distinct from other Malay states in that religious elites played a central role in matters of state administration from very early on. One of the central reasons for this was the *Majlis Ugama dan Adat Istiadat Islam* or the Council of Religion and Customs established in Kelantan in 1909, which had a history tied to the transfer of government from the Siamese to the British.¹³

¹³ A note about archival material on Kelantan: out of all the state archives, the Kelantan state archive was relatively less accessible as most of the materials are in manual indexes and not digitized in the online repository. Most of these manual indexes were also located in the central archive in Kuala Lumpur. These included files from the *Majlis Ugama Islam Kelantan* 1916-1921; *Mahkamah Pasir Puteh*; Kelantan 1910-1913, 1915-1918; *District Office Pasir Puteh*, Kelantan 1917, 1919-1922. This list is not exhaustive. As for the few files that were digitized and available in the online repository, it is rather interesting that they

Majlis Ugama Islam in Kelantan

Unlike other Malay states, the modern history of Kelantan begins with the establishment of the *Majlis Ugama Islam dan Adat Istiadat Melayu* or the Council of Religion and Malay Customs. Most notably, this was a novel development with no precedent on any other Malay state. Unlike the western Malay states where the native ruler was placed in charge of religion and customs and sat on the state council along with members of the colonial government, on Kelantan the native ruler was only nominally in charge of religion and customs. It became clear and immediately urgent among the ruling elites and esteemed religious elites on the state that in order to circumvent the ruler's monopoly on religion and customs, they had to institutionalize their authority through a separate council. This led to the establishment of the first Council of Religion and Malay Customs made up of ruling elites from the aristocratic class but also religious elites; foremost among them was Muhammad Yusuf bin Ahmad, popularly known as To' Kenali,¹⁴ who was revered by Kelantanese (and still is today) as a pioneering statesman and religious scholar. Unlike other Malay states, the administration of religion and customs in Kelantan was equally shared between the ruler and the council. But in practice, the council more than the ruler controlled most affairs to do with religion and customs.

The *Majlis* was a busy office. Petitions came to the administration from members of the council, other religious elites (such as village imams or village kathis), and also from individuals. These cases pertained to a variety of matters including religious conversions, the sale and publication of religious books, unlicensed religious teachings, etc.¹⁵ They also reported on more

mostly refer to disputes on religious matters. The files that are digitized are much later and around a decade before the nation's independence, so they are from the late 1940s to late 1950s.

¹⁴ To' is a Kelantanese honorific for an elder man. Kenali is a village in Kota Bahru, Kelantan, and so he is more popularly known by his place of origin as was customary for other Muslim notables such as Hamzah Fansuri and Syamsuddin As-Sumatrani who were from Patani and Sumatra respectively.

¹⁵ These files are all manually recorded under *Majlis Ugama Islam Kelantan 1916-1921*. As such, their

pedestrian matters, such as the revenue accrued from the kathi courts and annual reports of the Majlis. Where cases of religious conversions were concerned, they mostly relayed an individual's request to convert into Islam,¹⁶ but also recorded cases of out-conversion, usually when an individual who had requested to convert to Islam later changed his mind.¹⁷ The Majlis compiled these cases of religious conversions and reported them annually.¹⁸ The Majlis also policed matters to do with religious teachings and streamlined rules and regulations, and in the process, established religious orthodoxy.¹⁹ In a government notice of 1917, specific guidelines were provided for religious practice. Most interestingly, this memo rebuked improper *dzikr* practices, including loud chanting, stamping of the feet, or going into a trance. They categorized these practices under *bid'ah dalalah*, which were referred to as heretical innovations.²⁰ This

indexes do not follow the usual conventions of the files that have been migrated to the online index. The references for these files follow this sequence: index number, file number, file name.

¹⁶ 169, 183/16: Berkenaan dengan seorang hendak namanya... hendak masuk Ugama Islam minta Mahkamah Syariah registernya. 47, 49/16: Perkara China Buta masuk Islam. 210, 213/17: Berkenaan dengan minta hendak masuk Ugama Islam. 319, 327/17: Berkenaan dengan Ibrahim b. Mohd Saman masuk ugama Islam. 25, 27/19: Berkenaan dengan dia suka masuk Islam serta lelaki namanya....masuk Islam bersamanya.]

¹⁷ 37, 60/18: Berkenaan dengan seorang China....nama Mohd....Imam Tanjung Paut sekarang telah masuk ugama China balik.

¹⁸ 13, 17/18: Berkenaan dengan orang masuk Islam dalam tahun 1918. 67, 68/19: Berkenaan dengan orang yang masuk ugama Islam bagi tahun 1919.

¹⁹ 77, 82/17: Berkenaan dengan petua2 dan pembaca segala ilmu yang menyalah Shariah Mohamadiah.

²⁰ *Dzikh* is the repetition of short phrases or prayers and is a part of Muslim practice to train the heart in the remembrance of God. This is a traditional practice that takes on a variety of cultural forms across Muslim societies. It can be done alone or together. It can be done in seclusion or it can be performed with instruments. An example of a performative *dzikh* is the whirling dervishes. This notice from the state government banned all forms of *dzikh* that was performative, including using a loud voice or stomping the feet. They categorized these practices as *bid'ah*, which meant that they were innovatory practices, which they claimed the Prophet did not practice. Outlawing all practices not observed by the Prophet and branding them as innovatory characterized Muslims who referred to themselves as *salafis*. Salafis were purists in their religious orientation and they believed that Muslims should only adhere to religious practices by the Prophet and nothing more. This ideology is believed to have come out of Saudi, specifically the Wahabis, who are known to be intolerant and active in policing practices they deem can encourage idolatry. While this category can be problematic, as a general guideline in the literature they are referred to as "modernist" Muslims in contrast to "traditionalist" Muslims who are the Sufis of various persuasions whose observance of religious practices was as varied as the cultural contexts from which they came from. This extended note helps to better understand the religious orientation of the Majlis during this time, and their role in policing religious heterodoxy.

memo cautioned that anyone found in contravention of these regulations would be subject to a penalty of a fine up to \$200 or six months in jail. Other cases involved itinerant religious teachers who allegedly contravened Muhammadan laws or went against the syariah court.²¹ In one memo,²² the head of the majlis wrote the British Advisor. R. J. Farrer regarding a Chinese man, Khoo Teong Lee, who was allegedly selling Christian literature that could be mistaken for books on Islam. To this the British Advisor wrote: “I have to instruct you not to enter Malay Kampongs, away from Kota Bharu, in order to sell Gospels.” They also reported on cases of unlicensed religious publications²³ and provided rehabilitative religious counsel.²⁴ In addition to policing religious heterodoxy, the Majlis also recorded revenue from the kathi courts that administered cases of Muslim marriages and divorces.²⁵

Other matters of state administration in Kelantan

While state regulative activities were conspicuous on Kelantan due largely to the Majlis, state extractive activities—most of which were left to the colonial government—were also underway. As with other Malay states, state extractive activities were administered from the district office. The district office employed the *penggawa*, who was the equivalent of the *penghulu* on the other Malay states. *Penggawas* were native elites who assisted the colonial administrators in matters of state administration including land and labor, trade, taxes, and other municipal matters. This included census taking, administering vaccines and disease prevention

²¹ 77, 82/17: Berkenaan dengan petua2 dan pembaca segala ilmu yang menyalah Shariah Mohamadiah. 187, 198/17: Perkara seorang bernama Abu Bakar Samah mengajar ilmu dan iktihad yang menyalah syariah mahkamah.

²² 95, 102/16: Berkenaan dengan seorang China yang menjual kitab yang bukan rupa kitab Ugama Islam....

²³ 95, 102/16: Berkenaan dengan seorang China yang menjual kitab yang bukan rupa kitab Ugama Islam dan...

²⁴ 163, 175/19: Berkenaan dengan nasihat dan ajaran kepada perempuan-perempuan jahat.

²⁵ 18, 20/19: Berkenaan dengan senarai hasil2 Mahkamah Qadi Pasir Putih bagi tahun 1918. 205, 262/18: Report hasil mahkamah Qadi Ulu Kelantan bagi tahun 1918.

measures, the alienation of state land, etc.²⁶ While activities in the district office and the Majlis were distinct from one another, there were occasional overlaps between the two. This was often the case when a religious elite lodged a complaint to the district office regarding a directive from the Majlis. For example, a kathi from Pasir Puteh reported to the district office that he was instructed by the Majlis to counsel a lady from leading an immoral life.²⁷ It was unknown if this case was resolved, but it showed that there were some disagreements among native elites, especially regarding the authority of the Majlis in regulating all religious activity on the state.

Correspondences and memos from the British Advisor's office during the first decade of colonial administration revealed that the process of streamlining state administration was agonizingly slow. Where the central court was concerned, the administration scrambled to appoint a senior magistrate. The British Advisor requested the High Commissioner to deploy several officers on secondment from the Federated Malay States to Kelantan. This matter dragged on for almost a year with less than the requested number of officers deployed to the state, ending up in a deficit of personnel required for effective state administration. Where the land office was concerned, disputes regarding rights over land and how state land should be determined and disbursed occupied much of the state administration's time. Unlike other Malay states, native elites in Kelantan weighed in more centrally on disputes with the land office as they argued about the rightful method to determine land ownership. Comparing both the state extractive and state regulative activities during the early years of the colonial administration, it would appear that the domain of state regulation under the organization of the Majlis was much more streamlined and rationalized than the domain of state extraction. This was peculiar to the

²⁶ 168, 216/20: Census 1921 Bachok. 196, 250/20: Instructions to Penggawas and other regarding Influenza.

²⁷ 2, 106/17: Reports that he has been instructed by the "Majlis Ugama" to call a woman named Siti Minah binti Bulat to the Eccle. Court & forbid her to lead an immoral life.

state of Kelantan not because state extraction was lacking in any obvious way, but because the regulation of religions and customs in it was conspicuously more efficient than on any other Malay state.

Colonial state administration on Johor

Formal colonial administration on Johor finally came during the early decades of the twentieth century. Specifically, Johor was brought under British control after the signing of the treaty on May 12, 1914.²⁸ This treaty was modeled on the early administration of the western states where all matters of state governance came under the colonial administration apart from religion and customs, which remained under the ruler's purview.

Organizing the penghulus

Bureaucratic state administration kicked in soon after the signing of the treaty. As with the western states, native chiefs or the penghulus were corralled to assist in state administration. One of the earlier documents in the Johor State Secretariat Office discussed the position of the penghulus. The British Advisor requested information regarding the salary scheme as well as a printed list of penghulus on Perak and Negeri Sembilan.²⁹ Presumably, this request was so that he could implement a similar measure for Johor. But they found that the situation was not as simple as transplanting an existing form of administration from Perak into Johor. For one, unlike

²⁸ For more information, refer to "Future of Johor: Important New Agreement Signed - Sultan gets Advisor with Enlarged Powers,"

<http://eresources.nlb.gov.sg/newspapers/Digitised/Article/straitstimes19140516-1.2.61>

²⁹ 1973/0022657: GEN. ADVISER NO. 421/1916: Scheme for Penghulus in Johor. It is most likely the case that these were the two states chosen because Perak was the earliest state that came under colonial administration and so set the precedent for the position of the penghulus, and Negeri Sembilan was a contiguous state to Johor and may share demographic affinities that would make the two states comparable. Interestingly coming out of this report was that Negeri Sembilan did not have a salary scheme for the penghulus prior to 1914 and that a scheme was only put in place from January 1, 1914. This shows that there were important variations when it came to state administration even among the federated states.

in other states, in Johor the position of native chiefs also included a distinct category of elites referred to as the orang kaya (literally rich man). Both the penghulu and the orang kaya were styled as native chiefs who assisted in matters of state administration.³⁰

The Advisor found himself having to clarify how the penghulu was traditionally appointed on the state.³¹ This discussion revealed that the Advisor had consulted with several local headmen regarding the arrangement and that they had provided him “mutually contradictory answers” about the system of appointment for the penghulu. Some revealed that the position of the penghulu was a gift from the Sultan; others suggested that while it was gift from the Sultan, it must be acceptable to the native subjects or the rakyat. Still others suggested that the office was hereditary and that his successor must be chosen from his heirs or the waris. And yet another suggested that the penghulu was appointed by the ruler but was subject to a three-year probationary period. The truth of the matter was not determined in this memo, but it is conceivable that it was a combination of all of the above.

Despite these variations, the position of the ruler was pivotal, and it was clear that penghulus were members of the aristocratic class. While this was no different from penghulus on Perak and Selangor, it seemed that the power of the ruler to actively determine these positions was more conspicuous in Johor than on any other state. In none of these specifications was it suggested that one could apply to these positions, although this did not prevent attempts to do so.

³⁰ It is unclear if these were separate positions or that they overlapped with one another. The way that these positions were addressed separately in the memos suggest that they were separate positions, but it seemed that they might also overlap in some cases. In 1973/0022129 GEN. ADVISER NO.730/1915: H.H. the Sultan’s suggestion that the title “Orang kaya” be conferred upon enterprising & deserving Penghulus.

³¹ 1973/0022740 GEN. ADVISER 511/1916: Asks for information as to the method of appointment of Orang Kaya and Penghulus. The interesting reason for this inquiry was that they had to determine who would rightly receive the “5% commission on transfer,” which was a payment due to the penghulus. They had to determine who were the right recipients of this payment.

In a memo, an applicant wrote to the High Commissioner of Johor requesting the position of the penghulu, and later the assistant penghulu or any other position within the administration that was available.³² The applicant received a reply that there were no vacancies for any position. This was unlike the situation in both Perak and Selangor where by the early twentieth century applications were flooding in to these states and were considered favorably to indicate a more open state administration than in Johor.

But like the penghulus on Perak and Selangor, they were activated to assist in state extractive functions. Most conspicuously in Johor, they were engaged by the land office to assist in land alienation, land work, and land distribution.³³ While the position of the penghulu was subordinate to the collector, his function was very important and he was commensurately paid. They discussed how even as the penghulu's per annum salary was very high, it was justified so as to keep the peasantry contented.³⁴ This was not discussed as much on either Perak or Selangor where in fact the penghulus were not paid as much as the kathis. The position of the penghulu at the beginning of the twentieth century was clearly more significant and explicit that his function was to manage the peasantry. These memos detailed the scheme and the penghulus jurisdiction on their respective mukims.

While the power of the penghulu seemed exceptionally expansive in Johor, limits were

³² 1973/0028817 GEN. ADVISER NO. 869/1923: Application for the post of penghuluship in Johor. The applicant was Inche Abdul Hamid, but nothing else is known about his identity or if he wrote the application himself or if he employed a scribe.

³³ 1973/0016579 F.C. 1840/1927: Recommends that Sa'adon bin Hussein, Penghulu of Kota Tinggi be given a land office *tauliah* and also an allowance of \$40/- per month. 1973/0023027 GEN. ADVISER NO. 814/1916: Resolution passed by the Council as to the placing of Penghulus under the Land Office for land work. 1973/0023137 GEN. ADVISER NO. 193/1917: Penghulus to assist the Collectors in Land Work. 1973/0025501: GEN. ADVISER NO. 172/1920: Lands given out by Penghulus. 1973/0034766: GEN. ADVISER NO. 722/1931: Powers vested on Orang Kayas and Penghulus in the State and Territory of Johor by the Land Office.

³⁴ 1973/0023105: GEN. ADVISER NO. 161/1917: Proposed Scheme for the Penghulus of Muar. 1973/0023104 GEN. ADVISER NO. 161/1917: Recommendations as to the payment of salary to certain Penghulus.

discussed regarding his judicial powers. In an important discussion between the British Advisor and the Commissioner of Police, the latter opposed any criminal jurisdiction given to the penghulus for fear that it would be abused. It was important for members of the colonial administration to rein in the powers of the penghulus and to set limits in this case:

I can only reiterate that I am opposed to any criminal jurisdiction being given to Penghulus at all. Apart from the qualifications of the Penghulus I fear that it will be used as an opportunity by non-commissioned officers of the police to prosecute the less sophisticated of the natives and though I cannot give any instances I have a deeply rooted impression that there is sufficient minor oppression by the police as it is.... The commissioner of police's experience of penghulus is I understand a distressing one and I have had to fine a penghulu for not reporting the possession of an unlicensed firearm of which (he admitted) he knew. I do not think the present type of penghulus could be relied on to take police cases brought by a local corporal in a distance kampong....³⁵

As far as the civil jurisdiction of the penghulu was concerned, it was similarly curtailed within limits. He was given the power to try all cases for the recovery of debts where the disputed value did not exceed \$25, but he was not allowed to settle disputes over a contract or on any question of civil law. There was more effort to educate the people about the law because of growing dissatisfaction about the low literacy rate where the law was concerned.³⁶ The penghulus were responsible for educating the people about the law, and as such, requested that the government gazette be made available to them in the Malay language. However, the colonial administration found this too costly and advised against it.

Arranging religious functionaries in Johor

The absence of public religious institutions in Johor during the early twentieth century was conspicuous. This was raised as a problem, especially for the positions of the kathi and the imam on the states who were, like their counterparts on Perak and Selangor, left exclusively in

³⁵ 1973/0027316: GEN. ADVISER NO. 697/1921: Giving judicial powers to Penghulus in outlying districts under the Courts Enactment.

³⁶ 1973/0035594: GEN. ADVISER: Issue of the Malay version of the Government Gazettes to Penghulus.

charge to administer religion and customs. However, unlike Perak and Selangor where this domain was clearly demarcated for the native ruler with minimal intervention by the colonial administration, this was not the case in Johor. The British Advisor wrote to his colleagues in Kedah to inquire about their existing arrangements for the instruction of religious law.³⁷ Presumably, he was concerned about the ability to develop a class of religious functionaries with the required qualifications in Johor. Interestingly, members of the ruling class were also concerned about religious learning—or the lack of it—in the state and petitioned the colonial administration to support religious education.³⁸ Unlike in Perak and Selangor where the colonial government kept their hands off regulative state functions—at least in the first four decades of its administration—in Johor, this was a matter that concerned them from the start.

In Perak and Selangor state regulative functions gradually built up starting from the position of the kathi to the mufti, imam, and later the ulama. But in Johor, the administration of state regulative functions grouped all of these functionaries together early on. Salary schemes and other administrative matters—such as uniforms and annual reports for all the religious functionaries including the muftis, imam, the kathi and the *bilal*³⁹—were discussed together within a consolidated office.⁴⁰ It also appeared that they scrambled to fill some of these positions and rearranged appointments among qualified personnel. For example, a “Koran teacher” was

³⁷ 1973/0022920 GEN. ADVISER 705/1916: Enquires what arrangements exist in Johor for providing instruction in Muhammadan law to candidates for posts as Kathi & Imam & what salaries are paid to the teachers. In this note, he reported that there were no government schools or institutions to instruct in Muhammadan law in Johor for the positions of kathi and imam.

³⁸ 1973/0016520 F.C. 1772/1927: Forwards a petition from Orang Kayas, Penghulus etc. from the district of Muar, Batu Pahat, Segamat and Kota Tinggi for Govt. aid in favour of religious learning.

³⁹ *Bilal* is someone who sounded the call to prayer in the mosque. He assisted the function of the imam.

⁴⁰ 1973/0018315 F.C. 114/1926: New salary scheme for the Kathi, Imam and Bilal. 1973/0017724 F.C. 1200/1925: Uniforms of the muftees kathis and imams. 1973/005948 F.C. 931/1920: Requests that the salaries of the Imams and Kathis be inserted in the draft: est: of 1921. 1974/0002730 S.S. 436/1918: Mengirimkan report tahun 1917 bagi pejabat igama, Mufti dan Kathi.

appointed by the grand imam of Muar, and a Malay language teacher was transferred to be an assistant kathi in Johor Baru. Most conspicuously, both these persons, who were transferred to take on religious functions, carried the honorific title commonly identified as a Sayyid or a descendant of the Prophet. It was rather striking in this case that unlike in Perak and Selangor where the religious bureaucracy eventually opened up to include people from outside of the state who had acquired religious learning or other forms of religious capital, the appointment of religious functionaries in Johor was not as open and still depended to a large measure on old status.⁴¹

Managing disputes among religious elites

In the year 1939, the High Commissioner's office discussed a matter that was becoming heated among prominent religious functionaries in more than one state.⁴² The situation was that a Muslim man, Bidin bin Bakar from Province Wellesley, wrote to the editorial column of a small local paper, *Sahabat*, to report a case that had caused him much grief.⁴³ In this case, he requested a religious ruling—a fatwa from the mufti of Johor regarding the situation with his marital dispute. He reported that he had a wife and several children. He and his wife had a disagreement, and his wife complained to a kathi from Penaga, Haji Hashim bin Haji Md. Sagar, who ordered a divorce between them and allegedly fabricated documents by witnesses—including the woman's father—to formalize the dissolution of their marriage.⁴⁴ Aggrieved by this matter, he consulted

⁴¹ 1973/0017743 F.C. 1220/1925: Sheikh Ahmad Bin A Majid, Koran Teacher has been given the appointment of imam besar, Muar Vice H. Has. 1973/0019437 F.C. 1302/1926: Transfer of Syed Mohamed bin Alwee Alhadad from Malay Education Dept. to be Asssistant Kathi at Johor Bahru.

⁴² 1973/0041208 GEN. ADVISER NO. 831/1939: Alleged ruling by the Mufti of Johor.

⁴³ Province Wellesley or Seberang Perai is part of Penang, which is one of three Straits Settlements turned Crown colony. By this time in 1939, the Crown colony government was based in Singapore and so also was the government of the Federated Malay States based in Singapore. The High Commissioner of the Federated Malay States was the governor of the Crown Colonies.

⁴⁴ First the kathi qualified that if her husband assaulted her and she had witnesses to corroborate this, a divorce of one "talak" will take place. Muslim divorces have three levels of severity. The first and second

the mufti of Johor, Habib Alwi bin Tahir Al Hadad, and requested that he publish his reply in a larger local paper, *Warta Ahad* (literally, Sunday paper), whose circulation across the Malay states was rising at this time.⁴⁵ In his reply, the Mufti of Johor unstintingly wrote a column entitled “Kathis for hell-fire:”

The act done by the said Kathi, if what you say is correct, shows that this Kathi is one of those who are for the hell-fire, as says the Apostle of God (Peace be on him): “Kathis are of three groups; one group is for Paradise and the remaining two groups are for everlasting fire (Hell).” What the Kathi had done is not in accordance with the Muhammadan Law; it is not a “*taalik*,”⁴⁶ he is playing lightly with the faith of Islam. If he believes that such action is lawful he shall become an apostate, his good deeds shall fall to pieces and his wife shall be considered as divorced from him. His property shall be a booty. If he dies no prayers shall be said over his corpse and his body cannot be buried at a Muslim burial ground. His heirs cannot inherit his property. If he believes that such action is forbidden, then he shall be a transgressor. He cannot be a minister of marriages and he cannot be a witness. And God knows best.⁴⁷

Slandered by this *fatwa* against him that branded him no less an apostate, the kathi complained to the registrar of Muhammadan marriages of Penang. In his account, the kathi denied the allegations by Bidin bin Bakar, saying he in fact had determined that the woman had no grounds to apply for divorce and so did not make the order of divorce. He felt aggrieved and slandered by this accusation. The registrar wrote the Resident councillor of Penang:

The extreme language used by the Mufti would hardly be justified even if the facts were as alleged. The offence is aggravated in that the precise address of the questioner is published and the Kathi cannot but feel its personal application. It seems to me that the

levels are less severe in that the couple can reconcile or *rujuk* if they wanted to even after the divorce was effected. The third and final level is most severe because it does not allow for reconciliation unless the wife remarried and the subsequent marriage was thus dissolved. The levels of severity for divorce were to deter the husband who had unilateral right to effect a divorce recklessly. While the husband can declare a *talak*, the wife can also apply for *fasakh* to the kathi to effect a divorce. In this case, the wife applied for a *fasakh* divorce, and the kathi approved this application.

⁴⁵ The *Warta Ahad* was the weekend section of *Warta Malaya* (*The Malaya Times*) and first published in 1930. The 1930s were seen as the golden age of Malay press and Malay papers in Singapore. See “First Issue of *Warta Malaya* is Published” at <http://eresources.nlb.gov.sg/history/events/5dc9a0c8-3ce3-46ac-bfa6-e1672593bf8d>.

⁴⁶ A variation spelling for *talak*.

⁴⁷ 1973/0041208 GEN. ADVISER NO. 831/1939: Alleged ruling by the Mufti of Johor.

Mufti of Johor is entirely unjustified not only in the use of such violent language but in expressing an opinion with regard to an alleged transaction occurring outside his jurisdiction. I recommend that this incident be brought to the notice of the Government of Johor with a request that the Mufti be asked to publish a statement that he was misinformed and that the censure expressed in his ruling was in no way intended to apply to the Kathi of Penaga.⁴⁸

This matter reached the office of the High Commissioner who wrote the British Advisor in Johor for clarification. Now this dispute involving a Muslim applicant on the matter of religious law and two religious functionaries on Penang and Johor became a problem, which was all the more amplified since it was circulated in the newspaper *Warta Ahad*. The transgression as highlighted by the registrar of Penang was not only that the fatwa was highly unjustified but that it was a matter outside of the mufti of Johor's jurisdiction. While it was unclear why the applicant Bidin bin Bakar consulted with the mufti of Johor in the first place, the matter was well publicized and troubled the colonial administration. The British Advisor acknowledged this matter and wrote to the High Commissioner:

The Government of Johor regrets that offence has been caused by the action of the Mufti in this matter, which was contrary to the provisions of Johor General Orders. It has been impressed upon the Religious Department that no ruling or "fatwa" of the Mufti is to be published in any newspaper in future without the sanction of Government. And the Mufti has been instructed to publish a statement to the effect that the ruling given by him in this case was not intended to apply to the Kathi of Penaga.⁴⁹

This case was instructive and revealing for many reasons, mostly that it was an exercise by the colonial government and namely the High Commissioner, the Registrar of Marriages, the Resident Councilor, and the British Advisor in disciplining the religious elites, in this case rebuking the mufti of Johor and putting him in his place. They clarified the bounds of his

⁴⁸ 1973/0041208 GEN. ADVISER NO. 831/1939: Alleged ruling by the Mufti of Johor.

⁴⁹ 1973/0041208 GEN. ADVISER NO. 831/1939: Alleged ruling by the Mufti of Johor.

jurisdiction and tempered his zealous ruling by forcing him to publicly acknowledge that he had made a mistake.⁵⁰

⁵⁰ One wonders if this case had not surfaced in the newspapers would it have received as much attention as it did. The coming of the Malay press and Malay papers in Malaya transformed some of these dynamics. For more on the rise of the Malay press, see Radin Soenarno, "Malay Nationalism, 1896–1941," *Journal of Southeast Asian History* 1, no. 1 (1960): 1–28.

CHAPTER FIVE

GROWTH OF RELIGIOUS BUREAUCRACIES IN SELANGOR AND KELANTAN

Introduction

Colonial state formation on the Malay states sustained many changes, but none as enduring as the formation of a religious bureaucracy that strengthened the salience of religion and the power of religious elites on these states. The idea that traditional religious institutions were reinforced through the modern bureaucratic apparatus of the colonial state is a less considered outcome of the administration of indirect rule, which split state affairs into two domains, the extractive and regulative. The state regulative domain left to native rulers mirrored systems and processes of state extraction, and on some states the religious bureaucracy was strengthened to a greater extent than on others. This chapter examines the religious bureaucracy on Selangor and Kelantan. Earlier in the dissertation, I built a comparative matrix to show that religious elites are stronger on both Selangor and Kelantan despite the fact that these two states were subjected to different forms of indirect administration. I show that this is because colonial administration interacted with the structure of the ruling class on each state to varying outcomes.

On Selangor, because the state was home to more foreign Malays, the ruling class was less homogeneous. As a result, both the state extractive and regulative functions on Selangor were more dynamic and open to elite competition. Where state regulation of religion and customs was concerned, new religious elites streamed in from outside of the state, vying for positions within the state administration. Because of the parity between state extractive and regulative functions, elites in both domains developed in step with one another and checked each other's strength. As a result, even as religious elites on Selangor were strong, they were equally positioned with other state elites, which tempered their influence to a certain extent. In Kelantan,

I show that the ruling class co-opted religious elites to consolidate rule prior to colonial administration, which meant that colonial administrators coming into the state already had to deal with strong religious elites who organized themselves immediately into a council to be represented in the colonial state. Unlike other states, religious elites in Kelantan captured the state, and the introduction of a colonial administration only enhanced their power. As a result, religious elites continued to compete with other state elites for state power.

This chapter examines the administration of religion in both Selangor and Kelantan during colonial administration. These cases were tagged under “religion” in the online archive, and notably, most files under this tag were either from the Selangor or the Kelantan State Secretariat Offices. This is very revealing as it showed that among the Malay states, matters to do with religion were most concerning for both Selangor and Kelantan. This chapter is organized into two sections. The first section will review cases to do with religion for the state of Selangor, and the second section will review cases to do with religion for the state of Kelantan. While concerns within and between the states varied, there were common and recurring issues such as concern with Christian missionary activity and religious conversions.

Matters related to religion in Selangor

Religious matters were not usually referred to the colonial government unless they required more attention, or in some cases, when they were recommended for legislation. This meant that cases that reached the State Secretariat Office were not the run-of-the-mill types that inundated the kathi or mufti offices or the religious courts daily. Rather, they were significant matters that concerned the state government and required deliberation and policy intervention. Among recurrent issues were those related to protecting religious institutions, including mosque upkeep, but also the censorship of publication material deemed harmful to Muslims.

Rise of new religious elites in Selangor

By the end of the second decade in the twentieth century, the Selangor State Secretariat discussed multiple issues related to religion. Religious institutions and questions such as the use of mosques and other places of religious learning received growing attention from the state government. The native ruler wrote to the district officer to set a system in place to ensure the upkeep of mosques and to regulate their maintenance.¹ He suggested a system to make donations towards mosque upkeep compulsory for all Muslims. The district officer reviewed this matter and consulted with his people on the ground, including the penghulus and the collector of land revenue. They reported that there were already systems in place in some districts for the upkeep and maintenance of mosques as well as Muslim burial grounds through volunteer labor or donations. While some districts made it compulsory, most did not.² There were also other instances where the ruler himself made a big donation to maintain state religious institutions. The district officer surmised that while it was a good idea to systematize a collection of some sort, this effort should not be coerced.

A suggestion has been put forward that revenue might be obtained by setting aside areas of land in each Mukim to be cultivated by the local inhabitants under supervision, the proceeds from such lands to be credited to a Mukim fund which could be drawn on for repairs and upkeep of Mosques. It might possibly be more easy to secure contributions of labour than of cash, but between the danger of extreme laxity on the one hand and the rigours of a “Krah” system on the other, the experiment does not greatly commend itself.³

¹ 1957/0254780 SEL:SEC:G. 1588/1928: Subscription for the upkeep of religions buildings by Malay.

² The district officer of Ulu Langat, J.G. Crawford, wrote to the British Resident that the penghulus of his district were active in managing funds for mosque upkeep. In the mukim of Kajang, a total of \$12,906.62 was raised towards the building of the Sungei Ramal and Jendram Mosques, and the people of Ulu Langat raised \$5,923 to build a mosque in Dusun Tua. The donation from the late Raja Allang of \$31,500 was also made for the mosque at Beranang.

³ The quote is from the collector of land revenue of Kuala Lumpur to the British Resident of Selangor. The “krah” system (or *kerah*) refers to bondage labor. In this instance, the British Resident was not referring to bondage labor in the literal sense since by this time debt slaves were outlawed, but was referring to it as an extreme example of involuntary labor.

A more revealing note was sent by the district officer of Klang to the British Resident. He noted that he had consulted his penghulus on the matter, and there was not much “religious enthusiasm among them.” They suggested that the government step in to either assist in cash or gifts of land whose revenue would serve as endowments. Regarding this lack of enthusiasm, he noted,

I think the only way in which enthusiasm could be aroused would be for some leading Mohammedan, preferably H.H. himself, to visit the chief mosques in the State and try to arouse some interest. A Committee of leading Malays including the Chief Kathi might be formed to take steps to organise the collection of funds. But unless the leading adherents of the religion of Islam themselves take an active interest I do not think anything is likely to result. Very long experience of this kind of thing in six Malay states has convinced me that no exhortations by a District Officer to support a religion of which he is not himself an adherent will have any effect.

This admission is notable for several reasons. One, it would appear that the level of religious support across the mukims was uneven, and where there was support, it was led by notable elites in each mukim rather than driven by the masses. Two, the separation of state administration into the extractive and regulative domains was such that religion had become a matter that was clearly separate from the colonial administration and so had to be dealt with exclusively by native elites. In this case, the district officer was rather upfront about the fact that they did not have any influence or authority over the natives in religious matters. But more revealing in this memo was the comparison the district adviser made to the case in Perak:

In Perak His Highness the Sultan and the Raja Muda have aroused a great deal of interest in religion and the “Kaum Muda” movement hardly exists at all in that State. What is needed is the awakening of religious enthusiasm, which does not seem to exist in many places in Selangor, except among “Kaum Muda.”⁴

⁴ This quote is from the acting district officer of Klang to the British Resident. “Kaum Muda” translates literally as “young group.” This is in contrast to the *Kaum Tua* or “old group.” These were the central variations that differentiated the religious elites in the early twentieth century in Malaya. The older group were those composed of the traditional religious elites, many of whom were from the ruling class. The young group were those composed of new religious elites who attained religious capital through religious learning in places like Medina or Egypt. In Malaya and also in Indonesia, this variation between the *tua*

This statement was most revealing because it confirmed variations between the Residential states of Selangor and Perak. The ruling elites in Perak were more consolidated and so had a stronger hold on native subjects. As such, the administration of regulative activities on the state was more streamlined among the native ruler and his men and so did not leave room for new religious elites of the *Kaum Muda* to influence the state administration. On the other hand, in Selangor the ruling elites were fragmented and left to their own mukim. Because they were less united, there was less concerted religious enthusiasm, which left the administration open to the influence of new religious elites. But also, another revealing admission here is how the colonial government actively encouraged religious enthusiasm among the natives in the Malay states. Where interest in religion was lackluster, they recommended active intervention among the rulers to rectify this situation to ensure that the native elites retained a hold on their native subjects. This inevitably led to increased religiosity among native subjects on the Malay states.

The apprehension for the new religious elites, or the *kaum muda*, grew more palpable in the Residential states, and in both Perak and Selangor, there were active efforts to control their influence. In 1929, the secretary to the British Resident in Perak wrote to the government of the Federated Malay States to inform him that the native rulers and other religious elites met at the conference of *kathis* in April to suggest that the government prohibit the importation of papers debating the Muhammadan religion by the *kaum muda* into the Malay states.⁵ These included the

and *muda* was not only generational; they were also ideological. The *kaum tua* were known to be more traditional in their religious orientation, and what this meant could be several things. It could denote that their religious practice was what had been more common prior to the twentieth century, including Sufistic practices, communal *dzikr*, and *kenduri* or communal feasts. The *kaum tua* were known to be both modernist since they rose in the twentieth century and purist because they promoted a practice of Islam closest to what the Prophet had done and deemed everything else as heretical accretions.

⁵ 1957/0259736 SEL.SEC.G. 1810/1929: Suggestion that Government should prohibit importation into the Federated Malay States of papers debating on the Muhammadan religion - 2. Addition to the Muhammadan Laws Enactment enabling His Highness in Council to prohibit the importation of any newspaper etc. dealing with the Muhammadan religion.

“Al-ekhwan,” the “Sudara,” and the “Elmanar.”⁶ The first two publications were from Penang while the last was from Egypt. These publications characterized the new wave of Malay press that was coming out at this time.⁷ The Saudara, the oldest Malay newspaper had been published biweekly in Penang since 1928 and had a monthly accompanying periodical, the Al-Ikhwan. They were founded by Sheikh Syed Al Hady, a renowned modernist Muslim reformer and well-known leader of the kaum muda. The Al-Manar was founded and published in Egypt by Rashid Rida who was a student of Muhammad Abduh. Both of them were renowned Muslim reformers and modernist icons of the late nineteenth and early twentieth century. In supporting the native elites’ request to censor these publications, the secretary to the British Resident further wrote,

The Resident discussed this matter with His Highness the Sultan on 18th September, 1929, when they agreed that there might be an addition to the Muhammadan Laws Enactment enabling His Highness in Council to prohibit the importation of any newspaper, document or book dealing with the Muhammadan Religion of any heretical character.

These publications were branded as heretical to indicate that the traditional ruling elites and the religious elites under their care (such as the kathis) were wary of the growing influence of new religious elites that may have developed from outside of the state, but whose influence was growing widespread as a result of the spread of these publications. Raja Yusuf of Perak, who was the Raja Bendahara, wrote to the British Resident of Perak to prevent the circulation of these kaum muda publications “since these papers are liable to mislead people who are not well versed in matters relating to religion.” As a result, the colonial administrators suggested that

⁶ The Romanized spelling of these names differ. “Al-Ekhwan” or “Al-Ikhwan”; “Saudara” or “Sudara”; “Al-Manar” or “Elmanar”.

⁷ For more on the birth of the Malay press and publications, see Kay Kim Khoo, “Malay Society, 1874-1920s,” *Journal of Southeast Asian Studies* 5, no. 2; The Centenary of British Intervention in Malaya (Sep., 1974): 179–98. Also see: Z.B. Ahmad, “Malay Journalism in Malaya,” *Journal of the Malayan Branch of the Royal Asiatic Society* 19, no. 2 (1941): 244–50.

amendments be made to the Muhammadan Laws Enactment to prohibit these publications.

However, the native ruler was averse to this legislative action and preferred to issue warnings to the editors of these papers. If they should contravene these warnings, the colonial government could take them to task:

His Highness admits that there are occasionally articles in these newspapers to which exception may be taken, but he would prefer that a warning should be sent to the editors of the papers, which, it is understood, are published in Penang, and that, if they persisted in publishing objectionable matter, action should be taken by the Chief Secretary under section 4 of the Seditious Publications Prohibition Enactment. Apparently under this section the Chief Secretary can prohibit the importation of any newspaper into the Federated Malay States.

The problem of importing material into the Federated Malay States was discussed in the Selangor State Secretariat. In a meeting between the Sultan of Selangor and the High Commissioner, the former raised the problem of religious publications flowing in from the Straits Settlements—mainly from Singapore and Penang—into the Federated Malay States. The Sultan explained that on Perak and Selangor committees were appointed by the Sultans to censor the publication of religious books and tracts, but their authority did not extend to literature coming from the Straits Settlements. The Sultan suggested that the High Commissioner appoint a similar committee on each of the Straits Settlements so that these publications would not find their way to the Federated Malay States. The High Commissioner replied that it was a matter of British policy not to interfere in religious matters in British possessions or dependencies, and because of that, he could not take any further action. He noted, however, that some measure of success was had when the Sultan of Perak spoke with the principal ulama in Penang to temper some of these publications so that they did not offend the sensibilities of the traditional ruling and religious elites on the Malay states.

The steady task of policing religion

The first half of the twentieth century saw the steady progression of institutionalization and criminalization of religious laws, as seen in the case of the prohibition against publications. In the case of religious publications, the jurisdictions of both the native ruler and the administration intersected. Religious publications were not only policed for their religious content but for seditious material that could threaten public safety and security. The effective policing of religion by the colonial administration served to protect the authority of the traditional ruler against outside influences, and in this way, kept the native subjects obedient to traditional state authority. The influence of the kaum muda was growing, especially in Selangor. Their reformist and modernizing ideals spread through the Malay press, while other imported publications were gaining momentum and support from the ground. The colonial administration feared that this would upset the balance of the Malay states, and this led to a slew of legislation that protected the power of traditional authority and their hold on native subjects.

One of the immediate things instituted in Selangor was a system to authorize those who were allowed to teach religion.⁸ Those who were allowed by the government to teach in mosques and in madrasahs were given permission letters. This register recorded their names, their ethnicities,⁹ the date they were issued permission letters, where they were allowed to teach, and in which mukim and district. The government kept files for each of them to note any issues. The active policing of religious teaching in the early twentieth century was unprecedented, especially

⁸ 1957/02276087 SEL.SEC. 2482/1932: List of all persons authorised to teach the doctrines of the Mohamedan religion.

⁹ The record indicates *bangsa*, which technically means nationality. Under this column, all of them are *Melayu*, which means they are all of the Malay nationality. But a separate column indicated *Peranakan*, which indicates a mixing of heritage. Under this column, place of origin is indicated, such as “Minangkabau,” “Kampar,” “Banjar,” “Rawa,” etc. This again confirms the observation that many native elites from Selangor came from outside of the state. Even though they were identified as belonging to the Malay nation, they were still differentiated by their place of origin.

given how the matter of religion and customs spilled outside of the control of native rule to involve the colonial government, including the state district officers. In the case of Selangor, the extractive elites were mobilized to reinforce the regulative elites to stabilize the state and protect it from the onslaught of new religious elites coming from outside of the state who could pose a challenge to the current traditional authority. By surveilling religious authorities and recording those given permission to teach, they could prosecute unauthorized persons, which was what they did. The memo indicated that Jalaludin bin Sheik Ismail from the district of Jenderam was prosecuted for teaching the “kaum muda doctrines.”¹⁰

Other than policing new religious elites from out of state who impinged on the authority of the traditional elites, anxieties surrounding religious conversions peaked in the early twentieth century. Presumably prior to the 1930s, native subjects who were Muslims did convert to Christianity without hindrance, but this changed over the decade. In a memo from Haji Mohamad, a kathi in Klang,¹¹ he requested the rules regarding the conversion of a non-Muslim into Islam be changed. He complained that the current procedure, which required a non-Malay person who wished to convert to Islam to report to the district office prior to his conversion, was onerous and often prevented this from happening. He compared this to the ease with which Muslims could convert into Christianity.¹² Around the same time, the Selangor State Secretariat

¹⁰ It was not specified what was meant by “kaum muda” doctrine that contravened against religious teachings. It could be the case that he was simply not among the authorized religious elites and personally identified as a *kaum muda*.

¹¹ 1957/0276307 SEL SEC 2708/1932: Requests an amendment of the Rules for the guidance of Kathis regarding the conversion of other nationalities into Muhammadan Religion.

¹² In this case, the response from the British Resident was still that the applicant needed to report the matter to the district office. He referred specifically to a Chinese applicant who wanted to convert into Islam, and the matter needed to be referred to the Chinese headman before proceeding. It is unknown and rather curious why it would be easier for a Muslim to convert to Christianity than a Chinese converting to Islam at this time. But what is for sure was that procedures and regulations regarding the conversion of Muslims to Christianity became stricter along with closer policing of missionary activity.

became more noticeably concerned with missionary activity on the Malay states. These were carefully policed so as to make sure that missionary work did not involve native Muslim subjects. Interested missions had to apply to enter the Malay state, and these applications were assessed by the police and approved by the British Resident. The resident missionary of the Methodist mission of Kuala Lumpur submitted an application to the chief police officer.¹³

I have the honour to apply for permits to hold Christian Religious Meetings in the open air within the town limits of Kuala Lumpur, Kajang, Klang and Ampang. These Christian Religious Meetings would be held by Chinese and Tamil Ministers, in the regular employ of the Methodist Episcopal Church, whose names we would register with your office. In addition to ordinary gospel preaching at these open air meetings, portions of the Holy Bible and other Religious tracts and pamphlets would be sold and distributed free. We would at all times hold ourselves prepared to send to your office specimen copies of all literature thus used.... In support of the above application, may I invite your attention to the fact that similar Open Air Christian Religious Meetings are held regularly in Singapore, Ipoh and elsewhere by European, Chinese and Tamil workers of our Methodist Mission.

Anxieties among lay people that Muslims were leaving their religion for Christianity grew even stronger in the next decade. In 1948, a newspaper *Majlis* based in Kuala Lumpur published a letter in Malay jawi alleging that female Malay students who attended convent schools were made to study Christianity.¹⁴ The writer registered his concern for these Muslim students who were subjected to learn about Christianity but not Islam in primary and secondary schools. This matter was flagged by the Malayan government, and the senior inspector of schools in Selangor responded to the editor of the newspaper and required that he publicize this information:

¹³ 1957/0271218 SEL:SEC:G. 756/1931: Application from the Methodist Mission to hold open air Religion meeting in Kuala Lumpur, Kajang, Klang and Ampang. Also in: 1957/0229202 SEL:SEC. 171/1924: Permission for Rev: P.C. Webber, priest of the Protestant Episcopal Church of America, to do religious work in the Federated Malay States. In this case, the Bishop of the Episcopal Church wrote to the Chief Secretary of the Federated Malay States to ask for permission for him to enter the Malay states.

¹⁴ 1957/0294186 SELANGOR SECRETARIAT 549/1948: Allegation that Malay students in the Convent are made to study the Christian Religion.

There is no truth in the allegation. Religious instruction for Catholic pupils is given before school hours. Any non-Christian wishing to take Religious Knowledge as a "soft option" in the School Certificate is required to produce written approval from parents.

Growing anxieties about the threat to Islam on Selangor and across the Federated Malay States more generally led to strengthening religious institutions. For example, the Sultan of Pahang discussed the idea of setting up a committee for religion and Malay customs just like the one found in Kelantan.¹⁵ He suggested that this committee would bring together central people to the council so as to promote Islam as well as Malay culture. It would also raise funds so as to improve the administration of religious matters and other institutions.

Matters related to religion in Kelantan

From very early on after Kelantan came under British administration, the management of state religion was rather systematic. This was in large part due to the council of religion and Malay customs, or the *Majlis Ugama dan Adat Istiadat Melayu*, which was set up in Kelantan immediately following the establishment of the British administration. While anxieties related to religious conversions came much later in Selangor and other Malay states (well into the mid-twentieth century), religious conversions were featured almost immediately in Kelantan. However, conversion issues did not appear to solicit the level of anxiety they did in Selangor and on the Federated Malay States. Rather, they registered more as important administrative issues that needed to be settled. One of the reasons for this could be that cases of conversions flagged to the colonial administration involved one or more parties who were not native subjects. In a number of these cases they involved a Chinese or Siamese subject who wanted to convert into

¹⁵ 1957/0534090 PHG. SEC. GENERAL 384/1932: Committee for preservation of religions and native customs.

Islam or to leave Islam after having converted to the religion previously.¹⁶

State religious subjects and the problem of religious conversions

While cases of religious conversions were conspicuous in the Kelantan State Secretariat, the common factor among these cases was that they were Chinese or Siamese subjects who wished to convert to Islam or leave the religion following an earlier conversion to the faith.¹⁷ It was most likely flagged by the state office and became a matter of discussion among key members of the state government because it involved the overlapping jurisdictions of traditional leaders of separate ethnic and religious communities in the colonial state. As was customary, Chinese subjects came under the purview of the Chinese headman. However, with these conversion cases it was unclear if it would change the personal jurisdiction of the subject. While these cases arose out of very different sets of circumstances related to specific personal matters, they were flagged for attention and intervention at the state level.¹⁸

Regardless of the case parameters, the outcome was singular. In all of these cases, the petition resulted in more conservative laws related to conversion, including the determination of age and gender to exercise the right to conversion or to a religious ruling or fatwa on apostasy. They also established the rightful jurisdiction of religious courts and local headmen over subjects—that is, who was counted as a native subject and so bound to religious law and who

¹⁶ If there were anxieties, these were fears that religious conversions were misused as a convenient way for marriage or to benefit from an inheritance, etc. A similar problem was discussed in the Johor State Secretariat regarding convenient conversions for personal reasons of marriage. When these unions break down the individual will revert to his or her former religion.

¹⁷ In contrast and very notably there were no cases of religious conversions out of Islam among native Malays. This could simply indicate that these cases did not happen, and in Kelantan at this time, it was conceivable that this was the case.

¹⁸ There were also other administrative matters, such as the request to change the name of a recent convert. In one memo this involved a European, Mr. G. Wilmot, who requested that his name be changed to Mohammad following his conversion into Islam. This matter of name change was noted by the Magistrate Ecclesiastical Court who informed the British Advisor. See 1957/0501219 KELANTAN 398/1921: Change of name of Mr. G. Wilmot, a convert to Mohamedan religion, to Mohamed. As to:

was not. It is consequential that cases from the Unfederated States went on to influence policy on religious law and religious courts on the Malay states. Most significantly, these cases became pivotal to the process of court reform.

Despite the varying statuses of these petitioners, common among them is that they resulted from irresolvable grievances. These grievances over religious conversions implicated other matters, such as the dissolution of marriage, marriage under duress, and absconding from the family home. Accordingly, these cases referred to exceptionally private issues, which on the most basic level involved two aggrieved parties. And yet, they escalated beyond these individuals and were flagged for a variety of actions ranging from legal clarification, court intervention, or active policing.

Determining fatwa on apostasy

In July 1927, a *Peranakan*¹⁹ woman who signed off as Mrs. Mek Wok from Kota Bahru, Kelantan, addressed a letter to the British Advisor.²⁰ She identified herself as an "Islam Malay woman belongs (sic) to Trengganu state." She indicated that she was born Muslim and to Muslim parents, but wanted to embrace Buddhism. She wanted clarification on the legal regulation on the matter. Upon receipt of the letter, the British Advisor to Kelantan, G.E. Shaw, sent a note to the chief minister of Kelantan to investigate the issue. He then referred it to the mufti. The mufti replied that according to shari'a law, it was entirely forbidden for Muslims to convert out of Islam and that it was a great sin onto anyone who abetted it. The chief minister asked further regarding the consequences if this was followed through with, and the mufti replied that the sentence onto one who would forsake his religion was apostasy, and his punishment was

¹⁹ *Peranakan* in this case denoted the ethnic mix of the native Malay and the Straits-born Chinese.

²⁰ 1957/0509822 KELANTAN 1080/1927: Prays for permission to convert her religion from Islam to Buddhism and asks to be informed of any regulations in force prohibiting this.

death under the Shafi'i school of law and imprisonment under the Hanafi school of law.

The topic of apostasy, in the Arabic *irtidad* from the root word *ridda*, is a controversial topic in Islam with disagreement among medieval scholars on the issue. Some claimed that it was law from scripture, thus falling into the category of *hudud*, while others disagree. Even what constitutes an apostate or a *murtad* in the first place can vary from one scholar to another. The relevance of a medieval ruling on contemporary jurisprudence well into the twentieth century was yet another issue of contention with enormous importance. And yet, the diversity of opinions on the matter did not feature in this declaration where the mufti, as the sole person and final arbiter of Islamic law in the state, had the final say. Indeed, the gravity of a formal inquiry and subsequent declaration of a religious ruling or fatwa by the mufti conventionally sets a moral precedent for future cases of a similar nature, and in this instance, it was with grave consequences.

Determining age and gender to right of conversion

In November 1929, the Protector of Chinese in the Sungai Petani district in Kedah wrote to the British Advisor requesting to place a Chinese woman, Tan Seng Lee, under house arrest.²¹ It was reported that she was twenty-seven years of age and that she had run away from her husband to convert to Islam. The Protector of Chinese contended that she was converting to Islam under duress and had to be protected from her own actions. Her parents corroborated this claim and addressed a letter to the British Advisor confirming their suspicions that she was indeed under duress to convert to Islam.²² This case was discussed at state council meetings and

²¹ 1957/0408261 1721/1348: Detention in the Home of the Siamese wife of a Chinese named Tan Seng Lee who attempted to adopt the Muhammadan Religion- Perkara Hendak Tahan Di Dalam Rumah, Isteri Orang Siam, Seorang Cina Bernama Tan Seng Lee Yang Cuba Hendak Masuk Agama Islam [Versi Melayu-Jawi].

²² The memo did not specify who was holding her under duress, although it can be inferred that this referred to a Muslim person living in the district.

subsequently raised to the mufti. The mufti contended, presumably following his own investigations into the matter, that Tan Seng Lee's wish to convert to Islam was not being done under duress as suggested by the Protector of Chinese. The mufti also added that there were ready provisions for the process of conversion to Islam. One of the rules stated that the convert was required to come under custody of the religious council—that is, the Majlis—for a month to ensure that she transitioned smoothly into the religion.

This case received inordinate attention and involved several members of the state council, including the legal advisor. The records show that there was a series of exchanges between the British Advisor and the legal advisor on the matter. However, of concern to both of them was not so much the fate of Tan Seng Lee caught between the protector of Chinese and the mufti, but rather the existing Muhammadan laws on the matter. It would appear that the administration was confronting a situation that could become very contentious with both sides of the native leadership laying claims on the subject. The final determination was that Tan Seng Lee was not placed under duress to convert to Islam and that she was well within the age to exercise her right to convert. This case then determined that in any professed case of conversion to Islam, the subject would be placed under the jurisdiction of the Majlis and the mufti who would preside over the matter. It settled that religious conversions would in fact abrogate the ethnicity of the subject and place the subject under the jurisdiction of the mufti and the Majlis. Also arising from this was the determination that the legal age for the right to convert would be eighteen.

Yet another case was cited as precedent. In this case a Chinese male under the age of eighteen had reportedly run away from home. He left his parents to live in a Malay village and expressed a desire to convert to Islam. The point of contention was the age of the boy and whether he could make this decision to convert by himself or if he required the consent of a

guardian of the state. Like the earlier case, this case went to great lengths to record the context surrounding his conversion. It was reported that he had run away from home because his parents abused him. His parents denied this claim and suggested that his behavior was out of the ordinary, implying that he was under coercion or undue influence to convert. They cited his age, seeing that he was a minor, as the basis upon which they could still lay claim over him as rightful guardians. Following this case, further refinements to the laws on conversion were determined, including provisions for the conversion of those below the age of consent. The legal advisor and mufti drew up draft rules detailing the process for the conversion of a minor between the ages of fifteen and eighteen including the requirement for a written statement from the district officer.

A year following this episode, the Courts Enactment of 1930 was passed in Kelantan. This regularized the court system into six levels and further circumscribed the powers of the native ruler. Accordingly, the six levels were: (i) the court of revision with the Sultan at the helm, but even so he had to consult the British Advisor before making a decision; (ii) the court of the senior magistrate with unlimited jurisdiction in criminal probate and civil matters; this court also served as a court of appeals where the mufti sat as adviser in Muslim criminal cases and Islamic law; (iii) the courts of magistrates of the first and second class; (iv) the court of *penggawa*, where he was the head of the district and could try petty offences in the court with appeals directed to the courts of first class; (v) the court of chief *kathi* with jurisdiction on civil matters according to Islamic law and Malay customs and where criminal jurisdiction was confined to domestic cases of assault; appeals over decisions in this court would be referred to the Sultan; and finally the (vi) court of district *kathi*, and appeals over decisions at this court were referred to the mufti and to the *Majlis*.

Determining the limits of religious courts

In June 1937, it was reported that a Chinese woman named Lai Chi from Kota Bahru from Kelantan converted to Islam professedly on her own accord and took on the name Che Zainab.²³ In November of the same year, she married a Muslim man, Ahmad Al-Mubarak. Two months later, her husband lodged a report to the Syariah Court that his wife had run away. He appealed to the court to intervene in the matter and return her back to him. This woman was reported to have run off to Singapore but returned to Kelantan in February 1938, but not back to her husband. Instead, she claimed that she had reverted to her old religion and was now living with her uncle. Another letter reported that they were able to trace this man, Chang Theng Chiang. Chang confirmed through the aid of an interpreter that although he was not Lai Chi's kin, they resided in the same village in China. At the time of writing in March 1938, he confirmed that she had left his residence twenty days earlier and that he had not seen her since nor did he know of her whereabouts.

A year following, more changes were introduced to the courts system. For now, the Sultan was given the power to appoint all judicial office-bearers—that is, the chief kathis, kathis, and *penggawas*—within and for the areas specified in the deed or the *tauliah* granted by the Sultan.²⁴ Most significantly, in reference to the above case, it was determined that the courts of kathis would not have jurisdiction over non-Muslims and could only preside over cases where both parties were Muslims. This was a clear delineation of the powers of the kathi courts to further circumscribe their jurisdiction only over Muslim subjects and not others. Unlike other Malay states, Kelantan specified in detail the authority of the kathi courts over matters to do with marriage and divorce, dissolution of marriage, maintenance of wives and children, division of

²³ 1957/0524627 KELANTAN 283/1938: Conversion of a female chinese named Lai Chi to Muhammadan religion and her subsequent reversion to her former faith.

²⁴ This is a variant of the *kuasa* form.

property between husband and wife before and after divorce, share of inheritance, and other matters. When the value of disputed property exceeded \$500, the case had to be heard by the judicial governor sitting with the chief kathi or mufti, whose advice was sought on settling any questions related to Islamic law. Appeals to a decision of the court of kathi or chief kathi went to the Sultan in person and not to the council, and his decision was final. Further, any court confronted with the question of Islamic law had to refer it to the mufti for his opinion.

Prohibiting problematic publications

In addition to religious conversions, memos regarding problematic publications were also discussed in the State Secretariat Office. In one case, the *naib kathi* of Bachok,²⁵ Haji Ahmad, wrote the secretary of the state that a Chinese man was selling religious books, or *kitab*s, which went against Islamic teachings.²⁶ He worried that these books could cause misunderstandings among Muslims who did not have a deep understanding of the religion, which could lead them astray. He recalled a case in the year 1923 when a Ceylonese man requested to sell similar books in Kelantan; his request was denied by the state government. He recalled there was a paper in the mufti's office and the minister's office discussing the matter and prohibiting the sale of these books. He suggested that this was the right thing to do so as to protect Islam and Muslims in the state. Following further investigations, it was confirmed that the books the kathi referred to was the Bible in the Malay language,²⁷ and they were sold very cheaply, which further worried religious elites on the state since its affordability could encourage a wide distribution. When this

²⁵ *Najib* means assistant. In this case it refers to the assistant kathi.

²⁶ 1957/0515136 Kelantan 1053/1930: Sale by a Chinese at Bachok of religious books to Kelantanese which books are quite against the teaching of Mohamedan religion- Recommends that this be stopped.

²⁷ "...Zabor dan Anjil (dichap dalam bahasa Melayu)" This is a very interesting case of the Bible translated into Malay, which recalls a recent controversy in Malaysia regarding the translation of God into Allah in the Bible. That it is a recurrent problem that poses a threat to Muslim elites on the Malay states is a fascinating point.

memo reached the secretary of the Majlis, he wrote to the secretary of the state to confirm that these allegations were true and recommended that the matter be forwarded to the police.

This matter came to the attention of the British Advisor who then wrote the Commissioner of Police.

I am not exactly clear as to what legal power there is, but you could doubtless see that this order is obeyed, and that any copies of the book which come into the hands of the Police are destroyed.

The Commissioner of Police abided by this request and replied,

I sent for this man and told him that he could not sell the books to which the mufti took exception, he agreed to this and has since left the country. It took some six weeks to find the man, he had gone into Siam, then came back home.

It was then dutifully reported to the mufti that his request to censor the sale and publications of these books was supported and acted on by the state administration even though there were no clear policy guidelines or legal sanctions on the matter during this time.

By 1960 a "Proposal to Introduce an Ordinance to Refrain from the Propagation of other Religions among Muslims" was discussed across the states and on the federal level.²⁸ The circumstances surrounding the discussion of this bill was fascinating and instructive on how elites at the state level interacted with those on the federal level. This proposal started in the state of Kedah when it was found that a Malay language pamphlet entitled "Suloh Hidop" (literally, beacon of life) from a Christian mission was being distributed in the state. The mufti found this offensive and wrote the legal adviser of the state of Kedah and Perlis to effect legislation against this "propaganda." The legal adviser then drafted a bill to discuss the "Protection of Muslim

²⁸ 2002/0031574 2527: LEGISLATION TO RESTRICT PROPAGATION OF OTHER RELIGION AMONG MUSLIM. This memo was initially classified as "Secret" i.e. "Sulit", and was later declassified. Secret memos are highly sensitive and require many levels of clearance for access.

Religion Enactment, 1960." The bill read,

2. Any person who, in any manner, willfully propagates any religious doctrine or belief other than the religious doctrine or belief of the Muslim religion among persons professing the Muslim religion shall be guilty of an offence cognizable by a Magistrate's Court and punishable with imprisonment for a term not exceeding one year or a fine not exceeding three thousand dollars.

3. Any person who abets another in the commission of an offence against section 2 of this Enactment shall be punished in the same manner as if he had committed such offence.

4 (1). The Ruler in Council may, by notification published in the Gazette, prohibit the importation into the State, or the possession, distribution, sale or use in the State of any book, magazine, pamphlet or document which may or will be used or is likely to be used for the propagation of any religious doctrine or belief of the Muslim religion among persons professing the Muslim religion, and the prohibition shall be specified in such notification.

4 (2). Any person who without lawful authority imports, possesses, sells, or uses any book, magazine, pamphlet or document in contravention of Gazette notification made under the provisions of sub-section (1) of this section shall be liable on conviction to a fine not exceeding two hundred dollars or to imprisonment for a term not exceeding six months.

The state of Kedah sought support from all the Malay states to implement this enactment in every state as well as to legislate it on the federal level. The response was mixed. Some states were not keen on passing a uniform enactment across the states and noted that they had their own versions of this law in their own states. Notably, the state secretary of Kelantan, Wan Ismail bin Wan Mohd. Salleh, replied that the Council of Religion and Malay Custom and Kathis Court of Enactment of 1953 in Kelantan prohibited the teaching or professing of Islamic religion without permission from the Majlis or teaching or publicly expounding upon any doctrine or performance of any ceremony that was contrary to Muhammadan law; the issue of a religious ruling or fatwa by any other persons other than the mufti; and the printing, publishing, selling or importing into the state any books that were contrary to Muhammadan law or doctrine. With these comprehensive enactments available in Kelantan, the state secretary noted that there was

no need for Kelantan to follow Kedah's proposed enactment. Similar disapproval was registered in Malacca, Pahang, and Trengganu. However, the states of Negeri Sembilan, Selangor, Perak, and Perlis agreed to this proposed enactment. States who disagreed on the one hand had their own versions of this prohibition in their states and were keen to retain their autonomy on religious matters, while it can then be inferred that the states who agreed on the other hand, including Selangor and Perak, did not have such regulations.

The federal government considered this request without enthusiasm and treated it very procedurally. They considered the bill and commented on the legalities of each clause to propose various amendments. Specifically, to the bill's proposal that this offence was cognizable by the magistrate's courts, the lawyer for the Federation of Malaya, C.M. Sheridan, noted that the magistrate court should not be included since it came under the jurisdiction of the civil courts and was a matter for federal legislation and not for the states to determine. He also noted that the proposed bill was so broad as to be slightly ridiculous and proposed for it to be specific:

The words "which may or will be used or is likely to be used" are so wide as to include any literature which does not have a positively Muslim approach. The literature of any religion would fall within the prohibition even though its use was confined strictly to the members of that community. Unless the intention is to ban all literature which is not Muslim literature, it is doubtful whether this provision can be included.

He also noted that the federal government already had provisions against publications that were "offensive to public morality" and that it had the means to enforce control of this, which the state governments did not. This memo did not record a resolution to this matter but ended discussing how the Malay states were split on this matter. The Kedah government pushed for this matter, citing at least two other states who were in favor of this enactment as well as federal support for its legislation so that it should go ahead with the matter. This ambivalence is recorded in the constitution of the Federation of Malaysia today. Article 11 on the Freedom of

Religion provides that every person has the right to profess and practice his own religion and to propagate his religion. However, state law and, in respect of the federal territories, federal law may control or restrict the propagation of any religious doctrine or belief among Muslims.

CHAPTER SIX

CONCLUSION

Why is it that despite a highly centralized government, jurisdictional conflicts in the state religious and federal civil courts have become more politicized and can even turn violent in some states more than in others? Through a comparative analysis of four states in the Federation of Malaysia that is Perak, Selangor, Kelantan, and Johor, I show that jurisdictional conflicts become more politicized in states where religious elites grew more prominent in the colonial state. This was the result of two connected but uneven processes of colonial state formation.

The first process was the introduction of a modern state administration that divided state activity into two domains: extractive and regulative. State extractive activity included the administration of land and labor, trade and taxes, and other municipal matters. State regulative activity included the administration of religion and customs. I show how the colonial administration selectively incorporated local elites into either domain of state administration with different barriers of entry into in each one. I show how the state extractive domain limited entry to members of the aristocratic classes while the state regulative domain was opened to those who had the requisite religious requirements, which could be obtained from gaining religious knowledge, or even going on the Haj. As a result of lower barriers of entry into the state regulative domain, it became a more dynamic space for social change in the colonial state and transformed the structure of the native ruling class.

The second process is the formation of a religious bureaucracy in the Malay states. The expansion of the regulative domain of state administration led to the rationalization of religion and the professionalization of religious functions. It also opened up pathways to employment and encouraged a stream of new religious elites into the state, some of whom were from outside of

the state. As a result, this strengthened the profile of religious elites in the state as they become more salient within the dynamics of collective rule.

These two processes of state formation varied in terms of type of indirect rule. Perak and Selangor were administered much earlier during the late nineteenth century and came under the Residential system. In each of them, the colonial administration and local elites were organized in a state council, which eventually centralized under a federal council two decades later. Kelantan and Johor were administered later into the early twentieth century and came under the Advisory system. Unlike the Residential system, the Advisory system of indirect rule was less intensive. And so these states retained greater autonomy and preserved more of their native state structures.

Even as the growth of a religious bureaucracy enhanced the role of religious elites across the Malay states, the extent to which religious elites were more or less politically salient differed in each state. I show how between Perak and Selangor, religious elites in Selangor were more dynamic because of a higher proportion of new religious elites coming from out of state. This was aligned with its long history and tradition of in-migration such that Selangor was made up of as many foreign Malays as there were local Malays. I show how between Kelantan and Johor, religious elites in Kelantan were more powerful because they were co-opted to enhance a weak native ruling class, whereas a strong and sufficient native ruling class in Johor managed and subdued religious elites there.

Religious elites became politically salient in Selangor and Kelantan compared to their counterparts in Perak and Johor even though they were subject to the same indirect administration. But the relationship between religious elites and other state elites in Selangor and Kelantan depended on the type of indirect rule administered in each state. In both states colonial

administration strengthened the role of religious elites, but the difference was that in Selangor, the consolidation of religious elites followed colonial administration as new religious elites migrating into the state supplied a growing demand for employment within the state regulative domain. Because religious elites were actively incorporated and consolidated in the colonial state from early on, their influence was tempered by the colonial administration, which encouraged cooperation between religious elites and other elites in Selangor.

On the other hand, religious elites in Kelantan were consolidated prior to colonial administration because they had been co-opted by a weak ruling class that needed reinforcement. Upon formal colonial administration, religious elites in Kelantan immediately organized themselves in a council so as to effectively represent themselves within the colonial state administration. The colonial state administration presented a further opportunity to strengthen their power in the state through employment in state regulative activities. Accordingly, religious elites in Kelantan became further emboldened and positioned themselves in competition with other state elites.

The subnational comparative analysis of four Malay states clarifies multiple, uneven processes of colonial state formation. For one, it better specifies variation in forms of indirect rule, which is yet theoretically underdeveloped within the literature. This helps to improve literature on the legacies of colonial rule and better specifies how colonial legacy remains. In the case of indirect rule in the Malay states, I find that the strength or weakness of the postcolonial state not only depended on measures of institutional isomorphism, but the extent to which relationships among local elites were shaped in the colonial state.

In addition, the study of the Malay states edifies literature on state formation more broadly. Specifically, it examines the relationship between bureaucracy and colonial state

formation. The formation of a state bureaucracy is often associated with the decline of the *ancien regime* as bureaucratic apparatuses diffuse the absolutist power of the feudal despot and as the institutionalization of the state guaranteed both its independence and permanence. However, the formation of a state bureaucracy in the colonial state does not quite effect the same change. This is especially so in the case of indirect rule, also referred to variably as hybrid rule, bifurcated state, rule by association, institutional segregation, and most notably decentralized despotism, where state bureaucracies developed around and most crucially retained forms of traditional authority that already existed.

Weber suggests that state bureaucratic apparatuses diffuse the power of the feudal despot through the gradual process of rationalization as social actors become bound less by traditional authority and more by rational-legal or bureaucratic authority. But this schema is complicated in the indirectly ruled colonial state where the relationship between state and religion was reinforced through an alliance between the despotic power of traditional rulers who control religion and the infrastructural power of colonial rule through its rationalized state bureaucracy. These two forms of power combine in the administration of religious law in the colonial state that persists into the contemporary state administration to amplify the salience of religious elites and institutions in the modern postcolonial state.

APPENDIX A

ENGLISH TRANSLATION OF THE KUASA FOR THE PENGHULU IN SELANGOR

Source: Instruction to Penghulus – “Asks to convert into romanised Malay,”1957/0034347
KWALA

1. The Penghulu shall keep a journal recording with dates, all the work performed by him on Government duty and shall furnish the 10(?) offices with a copy of it every month.

He shall also ask in his journal any event of importance occurring in his Mukim.

2. He should go round his mukim keeping himself in constant communication with his anak buah.
3. He shall inspect all kampongs, streams, drains, dams, bridges, wards etc. and report on them. He shall see that the anak buah carry out all mukim works properly.

Mukim works are the watering (?) and repairing of dams, xxxx, kampung drains, and in addition to these such works as the District Officer may from time to time decide to be properly xxx xxx of the people.

4. He shall report to the 10(?) officer and Forest Ranger and encroachment on waste lands.
5. He shall arrest any person cutting timber without passes, and shall in all cases report the matter without delay to the nearest police station. He shall in general use every effort to enforce the Land rules as to timber xxx the gathering of all jungle produce.
6. He shall notify his anak buah at the mosque and at their houses of the date on which collections are to be held in his mukim, and use his utmost endeavour to ensure punctual payments by all.
7. He shall attend on the DO(?) at all collections of rent and assessment in his mukim and in general when called upon to do so.
8. He shall attend when specially sent for on the Forest Rangers working within his mukim and give them every assistance. He shall give general assistance to any Head of Government department or to any subordinate office on the mukim's(?) situation.
9. He shall see that all Mukim Boundary works are kept in order and the ground cleared of bush and jungle for the space of one to xxx round.
10. He shall be in charge of all Boundary works stored in his Mukim, and shall account for the same, and shall inspect all land marks forming the boundaries of xxx holdings and all that they are kept clear and in good condition.
11. He shall see that all transferred and mutations(?) of xxx are verified at the land or DO office.
12. At coast stations he shall see that all fishing(?) states(?) cargo boats and vehicles used by his anak buah are registered and numbered every year according to law.
13. He must notify all cases of sudden death at once at the nearest police station and also to the D offices.
14. He shall arrest on view all offenders against the laws of the state when a summon is not likely to suffice to secure the attendance of the offender for trial in Court (such as in the case of murder robbery and other serious crimes). He must always assist the police in the

detection of crime and arrest of criminals. Any neglect under his ward will be seriously dealt with.

15. He shall consult with his anak buah regarding(?) all useful works in his Mukim such as construction, cleaning or repair of roads water courses dams etc.
16. He shall see that the rules affecting padi planting are strictly enforced and do his utmost to every(?) padi planters.
17. He shall do his best to prevent the spread of disease amongst persons or cattle and shall immediately on the outbreak of any contagious or infectious disease report the same and order the isolation of the infected case.
18. He shall do his best to secure proper reporting by the people of births and deaths.
19. He shall do his best to induce parents to send their children to the vernacular schools.
20. He shall insist on infants being brought to be vaccinated.
21. He shall see that all kampongs in his mukim are properly drained and kept clean.
22. He shall encourage settlement on fresh lands and thorough(?) cultivation of all kampongs doing his best to encourage the planting of permanent xxx such as coconuts, coffee, betel nuts, plaintains etc.
23. He shall immediately report the discovery of this(?) or other minerals in the mukim.
24. He shall report to the DO every case when he suspects that mining is being carried on without a license.
25. He shall take out a summons against any person removing boundary marks.
26. In cases of dispute about boundaries as between any of his anak buah, he shall hear both disputants together and decide the case subject to approval of the DO. He shall always report the case and his reason for his decision.
27. He has the power to settle all xxx disputes as to debt up to \$10 and he may inflict fines for minor offences up to \$5.
28. All fees or fines collected by him must be paid with the DO officer on the first of the month following the in which they are collected.
29. He will remember that in all cases of crime he is invested with the power of a Police officer and except in trivial disputes, he shall allow no settlement of cases without reference to the Magistrate or District Officer.

APPENDIX B

ENGLISH TRANSLATION OF THE KUASA FOR THE PENGHULU IN PERAK

1957/0081602 997A/1889 Penghulu's Kuasa.
Penghulu's Kuasa in Perak.

Order of January 8, 1884.
Penghulus.

1. Penghulus will keep order in the districts over which they have charge, and will report regularly to the Resident as to what goes on.
2. They will hear all complaints brought before them, and if it is not in their power to decide on them they will forward the parties to Seremban with a report on the case.
3. Any case of debt up to twenty-five dollars may be heard and settle by penghulus. Fines for petty offences may be inflicted by them up to five dollars. More serious offences must be reported and the parties sent in to Seremban. Cases of theft must always be sent for trial in the Court in Seremban.
4. Penghulus will receive ten per cent on their collections, but they will not be allowed to draw the money themselves. The full amount is to be paid into the Treasury, when the commission will be deducted. Collections are to be paid into the Treasury at the end of every month.
5. Cases of murder must be immediately reported at the nearest station, and the penghulu will if possible at once secure the person of person accused and at the same time take the names of the witnesses, whom he will produce when the case is tried.
6. On a complaint being made to a penghulu he will issue a summons to the party complained of to appear before him on a certain day, for which he will charge twenty-five cents.
7. Anyone wishing to appeal against the decision of the penghulu may do so, and the penghulu so appealed against will make a report of the circumstances which led to his decision. Notes of all cases tried by penghulus must be kept in a book, as well as an account of all money received.
8. Penghulus will report on all land taken up in their districts whether for mining or other purposes, and will see that all occupiers of land have proper grants from the Land Office.
9. They are expected to enforce obedience to all Government notices, and to report all encroachments or illegal occupation of Government lands.
10.
11. They will be responsible for the keeping in order of all jungle tracks, bridle paths, etc., which are in their districts, and will report when any repairs are required which are beyond their power to effect with their own people.
12. Where sawah padi is cultivated the penghulu will be careful to see that the ground is prepared for planting by all the people at once, and any person disobeying the command of the penghulu in this respect will be liable to punishment.

Note. – See Timber Rules and Regulation X. of 1894.

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