

## The *Hukum Kanun Pahang*: A Forgotten Malay-Islamic Constitutional and Maritime Legacy

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Received: 10 March 2026 | Revised: 24 April 2026 | Published Online: 30 June 2026

### **Abstract**

This study reconstructs Pahang’s historical and intellectual identity as a sovereign Malay-Islamic civilization whose governance was founded upon law rather than conquest. At its centre stands the *Hukum Kanun Pahang* (*HKP*), compiled and codified during the reign of Sultan Abdul Ghaffar Muhyiddin Shah ibni Sultan Abdul Kadir Muhyiddin Shah (1592–1614), which is argued here to constitute the embryonic form of a Malay-Islamic constitution. Long before the emergence of Western constitutional theory, the Malay world had already articulated a written constitutional order grounded in *sharī’ah*, *adat*, justice, and accountability to Allah. The *HKP* unified terrestrial and maritime

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sovereignty, extending law from palace to port, from river to sea, and codifying the duties of ruler and subject, judicial procedure, trade ethics, maritime order, taxation, and moral conduct. Far from representing primitive law, the *HKP* reflects proto-constitutional thought and the earliest living expression of Malay constitutionalism, principles that later found continuity in the *Undang-Undang Tubuh Kerajaan Pahang 1948 (UTKP 1948)*. Through socio-historical approach this study re-centres Pahang as a great maritime civilization, a key site of Islamic constitutional development in Southeast Asia and reclaims the *HKP* as one of the world's earliest comprehensive constitutional texts.

**Keywords:** *Hukum Kanun Pahang*; Malay-Islamic constitution; constitutional monarchy; Islamic governance; maritime law; Sultans.

## Introduction

This study originated from an examination of the *UTKP 1948*<sup>2</sup> as the constitutional source underpinning *adat istiadat* (royal customs and tradition) in Pahang. It initially sought to situate these traditions within a legal framework that continues to guide ceremonial practice and governance. However, a close reading of the *Sejarah Melayu* and related sources raised a deeper question concerning their origins and legal foundations.

This inquiry led to the *Hukum Kanun Pahang (HKP)*. Although often treated as an ancient legal manuscript, the *HKP* reveals itself as a complete Malay-Islamic constitutional text that structured governance, religion, and social order in Pahang for centuries. Its relative neglect is partly due to its late rediscovery in 1993, when the

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<sup>2</sup> *Undang-Undang Tubuh Kerajaan Pahang* also known as *Undang-Undang Tubuh Negeri Pahang 1948*.

manuscript was brought to Pekan and acquired by the Pahang State Museum.<sup>3</sup>

Unlike the fragmented manuscripts commonly designated as A<sup>4</sup>, B<sup>5</sup>, and C<sup>6</sup>, the *HKP* preserved in Pahang is a complete legal codex dating to the early 17<sup>th</sup> century and consistent with royal manuscript production during the reign of Sultan Abdul Ghaffar Muhyiddin Shah ibni Sultan Abdul Kadir Muhyiddin Shah (1592-1614). Its completeness distinguishes it from later transcriptions of the *Hukum Kanun Melaka (HKM)* and *Undang-Undang Laut Melaka (UULM)*, including the copy identified by Liaw Yock Fang in the Vatican Library dated 1656–1676.<sup>7</sup> In contrast, the *HKP* demonstrates continuity with the Melaka legal tradition, reflecting its transmission and refinement in Pahang following the fall of Melaka in 1511.

Compiled between 1592 and 1614, the *HKP* predates many constitutional developments commonly associated with Western history and indicates that written constitutional governance in the Malay world emerged independently within an Islamic legal framework. Its codification reflects a deliberate effort to preserve justice (*ʿadl*), order (*nizām*), and *Hukum Allah* through written law, consistent with Islamic traditions of legal preservation.

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<sup>3</sup> Yaakub Isa (ed.), *Hukum Kanun Pahang: Manuskrip Agung Negeri* (Muzium Negeri Pahang, 2003).

<sup>4</sup> MS A RAS17, Royal Asiatic Society (RAS).

<sup>5</sup> MS B RAS20, Royal Asiatic Society (RAS).

<sup>6</sup> MS C Private Collection.

<sup>7</sup> Liaw Yock Fang, *Undang-undang Melaka dan Undang-undang Laut* (Yayasan Karyawan, 2016). Hereafter cited as *Undang-undang Melaka dan Undang-undang Laut*; idem, *Undang-undang Melaka* (M. Nijhoff, 1976).

This study therefore repositions the *HKP* as a sovereign Malay-Islamic constitution and argues that constitutionalism in the Malay Archipelago, now known as Southeast Asia, developed indigenously within an Islamic and maritime civilizational context rather than through colonial influence. It further proposes that Pahang should be understood as a Malay-Islamic polity characterised by legal consciousness and maritime governance, with the *HKP* as its constitutional core.

Conceptually, the *HKP* articulates a model of sovereignty grounded in divine authority. While power is vested in the ruler, it is constrained by *sharī'ah* and established legal norms, rendering authority legitimate only insofar as it conforms to justice. This reflects the Islamic conception of governance as an *amānah* in which law functions as the primary restraint on power.<sup>8</sup>

### **The Significance of the Study**

This study repositions the *HKP* within the broader history of constitutional thought in Southeast Asia. It challenges colonial and postcolonial portrayals of Malay polities as lacking structured governance by showing that legal order in the Malay world was grounded in law, moral accountability, and Islamic principles prior to colonial intervention.

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<sup>8</sup> Abdul Halim el-Muhammady and Asma Hakimah Ab Halim, *Qanun Pahang: Zaman Pemerintahan Sultan Abdul Ghaffar Mahyuddin Shah (1592-1614M)* (Penerbit Universiti Kebangsaan Malaysia, 2019), 26-29.

By examining the *HKP* as a coherent legal text, this study contributes to restoring balance in Malay legal historiography. It argues that constitutionalism in the Malay world was indigenous, emerging within an Islamic and maritime context, and thereby contests narratives that equate constitutional modernity exclusively with Western political development.

A key contribution lies in highlighting Pahang as a centre of legal and constitutional sophistication. Unlike other Malay polities whose legal traditions survive primarily in fragmented copies, Pahang preserves a complete and integrated manuscript that unites *sharī'ah*, *adat*, and sovereignty within a single framework, offering rare insight into the structure of Malay-Islamic governance.

The study also contributes to Islamic legal history by demonstrating how *Shāfi'ī* jurisprudence was adapted within a Malay-Islamic Sultanate. Islamic law appears not as a static system but as a dynamic tradition integrated with local custom and governance, challenging rigid distinctions between religious and customary law.

From a constitutional perspective, the *HKP* provides an alternative genealogy of constitutionalism that developed independently of European models. Its regulation of authority, institutional governance, and moral accountability reflects core constitutional principles within a tawhidic framework, expanding the scope of comparative constitutional studies.

Its maritime dimension further enhances its significance. By extending legal authority across rivers, ports, and seas, the *HKP* articulates a form of maritime governance in which sovereignty, commerce, and morality are integrated, demonstrating that coherent legal frameworks existed in the Malay world prior to modern international maritime law.

Finally, this study has implications for contemporary constitutional interpretation in Pahang. By tracing continuity between the *HKP* and the *UTKP*, it situates modern governance within a longer legal tradition and affirms the enduring relevance of Malay-Islamic principles beyond ceremonial practice.

### **Historical and Maritime Background of Pahang**

Understanding the background of Pahang requires situating it within the wider Malay maritime world, a civilizational sphere shaped by the sea long before European intervention. Early records refer to Pahang as *Pan-huang*, *Pahan*, and *Pa-hang*, reflecting its long-standing role as a coastal entrepôt linked to Indian Ocean, Selat Melaka and Laut Melayu trade networks. These references point to a maritime civilization structured by rivers, monsoons, and exchange networks rather than fixed territorial boundaries.<sup>9</sup>

Long before Western cartography defined the “South China Sea,” the Malay world had conceptualised these waters as the *Laut Melayu*, a shared maritime domain linking Sumatra, the Malay Peninsula, Borneo and the wider archipelago. The sea was understood as a regulated space shaped by custom and authority, where navigation and trade operated within recognised norms.<sup>10</sup>

By the era of Srivijaya, Majapahit and Langkasuka, Pahang was already integrated into regional and international trade networks. Its interior supplied resources that moved through river systems to coastal ports, linking inland societies to maritime exchange. During the

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<sup>9</sup> William Linehan, “A History of Pahang.” *Journal of the Malayan Branch of the Royal Asiatic Society* 14, no. 2 (125) (1936): 2.

<sup>10</sup> Leonard Y. Andaya, “A History of Trade in the Sea of Melayu.” *Itinerario* 24, no. 1 (2000): 87–110.

15th century, under the Melaka Sultanate, Pahang functioned as both a vassal state and a trans-peninsular corridor, with Sungai Pahang serving as a key route between interior and maritime zones.<sup>11</sup>

The fall of Melaka in 1511 marked a political shift but did not disrupt existing networks. Its influence persisted in successor polities, particularly Pahang, which emerged as an independent maritime state. It maintained regional alliances and oriented itself toward the eastern maritime routes of the *Laut Melayu*, where trade and interaction continued beyond the contested Straits of Melaka.<sup>12</sup>

This maritime orientation shaped patterns of governance and exchange. Malay legal traditions, reflected in the *HKM* and *UULM*, had already regulated piracy, trade conduct, and port administration prior to European involvement.<sup>13</sup> These practices continued to inform regional systems of order linking land and sea.

Islam entered the Malay world primarily through maritime networks, carried by merchants and scholars. Legal and ethical norms were embedded in commercial practice, contracts, trade obligations, and trust, before becoming institutionalised within royal governance.<sup>14</sup>

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<sup>11</sup> Linehan, “A History of Pahang”, 1-11.

<sup>12</sup> Anthony Reid, *Southeast Asia in the Age of Commerce* (Yale University Press, 1988), Vol. 2, p. 126.; A History of Pahang, 18-28.

<sup>13</sup> *Undang-undang Melaka dan Undang-undang Laut*, p. 61-71; Ahmad Jelani Halimi, *Legasi Kelautan Melayu* (Kuala Lumpur: Kaya Cipta, 2024), 170, 188-189.

<sup>14</sup> Syed Muhammad Naquib al-Attas, *Historical Fact and Fiction* (Johor: UTM Press, 2011), 1-9.

Maritime space was therefore not peripheral but integral to social and economic life. Trade operated within recognised ethical norms, while piracy was treated as a serious disruption to order. Ports functioned as centres of exchange and regulation, linking inland production to wider maritime networks.

Pahang's geography reinforced this system. River networks connected the interior to the coast, while islands such as Tioman served as key nodes in regional trade. Indigenous shipbuilding traditions, including the *perahu*, *lancaran*, *balok* and *jong*, reflect a high level of maritime knowledge adapted to local conditions.<sup>15</sup>

Unlike the western Malay Peninsula, Pahang experienced limited direct European control. Portuguese and Dutch influence concentrated on the Straits of Melaka, while British involvement developed through diplomacy. This relative autonomy enabled continuity in local systems of governance and trade. Maritime communities such as the *Orang Laut* and *Orang Dalaman* played an important role as navigators and guardians of sea routes, contributing to the maintenance of order across maritime space.<sup>16</sup>

From a broader Asian perspective, maritime exchange reflects long-standing patterns of interaction in which regional societies shaped trade, material culture, and systems of order. Pahang formed part of this interconnected world, where movement, exchange, and regulation were structured through established practices rather than external intervention.<sup>17</sup>

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<sup>15</sup> Linehan, "History of Pahang", 1-12.

<sup>16</sup> Barbara Watson Andaya, "Recreating a Vision: Daratan and Kepulauan in Historical Context." *Bijdragen Tot de Taal-, Land- En Volkenkunde* 153, no. 4 (1997): 483-508.

<sup>17</sup> Peter Borschberg (ed.), *Journal, Memorials and Letters of Cornelis Matelieff de*

## **The Islamic and Constitutional Foundations of the *Hukum Kanun Pahang***

The constitutional character of the *HKP* is inseparable from its Islamic foundations and the intellectual worldview within which it was conceived. Rather than a collection of administrative rules, the *HKP* reflects a coherent legal philosophy grounded in Islamic jurisprudence (*fiqh*), Malay political ethics, and a tawhidic conception of sovereignty, in which governance is understood as an *amānah* exercised under *Hukum Allah* and moral accountability.<sup>18</sup>

Central to this framework is the principle that sovereignty ultimately belongs to Allah, while the ruler governs as His vicegerent (*khalīfah*). Authority is legitimised through adherence to divine law and the pursuit of justice (*‘adl*), lineage, rather than coercion. The *HKP* gives written expression to this principle by situating the Sultan within a legal order that binds ruler and subject alike, anticipating the core idea of constitutional monarchy.<sup>19</sup>

The integration of *sharī‘ah* is evident in the *HKP*'s reliance on *Shāfi‘ī* jurisprudence, the dominant legal school in the Malay world by the 15th century. Its provisions on criminal law, contracts, evidence, and moral conduct reflect the adaptation of Islamic legal norms to local conditions, indicating that Islamic law functioned as a living tradition embedded within governance.<sup>20</sup>

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*Jonge: Security, Diplomacy and Commerce in 17th-century Southeast Asia* (NUS Press, 2015), 176, 486, 522, 573, 577.

<sup>18</sup> Isa, *Hukum Kanun Pahang*, 121.

<sup>19</sup> Isa, *Hukum Kanun Pahang*, 2-3.

<sup>20</sup> Ahmad Farid Abd Jalal, Rahimin Affandi Abdul Rahim, Awang Azman Awang Pawi, “Manuskrip Hukum Kanun Pahang: Antara Kepentingan dan

At the same time, the *HKP* affirms the role of *‘adat Melayu* as a recognised source of law, provided it does not contradict Islamic principles. This synthesis reflects a distinctive Malay-Islamic legal methodology that harmonises revelation with custom, producing a unified legal order that is neither purely religious nor purely customary.

The constitutional logic of the *HKP* is further evident in its regulation of governance. The Sultan is presented as a *raja ‘adil*, bound by law and ethical obligation. The text defines the roles of officials such as *Bendahara*, *Temenggung*, *Shahbandar*, and *Hulubalang*, and procedures for adjudication and enforcement, indicating a structured system in which authority is distributed and regulated.<sup>21</sup>

This legal architecture challenges assumptions that Malay polities lacked constitutional order. The *HKP* shows that governance developed within its own intellectual and spiritual traditions, where law functioned as both a moral and political framework. In this respect, it may be compared to foundational texts such as the *Piagam Madina*, which similarly articulated governance through divine law and communal responsibility.

The constitutional nature of the *HKP* is reinforced by its terminology. The use of *hukum* and *kanun* reflects an understanding of law as both sacred and sovereign, *hukum* denotes divine and moral law, while *kanun* refers to enacted regulation under royal authority, together embodying the integration of revelation and legislation.<sup>22</sup>

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Kritikan Sarjana Kolonial,” *Jurnal Melayu Sedunia* Vol. 5, Issue 1, 93-94

<sup>21</sup> Abu Talib Ahmad, *Sejarah Negeri Pahang hingga 1945* (Dewan Bahasa dan Pustaka, 2024), 125-126.

<sup>22</sup> El-Muhammady and Ab Halim, *Qanun Pahang*, 23-25.

Beyond its juridical content, the *HKP* functioned as a state-building instrument. By standardising legal norms across territory and maritime space, it unified diverse communities under a shared framework, strengthening political cohesion and administrative continuity.

These foundations are inseparable from a Tawhidic Epistemology in which law, governance, and morality are integrated expressions of divine unity. Justice is thus both legal and theological, and obedience to law is simultaneously obedience to Allah.<sup>23</sup>

In this light, the *HKP* emerges as a constitutional text in both form and substance. It structures authority, limits power and embeds moral accountability within governance. It must therefore be understood within a broader continuum of Malay-Islamic constitutionalism, extending from Melaka to later developments such as the *UTKP*.<sup>24</sup>

### **The Vision of a Constitutional Monarch**

The emergence of the *HKP* is clearly attributable to the reign of Sultan Abdul Ghaffar Muhyiddin Shah (r. 1592–1614), whose political vision shaped a significant phase in the development of Malay legal tradition. As the 12th Sultan of Pahang and a descendant of the Melaka royal lineage, he inherited a body of legal knowledge rooted in earlier Malay-Islamic governance.<sup>25</sup>

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<sup>23</sup> Osman Bakar, “Islamic Science, Modern Science, and Post-Modernity: Towards a New Synthesis through a Tawhidic Epistemology”, *Revelation and Science* Vol. 01, No. 03 (1433H/2011), 13-20.

<sup>24</sup> El-Muhammady and Ab Halim, *Qanun Pahang*, 20-30.

<sup>25</sup> El-Muhammady and Ab Halim, *Qanun Pahang*, 20-30.

Under his reign, Pahang did not simply preserve inherited norms but undertook their systematic codification. The compilation of the *HKP* reflects a deliberate act of statecraft in which law was committed to writing to ensure continuity, authority, and clarity. At a time when many post-Melaka polities relied on oral transmission or fragmented records, this effort provided a stable legal reference for governance and adjudication.<sup>26</sup>

The scope of the *HKP* indicates the extent of this undertaking. It integrates *sharī‘ah*, criminal, civil, administrative, commercial, and maritime regulations within a unified framework. Governance was structured through defined offices such as the *Bendahara*, *Temenggung*, *Shahbandar* and *Nakhoda* whose roles were articulated in relation to royal authority, indicating an organised system rather than a personalised form of rule.<sup>27</sup>

Sultan Abdul Ghaffar’s approach to governance was informed by Islamic political principles. Authority was exercised within a framework of justice and accountability, consistent with the ideal of the *raja adil*. Legitimacy derived not from coercion alone but from adherence to law and moral responsibility, reflecting a conception of rule grounded in ethical restraint.<sup>28</sup>

This approach is particularly notable within the context of the early 17<sup>th</sup> century. While European powers were expanding influence through conquest and chartered authority, Pahang maintained

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<sup>26</sup> Amru Sazali, “The Manuscript of Hukum Kanun Pahang: Insights on Trade Laws and Economic Regulations in 17th-Century Malaya” *BITARA International Journal of Civilizational Studies and Human Sciences* 8(3): (2025), 106-116.

<sup>27</sup> Isa, *Hukum Kanun Pahang*, 106

<sup>28</sup> Isa, *Hukum Kanun Pahang*, 119.

stability through established legal and political structures. This contributed to continuity in governance despite wider regional disruptions following the fall of Melaka.<sup>29</sup>

The codification undertaken during this period also had wider implications. The legal structures associated with the *HKP*, influenced governance beyond Pahang, with parallels observed in neighbouring Malay polities such as Johor, Terengganu, and Riau.<sup>30</sup> This suggests that the *HKP* functioned as a point of reference within a broader regional legal tradition.

Sultan Abdul Ghaffar's role may therefore be understood as that of a codifier, who consolidated and systematised existing legal traditions within a written framework. His reign represents a stage in which legal knowledge was stabilised and transmitted in a form that guided governance across generations.

### **The *Hukum Kanun Pahang* as a Sovereign Malay-Islamic Constitution**

While the *HKM* and *UULM* are recognised as foundational legal texts of the Malay world, the *HKP* represents a more developed articulation of governance in written form. It consolidates earlier legal traditions within a single framework that integrates authority, law, and administration.

The constitutional character of the *HKP* becomes evident when it is examined as a structured framework of governance rather than a compilation of laws. It regulated political authority, social relations, and legal obligations in a systematic manner, providing a

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<sup>29</sup> Linehan, "History of Pahang", 29-37.

<sup>30</sup> Isa, *Hukum Kanun Pahang*, 158.

stable reference for governance beyond customary or ad hoc decision-making. In this respect, it fulfilled functions commonly associated with constitutional texts, organising authority and establishing recognised norms of rule.

Although enacted under royal authority, the *HKP* imposed legal and procedural constraints on governance. The Sultan operated within an established legal framework, and authority was exercised through defined norms rather than personal discretion.<sup>31</sup> This emphasis on regulated authority distinguishes it from models of absolutist rule.

The *HKP* further demonstrates this structure through its delineation of governance. It defines the roles and responsibilities of officials such as the *Bendahara*, *Temenggung*, *Shahbandar*, and the *Orang Besar*, forming an administrative system that mediated between ruler and society. These offices functioned as institutional components of governance, indicating an organised political order rather than a personalised system of rule.<sup>32</sup>

Judicial procedures and substantive law were also codified with a degree of consistency. Provisions on criminal offences, civil disputes, evidentiary standards, and punishments reflect an effort to ensure procedural regularity and legal predictability. Justice was governed by known rules, reinforcing the principle that authority operated within an established legal framework.<sup>33</sup>

The integration of *shari'ah* and *adat* further characterises the *HKP*'s legal structure. Customary practices were recognised alongside Islamic principles, provided they did not conflict with religious norms.

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<sup>31</sup> Isa, *Hukum Kanun Pahang*, 4.

<sup>32</sup> Isa, *Hukum Kanun Pahang*, 10.

<sup>33</sup> Isa, *Hukum Kanun Pahang*, 119, 131-132.

This produced a unified legal system that maintained social continuity while ensuring normative coherence.<sup>34</sup>

The scope of regulation extended to economic and social life. Provisions concerning taxation, trade conduct, and property reflect an understanding of economic activity as subject to legal oversight. Commercial behaviour was framed within recognised standards, indicating the role of governance in maintaining order within society.<sup>35</sup>

The *HKP* also extended its regulatory framework across both land and maritime domains. Offences such as fraud, piracy, and disorder were treated as violations of legal order, reflecting an understanding that authority applied across different spheres of activity within the polity.<sup>36</sup>

From a comparative perspective, the *HKP* exhibits features associated with early constitutional frameworks, including the organisation of authority, the regulation of governance, and the articulation of legal norms. Its terminology, particularly the use of *hukum* and *kanun*, reflects an awareness of law as both normative and enacted regulation under sovereign authority.<sup>37</sup>

The influence of the *HKP* extended beyond its immediate context. Its principles informed governance in Pahang over time and contributed to broader patterns within Malay legal tradition. Elements of its structure and legal reasoning can be observed in later developments, including the *UTKP*.

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<sup>34</sup> Isa, *Hukum Kanun Pahang*, 106-107.

<sup>35</sup> Isa, *Hukum Kanun Pahang*, 126, 116.

<sup>36</sup> Isa, *Hukum Kanun Pahang*, 107-114.

<sup>37</sup> Isa, *Hukum Kanun Pahang*, 107.

Viewed in this light, the *HKP* may be understood as a comprehensive legal framework that organised governance, regulated authority, and structured social order. Its provisions reflect a system concerned not only with authority, but also with the maintenance of legal and social stability.

### **The Maritime Dimension of the *Hukum Kanun Pahang***

The *HKP* occupies a distinctive position in Malay legal history as one of the earliest texts to integrate maritime governance within a comprehensive legal order. While earlier traditions, particularly the *UULM*, articulated norms of seafaring and trade, the *HKP* reflects a more developed framework in which maritime regulation is embedded within sovereignty. It indicates a legal consciousness that treated the sea as a central domain of governance and economic life rather than a peripheral frontier.<sup>38</sup>

Pahang's maritime orientation shaped both the scope and content of this framework. Situated along the eastern seaboard and connected to regional trade routes, it relied on networks linking the *Laut Melayu* with the wider Indian Ocean. Rivers, especially the Sungai Pahang, connected inland resources to coastal ports, forming a system that required consistent regulation. Authority extended across land, river, and sea within this interconnected environment.<sup>39</sup>

Within this context, maritime space was treated as a governed legal domain. Provisions addressing fraud, theft aboard ships, harbour

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<sup>38</sup> Isa, *Hukum Kanun Pahang*, 117.

<sup>39</sup> Isa, *Hukum Kanun Pahang*, 47-48.; Preethevan Ramu, Zuliskandar Ramli, Shamsuddin Ahmad, Mohamad Nazim Abdul Gaman, Asrul Effendi Kamaruzzaman and Muhammad Zaki Razani, "Sejarah Perkembangan Laluan Penarikan," *Jurnal Arkeologi Malaysia*, Vol. 33, No.1 (2020): 27-41.

security, and trade conduct reflect efforts to maintain order in maritime commerce, where dishonesty carried both legal and moral implications.<sup>40</sup>

The regulation of piracy further illustrates this framework. Piracy was treated as a disruption to both commercial stability and public order, reinforcing the distinction between recognised authority and unlawful coercion.<sup>41</sup>

Maritime governance was also institutionalised. The *Shahbandar* played a central role in overseeing ports, managing foreign merchants, collecting duties, and resolving disputes. This indicates that maritime authority operated through defined offices and procedures rather than informal enforcement.<sup>42</sup>

The *HKP* also reflects the influence of Islamic maritime practice. Through trade networks, legal principles governing contracts, partnership, and trust were incorporated into local systems, aligning commercial activity with recognised legal norms.<sup>43</sup>

Pahang's relative autonomy contributed to the stability of its maritime environment. While European powers concentrated on the Straits of Melaka, the eastern maritime routes under Pahang's influence developed a reputation for reliability. This stability was maintained through consistent regulation and established practices rather than coercive control.<sup>44</sup>

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<sup>40</sup> Isa, *Hukum Kanun Pahang*, 140.

<sup>41</sup> Isa, *Hukum Kanun Pahang*, 109-110.

<sup>42</sup> Isa, *Hukum Kanun Pahang*, 106.

<sup>43</sup> Isa, *Hukum Kanun Pahang*, 125.

<sup>44</sup> Linehan, "History of Pahang", 12-44.

Maritime communities such as the *Orang Laut* and *Orang Dalaman* supported this system by serving as navigators and guardians of river and sea routes, facilitating movement and contributing to the maintenance of order across maritime space.<sup>45</sup>

From a comparative perspective, the *HKP* reflects an early approach to maritime governance in which authority and regulation extended across multiple domains. Its provisions indicate an understanding that order in maritime activity depended on recognised rules, accountability, and the regulation of conduct.<sup>46</sup>

The maritime dimension of the *HKP* thus highlights the integration of economic activity, governance, and legal norms within a single framework, reflecting the broader organisation of authority within the polity.

### **Manuscript Tradition, Authenticity, and Rediscovery**

The significance of the *HKP* is closely tied to the integrity, completeness, and provenance of its manuscript tradition. Unlike many Malay legal texts that survive only in derivative or partial copies, the *HKP* preserved in Pahang represents a rare, intact legal codex. This distinction is central to understanding the development of Malay-Islamic legal thought and the transmission of law in the early modern period.

The principal manuscript, designated as MS D<sup>47</sup>, is kept at the Pahang State Museum. Written in *Bahasa Jawi* and illuminated with

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<sup>45</sup> Leonard Y. Andaya “Orang Asli and The Melayu in the History of The Malay Peninsula.” *Journal of the Malaysian Branch of the Royal Asiatic Society* 75, no. 1 (282) (2002): 24-25, 31.

<sup>46</sup> Isa, *Hukum Kanun Pahang*, 119.

<sup>47</sup> MS D Muzium Pahang.

gold, and Islamic and Malay motifs, it reflects the characteristics of early 17<sup>th</sup>-century royal manuscript production. The manuscript was written during the reign of Sultan Abdul Ghaffar Muhyiddin Shah, with palaeographic and stylistic evidence corroborating its placement within this period of compilation. Its integrity distinguishes it from other Pahang legal manuscripts, which survive only in partial or inconsistent forms.<sup>48</sup>

Earlier scholarship relied heavily on the *HKM* and *UULM*, particularly the copy identified by Liaw Yock Fang in the Vatican Library (1656–1676). While important for reconstructing Melaka legal traditions, these manuscripts represent later transcriptions removed from their original context.<sup>49</sup> By contrast, the *HKP* manuscript in Pahang provides a closer witness to the legal tradition in both chronological and political terms.

Additional manuscripts, commonly designated as A, B, and C, have contributed to scholarly ambiguity. These versions are fragmentary and divergent, reflecting processes of copying, adaptation, and editorial intervention rather than direct preservation. They therefore cannot be treated as equivalent to the Pahang manuscript when assessing the structure and content of the text.

Recent findings have further strengthened the importance of the *HKP*. A related manuscript, MS E, *Kūtab Istilah Bagi Raja dan Wazir Bagi Negeri Pahang Darussalam* (also referred to as *Qanun Pahang*), shows substantial parallels with the *HKP* and is currently the subject of

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<sup>48</sup> Isa, *Hukum Kanun Pahang*, xii-xiii.

<sup>49</sup> *Undang-undang Melaka dan Undang-undang Laut*, p. 2-3.; idem, “Naskah Undang-Undang Melaka: Suatu Tinjauan: Suatu Tinjauan” *Sari* 25 (2007) 90-91.

comparative study.<sup>50</sup> The discovery of Manuscript F<sup>51</sup> on 5th March 2026, further provides additional evidence of continuity, indicating that the *HKP* remained in use as a governing legal reference into the 20th century.

The rediscovery of the *HKP* in 1993, marked a turning point in Malay legal historiography. Prior to this, it remained largely absent from academic discourse and overshadowed by Melaka legal texts. Its reappearance exposed gaps in prevailing narratives and suggests that earlier scholarship, including that of Liaw Yock Fang, and Abu Hassan Sham, might have been framed differently had the complete manuscript been available.

The preservation of a full legal codex allows for a more comprehensive analysis of governance, legal structure, and normative principles, revealing how different domains of law were integrated within a single framework. This supports the view that the *HKP* was conceived as a deliberate and organised legal project rather than an accumulation of disparate rules.

The manuscript tradition also reflects a broader intellectual culture, in which written law served to preserve authority and continuity. The composition of an illuminated royal manuscript indicates an intention to stabilise governance across generations and to anchor it in enduring legal principles.

The rediscovery and continued study of the *HKP* therefore represent, not merely the recovery of a historical artifact, but a renewed engagement with a legal tradition long marginalised in scholarship. Its preservation offers an opportunity to reassess the

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<sup>50</sup> MSS 2583B.; *Qanun Pahang: Zaman Pemerintahan Sultan Abdul Ghaffar*

<sup>51</sup> MS F is currently being restored and preserved in the National Archives of Malaysia.

development of legal thought in the Malay world and contributes to a broader understanding of regional intellectual history.

### **The *Hukum Kanun Pahang* and The *Undang-Undang Tubuh Kerajaan Pahang***

The legacy of the *HKP* continued, in transformed form, into the twentieth century and is most reflected in the *UTKP*. Although drafted within a colonial administrative context, the *UTKP* embodies principles that resonate with earlier patterns of governance, particularly in relation to sovereignty, Islam, *adat istiadat*, and the moral limits of political authority.<sup>52</sup>

The *UTKP* affirms the Sultan as the constitutional head of state while situating that authority within an Islamic framework. Islam is recognised as the religion of the state, and the Sultan as its protector. This reflects a conception of rulership in which authority is exercised as a trust (*amānah*) and remains tied to moral responsibility rather than unfettered power.<sup>53</sup>

Continuity is also evident in the recognition of *adat*. The *UTKP* accords royal customs and traditions a formal place within governance, placing them under the authority of the Sultan and institutions such as the *Majlis Adat Istiadat Negeri Pahang* and the *Majlis Ugama Islam dan Adat Resam Melayu Pahang* (MUIP). This reflects the enduring role of *adat* as a recognised component of governance within the Malay legal tradition.<sup>54</sup>

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<sup>52</sup> See Part I Chapter 1, Chapter 4 and Part II Chapter I, *Undang-Undang Tubuh Kerajaan Pahang*.

<sup>53</sup> Ibid.

<sup>54</sup> Part I Chapter 24, *Undang-Undang Tubuh Kerajaan Pahang*.

The organisation of governance in the *UTKP* similarly reflects earlier patterns. While expressed through modern administrative forms, it emphasises defined authority, institutional roles, and the regulation of power through law. This parallels the earlier articulation of offices such as the *Bendahara*, *Temenggung*, and *Shahbandar*, indicating continuity in the structuring of governance.

The relationship between law and morality further reinforces this continuity. Governance in the *UTKP* is framed within a moral context, emphasising responsibility for justice, religion, and social order. This reflects a longstanding conception of authority in which legal obligations are closely linked to ethical considerations.<sup>55</sup>

It is notable that the *HKP* was not directly referenced during the drafting of the *UTKP*, largely due to its obscurity prior to its rediscovery. This contributed to the view that constitutional development in Pahang derived primarily from colonial influence. However, the structural and conceptual parallels between the two indicate a deeper continuity. The *UTKP* may therefore be understood as a later articulation of principles already present within Malay-Islamic governance.

This perspective challenges interpretations that locate constitutional development in Tanah Melayu solely within colonial frameworks. Instead, it points to an established tradition in which authority, law, and custom were integrated within recognised systems of governance prior to external intervention.

The relationship between the *HKP* and the *UTKP* thus highlights the persistence of key principles across changing contexts. Despite differences in form, elements such as the centrality of Islam,

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<sup>55</sup> Part I Chapter 1, Chapter 4 and Part II Chapter I, *Undang-Undang Tubuh Kerajaan Pahang*.

the recognition of adat, and the regulation of authority through law continued to shape governance. The *HKP* may therefore be understood as part of a longer legal tradition that informs later constitutional developments in Pahang.

The *HKP* may be understood as a direct continuation of the *HKM* and the *UULM*, effectively representing “Melaka II” within the Malay-Islamic legal tradition. Preserved across at least six manuscripts (A–F), the *HKP* reflects both continuity and codification under Sultan Abdul Ghaffar Muhyiddin Shah. In contrast to the fragmentary nature of earlier copies, Manuscripts D, E, and F stand as complete and intact versions of the *HKP*, providing a comprehensive view of its structure, content, and legal framework.

Through dynastic marriages and political networks, this legal tradition extended beyond Pahang to other Malay Sultanates, including Brunei, Patani, Perak, and Aceh, and later evolved within the Pahang-Johor-Riau-Lingga Empire.<sup>56</sup> Evidence from Manuscript F (1884) further demonstrates its continued application until the promulgation of the *UTKP*. This unbroken trajectory, from Melaka to Pahang and into the modern constitutional era, establishes the *HKP* as a central pillar of a long-standing Malay-Islamic constitutional tradition, as old as Melaka itself, representing over five centuries of enduring legal and constitutional legacy.

Manuscript D, E and F belong to the Pahang Sultanate and are held in custodianship within the Pahang State Museum, representing a sovereign legal heritage of exceptional completeness and continuity. To date, no other Malay kingdom is known to possess

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<sup>56</sup> Linehan “History of Pahang”, 176-177.

a comparable corpus, rendering the *HKP* a singular and enduring treasure of Pahang's civilizational legacy.

## **Conclusion**

This study has demonstrated that the *HKP* stands as a significant constitutional text within the Malay world. It articulated governance, sovereignty, and justice in written form prior to colonial constitutional frameworks, reflecting a legal order grounded in Islamic jurisprudence, Malay political ethics, and a tawhidic worldview.

The *HKP* may be understood as a Malay-Islamic continuation of the *Piagam Madinah*, adapted to a sultanate and maritime context. It indicates that Islam in the Malay world was engaged as a framework of governance, not solely as ritual practice.

Placed within its historical setting, Pahang emerges as a maritime polity whose legal order extended across land, river, and sea. This reflects a form of governance in which authority, economic activity, and regulation were interconnected within established norms.

The *HKP* also shows that governance was exercised within defined legal and ethical limits. Authority was structured through recognised roles and responsibilities, and the ruler functioned within a framework that emphasised justice and accountability rather than arbitrary power.<sup>57</sup>

The role of Sultan Abdul Ghaffar Muhyiddin Shah was central to this development. His codification of law consolidated earlier traditions within a written framework, contributing to continuity in governance during a period of regional transition.<sup>58</sup>

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<sup>57</sup> Isa, *Hukum Kanun Pahang*, 32-36.

<sup>58</sup> Sazali, "The Manuscript of Hukum Kanun Pahang."

The preservation of the *HKP* manuscript provides important evidence for the study of Malay legal history. Its rediscovery, together with related manuscripts such as MS E and MS F, strengthens the case for continuity in legal practice and invites further scholarly reassessment.

The relationship between the *HKP* and the *UTKP* further highlights this continuity. Despite differences in form, and key elements, the role of Islam, the recognition of adat, and regulation of authority, persist across time, indicating the endurance of an established legal tradition.<sup>59</sup>

Taken together, these findings position the *HKP* as a significant document within the broader history of law and governance in the Malay Archipelago. It reflects an indigenous tradition in which law, authority, and social order were integrated within a coherent framework.

The *HKP* thus stands as a testament to a tradition of governance grounded in law and moral responsibility. Its continued study contributes to a deeper understanding of the intellectual and legal heritage of the Malay world and its place within wider historical narratives.

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<sup>59</sup> Wan Ahmad Fauzi Hashim @ Wan Husain, “Analisis Hukum Kanun Pahang dari Aspek Ciri Perlembagaan Moden”, *BITARA International Journal of Civilizational Studies and Human Sciences* 6(4) (2023): 220-233.