

The Evolution of Islamic Governance: With Special Reference to Brunei Darussalam

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The size of a nation's Muslim population is not the main determinant whether it is an Islamic nation, or otherwise. When Prophet Muhammad ﷺ first arrived in Yathrib in 1AH/622AD, there were about 10,000 people living there, 45% were non-Muslim Arabs, 40% were Jews and only 15% were Muslims.² Yet, for all intent and purposes, Yathrib or Madīnah, as it was later renamed, is considered to be the first Islamic community,³ and the first Islamic polity. It has been generally accepted⁴ that even if a state is inhabited by an all Muslim population, or by a majority of Muslim residents, it arguably cannot be considered as an Islamic state or nation. To be a truly Islamic country, it can only be “by virtue of a conscious application of the sociopolitical tenets of Islam to the life of the nation, and by an incorporation of those tenets in the basic constitution of the country.”⁵ A country has to be governed by a government that practises an Islamic system of governance. The concept of Islamic Governance fulfils this Islamicity requirement through the Sharī'ah – a Divine Law provided by the Qur'ān and supplemented, detailed and exemplified by the Sunnah of Prophet Muhammad ﷺ. The “innermost purpose of the

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² Dr Abdul Alim, *The Constitution of Medina: A Symbol of Pluralism in Islam*, The Muslim Times Website, 2014, retrieved on 16 March 2017, <https://themuslimtimes.info/2014/09/20/the-constitution-of-medina-a-symbol-of-pluralism-in-islam-2/>

³ Ira M. Lapidus, *A History of Islamic Societies*, Cambridge University Press, 2002, p. 23

⁴ Muhammad Asad, *The Principles of State and Government in Islam*, Los Angeles: University of California Press, 1961, p. 1

⁵ *Ibid.*, p. 1

Islamic state is to provide a political framework for Muslim unity and cooperation.”¹ Allah *ta‘āla* has said: ²

{ Hold fast, all together, to the covenant of Allah, and do not separate. And remember Allah's favour unto you – how, when you were enemies, He united your hearts, so that by His favour you became brethren; and how, when you were on the brink of an abyss of fire, He drew you back from it. Thus, Allah makes His messages clear to you, so that you may find guidance, and that out of you may grow a community of people who issue a call to equity, enjoin what is right and forbid what is wrong and it is these alone that shall attain to everlasting happiness }

An Islamic nation, therefore, is only a means towards a goal,³ which is to produce a community of people who are able to ensure that the social order, as described in the verse above, is achieved.

Islam does not categorically define how a government should be derived nor how a person can be elected or made leader of that government. Imam al-Mawardi⁴ stated that there are several conditions that can make a person eligible for supreme leadership. He also stated that supreme leadership can be established either by selection via the electors or appointment by a predecessor. As such, the form of government is not defined in Islam. However, Imam al-Mawardi⁵ noted that once a leader has been appointed, he must fulfil ten public duties which include guarding the Faith and enforcing the law. Islamic jurists⁶ have defined those public duties, or goals, as *Maqāṣid* of the Sharī‘ah, or the objectives of Islamic Law. The *Maqāṣid* have generally been classified into five major categories – to

¹ Ibid., p. 30

² The translation of sūrah Āli ‘Imrān: 103 – 104

³ Muhammad Asad, *The Principles of State and Government in Islam*, p. 30

⁴ Abū al-Ḥasan Al-Mawardi, *Al-Aḥkam al-Sultaniyya w’al-Wilayat al-Diniyya: The Ordinances of Government*, translated by Waffa H. Wahba, Reading: Garnet Publishing, 1996, p. 4. Imam Al-Mawardi was born in 972M and died in 1058M.

⁵ Ibid., p.4

⁶ Imam al-Juwayni (d. 478H) built up on Imam al-Tirmidhi's juristic writings on the *Maqāṣid* (d. 320H), who first classified the *Maqāṣid* of the Sharī‘ah into the three categories of needs, and this was further developed by Imam al-Ghazālī (d. 505H) who categorically stated the five *Maqāṣid* of the Sharī‘ah.

preserve and promote the well-being of the people by safeguarding their *dīn* (Faith), their *nafs* (lives), their *‘aql* (intellect), their *nasl* (progeny) and their *māl* (wealth).^{1,2} The governance of an Islamic nation fulfilling the *Maqāṣid* of the *Sharāh*, therefore, is the manifestation of *tauḥīd*, that is, the juristic component of what a state must do in order to achieve what it is supposed to govern and administer,³ either as part of the intervention or reclamation process, towards a society that is conducive for the worship of Allah.

This paper will trace the general evolution of governance in some Islamic communities towards the fulfilment of the *Maqāṣid*, beginning with the *Sunnah* of the Prophet Muhammad ﷺ. The first document on governance, which is the Constitution of Madīnah, enshrines the *Ummah* to act collectively and enforce the social order and security. Next, the paper delves into the evolving governance during the times of the *khalīfah al-Rāshidūn*, followed by the Islamic caliphates, and to the rest of the Islamic world. In this regard, the latter part of this paper will specifically discuss the evolution of Islamic Governance as practised in Brunei from 14th to 19th centuries AD, during the British Residency era and during post-independence of 1984.

Governance of the Madīnian Polity

When Prophet Muhammad ﷺ first arrived at Madīnah in 1AH/622AD, a *ḥadīth* described the event:⁴

“Abdullah ibn Salam said: When the Messenger of Allah, peace and blessings be upon him, came to Madīnah, the people rushed towards him and it was said, “The Messenger of Allah has come!” I came along with the people to see him, and when I looked at the

¹ Muhammad Umer Chapra, *The Islamic Vision of Development in the Light of Maqasid al-Shariah*, The International Institute of Islamic Thought, 2008

² Mohammad Hashim Kamali, *Maqasid Al-Shariah Made Simple*, The International Institute of Islamic Thought, 2008

³ Amin Abdul Aziz, “Governance in a Contemporary Islamic Negara,” *Journal of Islamic Governance*, 2015. Professor Amin introduced the Islamic Governance Conceptual (IGC) Framework, and the IGC Matrix is used as an underlying framework throughout this paper.

⁴ The translation of the ḥadīth narrated by Ibn Majah, Hadīth No. 1334

face of the Messenger of Allah, I realised that his face was not the face of a liar. The first thing he said was, “O people, spread peace, feed the hungry, and pray at night when people are sleeping and you will enter Paradise in peace.”

This *ḥadīth* demonstrated the call towards fulfilling the first two *Maqāṣid* for the preservation of the Faith and the preservation of life. Prophet Muhammad ﷺ and his Madīnian hosts came to a formal political agreement.¹ The agreement known as the Constitution of Madīnah, decreed by the Prophet, was a formal agreement between the Prophet and all the tribes and inhabitants then living in Madīnah, which included non-Muslims. It was designed to bring everyone living in Madīnah under the fold of one community.²

By establishing the first Islamic ‘state’, Prophet Muhammad ﷺ had secured, among others, the security and protection of all the inhabitants and the various communities living in Madīnah. As a result, Madīnah became a peaceful city by: barring all violence and weapons, allowing non-Muslims to practise their own religions, establishing a revenue system to support the State, setting parameters for alliances, and setting up a just judicial system for resolving disputes. Diplomatic relationships were also established by the Prophet where he sent many letters of peace and goodwill to various Christian communities. Racial equality was also strongly established. In the Prophet’s ﷺ final sermon on Mount Arafat, he stated that no one has superiority over another regardless of race, except by piety and good action. The final sermon shows the Prophet’s ﷺ care for all people regardless of their ethnic composition. Overall, security and peace achieved allowed for the community to live in peace, thus guaranteeing that the people’s lives will be protected and are able to promote and preserve their religion, their wealth, their intellect and their progeny.

¹ Lapidus, *A History of Islamic Societies*, p. 23

² Hugh Kennedy, *The Prophet and the Age of the Caliphates: The Islamic Near East from the Sixth to the Eleventh Century*, Oxford: Routledge, 2016, p. 29-30

The Rāshidūn Caliphate

After the passing of Prophet Muhammad ﷺ, the fulfilment of the *Maqāṣid* was continued by the various proceeding caliphs. Abu Bakr aṣ-Ṣiddīq was appointed as the first Muslim Caliph¹ upon the passing of Prophet Muhammad ﷺ in 10AH/632AD, and governed until he died in 12AH/634AD. Abu Bakr faced two main challenges – how to maintain the nascent Madīnian polity as a number of tribes apostatised under the leadership of false prophets, and their refusal to pay *zakāt*. He resisted the advice of the *shūrā* to compromise and suspend the *zakāt*. Instead, he waged jihad against the rebels. This was known as the Riddah Wars, and these battles often spread into the Byzantine and Sasanian empires. In this way, Abu Bakr was able to assert political sovereignty over the emerging Islamic empire. Furthermore, he was also the first one to establish a *bait al-māl* (a building in which *zakah* and other revenues were stored while they were being distributed).² He would give the *zakāt* and properties stored in it, and give it away until it was empty. At times, he would buy camels, horses and weapons, and put them to be used in the way of Allah. By ensuring that the people received assistance, Abu Bakr ensured the fulfilment of several *Maqāṣid*, among them, the preservation of life and the preservation of wealth. This in turn enabled those receiving welfare able to continue to meet their religious obligations. He was also instrumental in preserving the Qur’ān in its written form. By doing these acts, he was, in essence, fulfilling the first *Maqāṣid* towards the preservation of Faith.

During Omar’s Caliphate from 12AH/634AD to 22AH/644AD, the Muslim armies pushed into the Sasanian Persian Empire, north into Byzantine territory, and west into Egypt. By 18AH/640AD, Omar had conquered the entire Mesopotamia and Ash-Sham, the region that made up Syria, Lebanon, Jordan and Palestine. In 20AH/642AD, Egypt was conquered. In 21AH/643AD, the entire Persian Empire was conquered. The conquests not only protected the lives of the Muslims and preserved their Faith, but it

¹ Jalāl ad-Dīn as-Suyūṭī, *The History of the Khalifahs Who Took The Right Way*, translated by Abdassamad Clarke, London: Ta Ha Publishers Ltd, 1995

² Ibid.

also enabled the promotion of the Faith in the new regions of the Empire. Most importantly, with the expanding Islamic Empire, Omar organised its formal structure. He introduced the appointment of *quḍāt*,¹ and laid the prerequisites for the selection of qualified candidates. Upon appointing the *quḍāt*, Omar laid down the legal procedural requirements, and at the same time instructed the *quḍāt* on how to determine the Sharī'ah laws. Omar also introduced a system of prisons, and initiated the Muslim calendar. All these are important to the fulfilment of the *Maqāṣid* as a system of governance, as it is *farḍ al-kifāyah*.²

Furthermore, Omar established the *Dīwān*, a bureau for transacting governmental affairs. The military became a professional outfit, the soldiers received a salary paid by the government, and were located in permanent encampments in strategic places. Omar appointed *umarā*³ (governors) and *ʿummal*⁴ (finance controllers) in the conquered lands.⁵ He formed a civil service, who were paid from the Government treasury. Lands were surveyed. Omar also provided a pension for the Companions of Prophet Muhammad ﷺ, which allowed them to continue their *daʿwah* and act as spiritual leaders in their respective communities. These are all essential *farḍ al-kifāyah*⁶ needed to ensure the fulfilment of the various *Maqāṣid*. Omar also exercised *ijtihād* and is an authority in *fiqh*. It was his *ijtihād* that instead of distributing *ghanimah* (lands conquered among those who took part in the *jihād*), Omar argued for the lands to be retained by the local people. This was because the people would enjoy higher annual revenues from the land, and for the Islamic State a higher payment of the *jizyah*. Overall, the change is for better benefits for the future generations. The revenues could be utilised for future *jihād* activities, the defence of the

¹ The plural form of *qāḍī*, meaning a judge of the Sharī'ah court.

² Amin Abdul Aziz, "Identifying Roles and Protecting Rights," *Journal of Islamic Governance* 2, 2016

³ The plural form of *amīr*

⁴ The plural form of *ʿāmil*

⁵ Lapidus, *A History of Islamic Societies*, p. 46

⁶ Amin Abdul Aziz, *Identifying Roles and Protecting Rights*

State and also sustain future generations. In doing so, Omar was fulfilling the *Maqāṣid* for the preservation of progeny and wealth.

Omar was assassinated in 22AH/644AD, and Othman was appointed as the next Caliph 22AH/644AD–34AH/656AD, who continued the expansion of the Muslim Empire, conquering North Africa, the coastal areas of the Iberian Peninsula and the entire Sasanian Empire. The most important legacy Othman left was the final standard compilation of the Qurʾān, allowing non-native Arabic speakers to read the Qurʾān.¹ Copies were sent out to different centres of the Islamic Empire. Making the Qurʾān accessible to everyone ensured the Faith continues to prevail. When Othman was assassinated in 34AH/656AD, Ali became the new Caliph. The Muslim Empire extended further from Central Asia in the East to North Africa in the West. As Caliph, Ali was deeply convinced² of his right and his religious mission. He was not willing to compromise for the sake of political expediency and stressed on the equality of the Believers.³ Efforts towards the preservation of the Faith was foremost during Ali's Caliphate, but he was assassinated five years later in 39AH/661AD.

During the Rāshidūn Caliphate, the Muslim polity was still in the stage of nation building, a process which Kimmel described as occurring within the boundaries of a nation state, in an effort to organise domestic resources and outlying areas into central administrative purview.⁴ State-building requires, among others, establishing a powerful centralised administrative machinery and rationalising the law for equal treatment.⁵ For an Islamic state, practising Islamic system of governance is essential to ensuring society is able to meet its obligation to fulfil the various *Maqāṣid*.⁶ Prosperity was tasted in the new Empire with the preservation of Faith, the protection

¹ Lapidus, *A History of Islamic Societies*

² Wilfred Madelung, *The Succession to Muhammad: A Study of the Early Caliphates*, Cambridge University Press, 1997

³ Kennedy, *The Prophet and the Age of the Caliphates*, p. 66

⁴ Michael S. Kimmel, *Revolution, a Sociological Interpretation*, Temple University Press, 1990, p. 93

⁵ Ibid.

⁶ Amin Abdul Aziz, "Governance in a Contemporary Islamic Negara", *Journal of Islamic Governance* 1, no. 1, 2015

of lives of the people, the education of the population, the ensurement of progeny, and the enablement of trade and wealth for commercial activities.

The Non-Rāshidūn Caliphates

The Umayyad Caliphate (39AH/661AD-132AH/750AD) was founded by Mu'āwiyah ibn Abī Sufyān. The Umayyads continued to expand the Muslim Empire by incorporating the Caucasus, Transoxiana, Sindh, the Maghreb and the Iberian Peninsula (i.e. al-Andalus). At the height of its power, the Umayyad Caliphate was in control of nearly 11,100,000 km² and 62 million people (29% of the world's population).¹ They continued to provide the welfare state as started by Omar, and this was financed by the *zakāt* collected. The Umayyad's administration had four main governmental branches: religious administration, political affairs, military affairs, and tax collection. To administer the Caliphate, six *dawāwīn*² were established: the *Dīwān al-Kharaj* (the Board of Revenue, corresponding to today's Ministry of Finance and the Treasury), *Dīwān al-Rasā'il* (the Board of Correspondence, corresponding to today's Prime Minister's Office), *Dīwān al-Khatam* (the Board of Signet, corresponding to a Law Ministry), *Dīwān al-Barīd* (the Board of Posts, corresponding to the Ministry of Communications and the Postal Services), *Dīwān al-Qudat* (the Board of Justice) and *Dīwān al-Jund* (the Military Board). For the economy, *dīnār* and *dirham* coins were introduced. These coins had phrases from the Qur'ān stamped on them, and were the first coins in history minted by a Muslim government.³ The introduction of such currency was an essential component to fulfil the *Maqāṣid* towards the preservation of wealth. These were all essential Islamic Governance structures needed in order for the Government, the economy and society to function properly at that time. In

¹ Khalid Yahya Blankinship, *The End of the Jihad State: The Reign of Hisham Ibn 'Abd-al Malik and the Collapse of the Umayyads*, State University of New York Press, 1994, p. 37

² The plural form of *dīwān*, which may refer to a council, department, bureaus, and other organising bodies.

³ Kennedy, *The Prophet and the Age of the Caliphates*, p. 85

turn, these institutions had enabled every facet of society to meet the obligations of the *Maqāṣid*.

Then, the ʿAbbāsīd Caliphate began in 132AH/750AD, and is known widely as the Golden Age of Islam. During the ʿAbbāsīd Caliphate, with its cosmopolitan character,¹ the *Maqāṣid* for the preservation and promotion of the intellect was at the zenith of Islamic history. It was also during this period that Imam al-Juwayni,² building upon Imam al-Tirmidhi's juristic writings on the *Maqāṣid*, who first classified the *Maqāṣid* of the Sharīʿah into the three categories of essential (*darūriyyat*), complementary (*hājīyyat*) and desirable (*tahsīniyyat*).³ This was further developed by Imam al-Ghazali,⁴ who categorically stated the five objectives of the Sharīʿah, namely those of Faith, life, intellect, lineage and property, which must be protected as a matter of absolute priority.⁵ It was also at this time that other Muslim states began to rise, became independent of the Caliphate, and began their own emirates and states: al-Andalus (i.e. Spain) and Maghreb to the Umayyads,⁶ Morocco to the Idrīsīd Dynasty,⁷ Ifrīqiya to the Aghlabids,⁸ and Egypt to the Shiite Fātimīd Caliphate.⁹ Even though the Muslim Empire began to decline when the Mongols attacked Baghdad in

¹ Mahmoud M. Ayoub, *Islam: Faith and History*, India: Oneworld Publications, 2004

² d. 478H

³ Auda, Jasser, *Maqasid al-Shariah as Philosophy of Islamic Law: A Systems Approach*, The International Institute of Islamic Thought, 2008

⁴ d. 505H

⁵ Mohammad Hashim Kamali, *Al-Maqasid Al-Shariah: The Objectives of Islamic Law*, Kuala Lumpur: Institute of International Islamic Trust, 2008

⁶ Marshall G. S. Hodgson, *The Venture of Islam Conscience and History in a World Civilisation Vol. 2: The Expansion of Islam in the Middle Periods*, The University of Chicago Press, 1974, p. 29-32

⁷ "Idrisid Dynasty," *New World Encyclopaedia*, retrieved from http://www.newworldencyclopedia.org/entry/Idrisid_dynasty on 24 March 2017

⁸ "The Aghlabids of Tunisia," *Muslim Heritage*, retrieved from <http://www.muslimheritage.com/article/aghlabids-tunisia> on 24 March 2017

⁹ Hodgson, *The Venture of Islam Volume 2*, p. 21-28

656AH/1258AD, Islam had by then spread far and wide, and even as far as Southeast Asia.

Islam Governance in Brunei

By a number of accounts, Islam began to spread in Southeast Asia after the 9th century AD.^{1,2} Evidences from the various travelers indicate that by the 15th century AD, Islam was well established in the region. According to the official Brunei history,³ Awang Alak Betatar, the King of Brunei, married a Johore Princess, a daughter of Sri Tribuana, after embracing Islam in 770AH/1368AD, and became Sultan Muhammad Shah, the first Muslim Sultan of Brunei. Most Western historians argue that Brunei only began to accept Islam in the 16th century AD, that is, after the fall of the Malacca Sultanate in 917AH/1511AD. Other historians write that Brunei replaced Malacca as the new centre to spread the teachings of Islam.^{4,5,6,7} Robert Nicholl⁸ compiled a number of European sources which also suggests that the Brunei Sultanate was still not a Muslim nation during the early 16th century AD. Brunei historians,⁹ on the other hand, argue that Western historians did not take into account that Islam had spread widely in Southeast Asia and into Brunei, even before the 16th century AD. One of the earliest local evidence is a gravestone belonging to a Chinese Muslim by the name of Pu Kung,¹⁰ who died in 675AH/1276AD. Other recent

¹ Kennedy, *The Prophet and the Age of the Caliphates*, p. 106. There was no evidence for the presence of Islam before the 10th century

² Thomas Walker Arnold, *The Preaching of Islam: A History of the Propagation of the Muslim Faith*, New York: Charles Scribner's Sons, 1896, p. 364

³ Pehin Jamil Umar, *Tarsilah Brunei II: Period of Splendour and Fame*, Brunei History Centre, 2010. Henceforth, known as Jamil Umar

⁴ K. G. Tregonning, *World History for Malaysians: From Earliest Time to 1511*, London: University of London Press, 1968

⁵ D. G. E. Hall, *A History of South-East Asia*, Macmillan, 1955

⁶ J. F. Cady, *South East Asia: Its Historical Development*, McGraw-Hill Education, 1964

⁷ Nicholas Tarling, *South East Asia: Past and Present*, Cheshire, 1966

⁸ Robert Nicholl, *European Sources for the History of the Sultanate of Brunei in the Sixteenth Century*, Brunei Museums, 1975

⁹ Pengiran Haji Mohammad bin Pengiran Haji Abd Rahman, *Islam Di Brunei Darussalam*, Bandar Seri Begawan: Dewan Bahasa dan Pustaka, 1992

¹⁰ Johannes L. Kurz, "A Note on the Tombstone of Master Pu and the Xishan Zazhi," *Bijdragen tot de taal-, land-en volkenkunde/Journal of the Humanities and Social Sciences of Southeast Asia* 172, no. 4, 2016, p. 510-537

findings such as the Boxer Codex^{1,2} suggest that the Sultanate of Brunei could be much older, and the discovery of a gravestone³ found in Brunei, marked as the 'Emperor of Brunei', can be dated to 7AH/13AD, which would make the Brunei Sultanate as old as the Aceh Sultanate.⁴ The tombstone has Arabic inscriptions and carved in Guanzhou when Muslims used to reside there.⁵

Due to the literature disconnect, it is difficult to ascertain when an Islamic system of governance began to be implemented in Brunei. However, there are a number of evidences suggesting that an Islamic system of governance has been practiced. An early indicator is the tombstone marked as the 'Emperor of Brunei'.⁶ According to Brunei history, it was during Sultan Sharif Ali's reign that Islam was assimilated and integrated into Brunei society. In fulfilling the *Maqāṣid* on the preservation of the religion, he instructed the construction of a mosque. In fulfilling the *Maqāṣid* for the preservation of life, he constructed a stone fort to protect the city.⁷ The first European literature that can be used which has any description of the religious governance in Brunei is Pigafetta's description when he arrived as part of the Magellan fleet to circumnavigate the world in 927AH/1521AD.^{8,9} The King of Brunei was described as a Moro (i.e. Muslim). Pigafetta's account did not state how Brunei was governed. Pigafetta described Bruneians "worship Mahomet", and that they were

¹ John S. Carroll, "Berunai in the Boxer Codex," *Journal of the Malaysian Branch of the Royal Asiatic Society* 55, no. 2 (243, 1982, p. 1-25). The Boxer Codex was a Spanish documentation believed to be written in the late 16th century and was only discovered after the end of the Second World War. The Boxer Codex described the Islamic Sultanate of Brunei started when a Sultan Yusuf from Cauin came to Brunei towards the end of the 13th Century

² George Bryan Souza & Jeffrey S. Turley, *Boxer Codex: Transcription and Translation of an Illustrated Late Sixteenth Century Spanish Manuscript Concerning the Geography, Ethnography and History of the Pacific, South-East Asia and East Asia*, Leiden: Koninklijke Brill NV, 2016

³ Chen Da-sheng, "A Brunei Sultan of the Early Fourteenth Century: A Study of an Arabic Gravestone", *The Silk Roads: Highways of Culture and Commerce*, ed. Vadime Elisseeff, New York: Berghann Books and UNESCO Publishing, 2000

⁴ Rozan Yunos, *Brunei, the First Southeast Asian Muslim Nation?* The Brunei Times, 18 September 2016

⁵ Da-sheng, "A Brunei Sultan of the Early Fourteenth Century"

⁶ Ibid.

⁷ Saedon Othman, *A Review of the Implementation and Administration of Islamic Law in Brunei Darussalam*, translated by Sharifah Khadijah Husien Alkaff, Bandar Seri Begawan: Islamic Dakwah Centre, 2008, p. 36

⁸ Antonio Pigafetta, *Magellan's Voyage: A Narrative Account of the First Circumnavigation*, ed. R. A. Skelton, Yale University, 1969

⁹ Nicholl, *European Sources for the History of the Sultanate of Brunei in the Sixteenth Century*, p. 25

forbidden to eat pork and they were circumcised. Judging by the pomp and ceremony that the foreign visitors received showed how sophisticated the society was at that time. In addition, the exchange rates for goods and the weighing system described by Pigafetta revealed a working and regulated market which required a government to supervise it. The three hundred soldiers guarding the audience hall and the hundreds of praus coming towards the ship is also a good indicator about the rule of the Sultan and his fulfilments of the various *Maqāṣid*. The war between the Sultan and a heathen state nearby¹ also demonstrated how Islam was strongly rooted in Brunei.

In 932AH/1526AD, a Portuguese named Vasco Lourenco visited Brunei and brought with him presents for the King of Burneo.² Among the gifts was a fabric from Portugal in which were depicted many figures of men and women, and a king seated on a throne with a crown on his head. The Sultan gave orders for the tapestry to be destroyed. A number of historians noted that this was because Islam forbid images of people to be portrayed. There is also a number of other descriptions about Brunei by other European travelers, such as Goncalo Pereira³ who visited Brunei in 937AH/1530AD, and noted that Brunei, as a political community, was Muslim, rich in provisions, and the city was well protected. By around 967AH/1560AD, Brunei's proselytisation missions to the Philippines islands were noticed. Antonio de Morga wrote that the Borneans, being 'Mahometans', were already introducing their religion to the natives of Luzon, and were giving them instruction in the ceremonies and forms of observing the religion. They have also appointed *quḍāt*. This led to the 986AH/1578AD attack on Brunei by the Spanish, who burnt Brunei's great mosque.⁴

The Boxer Codex⁵ gave quite a number of clues with regards to the practice of Islamic Governance in Brunei in the 16th century AD. In

¹ Pigafetta, *Magellan's Voyage*

² Nicholl, *European Sources for the History of the Sultanate of Brunei in the Sixteenth Century*, p. 29-30

³ *Ibid.*, p. 36

⁴ Nicholl, *European Sources for the History of the Sultanate of Brunei in the Sixteenth Century*, p. 40

⁵ Souza and Turley, *Boxer Codex*

protecting the political community, the Brunei Sultanate had soldiers who were ever ready to protect, along with one hundred ships ready to go into battle within a six hour notice prior. Each of the armed vessel had its own captain with all his crew on standby 'fight-prepared'. For the preservation of wealth, the government established a functioning monetary system and a mint to produce money known as *batguin*, which had the stamp of the Sultan. The Sultan also ensured that the weights and measures used in the market were standardised. The sophisticated and complicated weights and measures carried the stamp of the judge. A market on water was also established that congregated twice daily, consisting of more than 500 sellers. For the preservation and promotion of Faith, a mosque was built. There was water at the entrance of the mosque, where worshipers could wash their feet before entering. The officials who led the Friday prayers were called *khāṭib*¹ and *khāṭib besar*. There was also a law known as the 'Sultan Hassan Canons',² dealing with all aspects of socio-economic life, including debts, bankruptcy, interest payments, trade, marriage and divorce, and crimes such as adultery, slander, murder, theft and burglary. The Canons also covered a wide area of Islamic Law, with at least 47 clauses pertaining to the *Sharī'ah*.³ The law was regarded as well-executed and administered.⁴ The people also had access to the Sultan, who would receive letters from his subjects, given to him via messengers accompanying the Sultan during his walkabouts. All the letters would be read publicly by a nobleman in front of the Sultan.

Islamic Governance in the 19th Century AD

For the years between the 16th to the 19th century AD, not much information on the history of Brunei is available. Most narratives were traditions passed down from generation to generation with corroborative Western accounts, if any. In the 19th century AD, there were a number of books written about Brunei as well as newspaper articles. It can only be

¹ The person who delivers the Friday sermon, or *khutbah*

² Introduced by Sultan Hassan (990AH/1582AD-997AH/1589AD)

³ Haji Asri bin Haji Puteh, compiler, *Hukum Kanun*, Bandar Seri Begawan: Dewan Bahasa dan Pustaka, 2003

⁴ Saedon Othman, *A Review of the Implementation and Administration of Islamic Law in Brunei Darussalam*

postulated that throughout those 300 years, the cultural resonance of Islamic Governance carried on as the political vocabulary remained the same, such as the continued usage of the word 'Sultan'. Many books were written about the skirmishes between Brunei against Britain, Raja Brooke, and later against the North Borneo Company, where Brunei lost her territories to both Raja Brooke and the Company, as well as to the British with regard to Labuan Island.^{1,2,3,4,5} The political and economic situation in Brunei could be considered as dire at that time in history. By then, Brunei possessed neither armed forces to protect herself nor a police force to enforce the laws.^{6,7} Despite the financial constraints, the Brunei Government was able to continue enforcing the Sharī'ah laws, ensuring the *Maqāṣid* for the preservation of the Faith. An example of this preservation was in the case of St. John.⁸ He was shocked to discover that two men had stolen his items, which were later recovered. As consequence, the two men lost a hand each as punishment for theft and treachery.⁹ This *Maqāṣid* can be seen to permeate throughout society. In 1302AH/1885AD, the Roman Catholic Church established the Prefecture



Figure 1. Brass Rice Measure (Gantang)

¹ F. E. Forbes, *Five Years in China From 1842 to 1847: With an Account of the Occupation of the Islands of Labuan and Borneo by Her Majesty's Forces*, London: Richard Bentley, 1848

² Henry Keppel, *The Expedition to Borneo of HMS Dido for the Suppression of Piracy: With extracts from the Journal of James Brooke, Esq. of Sarawak*, New York: Harper & Brothers Publishers, 1846

³ Henry Keppel, *A Visit to the Indian Archipelago in H.M. Ship Meander with portions of the Private Journal of Sir James Brooke*, London: Richard Bentley, 1853

⁴ Frank S. Marryat, *Borneo and the Indian Archipelago*, London: Longman, Brown, Green and Longmans, 1848

⁵ Michael Leven, *The Cree Journals: The Voyages of Edward H. Cree, Surgeon R.N. as Related in His Private Journals, 1837-1856*, Nelson Canada Limited, 1981

⁶ Spenser St. John, *Life in the Forest of the Far East 2*, London: Smith, Elder and Co, 1862, p. 274

⁷ W. H. Treacher, *British Borneo: Sketches of Brunai, Sarawak, Labuan and North Borneo*, Singapore: Government Printing Department, 1891, p. 30

⁸ St. John, *Life in the Forest of the Far East 2*, p. 275

⁹ Treacher, *British Borneo*, p. 28

Apostolic of Labuan and Borneo.¹ Father Cuarteron came to Brunei and built a church in Berambangan.² However, he could not convert a single person and the church building was later abandoned.³ In fulfilling the *Maqāshid* for wealth preservation, the Government continued to ensure that the economic function was well-regulated. For example, *gantang* (receptacle) for measurement were standardised and issued by the Government (see Figure 1).⁴ Coins were also issued enabling trade to take place.

Islamic Governance during the British Residency

In 1323AH/1906AD, a British Resident was imposed on Brunei.⁵ He was to help and advise the Sultan in administering the country, but in reality, was acting as the de facto Prime Minister of the State.⁶ During the Residency Period, the Brunei Government suffered severe financial constraints, especially before the discovery of oil in 1347AH/1929AD, and thus was unable to fulfil the various *Maqāshid*. For instance, there was no army to protect the State and the lives of the people, which means the *Maqāshid* for the preservation of life was not fulfilled. The police force made up of locals was only established later in 1339AH/1921AD. Preserving progeny was also hard: there was no medical doctor in Brunei until 1347AH/1929AD.⁷

¹ Mike Gibby, *Crowned with the Stars: The Life and Times of Don Carlos Cuarteron, First Prefect of Borneo, 1816-1880*, Diocese of Kota Kinabalu, 2005

² St. John, *Life in the Forest of the Far East 2*, p. 365-370

³ Rozan Yunos, *Father Don Carlos Cuarteron: Futile Attempt to Spread Christianity to Brunei in 19th Century*, The Brunei Times, 2 September 2014

⁴ Dated 1322AH/1899AD. Approximate height: 17cm, diameter: 18cm, width: 22cm, weight: 1,788g. This brass rice measure is of wide, squat, cylindrical form, and with a handle to one side. It has been cast with a prominent cartouche filled with Jawi script and a date which approximates to 1899 in the Western calendar. The measure was known as a *gantang* and was used in Brunei in the 19th and early 20th centuries to measure padi rice. One *gantang* amounted to just over 4.5 litres of dry capacity. The calligraphic panel, in cast high-relief, says: "*Inilah gantang perintah Brunei al-malik al-ʿādil tarīkh fi sanat 1322*", which is translated as 'This is the *gantang* officially ordered by the Just Ruler of Brunei Dated the Year 1322AH'. This enabled the standardisation of the volume for the sale of rice and other agricultural produce which used the *gantang* as the measure. This will ensure that there will be fair trade and this will in turn lead to the fulfilment of the *Maqāshid* for the preservation and promotion of wealth

⁵ Malcolm Stewart Hannibal McArthur, *Report on Brunei in 1904*, annotated by A.V.M. Horton, Centre for International Studies, Ohio University, 1987. The 1904 report by Malcolm MacArthur played a very key role in persuading the British Government to protect Brunei from further erosion. The Supplementary Agreement signed in 1905/1906 to the 1888 Protectorate Agreement meant that a British Resident be placed in Brunei

⁶ In the agreement, it was stated that: "*The Resident will be the agent and representative of His Britannia Majesty's Government under the High Commissioner for the British Protectorate in Borneo, and his advice must be taken and acted on all questions in Brunei, other than those affecting the Mohammedan Law*". The British Resident was able to control most of the decision-making.

⁷ Rozan Yunos, *The History of Health Services*, The Brunei Times, 4 November 2007

Preservation of the intellect was also severely limited: schools only taught rudimentary lessons, and the country's economic activities were severely limited. Until the discovery of oil, it was only the cutch industry and the coal mines that were the major provider of employment. Many Bruneians had to find work outside of Brunei. The *Maqāṣid* for the preservation of Faith were also severely restricted: there was only a small wooden mosque in the Town centre, and when that was destroyed by the Allied Forces during World War II, its replacement was a mosque made out of *kajang*.

Under the British administration, laws could only be passed by the State Legislative Council of which the Resident is a member of the Council. The traditional Brunei Canons was replaced by the Courts Enactment 1908, which only gave authority to the *Kadhi* Court to adjudicate on matters relating to Islamic family matters, marriages and divorces. Later, the Muhammadan Laws Enactment 1912AD was established, which detailed crimes that can be tried by the *Kadhi* Courts and the Magistrates Courts. The crimes that could be tried by the *Kadhi* Courts were those where the fines did not exceed \$10 or 14 days imprisonment. The fines for not going to the mosque for Friday prayer was a warning from the *Kadhi*, and 50 cents if this is not followed. The Law also severely restricted the ability to teach Islamic religious doctrine to anyone outside one's own family. Despite the *Kadhi Besar's*, or Grand *Kadhi's*, first appointment in 1358AH/1940AD, the *Kadhi* Courts were still considered subservient to the Magistrates Court within the State's legal system, and was limited to enforcing only aspects of the Muhammadan Law, 1912 and the Muhammadan Marriage and Divorce Enactment, 1913.

It was only after the end of World War II that some movements were carried out towards the fulfilment of the *Maqāṣid* for the preservation of the Faith. Firstly, a *Penasihat Jemaah Shariah* (translated as Muhammadan Religious Advisors) was formed, chaired by His Highness the Sultan. Later in 1373AH/1954AD, the *Majlis Mesyuarat Shariah* (Sharī'ah Council) was formed, chaired by His Highness the Sultan. The Council established a Department of Religious Affairs in the same year and the Islamic Religious

Council was formed the year after. A Religious Advisory Board was also set up in 1378AH/1958AD chaired by *Pengiran Bendahara*, the most senior *Wazir*. Improvements were also made in religious education. Previously in 1354AH/1936AD, religious education was provided twice a week in the afternoon only for a very small number of students, and had a limited syllabus (prayers, '*rukun Iman*' and '*rukun Islam*'). A survey in 1374AH/1955AD found that students did not even know the *shahādah* (the testimony of Faith) or how to perform *wuḍū* (ablution) before prayers.¹ In response, the first formal religious school in Brunei was established in 1376AH/1956AD.

Fulfilment of the *Maqāṣid*: 1959AD onwards

From 1379AH/1959AD onwards, the situation improved and more movements were made towards the fulfilment of the *Maqāṣid*. This is because with the promulgation of Brunei's first written Constitution in 1379AH/1959AD, there was a clear demarcation between local authority and the British. The British were to focus on diplomatic, defence and foreign affairs. As such, the defence and protection of lives within Brunei were guaranteed by the British forces. However, to build local capacity for national security, the Royal Brunei Malay Regiment, the precursor to today's Royal Brunei Armed Forces, was formed in 1380AH/1961AD to fulfil the *Maqāṣid* for the preservation of life. The Government also safeguarded the other *Maqāṣid* (the preservation and promotion of intellect, progeny and wealth), of which were fulfilled by a number of development works carried out under the first and second 5-Years Development Plans.² Schools, hospitals, roads, utilities, public infrastructure and other necessities were built and jobs were created. Welfare assistance, together with pensions for old age and the disabled also began at around this time. Regarding the *Maqāṣid* for the preservation and promotion of Faith, much progress was also made. The 1959 Constitution made Islam the State's official religion. Concrete mosques were built to replace older wooden

¹ Pehin Yahya Ibrahim, *Sejarah dan Peranan Institusi-Institusi Melayu Islam Beraja*, Bandar Seri Begawan: Pusat Dakwah Islamiah, 2000

² Rozan Yunos and Ivana Milojevic, "The History of Strategic Planning in Brunei," *CSPS Strategy and Policy Journal* 6, 2017, Bandar Seri Begawan: The Centre for Strategic and Policy Studies

ones: the Seria Mosque was completed in 1373AH/1954AD, and the Omar 'Ali Saifuddin Mosque in 1378AH/1958AD. Thereafter, mosques were built in every district. The Islamic Religious Council was strengthened to advise the Sultan on religious policies. For religious education, a religious teachers programme was introduced in 1384AH/1965AD, the first Arabic Secondary School was established in 1385AH/1966AD, and a Religious Teachers College was established in 1391AH/1972AD. Even the *da'wah* movement was made more effective and organized both internally and externally, and legal and court administrations were improved and elevated.

By 1404AH/1984AD, when Brunei gained its full independence, the fulfilment of the various *Maqāshid* were already in progress. Today, the government is now able to fulfil all the *Maqāshid* with certainty at the *darūriyyat* level, and some even up to the *hājjiyyat* and *tahsiniyyat* level. The *Maqāshid* for the preservation and promotion of Faith especially was made complete with the introduction of the Sharīah law, the Syariah Penal Code Order 2013, with the first stage of the law already implemented. In terms of the preservation and promotion of life, the government has the army, the police, food security and healthcare, and the environment policies in place. For the preservation and promotion of the intellect, compulsory education is provided free. For the preservation and promotion of wealth, the government continuously laboured to ensure that the economy is functioning with jobs being created and trade enabled. For the preservation and promotion of progeny, medical and health services are continually being improved, medical services are provided free and policies with regard to the welfare of women, children and the youths are also in place. The government can be said to have successfully created a society conducive towards the worship of Allah.

Conclusion

The fulfilment of the *Maqāshid* of the Sharīah requires an Islamic nation practicing an Islamic system of governance. When a government is not practicing an Islamic system of governance, as in the case of Brunei Darussalam before 1959, efforts towards the fulfilment of the *Maqāshid* were

very much challenging. The fulfilment of the *Maqāṣid* in terms of services and facilities being provided by the government to the people of Brunei Darussalam are partly based on the earnings derived from the Almighty's special endowment, the energy resources to Brunei. One should also not be neglectful and should always be grateful to Allah the Almighty. One must always remember that as Allah *ta'āla* has said: ﴿ And if only the people of the cities had believed and feared Allah, We would have opened upon them blessings from the heaven and the earth... ﴾¹ and if one does not believe, Allah *ta'āla* continues, ﴿ But they denied the messengers, so We seized them for what they were earning ﴾.²

¹ The translation of sūrah al-A'rāf: 96

² The translation of sūrah al-A'rāf: 96