

# PROHIBITION TO USE IDENTIFIED ISLAMIC WORDS AND EXPRESSIONS BY NON-MUSLIMS IN BRUNEI DARUSSALAM AND MALAYSIA: A CONSTITUTIONAL PERSPECTIVE

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## Abstract

Both Brunei Darussalam and Malaysia are multi-religious, multi-cultural, multi-racial and multi-linguistic countries. Their civil societies are comprised of Muslims, Buddhists, Christians and people from other religious and indigenous background. Religion, however, plays a prominent role in the life of each citizen of both countries. In view of the Muslims being in majority, the constitutions of Brunei Darussalam and Malaysia declare Islam as the official religion of the respective countries.

In both countries laws have been enacted which prohibit non-Muslims to use some identified Islamic words and expressions. The issue is whether the governments of both countries are constitutionally empowered to enact such laws. A dispassionate study of the constitutional provisions of both countries reveals that both governments have the constitutional backing for such law making. On 22nd June, 2014, Malaysian Federal Court put all the controversies at rest by observing that the Malaysian government is constitutionally empowered to enact such laws. The truth is that governmental and judicial approaches are pragmatic because in both countries non-Muslims do not have an absolute right to freedom of religion. Their right is subject to the principle of 'Peace and Harmony' enshrined in Art 3(1) of both constitutions.

**Keywords:** Prohibition to use Islamic words, Constitutional Protection in Malaysia, Constitutional Protection in Brunei, Sultan as Protector of Islam in Brunei, King as Protector of Islam in Malaysia

## 1. INTRODUCTION

Both Brunei Darussalam and Malaysia are multi-religious, multi-cultural, multi-racial and multi-linguistic countries. Their civil societies are comprised of Muslims, Buddhists, Christians and people from other religious and indigenous background. Religion, however, plays a prominent role in the life of each citizen of both countries. In view of the Muslims being in majority, the constitutions of Brunei Darussalam and Malaysia declare Islam as the official religion of the respective countries.

With these introductory words, an attempt is being made in this paper to address from constitutional perspective the issue of prohibition under Brunei Syariah Criminal Penal Code Order 2013 for non-Muslims to use identified Islamic 19 words and 16 expressions. Equally, there is an endeavor to address the issue of prohibition of the usage of some Islamic words and expressions in Malaysia. Detailed analysis is being made about the origins and judicial responses at various levels of a case wherein the issue was whether Malaysian government is violating the freedom of religion of non-Muslims to profess, practice and propagate their religions by prohibiting them to use word "Allah" under certain enumerated circumstances. Judicially matter has been settled on 22<sup>nd</sup> June 2014 by Federal Court of Malaysia when it observed that the Malaysian government does not violate the right of freedom of religion of Christians by prohibiting them to use word 'Allah' in their published Bibles. This paper is being concluded with the opinion that the approaches of Brunei Darussalam and Malaysian government are realistic because in both countries non-Muslims do not have an absolute right to freedom of religion. Their right to freedom of religion is subject to the principle of 'Peace and Harmony' enshrined in Art 3(1) of both constitutions.

## 2. CONSTITUTIONAL PROTECTION TO FREEDOM OF RELIGION IN BRUNEI DARUSSALAM AND MALAYSIA

Art 3 (1) of the Constitution of the Brunei Darussalam 1959 reads:

The religion of Brunei Darussalam shall be Muslim Religion according to the Shafiate sect of that religion: provided that all other religions may be practiced in peace and harmony by the person professing them in any part of Brunei Darussalam.

There are no other express provisions in the Constitution of the Brunei Darussalam which deal with the issue of religion.

Malaysia has got somewhat similar provision in relation to Islam as official religion. Art 3 (1) of the Federal Constitution of Malaysia reads:

Islam is the religion of the Federation; but other religions may be practiced in peace and harmony in any part of the Federation.

Besides, this constitutional provision, Malaysia has got other constitutional provisions which have a bearing on the nature and extent of freedom of religion enjoyed by non-Muslims in Malaysia. A non-Muslim in Malaysia has the right to profess and practice his religion<sup>1</sup>. Simultaneously he shall not be compelled to pay any tax the proceeds of which are specially allocated in whole or in part for the purposes of a religion other than his own<sup>2</sup>. The religious group to which he belongs has the right – (a) to manage its own affairs; (b) to establish and maintain institutions for religious or charitable purposes; and (c) to acquire and own property and hold and administer it in accordance with law<sup>3</sup>. He will not be required to receive instruction in or to take part in any ceremony or act of worship of a religion other than his own.<sup>4</sup> However, the right to profess and practice one's religion does not authorize any one whether Muslim or non-Muslim to do any act contrary to any general law relating to public order, public health and morality<sup>5</sup>.

The fact is what is expressly mentioned in Federal Constitution of Malaysia is impliedly recognized by the Constitution of Brunei Darussalam<sup>6</sup>. The main convincing reason is that both countries have originated from same Muslim race called Malay and almost have same percentage of Muslims and non-Muslims. So, there is no gainsaying in contending that what is true about the role of Islam in Malaysia is equally true about Brunei Darussalam.

## 3. PROHIBITION OF NON-PROPAGATION OF RELIGIONS OTHER THAN ISLAM

Although it has been outlined as to what sort of rights can be enjoyed by non-Muslims in both countries, there is one prohibition recognized under both legal systems. The prohibition is that a non-Muslim in Brunei Darussalam and Malaysia cannot propagate his religion to a Muslim. In relation to Brunei Darussalam, the extent and nature of prohibition has been detailed out in recently gazette Syariah Penal Code Order 2013<sup>7</sup>. Under the Order, a person is guilty of an offence if he propagates religion other than religion of Islam to a Muslim or a person having no religion<sup>8</sup> or persuades a Muslim to become a believer or a member of a religion other than the religion of Islam or to leave or dislike the religion of Islam.<sup>9</sup> Similarly a person is guilty of an offence if he persuades a person having no religion to become a believer or a member of a religion other than the religion of Islam or to dislike the religion of Islam.<sup>10</sup> Further, a person is guilty of an offence if he persuades any Muslim child or a child whose parents have no religion to accept the teachings of religions other than the religion of Islam or to attend any ceremony or to participate in any activities of any religion other than the religion of Islam.<sup>11</sup> The guilty persons also include any person who prints, publishes... or has in his possession any publication which is contrary to *Hukum Syara*.<sup>12</sup> Likewise, a person is guilty of an offence if he sends or delivers to a Muslim or a person having no religion any publication relating to religion other than the religion of Islam.<sup>13</sup>

In Malaysia, this prohibition has been incorporated in Art 11(4) of the Federal Constitution of Malaysia. This sub-clause provides that the State Governments and the Federal Government in their respective territories may control or restrict the propagation of any religious doctrine or belief among persons professing the religion of Islam. Consequently we have in Malaysia a long line of state legislations which control and restrict the propagation of any religious doctrine or belief among persons professing the religion of Islam<sup>14</sup>.

The reason behind these legal measures to curb the influences of religions other than the religion of Islam is to ensure that there is no further dilution of Islamic character of both countries. Both countries might have been at some point of history almost comprised of 100% Muslim population as Malays and Muslims are like the two sides of the same coin. Both countries recognize Malay Islamic Monarchy [MIB]<sup>15</sup>.

#### **4. PROHIBITION TO USE IDENTIFIED ISLAMIC WORDS AND EXPRESSIONS BY NON-MUSLIMS**

In addition to the above legal and constitutional provisions, both countries specify Islamic words and expressions which a non-Muslim cannot use. Syariah Penal Code Order 2013 of Brunei Darussalam disallows any person to use identified Islamic words in relation to a non-Islamic religion. The prohibited words are:

Allah, Al-Quran, Azan, Baitullah, Fatwa, Firman Allah, Hadith, Haji, Hukum Syara, Ilahi, Imam, Ka'bah, Kalimah al-Syahadah, Kiblat, Masjid, Mufti, Mu'min, Solat and Wali

The prohibited expressions are:

Alhamdulillah, Allahu Akbar, Assalamualaikum, Astaghfirullah al 'azim, A'udzubillahi minasy shyaithanirajjim, insya Allah, la ilaha illallah, La haula wala quwwata illa billahil 'aliyil 'azim, Masya Allah (Allah the Exalted One), Rabbul 'alamin, Subhanallah, Tabarakallah, Wa'alaikumussalam, Walillahilhamd and Wallaahu 'a'alam'.

It needs to be clarified here that the prohibition to use these words and expressions is not absolute. Section 217 of the Syariah Penal Code Order 2013 identifies the dimensions of the prohibition. The section reads:

(1) Any person who, in any –

(a) publication;

(b) speech or public statement;

(c) speech or statement addressed to any assembly; or

(d) published or broadcasted speech or statement and at the time of the speech or statement was made he knows, or reasonably should have known, that it will be published or broadcasted,

uses any word listed in Part I of the Fifth Schedule or any derivatives or its variation, to state or express any fact, belief, idea, concept, act, activity, matter or instances of or relating to a religion other than the religion of Islam is guilty of an offence and shall be liable on conviction to a fine not exceeding \$12,000, imprisonment for a term not exceeding 3 years or both.

(2) Any non-Muslim who, in instances mentioned in subsection (1), uses any expression listed in Part II of the Fifth Schedule, except as a citation or reference is guilty of an offence and shall be liable on conviction to a fine not exceeding \$12,000, imprisonment for a term not exceeding 3 years or both.

Part I of the Fifth Schedule contains the list of prohibited words whereas Part II lists prohibited expressions. Thus, a Muslim in Brunei Darussalam can also be prosecuted under this section if he uses any of the prohibited words while explaining a point in relation to Christianity, Buddhism, Hinduism or any other religion except the religion of Islam.

Malaysian states have also enacted laws which prohibit the usage of number of Islamic words and expressions under section 9 of the legislations enumerated above.<sup>16</sup> For example, the Selangor State identifies 25 words and 10 expressions which are not to be used in relation to non-Islamic religion.

#### **5. JUDICIAL RESPONSES TO PROHIBITION TO USE IDENTIFIED ISLAMIC WORDS AND EXPRESSIONS**

Non-Muslims of Brunei Darussalam not only accepted the enacted law but also promised of their help in its implementation and enforcement. Malaysian non-Muslims should have also accepted the ground realities. Unfortunately, it has not been so. There was a constitutional challenge before the Kuala Lumpur High Court, against the prohibition of the use of word "Allah" in the case of *Titular Roman Catholic Archbishop of Kuala Lumpur v Menteri Dalam Negri*<sup>17</sup>. The background of this case involves the constitutionality of a directive dated 5<sup>th</sup> December 1986 issued by Menteri Dalam Negri to all Christian's publications in the Malay version prohibiting the publisher of such publications from using words of "Allah", "Kaabah" and "Baitullah and "Solat" in their publications. The reason behind such directive was the possibility of public disorder and confusion or misunderstanding between the Muslims and the Christians if the publications are allowed to use these prohibited words in their publications. At that time there was no protest or challenge to this directive<sup>18</sup>. The applicant applied for a permission under Printing Presses and Publication Act to publish a

Weekly known as *Herald- the Catholic Weekly*. The respondent approved the said permit provided the applicant does not use the word "Allah" in the Malay version of the *Herald* and the circulation of the said publication is restricted to churches and to those who profess the Christian faith only. The applicant had no objection to the second condition but was not satisfied with the first condition. The said approval was challenged by the applicant on three grounds, namely that the decision has violated the applicant's legal rights as provided in arts 3, 10 11 and 12 of the Federal Constitution; that the respondent had acted in breach of the rules of natural justice, procedural and substantive fairness and the duty to act fairly and lastly the decision was ultra vires the Printing Press and Publications Act 1984 (Act 301).

The discussion in this paper is simply focusing on the first ground only which involves the constitutional rights in relation to freedom of religion. The reason is that if the directive is constitutionally valid, then the discussion regarding other grounds is rendered useless. In this case, the applicant's contention was that the directive violated his constitutional rights to freedom of speech and expression and religion and in instructing and educating the Catholic congregation in the Christian religion. In reply, the respondent submitted that the applicant had not demonstrated how it was unable to profess and practise his religion by being prohibited from using the word 'Allah' in its publication and whatever the respondent has done is to be comprehended in the light of the status of Islam under the Constitution, the various Enactments on control, government policy, public security and safety and religious sensitivity.

The learned High Court Judge Lee Ban Lan ignored the respondent's arguments and agreed with those of the applicant. She was of the view that from the evidence it is apparent that the use of the word 'Allah' is an essential part of the worship and instruction in the faith of the Malay speaking community of the Catholic Church and is integral to the practice and propagation of their faith. Thus the imposition of the condition prohibiting the use of the word 'Allah' in the publication contravened the provision of arts 3(1), 11(1) and 11(3) of the Federal Constitution and was therefore unconstitutional. She extensively referred to the decision of *Meor Atiqulrahman bin Ishak*<sup>19</sup>. In this case was the issue was whether the School Regulations 1997, in so far as it prohibits the wearing of 'serban' (turban) by students of the school as part of their uniform during school hours violated art 11(1) of the [Federal Constitution](#). The Federal Court in this case had concluded that the wearing of the 'serban' is not an integral part of the religion. His Lordship Abdul Hamid Mohamad FCJ stated that whether a practice is or is not an integral part of the religion is not the only factor to be considered; there are other equally important factors and advocated the following approach:

First, there must be a religion. Secondly, there must be a practice. Thirdly, the practice is a practice of that religion. All these having been proved, the court should then consider the importance of the practice in relation to the religion. This is where the question whether the practice is an integral part of the religion or not becomes relevant. If the practice is of a compulsory nature or 'an integral part' of the religion, the court should give more weight to it. If it is not, the court, again depending on the degree of its importance, may give a lesser weight to it.

From an objective analysis of this observation, it is evident that the applicant did not have a strong case for challenging the constitutionality of the directive issued by the respondent. But still the learned judge, it is respectfully submitted, was of the view that the use of word 'Allah' is an essential part of the worship and instruction in the faith of the Malay speaking community of the Catholic Church and is integral to the practice and propagation of their faith and hence is unconstitutional. The main argument against this judgement stems from the fact that here the issue is not whether a particular practice is an integral part of any religion but whether under the garb of 'integral part' of a religion, the non-Muslims of the country have a right to intrude into the fabric of Islam to which there is a complete protection accorded by the Constitution under Art 3(1) and Art 11(4). *Meor Atiqulrahman bin Ishak* was a case where the issue was what constitutes integral part of religion of Islam. Here the problem revolves around two religions. The basic issue is whether a particular practice of non-Muslim religions, even if integral part of that religion, can be allowed to conflict with the religious fundamentals of Muslims of the country. My answer is 'no'. The reason is that then the sanctity of the constitutional provisions under Art. 3(1) and Art 11 (4) stands eroded. If allowed, it would simply mean that both constitutional provisions have no relevance in relation to protection of the religion of Islam. Besides, the learned judge should have focussed on history of Christianity in Malaysia and the background of the followers of this religion. Further, the learned judge mainly based her judgment on Indian cases. To my understanding, such approach is hardly helpful. The preamble of the Constitution of India declares India as a secular country and guarantees liberty of thought, expression, belief, faith and worship to ever one. Federal Constitution of Malaysia does not declare Malaysia as secular country. Rather the theocratic character of Malaysia is obvious from the unambiguous wording of Art 3(1). So what can be true about the religious freedom in India can hardly be so with reference to religious freedom in Malaysia.

### 5.1 Judgment of the Malaysian Court of Appeal

As expected, the respondents appealed against the High Court judgment before the Malaysian Court of Appeal. The Court of Appeal was comprised of Apandi Ali, Abdul Aziz Ab Rahim and Zawawi Salleh JJCA. All the learned judges delivered separate judgments with one conclusion that the prohibition to use the word "Allah" for God is not unconstitutional as it does not inhibit the [applicant] respondent, the representative of Christian community, from practicing their religion. Besides, all judges were unanimous that the word 'Allah' is not an essential and integral part of the Christian religion.

In relation to the issue whether the directive prohibiting the use of word 'Allah' is constitutionally valid, Apandi Ali, JCA made following observations:

The right of the State Legislature to enact laws, to ensure the protection and sanctity of Islam, under art 11(4) of the Constitution was constitutional. Such constitutional right of the states, especially where there are Rulers who are heads of the religion of Islam, fortified the position of Islam in the Federation that it should be immune to any threat or attempt to weaken Islam's position as the religion of the Federation. Furthermore, any act or attempt of propagation on the Islamic population by other religion is an unlawful act.<sup>20</sup>

Recently, Federal Court of Malaysia rejected the appeal against the Court of Appeal judgment with the conclusion that Malaysian government is constitutionally empowered to impose ban on non-Muslims to use word 'Allah' under the outlined circumstances<sup>21</sup>.

## 6. ART 3(1) OF CONSTITUTION OF BRUENI DARUSSALAM AND FEDERAL CONSTITUTION OF MALAYSIA – THE GRUNDNORM OF RELIGIOUS FREEDOM

With due respects and regards for the observations of the learned judges both at High Court and Court of Appeal levels, I am of the opinion that there was no need for discussion as to whether the use of the word 'Allah' is an essential part of the worship and instruction in the faith of the Malay speaking community of the Catholic Church and is integral to the practice and propagation of their faith. Rather the court should have focussed mainly on Art 3(1). The impact of the words 'other religions may be practiced in peace and harmony' in Article 3 (1) under both constitutions is that non-Muslims have a right to practice their religion so long as it does not disturb peace and harmony from the perspective of the Muslims in both countries. Any practice which tends to break this barrier from the perspective of Muslims becomes unconstitutional and can be legitimately deprived of constitutional protection.

For me, the wording of Article 3 (1) in both constitutions constitutes, to use the terminology of the great jurist Kelsen, the *grundnorm* in relation to religious freedom in Brunei Darussalam and Malaysia. From this *grundnorm*, other constitutional and legal provisions relating to religious freedom in both countries derive their validity including Art 11(4) with reference to Malaysia. Whether the *grundnorm* itself is valid from the perspectives of the non-Muslims is hardly debatable. It is relevant to mention that this *grundnorm* became part of both constitutions after objections, negotiations, discussions and consensus between all the stakeholders, including from various racial and religious groups<sup>22</sup>. In relation to Malaysia, it was a by-product of the *social contract* entered into by the founding fathers of Malaysia who collectively produced the Federal Constitution, which is recognised as the Supreme Law of the country<sup>23</sup>. Mohd Noor Abdulla J in *Meor Atiqulrahman bin Ishak & Ors v Fatimah bte Sihi & Ors*<sup>24</sup> observed that 'Islam is the primary religion which takes precedence over other religions in the country. This is the implication of the stipulation of Islam as the religion of the Federation. Islam would not have been put as the religion of the Federation if the position was just as one of the religions existing in the country'.<sup>25</sup> Likewise in *Kamariah bte Ali v Kelantan Sate Government, Malaysia*<sup>26</sup> the Court of Appeal was of the view that '...the standing of Islam in the Federal Constitution was different from that of other religions. First, only Islam is mentioned by name in the Federal Constitution as the religion of the Federation... Likewise Apandi Ali JCA in *Menteri Dalam Negeri & Ors v Titular Roman Catholic Archbishop of Kuala Lumpur*<sup>27</sup> was of the view that the words 'in peace and harmony' in Art 3(1) has a historical background and dimension, to the effect that those words are not without significance. The article places the religion of Islam at par with the other basic structures of the Constitution, as it is the third in the order of precedence of the articles that were within the confines of Part I of the Constitution. It is pertinent to note that the fundamental liberties articles were grouped together subsequently under Part II of the Constitution.

So, in order to apply the words 'other religions may be practiced in peace and harmony', it is not necessary that there should have been an act contrary to any law general law relating to public order, public health or morality. It is enough if the Muslim community is of the view that that any religious practice of the non-Islamic religion would result in disharmony and unrest.

But the issue is why these words were incorporated in Art 3(1). The reasons are infinite. However, Apandi Ali JCA is of the view:

It is my judgment that the purpose and intention of the insertion of the words: 'in peace and harmony' in art 3(1) is to protect the sanctity of Islam as the religion of the country and also to insulate against any threat faced or any possible and probable threat to the religion of Islam. It is also my judgment that the most possible and probable threat to Islam, in the context of this country, is the propagation of other religion to the followers of Islam. That is the very reason as to why art 11(4) of the Federal Constitution came into place.

There is a lot of truth in this pronouncement. Absence of the prohibition regarding the use of word 'Allah' by the followers of other religions in both countries would definitely create confusion about the concept of 'Allah' among Muslims and non-Muslims equally. Concept of Allah for Muslims envisages 'One and Only God of the entire universe worshipped by Muslims. The concept of God in Christianity revolves around the notion of trinity which involves Jesus Christ, the Spirit and the God. So if word 'Allah' is allowed to be used by Christians or for that matter by the followers of any other religion, then realistically the sovereignty of Islam as the National religion of Malaysia will be subverted.<sup>28</sup> The basic aim behind litigation regarding the use of word 'Allah' by non-Muslims seems to have their 'god' in future recognised as Allah.<sup>29</sup> It is rightly contended that permitting the use of the name of Allah in the Bible is as good as renouncing the Oneness of Allah. Thus, permission will result in disruption of peace and tarnishing the image of Islam. It may even increase Christian proselytization movements.

One of the arguments put forward by applicant respondent in the above case was that the use of the word 'Allah' is an essential part of the worship and instruction in the faith of the Malay speaking community of the Catholic Church and is integral to the practice and propagation of their faith. This reason is too weak to comment. India has more than one hundred officially recognised languages. These languages are spoken by followers of many religions including Muslims, Hindus and Christians. But the fact is there does not exist any confusion in the minds of the followers of these religions in relation to concept of God. In India, it will be the last thing for a Muslim to use 'Bhagwan' for Allah and for a Hindu 'Allah' for Bhagwan. It is beyond any imagination that a Malaysian Christian whatever his linguistic background cannot speak or pronounce word 'God'.

So it is my honest opinion that the prohibition to use identified Islamic words and expressions does not violate the right of freedom of religion of non-Muslims in Brunei Darussalam and Malaysia. The reason is that non-Muslims in both countries do not enjoy absolute right of freedom of religion. The impact of the words 'all other religions may be practiced in peace and harmony' in Article 3 (1) of both constitutions is that non-Muslims whether Christians, Hindus and people from other faiths have a right to practice their religion so long as it does not disturb peace and harmony from the perspective of the Muslims of both countries. The perspective of non-Muslims of the country is irrelevant. Non-Muslims may have a feeling that their practice of the religion is very peaceful and harmonious but it is not their feeling which matters but the feeling of Muslims in both countries. The truth is that Article 3 (1) in both constitutions impliedly takes away from non-Muslims the power to decide as to whether they are practicing their religion in 'peace and harmony'. The logic is that if they are decision takers and makers in relation to practice of religion, then Article 3 (1) of both constitutions is rendered redundant and useless. The truth is that Article 3 (1) in both constitutions is intended to govern the whole sphere of religious freedom rather being governed. So the right to determine whether other religions are practiced in peace and harmony belongs to the Muslim community. It is evident from Art. 3 (1) of both countries that neither Brunei Darussalam nor Malaysia are secular countries. So if the Muslim community in both countries does not feel comfortable by the usage of the identified Arabic words and expressions by non-Muslims, then there is no option for non-Muslims except to refrain from the usage. In other words, any insistence by the non-Muslims to use these words implies that they don't have respect for the sensibilities of the Muslims in both countries and are thereby opting for unrest and disharmony.

## 7. CONCLUSION

It is evident from the above discussion that non-Muslims in Brunei Darussalam and Malaysia have constitutionally freedom to profess and practice their religions provided the practice does not result in unrest and disharmony in the country. They have also right to propagate their religions so long as propagation does not extend to Muslims or persons having no faith. In order to ensure that harmony and peace are maintained in the country, Art 3(1) under constitutions of both countries impliedly empowers the governments to take such steps as they deem fit. The main object behind prohibition in relation to use of certain Islamic words and expressions outlined in Syariah Penal Code Order 2013 of Brunei Darussalam and State Enactments of various Malaysian states is to ensure that the practice of non-Islamic religions does not result in confusion

and misunderstanding between Muslims and non-Muslims of both countries about their religious fundamentals. At the same time it ensures that the supremacy of Islam as the official religion of Brunei Darussalam and Malaysia is not only maintained but also further strengthened.

## REFERENCE LIST

<sup>1</sup> Federal Constitution of Malaysia, Art. 11(1).

<sup>2</sup> Art. 12 (2). This provision has no relevance in relation to Brunei Darussalam as this country is a tax free country.

<sup>3</sup> Art 11(3).

<sup>4</sup> Art. 12(3)

<sup>5</sup> Art 11 (5)

<sup>6</sup> In Brunei Darussalam, the Government does not impose any restrictions on Chinese temples to celebrate seasonal religious events provided that the temples obtain permission from relevant authorities. Since 2005 the Government has begun permitting Chinese Lunar New Year celebrations outside the grounds of the Chinese temple, and public lion dances that are an integral part of celebrating this event at businesses and homes were common during the reporting period. <http://www.state.gov/g/drl/rls/irf/2005/51505.htm>.

<sup>7</sup> Syariah Penal Code Order 2013 was gazetted on 22<sup>nd</sup> October 2013. This legislation comprehensively deals with all aspects of Islamic criminal law and is being implemented in 3 phases. The first phase deals with those offences that are punishable only by fine or imprisonment. This implementation phase started on 1st May 2014. The second phase deals with punishments for serious offences like robbery, theft, adultery, rape, consumption of alcohol etc and is expected to be implemented on 1<sup>st</sup> May 2015. The third phase envisages the complete enforcement of the Syariah Penal Code Order including offences punishable with death.

<sup>8</sup> Section 209

<sup>9</sup> Section 210.

<sup>10</sup> Section 211

<sup>11</sup> Section 212

<sup>12</sup> Section 213

<sup>13</sup> Section 212

<sup>14</sup> Control and Restriction of the Propagation of Non Islamic Religions Enactment 1991 (Johor Enactment No 12/1991); Control and Restriction of the Propagation of Non Islamic Religions Enactment 1988 (Kedah Darul Aman Enactment No 11/1988); Control and Restriction of the Propagation of Non Islamic Religions Enactment 1981 (Kelantan Enactment No 11/1981); Control and Restriction of the Propagation of Non Islamic Religions to Muslim Enactment 1988 (Malacca Enactment No 1/1988); Control and Restriction (The Propagation of Non Islamic Religions Amongst Muslims) (Negeri Sembilan) Enactment 1991 (Negeri Sembilan Enactment No 9/1991); Control and Restriction of the Propagation of Non Islamic Religions Enactment 1989 (Pahang Enactment No 5/1989); Control and Restriction of the Propagation of Non Islamic Religions Enactment 1988 (Perak No 10/1988); Control and Restriction of the Propagation of Non Islamic Religions Enactment 1980 (State of Terengganu Enactment No 1/1980); Control and Restriction of the Propagation of Religious Doctrine and Belief which is Contrary to the Religion of Islam Enactment 2002 (Perlis Enactment No 6 of 2002); Non Islamic Religions (Control of Propagation Amongst Muslims) Enactment 1988 (Selangor Enactment No 1/1988).

<sup>15</sup> MIB stands for Malay, Islam, Beraja (Monarchy).

<sup>16</sup> See Footnote 14.

<sup>17</sup> *Titular Roman Catholic Archbishop of Kuala Lumpur v Menteri Dalam Negeri* [2010] 2 MLJ 78

<sup>18</sup> *Menteri Dalam Negeri & Ors v Titular Roman Catholic Archbishop of Kuala Lumpur* [2013] 6 MLJ 468, Paras 79-80

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<sup>19</sup> *Meor Atiqulrahman bin Ishak* [2006] 4 MLJ 605.

<sup>20</sup> *Menteri Dalam Negeri & Ors v Titular Roman Catholic Archbishop of Kuala Lumpur* [2013] 6 MLJ 468, Para 50

xxi Federal Court delivered its decision on 22<sup>nd</sup> June 2014. However, I am still unable to have the copy of the judgment.

<sup>22</sup> *Menteri Dalam Negeri & Ors v Titular Roman Catholic Archbishop of Kuala Lumpur* [2013] 6 MLJ 468, Paras 32. ( per Apandi Ali JCA)

<sup>23</sup> See, *Menteri Dalam Negeri & Ors v Titular Roman Catholic Archbishop of Kuala Lumpur* [2013] 6 MLJ 468, Paras 33 ( per Apandi Ali JCA)

<sup>24</sup> *Meor Atiqulrahman bin Ishak & Ors v Fatimah bte Sihi & Ors* [2000] 5 MLJ 375. On appeal, Malaysian Court of Appeal and Federal Court did not comment on this observation of the learned judge in relation to Art 3(1) of the Federal Constitution.

<sup>25</sup> *Ibid*. For further discussion regarding Art 3(1), see Abdul Aziz Bari, "Islam in the Federal Constitution: A Commentary on the decision of *Meor Atiqulrahman*" [2000] 2 MLJ cxxix;

<sup>26</sup> *Kamariah bte Ali v Kelantan Sate Government, Malaysia* [2002] 3 MLJ 657

<sup>27</sup> *Menteri Dalam Negeri & Ors v Titular Roman Catholic Archbishop of Kuala Lumpur* [2013] 6 MLJ 468, Para 50.

<sup>28</sup> See, *Obligation to Preserve the Sanctity of the Name of Allah*, (Selangor Islamic Religious Council, 2013), 23.

<sup>29</sup> *Ibid*, 38.