The Malaysian Model of Islamic Governance and Religious Freedom

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THE MALAYSIAN MODEL OF ISLAMIC GOVERNANCE AND RELIGIOUS FREEDOM

BY

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<td>AICHR</td>
<td>Association of Southeast Asian Nations (ASEAN) Inter-Governmental Commission on Human Rights</td>
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<td>ADHR</td>
<td>Association of Southeast Asian Nations (ASEAN) Human Rights Declaration (ADHR)</td>
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<td>ADFoRB</td>
<td>ASEAN Declaration on Freedom of Religion or Belief</td>
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<td>ASEAN</td>
<td>Association of Southeast Asian Nations</td>
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<td>BN</td>
<td>National Front</td>
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<td>CAGED</td>
<td>Citizen Action Group on Enforced Disappearances</td>
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<td>CBN</td>
<td>Christian Broadcasting Network</td>
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<td>CSO</td>
<td>Civil Society Organizations</td>
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<td>DAP</td>
<td>Democratic Action Party</td>
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<td>HRC</td>
<td>United Nations Human Rights Council</td>
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<td>ICCPR</td>
<td>International Covenant on Civil and Political Rights</td>
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<td>IKIM</td>
<td>Malaysian Institute of Islamic Understanding</td>
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<td>ISMA</td>
<td>Malaysian Muslim Solidarity</td>
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<tr>
<td>JAKIM</td>
<td>Department of Islamic Development</td>
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<td>JAIPK</td>
<td>Perak Islamic Religious Department</td>
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<td>JAIS</td>
<td>Selangor Islamic Religious Department</td>
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<td>JPNIN</td>
<td>Department of National Unity and Integration</td>
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<tr>
<td>KSCIP</td>
<td>King Salman Centre for International Peace</td>
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<tr>
<td>LDP</td>
<td>Liberal Democratic Party</td>
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<td>MATA</td>
<td>Malaysian Supreme Religious Council</td>
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<td>MCA</td>
<td>Malaysian Chinese Association</td>
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<td>MIC</td>
<td>Malaysian Indian Congress</td>
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<td>MNP</td>
<td>Malay Nationalist Party</td>
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<tr>
<td>MP</td>
<td>Member of Parliament</td>
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<tr>
<td>NAME</td>
<td>North Africa and Middle East</td>
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<tr>
<td>NEP</td>
<td>New Economic Policy</td>
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<td>NGC</td>
<td>National Goodwill Council</td>
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<td>NGO</td>
<td>Non-Governmental Organization</td>
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<td>NRIC</td>
<td>National Registration Identity Card</td>
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<tr>
<td>NRD</td>
<td>National Registration Department</td>
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<tr>
<td>OIC</td>
<td>Organization of Islamic Cooperation</td>
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<td>PAS</td>
<td>Islamic Party of Malaysia</td>
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<td>PERKIM</td>
<td>Islamic Welfare Association of Malaysia</td>
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<tr>
<td>PM</td>
<td>Prime Minister</td>
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<td>PUM</td>
<td>‘Ulama Association of Malaya</td>
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<td>RM</td>
<td>Malaysian Ringgit</td>
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<td>SAR</td>
<td>People’s Religious Schools</td>
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<td>SAK</td>
<td>National Islamic Schools</td>
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<td>SK</td>
<td>National Schools</td>
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<td>Abbreviation</td>
<td>Full Form</td>
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<tr>
<td>SAN</td>
<td>State Islamic Schools</td>
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<td>SUARAM</td>
<td>Suara Rakyat Malaysia</td>
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<td>SUHAKAM</td>
<td>Human Rights Commission of Malaysia</td>
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<td>SuR</td>
<td>State Under Review</td>
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<td>UMNO</td>
<td>United Malays National Organization</td>
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<td>UDHR</td>
<td>United Nations Universal Declaration of Human Right</td>
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<td>UPR</td>
<td>Universal Period Review</td>
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<td>USCIRF</td>
<td>United States Commission on International Religious Freedom</td>
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<td>YADIM</td>
<td>Islamic Dakwah Foundation of Malaysia</td>
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Malaysia is a federation separated into two regions by the South China Sea. There are 11 states (Johor, Kedah, Kelantan, Malacca, Negeri Sembilan, Pahang, Perak, Perlis, Penang, and Terrengganu) and two federal territories (Kuala Lumpur and Putrajaya) on Peninsular Malaysia. There are two states (Sabah and Sarawak) and one federal territory (Labuan) in East Malaysia.

Introduction

Sanctions against freedom of religious inquiry and expression act to halt the developmental process of religious understanding dead in its tracks – conflating the sanctioning authority’s current, limited grasp of the truth with ultimate Truth itself, and thereby transforming religion from a path to the Divine into a “divinized” goal, whose features and confines are generally dictated by those with an all-too-human agenda of earthly power and control.¹

The Malay world, which is the region including southern Thailand, the Malay Peninsula, the islands of Sumatra, Java, Sulawesi, and the southern portion of Philippines,² makes up the largest linguistic group of the Muslim world. With 90 percent of its 250-million-person population speaking Malay and its various dialects,³ its population is greater than all the Arabic-speaking Muslims of North Africa and the Middle East (NAME) combined.⁴ The Malay world is also greatly associated with religious diversity—Hindus, Buddhists, Christians, Sikhs, Muslims, and animists all have robust traditions within the region. The Malay world also has a rich history of evolving political systems, including monarchies, communist states, sultanates, colonized states, democracies, and feudal systems. However, much of the academic study on political Islam and Islamist movements has not been focused on the Malay world, but instead has been limited to NAME, even though only 14 percent of the global Muslim population lives in the NAME region.⁵ For those study the relation between Islam and politics, this is unfortunate. As Joseph Liow notes, confining study of Islamism to the more “authentic” Arab states, “ignores the vibrant historical and intellectual tradition of Islam” in Southeast Asia and the Malay world.⁶

The scholarship that does exist about political Islam, specifically in Malaysia, has typically focused on one of three aspects: the history of Islam in Malaysian government, the bureaucratization of Islam, or the modern threats to religious freedom. It is uncommon to find an academic work that connects the three aspects, or offers proposals to preserve religious freedom in Malaysia. And human rights reports which document the threats to religious freedom in
Malaysia have typically been grounded in a Western understanding of religious tolerance, at the expense of ignoring the centuries-old understanding of religious pluralism within the nation.

This paper will show that Malaysia has maintained a model of religious freedom and pluralism since the 14th century, a model which the author has named, “the Malaysian model of religious freedom.” The author defines the Malaysian model of religious freedom as the unwritten social contract of religious tolerance and pluralism among people of all faiths in Malaysia, whereby individual members and communities of each religious tradition were historically (from the arrival of Islam in Malaysia until 1981) allowed to practice nearly every aspect of their faith without fear of government reprisal or social violence. The Malaysian Model of religious freedom is most clearly manifested in the Malay word muhibah, a word which was popularized in post-independence Malaysia. Although it has no direct translation to English, it is expressed by the ideals of coexistence, togetherness, kinship, affection, sympathy, empathy, respect, and decorum. It is derived from the Arabic word, hubb, which signifies a universal meaning for love or affection, and in the Malay usage, is meant to express mutual love or the state of loving each other—a love that “puts off hatred and anger.”

Muhibah differs from tolerance which merely allows opposing ideas to exist, and instead embraces mutual understanding. At the same time, an understanding of muhibah views any attempt to impose religious belief on an individual as harmful to a diverse and multi-religious society, such as Malaysia. And while it embraces societal pluralism, muhibah rejects the idea that all religious faiths are equally salvific, and encourages individuals to have firm religious beliefs. It is an idea which encapsulates the mindset of what it means to be Malaysian. As Mutaliba and Sulaiman explain, the seven principles which define muhibah—dialogue, kinship,
harmony, sincerity, mutual trust, integrity, and respect—reveal the spirit of living together that has defined Malaysian society since the arrival of Islam on the peninsula.\textsuperscript{11}

Previous academic literature has referred to Malaysia as the “moderate Islamic nation model”\textsuperscript{12} and has contrasted Malaysia with the model of religious freedom contained in the Charter of Medina,\textsuperscript{13} but no effort has been made to describe and define a model of religious freedom that exists within Malaysia. The author suggests that Malaysian model of religious freedom should also be considered against the codified model of religious freedom accepted by the international community, which is Article 18 of the United Nations Declaration of Human Rights (UDHR):

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.\textsuperscript{14}

The implication of Article 18 is that that every person has the natural right to publicly and privately relate to the divine and transcendent in a manner he or she best sees fit. Moreover, infringing upon the natural right to religious freedom constitutes an attack on conscience and thought, which prevent people from “think[ing] critically for themselves, [and] arriving at a conviction as a matter of choice, as opposed to coercion.”\textsuperscript{15} When countries infringe on religious liberties and stamp out the competition of diverse truth claims, they remove “an atmosphere of civil debate, transparency, and respect” and allow religious zealots seeking political power to coerce convictions, and thereby violate the fundamental human dignity of a person,\textsuperscript{16} and thus violate the spirit of muhibah.

Malaysia, which signed the UDHR while still a colony of Great Britain, established what the author will call the “Malaysian constitutional model of religious freedom,”\textsuperscript{17} when it became an independent state in 1957. Because the Malaysian constitutional model of religious freedom is
codified and contains limitations on religious freedoms, it should be considered more restrictive than the uncodified muhibah of the Malaysian model of religious freedom which represents the lived experience of Malaysians since the arrival of Islam. The Malaysian constitutional model of religious freedom is composed of Articles 3, 11, and 160 of the Federal Constitution. Article 3(1) reads “Islam is the religion of the Federation; but other religions may be practiced in peace and harmony in any part of the Federation.” Article 11 states:

(1) Every person has the right to profess and practice his religion and, subject to Clause (4), to propagate it.
(2) No person shall 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.
(3) Every religious group has the right -
   (a) to manage its own religious 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.
(4) State law and in respect of the Federal Territories of Kuala Lumpur and Lubuan, federal law may control or restrict the propagation of any religious doctrine or belief among persons professing the religion of Islam.
(5) This Article does not authorize any act contrary to any general law relating to public order, public health or morality.

And Article 160 specifies that an ethnic Malay is someone who “professes the religion of Islam, habitually speaks the Malay language, [and] conforms to Malay custom…” As a result, the Malaysian constitutional model of religious freedom gives Islam a special place in society, limits the manifestation of religion for those who would attempt to proselytize Muslims, and assigns a religious identity to the Malay ethnic group.

This paper will differ from previous academic literature in that will discuss and connect each of three aspects previously mentioned. It will begin by giving a history of the way in which Muslims have related to politics and government in Malaysia during the pre-colonial, colonial, and post-colonial eras. The paper will propose that 1981 was the year the ruling elites stopped supporting the Malaysian model of religious freedom, as change in government and partisan
leadership led to the bureaucratization of Islam and the increased limitations of religious liberty for Muslims and non-Muslims alike. During the discussion on the creation of an independent Malaysia, this paper will also explore why Article 3(1) was included in the Constitution along with its original intents. It will also detail the ways in which Islamist actors have reinterpreted Articles 3(1), 11(4), and 160, amidst a global Islamic resurgence and following the 1979 Iranian Revolution, to begin a dakwah movement and manipulate Islam in a way never intended by the Malaysian founders or by pre-independent Malaysian society. The paper will continue by revealing the negative impacts the bureaucratization of Islam and the re-interpretations of Articles 3(1), 11(4), and Article 160 have had on Malaysian society, including significant human rights violations and the degradation of the spirit of muhibah.

Finally, the paper will conclude by suggesting policy solutions the Malaysian government and the international community could implement which would preserve the Malaysian model of religious freedom and reinvigorate a spirit of muhibah in Malaysian society. These policy proposals, which are the result of over two dozen interviews the author conducted with Malaysian politicians, clergy, lawyers, Muslim and non-Muslim academics, human rights victims, foreign officers and diplomats, and human rights groups, are tangible steps in which governments, civil societies groups, and international institutions can contribute to curbing the Islamist movements in Malaysia which have resulted in the persecution and kidnappings of non-Sunni religious leaders, the desire to implement hudud penalties on non-Muslims, the forced conversion of indigenous people, and forced detention in faith-purification centers. Discussed at greater length in the last chapter, these policies include the diffusion of control of Islamic teaching away from the federal government, the creation of schools by civil society organizations which incorporate the teachings of 20th century Malay-Muslim thinkers, changes in the
conversion process for Muslims, and the signing and creation of religious freedom declarations. If implemented, the policies will position Malaysia to see the spirit of muhibah return and the Malaysian model of religious freedom, once again, become a reality.
The Malaysian Islamic Landscape

Pre-Colonial Malaysia

There is not consensus as to when Islam arrived in the Malay world. Muslim tombstones in Surabya have been dated to the 11\textsuperscript{th} century and Marco Polo wrote of Muslims living in Sumatra in 1292. \textsuperscript{21} Most of the literature indicates that Islam arrived in the Malay world in the 14\textsuperscript{th} Century via Arab merchants and Sufi missionaries belonging to the Shafi’i school, but there remains some evidence that Islam arrived as early as the 9\textsuperscript{th} century, as seen in small Arab communities and Arab scholars who married Malay ruling elites.\textsuperscript{22}

Regardless, until the 15\textsuperscript{th} century, societies in peninsular Malaysia were primarily Hindu and societies in Eastern Malaysia, in the current states of Sabah and Sarawak, were primarily animist.\textsuperscript{23} Even before Malacca became the hub of Islamic leadership for the peninsula, Pasai, on the northern coast of Sumatra was known, was recorded by Ibn Battuta to be home to King Al-Malikus Zahir II, an ardent follower of Islam who even recruited Iranian scholars to be state judges.\textsuperscript{24} In 1414, the king and founder of the Malacca Empire, Parameswara, married a princess from Pasai and converted to Islam. By the end of 15\textsuperscript{th} century, the religion had spread to Terengganu, Pahang, Kedah, and Johor.\textsuperscript{25} It was from this port city of Malacca where Islam would be exported to cities in southern Thailand, Brunei, Borneo, Sumatra, and Mindanao and political Islam would be shaped for the entire region.

Following Parameswara’s conversion, the Malaccan royal courts were charged with administrating the syariah (Malay form of “shari’a”) and overseeing its integration into the religious lives of Muslims. However, the courts continued to be strongly influenced by the centuries-old indigenous customary law (adat).\textsuperscript{26} The adat, which was informed by Hindu and Buddhist philosophies, co-existed with the Islamic principles of syariah and even combined with
it in varying degrees, so that the syariah in each estate was modified, “to suit local customs and interpretations of Islamic law.”

In step with the dynamic and evolving nature of syariah with adat, the Sultan of Malacca’s political relationship with Islam in way uncharacteristic of the modern Malay Sultans (Agong), who serve as the head of Islam for the state, per Articles 3(2) and 3(5) of the Federal Constitution. The Malaccan Sultans were not leaders or scholars of Islam, but rather used Islam to bolster their political authority, often being referred to as “The Shadow of God on Earth,” and claiming to have a closer divine relationship. They also did not receive authority based on their expertise in Islam or from leading dakwah movements, but were granted power because of hereditary lineage. And although the Sultans would symbolically use the syariah in rare instances of crime, such as murder or theft, they made no attempt to implement it on a wide-scale.

Still, Islamic principles became steeped into the way the public administrators governed. Two documents reveal that Islamic principles were incorporated by sultans in the early Malay state administration: the undang-undang, a compilation of Malacca laws propagated by Sultan Mahmud Syah (1422-1444), contained two sections detailing the relevance of Islam in Malay statecraft, and the Sejarah Melayu indicates that Islamic jurists played a role in the state administration during the rule of Sultan Mansur (1456-1477). Additionally, Malayan society had a customary law that lifted the sultan as the object of the citizenry’s loyalty. In return for the citizenry’s loyalty, the sultan received a Daulat, a covenant between the sultan and the citizenry, whereby the citizenry maintained an unswerving loyalty and the sultan ensured that the governed were treated justly. Daulat was a Malay term borrowed from the Arabic term “dawla” which is often used in the phrase, “Islam din wa-dawla” (Islam is religion and state). “First coined by Ali
ibn Rabban al-Tabari (d. 870), the phrase is used to indicate that Islam addresses the religious and political affairs of the Muslim community, and in the modern sense, serves as a common rallying cry among Salafists and other Islamically minded political actors. But according to the Serajah Melayu, if the sultan broke the Daulat and shamed the citizens by treating them unjustly, then “that shall be a sign that his kingdom will be destroyed by Almighty God.”

This elevated status the sultan enjoyed remained even after the Portuguese invasion of the Malacca Empire in 1511. By the time Alfonso d'Albuquerque arrived with Franciscan and Dominican friars, the idea of a Malay world and a Malay race had already developed, with the use of the term “Malay” becoming common in the years leading up to the Portuguese. Although Christianity did not become widespread, political and religious life changed in Malacca as the political power previously vested in the sultan was transferred to colonial officials. Across these divides and heterogeneity, the Bahasa Melayu language and the understanding of ummah Islam served as uniting features, particularly for the Malay elites. Each state was governed by a Sultan, and because they had previously taken cultural cues from the Royal House during the Malacca Empire, these sultans began to mix the adat with the mainstream Islamic legal principles. However, an Islamic state, as understood by the enforcement of syariah upon every citizen, was not created. Islam was never monolithic in the Malay states; different understandings of Islam, not only co-existed, but drew upon one another, and allowed for practices and understanding to be mixed with the adat, giving evidence to the claim that an understanding of muhibah has centuries-deep roots. Of course, these Sultan-led states differed from even the nearby region of Patani in southern Thailand, whose court had declared the region an Islamic state in 1457.
Ahmad Fauzi Abdul Hamid has suggested that diverse interpretation and implantation of Islamic law is attributable to the Sufi missionaries who had originally brought Islam to the Malay world. He speculates that these missionaries were primarily concerned with social transformation of Malay society, and viewed the promotion of social justice as a strategic way of evangelizing. In turn, they considered the establishment of Islamic institutions and forced obedience of non-Muslims to the laws of Islamic institutions as counter-productive, and were content with allowing Islamic ideas to evolve inside an animist, Buddhist, and Hindu context. And although the Christian faith had not yet become influential in Malay society, it would gain a significant number of converts during British colonial period.

Colonial Malaysia

In 1874, because of ongoing feuds with a new majority of ethnic Chinese citizens who had been brought in to work in tin mines and rubber plantations, changes in dynasty, and great economic change, the sultan of Perak requested assistance from the British Crown, and signed an agreement bringing a British resident to Perak. Known as the 1874 Pangkor Treaty, this document signaled a new age within Malaya in which pluralism, coupled with a new power arrangement, became the norm. In the new system, Islamic law would have to co-exist with British common law, an arrangement some Muslims were uncomfortable accepting, as seen with the assassination of the first British resident, J.W.W. Birch, in 1876. Other anti-British revolts occurred in Pahang, Terrengganu, and Negeri Sembilan as a response, in least in part, to the threat of erosion of the Islam’s position in society.

But still, the sudden increase in Buddhism, Hinduism, and Christianity within the Chinese, Indian, and Malay ethnicities could not be stopped, and was even reflected in the State Council, a new legislative and executive body set up by the colonial administration to serve as an
advisory body for Malay aristocrats to determine and act on public opinion.\textsuperscript{43} The laws they had brought from their countries began to help inform the common law, and their religious traditions co-existed and meshed with Malay Islamic law. Because common law, adat, and Islamic law were all present and had varying levels of authority, Andrew Harding notes that “freedom of religion was a pervasive social fact rather than a legally guaranteed right, although the primacy of Islam was also a necessary consequence of the treaties and the system of indirect rule.”\textsuperscript{44}

As years passed, the Council became less relevant as the British Adviser, who was the de facto ruler of the state under the Pangkor Arrangement, would decide on a course of action and direct the Sultan to act accordingly.\textsuperscript{45} The British common law, however, did not affect the administration of Islamic religious law and the appointment of religious officials by the Sultan. Abdillah Noh indicates the unintended consequence of allowing Malays to maintain administration over religious law:

The unintended consequence of British Adviser’s action was the creation of an exclusive space that allowed for further institutionalization of Islamic values in the Malayan polity. By demarcating a legal space for the adjudication and application of Islamic laws, the colonial administration became accidental champion in entrenching Islamic values in the Malayan polity.\textsuperscript{46}

In 1904, Malay rulers demanded that there be an institution, separate from the colonial powers, in charge of implementing and adjudicating Islamic law. The British obliged, thereby allowing the sultans to be regarded as heads of Islam and the final authority for Islamic courts of appeal, and institutionalizing Islam into the bureaucracy.\textsuperscript{47} In 1915, the first Majlis Agama Islam dan Isti-adat Melayu (Council of Islamic Religion and Malay Customs, usually referred to as Majlis Agama) was established in Kelantan. The Majlis Agama councils, which had no precedence in the Islamic world, have been described as “a central council on religion with sweeping administrative and coercive powers limited only by the final authority of the Sultan in State Council.”\textsuperscript{48} As Funston describes it, this first Majlis Agama:
…advanced the enactment of sharia, established control over village religious officials, assumed full authority to define ‘correct’ Islamic doctrines and became involved in a wide range of other activities, such as the provision of both religious and secular education and the publication of Islamic and other literary works.\textsuperscript{49}

Kelantan became a model for the other peninsular states, all of whom followed suit. After Malaysian independence, the Majlis Agama not only continued to perform its original duties, but was established as a part of each state’s bureaucracy and began wielding a great deal of power, which continues to this day.

During this time of British occupation in Malaya, a wave of Pan-Islamism had begun to spread across the Islamic world. Thinkers like Rashid Rida, Sayyid Jamal al-Din al-Afghani, and Muhammad Abduh were widely regarded among Malayan Muslims who shared the Egyptians’ criticism of British colonization, but also would eventually serve as the voices promoting religious freedom. The Egyptian reformers were able to establish a foothold in Singapore through their journal al-Imam (The Leader) in 1906, which openly criticized shortcomings by the royal family on Islamic matters.\textsuperscript{50} While the journal dealt with religious problems, educational dilemmas, political crises and social issues of the Malays and Muslims in general,\textsuperscript{51} it did not advocate for the creation of an Islamic caliphate, such as the Ottoman Empire which was declining in power.\textsuperscript{52} It featured the writings of members of the reformist kaum muda (“The Young Group”), led by Muhammad Tahir Jalaluddin and Syed Shaykh Al-Hadi, the first resurgent voices to call for a return to the Qur’\textsuperscript{an} and Sunnah in Malaysia.\textsuperscript{53}

Together, they advocated tajdid (renewal) of Malay society by returning to Islam’s fundamental creed seen in the Salaf (the generations immediately following the Prophet),\textsuperscript{54} but also by using ijtihad\textsuperscript{55} to deal with matters unmentioned in the Qur’an and the Hadith.\textsuperscript{56} Jalaluddin, who was born in West Sumatra, studied at Al-Azhar in Cairo, where he was influenced by Muhammad Abduh and befriended Muhammad Rashid Ridha. When he returned
to Malaya in 1899, he became a mufti of Johor and was the editor of Al-Imam. Al-Hadi, who only ever visited the Arab world on the hajj, was also a writer for Al-Imam, but also started two new publications, the first, al-Ikwhan (Arabic for “The Brethren”), in 1926, and the second, Saudara (Malay for “The Brethren”), in 1928. In his two journals, he wrote about “the need to purify Islam, pointed to the reforms of more advanced Islamic societies, and stressed Islam’s flexibility in adjusting to modern conditions.” He used al-Imam as an avenue to exhort Malays to change politically, socially, educationally, and economically, and as a platform to criticize the groups in Malay society he considered backwards.

Al-Hadi, despite having a personal friendship with Rashid Rida, was more greatly influenced by Muhammad Abdu; he translated several of Abdu’s works into Malay and regularly wrote about the compatibility between Islam and reason. He published a book, Kitab agama Islam dan akal (Malay for “Islam and Reason”), in which he reiterated the ideas of Abduh and argued that every aspect of Islam is compatible with reason, and that the obligatory rituals of Islam have “utilities, benefits, and relevance to contemporary needs.” Al-Hadi understood Islam to be a religion which promotes logical reasoning because it is through reason individuals are able to recognize God and because God asks humans to use their reason. His idea of reasoning and truth-seeking, inevitably made him a proponent of freedom of religion or belief; one should only accept a rational religion, and that the Prophet had shown compassion towards people of other faiths. Al-Hadi went so far as to believe reason, and the religious freedom reason demands, allows Malay-Muslim men to marry kafir women who are “people of the book,” and that in such cases, husbands should allow their wives to continue practicing their faith. Al-Hadi also believed that one’s own natural reason reveals that prosperity and human dignity are not exclusive to one nation, race, or group of people, because the laws of nature were divine and
universal, similar to a Christian understanding of natural law.\textsuperscript{62} Al-Hadi would become one of the first promoters of the emancipation of women in Malay society, and the foremost Malay-Muslim to represent the Malaysian model of religious freedom and the ideal of muhibah.\textsuperscript{63}

**Post-Colonial Malaysia**

By the time of Malaysian independence in 1957, the outward piety of Muslims could be interpreted as moderate. Islam’s role in politics was expected to decline, and analysts posited that Western secularism would take hold, considering that half the population was not Muslim.\textsuperscript{64} As Funston writes:

> “Few women wore head coverings, and Western-style clothing such as short skirts was common. Men were clean shaven. Muslims did not eat pork or (generally) consume alcohol, but otherwise felt free to eat in non-Muslim restaurants and houses. Adherence to such requirements as praying five times a day and weekly mosque attendance was not rigorous. Islamic programs made up only a small part of radio and television fare, and Malay films and other forms of entertainment were very Westernized. Alcohol was often served at government functions, which seldom opened with prayers.”\textsuperscript{65}

But it was in the period leading up to independence when formal groups promoting Islamist agendas began to sprout, and the mutual tolerance and respect for different races and religions, which had existed during the colonial period as a norm during the Malacca Sultanate, began to deteriorate. As Liow notes, “Islam has long resonated as a key element of the narrative of anti-colonial resistance, and it has often informed challenges to central authority in British Malaya.”\textsuperscript{66} In 1945, the Malay Nationalist Party (MNP), marked by ideals of socialism and nationalism, became the first post-war political movement to champion the cause of independence.\textsuperscript{67} The MNP established a religious wing with the help of Dr. Burhanuddin al-Helmy, the future president of Islamic Party of Malaysia (PAS). In March 1947, Burhanuddin organized a conference in Perak where he, and other religious and political leaders, detailed the party’s desired political role for Islam in Malaya. The group, consisting heavily of attendees who
had been disillusioned by the United Malays Nationalist Organization’s (UMNO), were more than ready to leave a party they felt insufficiently integrated Islam into their political ideology.\textsuperscript{68} One of the conference’s outcomes was the creation of a group that would eventually be named the Malayan Supreme Religious Council (MATA). In March 1948, MATA held a Malay Congress, where Hizbul Muslimin, the first political party with an Islamist political agenda, was formed. Although short-lived, Hizbul Muslimin stressed the creation of an Islamic state and a Malay-dominant society.\textsuperscript{69}

While Islamists were gaining notoriety and a tide of religio-ethno-nationalism was taking root among some Malayans, UMNO was negotiating with Great Britain about independence. Although UMNO’s central tenant was Malay nationalism, it did not emphasize the role of Islam in government to the extent other groups did. In the constitutional negotiations, a UMNO-led political alliance submitted a memorandum to the Reid Commission, the committee charged with drafting the constitution, stating, “The religion of Malaya shall be Islam. The observance of this principle shall not impose any disability on non-Muslim natives professing and practicing their religions and shall not imply that the State is not a secular State.”\textsuperscript{70} But because Hizbul Muslimin remained a threat to UMNO, and UMNO’s leaders lacked the support from the Islamic clerics, UMNO formed the Ulama Association of Malaya (PUM) to preach Islam under UMNO’s umbrella. PUM, led by rural populists, religious scholars, and UMNO defectors, would later become independent of UMNO, and its small group of leaders would become the nucleus of PAS.\textsuperscript{71}

PAS had a platform that coupled Malay superiority with an Islamic state; it wanted Malaya to be governed by Islamic law, argued that top government officials ought to be ethnically Malay, and sought to have the national language changed from English to Malay.\textsuperscript{72}
Along with independence, community, sovereignty, and the implementation of the syariah, one of its 5 original objectives was:

“To make known to the world the presence of PAS and its role as the representative of the Malay-Muslim ummah, and to develop links with these Islamist movements through the world through social activities; be it in Malaya or the world alone.”

PAS attempted to deride UMNO as a secular party that had sold out to the interests of the non-Malays, despite several actions UMNO had taken to bolster the position of Islam in society. Despite PAS’s strong rhetoric and criticism of UMNO, it was only able to gain a significant following among the rural populations in the northern states, preventing PAS from being able to defeat UMNO in the 1955 elections, prior to independence.

In 1957, the Constitution developed by the Reid Commission was instituted and Malaya became independent from Great Britain, but would only become the Federation of Malaysia until 1963 when it acquired Sabah and Sarawak. During the drafting of the constitution, there were competing voices pressuring the Reid Commission on the subject of the establishment of Islam as the official religion of the state. The Alliance Party, comprised of UMNO, the Malaysian Chinese Association (MCA) and Malaysian Indian Congress (MIC), proposed that the state religion be Islam, but that the state would remain secular and non-Muslims should practice their faith freely. Dato Onn Jafaar, founder of UMNO, wrote in a memo to the Commission, “The state shall recognize the special position of Islam as the religion professed by the great majority of the citizens. The state shall also recognize Christianity, Buddhism and Hinduism as some of the religions and beliefs existing in the territory of the Union.” But the Malay Christian Council and the Straits Chinese British Association urged the Commission to secure the rights of all Malaysians, regardless of their religion.
Ultimately, the Reid Commission included Article 3 into the Constitution, despite their initial feelings against it. However, this creation of an official religion was not intended to harm the increasingly pluralistic society of Malaya in any way. It did not declare an Islamic state, but instead provided a, “clever solution to accommodate the demands of conflicting parties while at the same time providing the flexibility to make way for more innovative and nuanced solutions in the future.”

In a discussion on the original meaning of Article 3, Sofjan writes:

> Arguably, the framers of the Federal Constitution did not intentionally deploy the phrase “formal religion” in this Article with the full realization that such wording would otherwise have ensnared the country into granting legal provision to enforce the shariah, the Islamic legal framework, upon Muslims and profusely embark on Islamization of the polity, bureaucracy and society. Such a move could potentially damage the unwritten social contract.

While Article 3(1) was intended to create a compromise between the plurality of Muslims and the numerous religious minorities that would represent the Malay values of moderation, tolerance, and justice stemming back to the Malacca Sultanate, its scope and meaning would be debated and re-interpreted for decades to come.

On May 13, 1969, after an election which resulted in the collapse of the Alliance Party, a series of race riots broke out in Kuala Lumpur, Negeri Sembilan, Malacca, and Perak, resulting in the death of at least 200 people. Because the riots occurred against a backdrop of perceived levels of inequity and poverty in the Malay class, and economic privilege among the Chinese, PM Tun Abdul Razak suspended Parliament and the Constitution for two years, and instituted the New Economic Policy (NEP) in 1970. The NEP was an attempt to restructure the economic classes of society so that no one racial group was significantly worse off than another, but because the ethnic Malays were quantitatively more disadvantaged, the NEP served as an affirmative action program benefitting Malay-Muslims. Some argue that the NEP represented another clever solution which was guided by Islamic principles of moderation and justice, where
the state would intervene to reduce the level of poverty while still preserving an open market for the wealthy. In reality, the NEP heightened racial and religious tensions as Muslim-Malays began to take back their perceived wealth from Christian and Buddhist Chinese.

During this same period, there was global resurgence of Islam, manifested by the 1979 Iranian Revolution and Soviet-Afghan War. The resurgence spilled into Malaysia as Malay-Muslim students, who would have been born right before the time of independence, and had been studying overseas, returned home. Some of the students had been exposed to the lavish lifestyles of Westerners, which many Islamists continue to criticize, while others were exposed to new Islamic teachings, with both groups having encountered the effectiveness of well-organized groups and civil society organizations (CSOs). As students were returning home in the mid-1970s, a dakwah movement was gaining traction, especially on local university campuses, through groups like the Muslim Youth Movement of Malaysia (ABIM). ABIM was led by Anwar Ibrahim, who had close ties to the Muslim Brotherhood, the Jamaat, and the Afghan Hizb-i Islami. He was pushed to join the UMNO coalition by ABIM and other dakwah groups, in order to influence the government towards a more Islamist orientation. Other dakwah institutions, like the Islamic Dakwah Foundation of Malaysia (YADIM), even received aid from oil-producing Gulf states, such as Saudi Arabia and Kuwait. The dakwah movement caused Malay-Muslims to shift their thinking about the eminence of Islam in the state and led to a greater popularity of PAS’ platform.

PAS would form a coalition party with UMNO in 1973, allowing those who had long propounded Malaysia become an Islamic were state to be brought into the mainstream governance, and alter the coalition’s platform to include the advancement of Islam. The dakwah movement led PM Tun Abdul Razak to begin projects to spread Islam, and resulted in
the building of countless mosques, Qur’an reading competitions, and public courses on Islam. It also caused the National Council of Islamic Affairs to be brought under the control of the Prime Minister, and its budget increased almost tenfold. The Islamic Research Center, Institute for Islamic Missionary Training, and the Malaysian Foundation for Islamic Missionary were also all established, with many members of PAS being made leaders of the new organizations and bureaucracies.\(^9^0\) The dakwah movement saw PAS and UMNO leaders travelling to campuses in the Middle East, the United States, and the United Kingdom to give lectures on the Islamization of local politics.\(^9^1\) However, this PAS-UMNO partnership was short-lived, ending a year before PAS lost nearly all control over Kelantan, a state it had controlled for over 20 years, and suffered great losses in the 1979 Federal elections.\(^9^2\)

In 1981, in light of its losses, PAS elected a new president, Yusof Rawa, a former cleric and Ambassador to Iran during the mid-1970s, who sought to abandon the “compromised Islam” that had been mixed with Malay-nationalism, and determined to revive a purer form of Islam in Malaysia.\(^9^3\) He helped bring Iranian leaders to speak to the youth wing of PAS, where they encouraged Malay-Muslims, although Sunni, to put ulama in party leadership and form an ulama council.\(^9^4\) It was a year in which Haji Abdul Hadi Awang, the current President of PAS, made three points that would serve as the foundational principles for the PAS. He criticized UMNO for perpetuating the infidel colonial constitution inherited from the British Reid Commission, declared that political donations to PAS were a form of jihad, and that condoning the separation of mosque and state was reason to be considered kafir (infidel) and worthy of reprisal.\(^9^5\) The rhetoric of PAS had so consumed the political discourse of the day that the central issue of the 1986 general election was whether or not Malaysia would become an Islamic state.\(^9^6\)
1981 also saw the election of Mahathir Mohammad, a premier who would serve for 20 years and oversee the long-term response to the global Islamic resurgence, the Malaysian dakwah movement of the 1970s, and the rhetoric of PAS. He began by heavily bureaucratizing Islam, bringing Anwar Ibrahim into UMNO leadership, and establishing Islamic think tanks like Pusat Islam (which would be later become JAKIM) and the Malaysian Institute of Islamic Understanding (IKIM). Pusat Islam, which began as a government-sponsored dakwah group in 1980, became the Department of Islamic Development (JAKIM) in 1996 and was charged with coordinating all dakwah activities in the state. It played, and continued to play, a key role in standardizing Islamic law, developing legislation, and adjusting and creating overseeing Islamic education. It also served as an advisory body to UMNO’s responses to PAS demands for the implementation of hudud punishments for theft, highway robbery, adultery, false accusations of adultery, alcoholism, apostasy, and rebellion against Islam, as well as uniting the ulama with the state machinery and systematizing the state’s administration of Islam. IKIM, on the other hand, was established in 1992 to espouse UMNO’s allegedly modern and moderate version of Islam. And in 2001, IKIM launched its own radio station to “elevate the understanding of Islam” and address misunderstandings of both Muslims and non-Muslims about the religion, and to promote an Islamic understanding of economic and social development—an Islam that could outdo the claims made by PAS. As Farish Noor observes, “The bone of contention between UMNO and PAS at the time was not whether Islam was “liberal” or “tolerant” in the Western sense, but rather whether as a system of belief and values it could be used to promote a dynamic outlook on economic and political issues.”

In 1996, the Malaysian constitution model was altered when the Fatwa Committee for Religious Affairs issued a fatwa that established Sunni Islam as the official form of Islam in
Malaysia and branded Shi’a Islam as deviant. It also prohibited Shi’as from spreading their beliefs, either through proselytization or publishing print or electronic materials that espouse Shi’a beliefs. Although it is not known when Shias first arrived in Malaysia, a latent practice of “Alid piety” (love towards the Prophet’s family) was present in colonial Malaysia, especially in Penang where British envoys had brought troops from India, many of whom were Twelver and Ismail Shias. In fact, boria, a theatre production which remembers the events of Karbala, Iraq during the first ten days of the Shia holiday of Muharram, became a common practice among the Sunni Malays and amalgamated with the local populations to become a Malay tradition which is still observed.

Until the 1996 fatwa, Shias practiced their faith as freely as Sunnis did. But as religious and political leaders returned from study in Saudi Arabia, having been exposed to Wahhabism, and as Mahathir established Islamic institutes and bureaucracies, which were funded by the Saudi government to continue the dakwah movement, resentment for Shias grew. As Mohammad Kamilzuhairi Abdul Aziz, a Shia leader in Malaysia, said,

> The problem here is not the Sunnis, but the Wahhabis… they are hiding behind the Sunnis… JAIS and JAKIM are not Wahhabi, but there are elements that are trying to penetrate it […] Before the (Iranian) Revolution, Shiites could mix with other people.

In 2001, following the September 11th terror attacks in the United States, the Malaysian constitutional model again faced a more controversial change that continues to reverberate. Mahathir declared that, “UMNO would like to state outright that Malaysia is an Islamic state. This opinion is based on the opinions of many ‘ulama in the past who have explained what is and Islamic state.” Although traditional UMNO supporters tried to debunk his claim, UMNO did not hesitate to publish a booklet justifying his statement, and depart from Malaysia’s first PM who believed an Islamic state would “drown” all the non-Muslims living in Malaysia.
the claim remains significant and a part of contemporary discourse and writing surrounding Malaysia, his sentiment did not continue with the next premier; Abdullah Badawi replaced Mahathir as PM in 2002, and began promoting a concept of Islam hadhari (civilizational Islam) and the principles of development, ethics, education, and pluralism.\textsuperscript{113} It was a revival of Anwar Ibrahim’s concept of masyarakat madani (civil society) – that God has given all men and women rights that are to be recognized and preserved under a democratic society.\textsuperscript{114} However, his attempts at promoting pluralism in government were ill-fated, as Islamist NGOs and civil society organizations (CSOs) actually strengthened under his administration.\textsuperscript{115}

Najib Razak, Malaysia’s current premier, who took office in 2008, has had to continuously practice double-speak on the issue of Islam and pluralism, primarily for political reasons. 2008 was the first election in which the governing coalition party, Barisian National (BN), did not achieve a two-thirds representation in Parliament, despite obtaining 90 percent of the seats in its best performance ever in 2004.\textsuperscript{116} 2013 was the first year BN did not receive at least 50 percent of the popular vote, despite a significant increase in voter participation.\textsuperscript{117} It was also a year when over a quarter of Chinese switched their votes from BN to the opposition.\textsuperscript{118} BN also lost a number of seats in Terengganu and Perlis, states where matters of apostasy and hudud have been relevant topics and PAS has been historically popular.\textsuperscript{119} These losing results have forced Najib to act and speak in ways that appeal to the Muslim-Malay base BN has traditionally held—a group that is typically more friendly to rising Islamism—and to the ethnic Chinese and Indians who primarily vote with the opposition and are greatly concerned by the loss of religious freedom, seen clearly in the 2007 Lina Joy case which will be discussed later.

He has had to allege that PAS has not been Islamic enough,\textsuperscript{120} while dismantling the affirmative action policies of the NEP,\textsuperscript{121} and applauding the introduction of hudud bills.\textsuperscript{122} He
has attended Hindu festivals, in which his status as a Muslim was questioned, and tweeted “Merry Christmas” to Malaysian Christians, while arresting progressive Muslim reformers, like Mustafa Akyol, banning books by the moderate-Islamic group G25, and preventing interfaith groups from being formed. And unable to escape corruption, Najib has also been implicated in murder and of channeling $700 million of public funds into his personal bank account. With the next elections being held in May 2018, Najib’s corruption and society’s bifurcated concern of Islamism and religious pluralism will be two of the strongest factors in an election where Mahathir Mohammad is representing the opposition. With the track record of the current and former premier, the future is not promising for the Malaysian model of religious freedom.
Modern Challenges to the Malaysian Model of Religious Freedom

Threats to individual religious freedom have been well documented by international groups including as the United States Commission on International Religious Freedom (USCIRF), the United States Department of State, Freedom House, Human Rights Watch, the Ethics and Religious Liberty Commission, International Christian Concern, and Open Doors USA. The report which has been most helpful in documenting guide the restrictions on religious freedom in Malaysia was compiled by an Indonesia-based group, the Human Rights Resource Center, in conjunction with the Norwegian Embassy in a 2015 report entitled “Keeping the Faith: A study of Freedom of Thought, Conscience, and Religion in ASEAN.” Its well-detailed documentation of restrictions on religious freedom, along with its heavy reference to court decisions and statements by Malaysian parliamentarians make it one of the most important resources used in writing this section.

There are also a number of groups within Malaysia that are dedicated to promoting a free and pluralistic society, including Suara Rakyat Malaysia (SUARAM), the Kairos Dialogue Network, G25, Sisters in Islam, the Christian Federation of Malaysia (CFM), and the Malaysian Consultative Council of Buddhism, Christianity, Hinduism, Sikhism, and Taoism. Interviews conducted by the author with leaders of these groups reveal that there are people across the religious spectrum who are concerned by the rising restrictions on religious freedom in Malaysia.\(^{131}\)

The following section, with reference to newspaper articles and reports compiled by aforementioned human rights groups, will reveal the ways in which the Malaysian Model of religious freedom is being threatened, and the consequences of bureaucratized Islam in Malaysia. Abductions, Disappearances
In past two years, four religiously active non-Sunni Muslims have either been abducted or disappeared, with close family and human rights groups complaining of apathetic police investigations. Still others have suggested that federal or state governments were directly or indirectly involved with the disappearances.

The most recent and most famous case is that of Raymond Koh, a Christian pastor who was kidnapped midday while driving in Petaling Jaya in February 2017. There is a widely-circulated video that shows seven vehicles and at least 15 men surrounding Koh’s car, forcing him to stop, kidnapping him, and driving away. Before his abduction, religious authorities questioned and harassed Koh because they suspected him of converting Muslims to Christianity, which is illegal per Article 11(4) of the Federal Constitution. Even after his arrest, individuals who attended Koh’s church and who knew him have been questioned and harassed by the police. There has been a great deal of speculation that the government was indirectly, or even directly, involved with the abduction, considering the well-planned and professional nature of the abduction and the apathetic efforts of the Royal Malaysian Police (PDRM) to investigate the incident.

In January 2018, PDRM arrested and charged Lam Chang Nam, an ex-Uber driver with the abduction. However, Koh’s family is suspicious of the arrest because Nam had previously been arrested in March 2017 for suspected involvement, but was cleared of all charges; they also were not consulted or informed of possible suspects before the arrest was made. The Citizen Action Group on Enforced Disappearance (CAGED), a group of 48 allied NGOs, called Nam’s arrest “shocking and illogical.” Interestingly, the police made the charge one day before the Human Rights Commission of Malaysia (SUHAKAM) was going to restart its own investigation into the incident, forcing SUHAKAM to cease the independent investigation.
whereabouts remain unknown at the time of this writing.

After Koh’s abduction was made public, Amri Che Mat’s story began to make headlines. Amri, the leader of Perlis Hope, a humanitarian non-profit, was abducted in a similar way to Koh, but in November 2016; his car was boxed in by five other vehicles less than a kilometer from his home, before he was taken away. The mufti of Perlis state, Mohamed Asri Zainul Abidin, had previously met Amri and accused Amri of propagating Shi’a Islam, which is considered deviant and illegal in Malaysia. Asri has also claimed that Perlis Hope is attempting to establish a theocracy, but he denies any involvement with the disappearance. SUHAKAM has investigated Amri’s disappearance along with Koh’s to determine if it is the result of an extrajudicial detention or enforced disappearance. Amri was last seen on November 24, 2016 and his whereabouts are still unknown.

Pastor Joshua Hilmy and his wife Ruth were also victims of a disappearance, and are both Muslim-Malay converts to Christianity. There is little available information available on the couple, other than the fact that they were last seen six days after Amri Che Mat went missing in November 2016. It was only discovered that they were missing after close friends had not heard from the couple for several months, and a police report was filed on March 6, 2017 March 2017.

All of these cases appear to be religiously related: Raymond Koh was suspected of attempting to convert Sunni Muslims to Christianity, Joshua and Ruth Hilmy were themselves Malay-Muslim converts to Christianity, and Amri Che Mat was accused of preaching Shia Islam. CAGED believes that there is a “high probability” all the cases enforced disappearances, implicating the government is either directly or indirectly involved. Others have suspected that the disappearances were carried out by religious vigilantes. Either way, the Malaysian model
of religious freedom is experiencing a new threat that is resulting from Islamist actors who reject the idea of muhibah.

Persecution of “Deviant” Muslims

In 1996, the Fatwa Committee for Religious Affairs issued a fatwa that upheld the orthodoxy of Sunni Islam and branded Shi’a Islam as deviant. The fatwa prohibited Shi’as from spreading their beliefs, either through proselytization or publishing print or electronic materials that espouse Shi’a beliefs. The justification religious and political leaders typically give to justify the fatwa and restriction on Shi’ism is that it will cause “confusion and disunity” within Malaysia’s Muslim population.

In 1997, seven Shia followers were detained for spreading their teachings. In 2001, six Shia followers were arrested for the same reason under the Internal Security Act 1960 (ISA). In December 2010, more than 200 Iranian and Pakistani Shiites were arrested by the Selangor Islamic Religious Department (JAIS) as they observed Ashura, a holiday commemorating the death of the Prophet’s grandson, Husayn ibn Ali. In May 2011, four Shiites were arrested at a lunch celebrating the birthday of Fatimah Zahra, the daughter of Prophet Muhammad. In September 2013, religious enforcement authorities detained 16 people and carried out 120 inspections in connection with those identified as linked to the dissemination of Shia teachings in the country. In March 2014, the Perak Islamic Religious Affairs Department (JAIPK) and ordered the arrest of 114 individuals for their alleged involvement in the Shia religious community. In October 2016 arrested 50 Pakistani Shias for celebrating Ashura. And in October 2017, JAIS arrested more than 200 Iraqi students for celebrating Ashura, and were only released after the Iraqi government pressured the Malaysian government to release them.
In 2014, the National Fatwa Council declared that although Shi’a beliefs conflict with Sunni teaching, Shias are still part of the Islamic community. Such a ruling would seem to give Shi’a Muslims the right to practice their faith and celebrate holidays that correlate with their faith as other Muslims, per Article 11(1) of the Federal Constitution. However, courts have ruled that the term “practice” in Article 11(1) only covers practices and rituals that are essential and mandatory, and have given the judiciary the ability to determine what is considered essential.

Apart from Shi’a teaching, the National Fatwa council has banned nine other groups for their alleged deviant teaching. Each state fatwa council has deemed various groups as aberrant and deviant. Altogether, 37 different Islamic groups are considered aberrant, and are thus banned in at least one of Malaysia’s thirteen states. In September of 2017, Mustafa Akyol was detained and jailed at the Kuala Lumpur airport after giving a series of lectures on the topics of the “suppression of rational theology by dogmatists in early Islam,” apostasy from Islam, and a planned lecture on Akyol’s book “The Islamic Jesus: How the King of the Jews Became a prophet of the Muslims.” As of October 2017, Akyol’s book, “Islam Without Extremes: A Muslim Case for Liberty” it is still illegal to own within Malaysia’s borders.

The way in which bureaucracies have maintained restrictions on Muslims’ beliefs has led Muslims to believe that they are the ones with the least religious freedom in the country. Federal agencies have ironically claimed that deviant teachings, like Shi’ism and the beliefs of Akyol, are not fitting for a multi-cultural and multi-religious society. JAKIM, which provides imams with the messages for the Friday khutbah, is known to include remarks in the khutbah that belittle Shi’a Muslims. Scholarships are given to students who attend universities in states like Saudi Arabia, where they are exposed to teachings that instill Malaysian Muslims with a disdain for Shias. These restrictions are in contrast with centuries-old practice in Malaysia of allowing
Muslims to relate to God as they see fit, and remains one of the great threats to the Malaysian model of religious freedom.

**Forced Conversions of Orang Asli**

Within the Malaysian model of religious freedom, Malaysian citizens should never be forced—either physically or emotionally—to convert to Islam. Both Malaysia’s constitution and its history reveal that pluralism is a social good that must be preserved. Generally, non-Muslims are not coerced to abandon their faith and convert to Islam. However, as interviews with faith leaders and human rights reports have shown, there is an increasing number of instances where individuals and communities are being compelled against their will to convert to Islam, often under the auspices or directive of the government.

The term Orang Asli, is usually used to refer to the indigenous people of the Malay Peninsula, but for the purposes of this paper will also encompass the indigenous groups living in Sabah and Sarawak, as is common in Malay culture to group them under one banner name. It should be noted that the term originated during the British Colonial period to differentiate between indigenous Malays who were Muslim (called “Malay”) and indigenous Malays who were not Muslims (called “Orang Asli”). Historically, these indigenous people have lived in remote villages near forests, have faced historical economic hardship, discrimination from Malays, and limited legal and political rights. But beginning in 1961, the Malaysian government instituted a policy of integrating the Orang Asli into the “Malay community,” as opposed to the Malaysian community (encompassing ethnic Indians, Chinese, Eurasians, and Malays), thus creating the opportunity for an Islamization policy. Then, with the institution of the NEP, Bumiputras (a category including the Malays, the indigenous peoples of Sabah and Sarawak, and the indigenous people of peninsular Malaysia) began to receive special economic
privileges in Malaysia. When discussing how the Orang Asli should be included in this policy, the Department of Orang Asli Affairs (JHEOA) determined that the Orang Asli should be included under the Bumiputra label, but should not be forced to convert to Islam; it also rejected any missionary activity targeted at the Orang Asli. As the wave of Islam resurgence swept Malaysia, in 1983 JHEOA changed its policy to begin assimilating the Orang Asli into the Malay community and begin Islamizing the indigenous peoples, but it kept this policy change secret until the 1990s. Currently, JAKIM employs an officer who is in charge with overseeing the proselytization the Orang Asli and Orang Asal.

From 1974 to 1997, there was a 12 percent increase in the number of Orang Asli who identified as Muslims, and a parallel 11 percent decrease in the number of Orang Asli who identified as animists. Some members of the international community, including the United Nations, have criticized the government-sponsored missionary endeavors as damaging to the rights and culture of indigenous people, and even upon their societal development. The culture of unity that historically existed within the close-knit tribes has altered as Muslim converts, in some cases, have begun to dwell separately from the animist, Hindu, and Christian members. Parents have become content with not sending their children to school because public school teachers are also teaching Islam. One researcher found that Orang Asli Christian parents living in Sabah have become afraid to send their children to government-run pre-schools because they believe their children will be converted to Islam. Even within Catholic Schools, local leaders in Sabah have complained about forced conversions occurring with children. The 2012 United States International Religious Freedom Report mentions an incident where four non-Muslims Orang Asli were slapped for not reciting a Muslim prayer in school, an incident which the teacher apologized for but Rural and Regional Development Minister denied.
Communities have also been divided into the materially privileged Muslims and the disadvantaged non-Muslims, creating a divide between once unified groups. Muslims converts are often given televisions to watch Islamic services and motorbikes to attend nearby mosques, along with modern homes, while those who resist conversion receive little. In villages where the leader and his family converted to Islam, the leader tended to monopolize socio-economic development projects, because he had been granted funds by the government. And only Muslim Orang Asli were able to attend universities because the government only gave scholarships to Muslim students; later on, these Muslim Orang Asli will become the elites in their society. What is more, the Islamization process has relied on the illiteracy of the impoverished Orang Asli; as Seh Lih records, in 2010 the government brought a group of indigenous peoples to a banquet, told them to recite a statement (the Arabic syahadah), and then gave them food and money. And in 2014, 64 illiterate, indigenous people in Sabah were promised RM800, brought to a mosque, given food and drinks, asked for the identification cards, and asked to sign a form and recite a statement; following the signature and statement they were declared Muslims and given only RM100. And in Sarawak, male students are prevented from carrying their Bibles and have been forced to wear the “songkok,” a hat only Muslim men wear.

Along with the material bribes, many Orang Asli have been legally registered as being Muslim without their permission. Government agencies has also changed the identity cards of thousands of non-Muslims living in Sabah to indicate that they are Muslims, on the basis that their names resembled that of a Muslim. For those Christians, Hindus, and animists living in Sabah and Sarawak, this religious identification prevents them from marrying other non-Muslims, results in their children being identified as Muslims, and causes them treated by the
government as Muslims, and thus subject to the Syariah Courts.\textsuperscript{183} Interestingly, both PM Najib Razak, along with the president of the Liberal Democratic Party (LDP), insisted that this issue be fixed, with the president of LDP declaring that those affected should not have to appeal to the Syariah Courts to have it resolved.\textsuperscript{184}

Despite the Premier’s statements, legal issues remain. As the following sections will show, if a Malaysian is considered by the government to be a Muslim, then he or she is subject to the Syariah Courts, and potentially hudud penalties, regardless of how that person religiously identifies. Unfortunately, many Orang Asli have been afraid to speak out against the government’s policies because they may be arrested under the Internal Security Act (1990).\textsuperscript{185} Until policies towards the Orang Asli are changed and economic development and welfare becomes unconditional, a muhibah state cannot be achieved and the Malaysian model of religious freedom will not be revived.

**Apostasy and Identity Cards**

Every citizen in Malaysia receives an identity card, usually around age 12, and is registered into the National Registration Identity Card (NRIC).\textsuperscript{186} The NRIC has its roots in British East African kipandi which enabled the colonial British powers to keep track of persons travelling outside their own lands, account for the number of laborers, follow up on deserters, and track criminals.\textsuperscript{187} It was then followed by the identity cards used in the UK during the WWII era.\textsuperscript{188} Finally, in 1948, the British introduced the NRIC into Malaya as a way of distinguishing the ordinary ethnic Chinese Malaysian citizens from the Chinese who were supplying funds and supplies to communists in China.\textsuperscript{189} Every Malaysian age 12 and older had to carry a NRIC which contained one’s fingerprints, address, name, race, and place of birth,
amongst other personal details. Failure to show one’s NRIC when asked was a criminal offense.\textsuperscript{190}

In the 1960’s, following the Indonesian Confrontation in which Indonesians and some Malaysians were charged with waging war against the Malaysian King, the NRIC were used to arrest and try the Malaysian rebels. The Federal Court overturned the Malaysians’ convictions and cited a 1952 British case involving identity cards, Willcock v. Muckle, in which Chief Justice Lord Goddard declared that identity cards were never intended to establish identity whenever citizens were stopped or interrogated, but instead were passed for security reasons. And since 1999, if someone was a Muslim, their NRIC had to indicate so, and any changes to the NRIC, such as a name change, address change, or change of religion, had to be approved by the National Registration Department (NRD).

Today, there are numerous problems facing those who wish to receive a new identity card, particularly for those who are attempting to have Islam removed from their card, as seen in the Lina Joy case. Azlina Binti Jailani was born to Muslim parents in 1964, but after she was baptized into the Christian faith in 1998, she wanted to change her name and her identity to reflect her new faith.\textsuperscript{192} In 1999, after submitting an application to the NRD, she was able to change her name to Lina Joy, but was not able to change her religious identification.\textsuperscript{193} She later met a Christian man and wanted to marry him, but under the Malaysian Law Reform (Marriage and Divorce) Act 1976, she could not be recognized as a Muslim and marry a non-Muslim.\textsuperscript{194} In 2000, she submitted another application to the NRD to have the word “Islam” removed from her identity card, but the NRD denied it on the grounds she did not have a certificate from the Syariah Court or the Majlis Agama indicating that she was no longer a Muslim. She took her case to the High Court and argued that the NRD regulations established in 1990 did not require
her to apply for apostasy, and that such a requirement would violate Article 11(1). The Majlis Agama, on the other hand, argued that that, “no individual can make a unilateral declaration without bringing in the authorities to say that he or she is no longer a Muslim.”

The High Court ruled that a certificate of apostasy was needed from the Syariah Court, because only the Syariah Court could determine if she was truly no longer a Muslim. She appealed to the Court of Appeal, which was split on the matter. The minority opinion held that her baptism was proof that she was no longer a Muslim, and that, “an order or certificate from the Syariah Court is not a relevant document for the processing of the Appellant's application.”

The majority opinion held, “the renunciation of Islam is a matter of Islamic law on which the NRD is not an authority” and that it was constitutional for the NRD to require documentation from an Islamic religious authority before they could alter her identity card. She appealed again, this time to the Federal Court, which was also split. The minority used Che Omar bin Che Soh v. PP as precedent, and held that because the country is ruled by secular law, the NRD could not impose the syariah on Muslims. The majority ruled that, “The freedom of religion under Article 11 of the Federal Constitution requires the Appellant to comply with the practices or law of the Islamic religion in particular with regards to converting out of the religion,” and that “one cannot at one’s whims and fancies renounce or embrace a religion.”

The majority opinion also held that the question of jurisdiction fell onto the Syariah Court, because of Article 121(A).

The Court’s ruling means that Malay-Muslims are excluded from Article 11(1) and cannot profess and practice their own religion. Its interpretation conflicts with the spirit of muhibah and the Malaysian model of religious freedom by elevating Islamic law above the Constitution to which all Malaysians are subject.
Unilateral Conversion

In 1988, the Malaysian legislature amended Article 121(1A) of the Federal Constitution to delineate jurisdiction between the civil courts and the Syariah Courts. The civil courts which have a general jurisdiction, administer laws which are of general application to the entire population, regardless of religious identification. The Syariah Courts, in contrast, administer Islamic laws as contained under the various enactments passed by the state legislatures, which are only applicable to individuals professing the religion of Islam. For years, the separation of the courts has caused legal trouble for multi-faith families. The case of Indira Gandhi highlights the problem.

In 1993, the Hindu couple of Indira Gandhi and K Patmanathan married and, over the course of their marriage, had three children. In March 2009, Patmanathan abandoned his wife and took one of their children with him. Gandhi filed a police report and filed an injunction to maintain interim custody of her other two children and have her youngest child returned. While filing the paperwork, Gandhi learned that her husband had converted to Islam and even secretly converted their children. When he filed for custody of all three children with the Syariah High Court in April 2009, his request was granted on the grounds that the Muslim children could not be raised by a non-Muslim. Although Indira Gandhi’s injunction with the Ipoh High Court was successful, and the court ordered the child be returned and deemed their conversions, “a breach of natural justice,” Patmanathan refused to return the child. Patmanathan, along with 5 government agents—the director of JAIPK, the Registrar of Muallaf, the Perak state government, the Education Ministry, the government of Malaysia and Patmanathan—filed a joint appeal, and in 2015, a Court of Appeal overturned the High court’s decision on the grounds that the High Court’s decision violated Article 121(A) of the Constitution and Perak state law. The Appeals
Court further argued that civil courts have no jurisdiction over Islamic matters, thus shutting Indira Gandhi out of the judicial system, because, “she cannot go to the Syariah Court because she’s not a Muslim,” and she “cannot challenge it in the civil court because it’s a ‘Muslim’ affair.”

In 2016, the Law Reform Marriage and Divorce Amendment was tabled for its first reading in the House, with the inclusion of a new Section 88A that specified that "both parties" in a marriage must agree before the conversion of a minor to Islam can occur. In August 2017, the bill was debated in Parliament, but it was passed without section 88A. However, in January 2018, after the Federal Court granted Indira permission to appeal against her husband’s conversion of their children in May 2016, the Federal Court unanimously overturned the Court of Appeals decision and ruled in favour of Indira Gandhi, thereby nullifying Article 121(A).

The decision, which came as a surprise to the legal community and the Malaysian public, has several far-reaching ramifications which can counter the wave of Islamization, and restores the legal foundation needed to restore the Malaysian model of religious freedom. First, it made clear that while Parliament can amend the Constitution, it cannot violate its basic structure. It also reaffirmed that the Constitution is a secular, not Islamic, document and that the constitution governs Malaysia as a secular state, even when questions of Islam and syariah are in question. More specifically, the decision treats freedom of religion or belief as a basic feature of the constitution, and a right which all Malaysians have. It also means that civil courts can question and rule on the limitations of freedom placed by fatwas or Islamic laws can be questioned by the civil courts, consequently treating Islamic law like any other law, subject to question as to its validity and applications by way of judicial review, even for conversion and apostasy cases.
Implementation of Hudud

Although hudud has been passed into law in the states of Kelantan and Terengganu, the federal government has ruled that the criminal bills are unconstitutional because Schedule 9 of the constitution gives the federal government the power to prosecute criminal offenses.\textsuperscript{210} Despite its void nature, hudud does remain a political position, and in recent years has moved onto the national scene. Brunei, a neighbor to Malaysia, implemented hudud in 2014, potentially inspiring Islamists in Malaysia to introduce it in Malaysia.

On May 26, 2016, the last day of parliamentary session, the president of PAS, Abdul Hadi Awang, tabled a bill to amend the Syariah Courts Criminal Jurisdiction Act 1965, also known as Act 355, after three separate attempts in 2015.\textsuperscript{211} After tabling the bill and reading it in the chambers, Hadi requested that the bill be debated until the next parliamentary session, citing lack of time. Seven months later, on November 24, Hadi proposed to amend the motion and delay debate until 2017. The author traveled to Kuala Lumpur in August 2017 believing the bill would finally be debated, but it was delayed again, and has yet to be debated in Parliament’s chambers.

While hudud penalties have historically been a part of PAS party platform, UMNO President and PM Najib Razak supported the introduction of the bill in 2016.\textsuperscript{212} However, Najib eventually pulled his support and began advocating for the creation of a joint PAS-UMNO technical committee to further consider the matter.\textsuperscript{213} Both UMNO and PAS have argued that that the bill is not about implementing hudud, but rather strengthening the Syariah Courts and implementing harsher punishments, and that it would not affect non-Muslims. The proposed amendments to Section 2 of Act 355 would increase the current penalty from no more than three years in prison, a fine not exceeding RM5,000, or a lashing not to exceed six strokes to a jail
term of up to 30 years, a fine not to exceed RM100,000, or a lashing not to exceed 100 strokes as administered in line with the hudud crimes. Despite Najib’s assurances, there are many who are worried about the potential for hudud penalties to Muslims. The Aceh region of Indonesia implemented hudud penalties in 2001, and in 2016 a Christian woman endured a lashing for selling alcohol. In 2014, the now-Mufti of Perlis state, Mohammad Asri Zainal Abidin, publicly declared that non-Muslims must be held to the same hudud penalties as Muslims, if hudud were to be implemented in Malaysia. Abdullah Ziak, the president of Malaysian Muslim Solidarity (ISMA), an influential Islamist NGO, echoed the mufti when he said non-Muslims must also be subject to hudud penalties, for the sake of national security. And in 2013, Pew Research found that 86 percent of Muslims in Malaysia support making syariah the law of the land; at the same time, 43 percent of Muslims in Malaysia believe that syariah has one interpretation, and 41 percent said that syariah should also apply to non-Muslims.

There are Muslim leaders in Malaysia who have serious problems with the idea of implementing hudud, especially if it is reminiscent of the kind that already exists in Kelantan and Terengganu. Mohammad Hashim Kamali, the president of the prominent think tank, the International Institute of Advanced Islamic Studies, observed, “the Hudud Bill of Kelantan has also failed to be reflective either of the balanced outlook of the Qur’an or of the social conditions and realities of contemporary Malaysian society.” And Zaid Ibrahim, a former legal minister in PM Badawi’s cabinet, stated one week after the bill was introduced, “Islam is defined by those in authority, and they define it however they want. This is all political and the corrosive effect is going to be in the long term. There is growing conservatism in the country and it is driven by politics. It used to be very subtle but now it is getting bigger.”
The support for hudud is coming from Islamist politicians and bureaucrats in JAKIM who are envisaging a society disparate from the pluralistic and multicultural one which has existed for most of Malaysia’s history. If a hudud bill was passed, it would present serious problems to the Malaysian model of religious freedom; the non-Muslim Orang Asli who have had their NRIC altered by the government, the Muslim Orang Asli who are Muslims in name only and know little of the religion, and even non-Muslims, could come incur legal penalties from religious courts which they do not accept.

The ability to use the word “Allah”

In Behasa Melayu, like in Arabic, the word used to describe the Christian God is “Allah.” It is used by Christians around the Arabic speaking word, including Egypt, Syria, and Indonesia. However, in 1986, in a move breaking with the rest of the Islamic world, Malaysia’s Interior Security Ministry prohibited the word from non-Islamic publications on the grounds that it could confuse Muslims. For twenty years, the ordinance was usually not enforced and Christians printed bibles and newspapers using “Allah” to refer to God. But beginning in 2005, under the administration of PM Abdullah Badawi, Malaysia began to crack down on Malay-speaking Christians who used “Allah” to refer to God.

In 2005, Malay-language bibles had to have a stamp “Not for Muslims” on the cover. Sunday School materials also began to be confiscated under Customs Act 1967, because the materials allegedly contained Arabic words also common in the Islamic faith, like “Allah”, “Baitullah”, “Solat” and “Kaabah.” In December 2007, seven state Islamic councils filed a lawsuit against the Catholic Herald, a weekly publication, for its use of “Allah” in it publication. Shortly after the lawsuit, in 2008, JAKIM reached beyond its role as the federal regulator of Islam, and issued a fatwa against non-Muslims barring them from using the word, “Allah,” claiming it is the government’s responsibility to maintain the purity of the Islamic faith.
December 2009, the High Court actually ruled in favor of the Herald on the grounds that usage of the word “Allah” is constitutionally protected under Article 11(1), that the right to practice in peace and harmony under Article 3(1) allows for the use of the word “Allah” by non-Muslims, and that there was no material evidence that the usage of the word is a threat to public order. Following the High Court’s decision, 10 churches and a Sikh Gurdwara across the country were burned down, scorched, or vandalized as Malay-Muslims reacted to the decision. Two mosques also had severed pigs’ heads thrown into the compound.

In January 2014 the Court of Appeal overturned the High Court’s decision, holding that the usage of “Allah” in the Herald would have an adverse effect on the purity of Islam imagined in Article 3(1), and that barring its use would not limit the practice of religion, but limited application of the decision only to the Herald. Most importantly, the Court dictated that that the word “Allah” is not essential to the Christian faith, and that “any such disruption of the even tempo is contrary to the hope and desire of peaceful and harmonious co-existence of other religions other than Islam in the country.” Following the Court of Appeal’s decision, the Selangor Islamic Religious Department raided the Bible Society of Malaysia and seized over 300 copies of Malay-language bibles, the Ministry of Home Affairs banned a comic book because it used the word, “Allah,” and police began investigating the editor of the Herald under the Sedition Act 1984 because he had said that Malay-speaking churches in Selangor would continue using “Allah.” Both the violence and the reasoning used by the Court of Appeal, give a picture of a government and a society that has forsaken muhibah and which no longer seeks to preserve a Malaysian model of freedom.

Faith Purification Centers

In the 2007 Lina Joy case, Malaysia’s Federal Court ruled that civil courts did not have jurisdiction to hear cases of Muslims applying to leave Islam, and that such applications could
only be made in the Syariah Court. Now Muslims wishing to convert to another religion risk possible legal action if they go to the Syariah Courts. In some states, those Muslims wishing to leave Islam and have their identity cards changed can face sentences of detention and re-education up to six months in faith-purification centers. The first, and largest, faith-purification center, receives apostates from across the country, and began operating in 2000 in the Ulu Yam region, under the supervision of JAIS. There are also facilities in Jelebu, Negri Sembilan, and Sabah.

Per the Syariah Criminal Offences (Selangor) Enactment 1995, the faith-purification center not only re-educates apostates, but also those considered takfīr, blasphemers, false teachers, those who claim to be divine or have divine knowledge, those who deride the Quran or Hadith, and those who destroy or defile houses of worship. Females can also be sent to the center after being charged with incest, prostitution, sex outside of marriage, preparing to have sex outside of marriage, homosexual activity, sexual activity “against the order of nature,” adultery, or indecent acts in public. Allegedly, those who are sent to the camp engage in individual and group counseling sessions, religious activities, skill-based training, field trips, and outdoor activities. However, human rights agents have speculated that mild forms of torture and brainwashing are occurring, and complain that very little information is available on what happens at the center. Based on interviews conducted by the author, at best, citizens are brainwashed into believing Sunni Islam, and at worst, they are tortured. It is known that alleged apostates can be held “for no more than six months for the purpose of reeducating, and he will be requested to repent according to Islamic law.”

In an episode of Everywoman, Al-Jazeera told the story of a Hindu woman, Revathi Massosai, who had converted from Islam to Hinduism after she married a Hindu man. In the
episode, Revathi was seen telling her husband that she had not received her necessary asthma medicine for three days and that she had not eaten in four days. It was reported that Massosai was subject to “mental torture,” being forced to eat beef and pray as a Muslim, despite being a Hindu. A segment done by the Christian Broadcasting Network (CBN) revealed that the purification center was surrounded by stone walls and razor wire, and that some of those in the center are physically harmed. Government attempts to force non-Muslims like Massosai to accept Islam while separating them from their family in faith-purification centers are contrary to the mutual respect of muhibah and pluralism within the Malaysian model of religious freedom, and are worthy of scrutiny from the international community.
Opportunities to Revive the Malaysian Model of Religious Freedom

After observing how the Malaysian model of religious freedom developed since the arrival of Islam in Malaysia, and how religious restrictions and intolerances have increased in recent decades, the author proposes that the current state of affairs in Malaysia can be fixed, even within the Malaysian constitutional model of religious freedom. When the Reid Commission drafted the Constitution, following the inclusion of Article 3(1), it stated, that although “there has been included in the Federal Constitution a declaration that Islam is the religion of the Federation, this will not in any way affect the present position of the Federation as a secular state.”

As Jaclyn Neo, a scholar of Malaysian constitutional law, has remarked, “Malaysia was not envisaged or designed as a theocracy where political and religious leadership is fused. Neither did it derive its general legal system from religious or divine law.” And in 1987, the Federal Court held in Che Omar Bin Che Soh v. Public Prosecutor “the term "Islam" or "Islamic religion" in Article 3 of the Federal Constitution in the context means only such acts as relate to rituals and ceremonies.”

But the idea of a religiously plural state is not only grounded in law, but also in culture. Kamar Oniah Kamaruzaman, the Director of the International Centre for the Alliance of Civilizations of the International Islamic University of Malaysia (IIUM), has written a great deal on the subject of muhibah—an idea largely absent in the academic literature surrounding Malaysia. First popularized by Tunku Abdul Rahman in 1969 following the racial riots, muhibah is expressed by the ideals of coexistence, togetherness, kinship, affection, sympathy empathy, respect, and decorum. It was first instituted within the National Goodwill Council (NGC) in 1970. The NGC evolved into the Department of National Unity and Integration (JPNIN) and now exists under the authority of the Prime Minister. And in 2010, JPNIN established a
Committee to Promote Understanding and Harmony Among Religious Adherents’, whose mission is directed “towards making dialogue as mechanism and mediation to realize understanding and harmony relationship among religions towards making Malaysia a Muhibah state.” Kamaruzaman, arguing that muhibah is remarkably social in nature and deeply entrenched in Malaysian society, stated, “a citizen of this country is a true Malaysian only if the person embraces muhibah in his or her soul. Hence, although it is the identity card that technically makes a person a citizen of this nation, however it is the muhibah that makes a person a true Malaysian.”

Some assert that Islam is incompatible with pluralism, and with the Malaysian understanding of muhibah. They argue that if Islam is the true religion for all mankind, then disbelieving in Islam is the greatest sin before God and the public acceptance of other faiths in society is the public acceptance of evil before God. Additionally, allowing the propagation of other faiths is akin to endorsing apostasy. One hadith, according to Abu Sa‘id al-Khudri, records the Prophet saying, “Whosoever of you sees an evil, let him change it with his hand; and if he is not able to do so, then let him change it with his tongue; and if he is not able to do so, then with his heart — and that is the weakest of faith.” The Qur’an often reminds Muslims that all non-Muslims share a common hate for Islam and that they will never be pleased until all Muslims renounce their faith (2:105, 120; 4:89; 3:69; 5:82). Moreover, Muslims must not only practice al-wala’ (allegiance to God), but also al-barā’ (separation from the non-believers). Because of these principles, Muslims living in a Muslim-majority country must minimize and limit the public religious practices of non-Muslims.

However, those who would argue that muhibah is incompatible with Islam fail to remember the long-held Islamic legal principle, “la ama illa wa huwa makhsus” (there is no
generality without exception); they do not consider the context of the entire Qur’an and of the life of the Prophet. During his lifetime, the Prophet was protected by his uncle, a non-Muslim for most of his life, and by a non-Muslim upon his return to Mecca. He had also commanded his followers to seek refuge in the Christian-ruled Abyssinia while under attack, and even applauded the Christian king for his kind rule. It also should be noted that Islam spread more quickly in the two years following the Hudibaiaiyh Peace accord organized by the Prophet, which established peaceful co-existence between the Muslims and the Jews living in Medina, than in the previous 19 years.

Many also ignore the verses where tolerance and non-interference for other faiths is the norm, where compulsion in religion is prohibited, where insulting other faiths is prohibited, and where it is acknowledged that Islam must be based on a free choice (109:1-6; 2:256; 10:99, 6:108; 18:29). It also ignores the Quranic teaching on human anthropology—that God has created mankind “in the best of molds” (Q 95:4) and in doing so gave humanity special preference and honor (Q 17:70). It emphasizes that human beings have inherent worth and dignity, and, that God has given all people the intellectual capacity to discern between good and evil (Q 17:15, 6:104).

With both the Prophet as an example, and the Quranic evidence, it can be concluded that the idea of a muhibah state—a community where religious communities with their own identities and characteristics can exist alongside one another in an open, free society—is not incompatible with an Islamic worldview, nor within the scope of the Malaysian constitution. Unfortunately, there will remain political and religious actors in Malaysia who chose to deny the compatibility of muhibah with Islam, and will reject any proposal to attempt to strengthen religious freedom, both for Muslims and non-Muslims, in Malaysia. While the author hopes such actors would
consider the following the proposals, it is reasonable to expect that only those who are already committed to preserving religious freedom for all Malaysians will seek to implement them. Still, the remaining section of the paper will offer local, regional, and international solutions, organized from least politically feasible to most politically feasible, which could help alleviate rising government restriction of religion in Malaysia and help revitalize the historical reality of muhibah.

Reduce Federal and State Control of Mosques

The bureaucratization of Islam by federal institutions, especially with JAKIM, is one of the greatest barriers to achieving muhibah and restoring the Malaysian model of religious freedom. Created in 1997, as a department under the Prime Minister’s office, JAKIM is the main federal agency managing Islamic affairs, and is tasked with (1) the formulation and standardization of Islamic law, (2) Islamic coordination and administration, and (3) coordination and development of Islamic education. Each state has a Council for Islamic Religious Affairs and Malay Customs (Majlis Agama Islam dan Adat Istiadat Melayu) which oversees the governance of Islam in the state. According to Articles 3(2) and 3(5) of the Federal Constitution, Islam was originally intend to only be a state matter, with the Sultan of each state acting as the head of Islam for the state; but JAKIM is not accountable to the Council of Rulers and has centralized the authority of Islam into a federal entity.

The most visible role JAKIM, and its state counterparts, play is preparing and vetting the Friday khutbah for each mosque. In 2014, The Minister of JAKIM, Datuk Seri Jamil Khir Baharom, said, “The texts are not prepared by any mosque at whim or as it likes…” In an explanation on why JAKIM plays this role, Siti Munirah Binti Ibrahim writes:

No one doubts that Friday khutbah has a clear impact on people in all aspects of their lives. It has effective influences and important role in changing the thoughts in our
society. Khutbah is for us to be inspired and motivated, spiritually reconnected with Allah and be educated about our religion. The content of the khutbah prepared by JAKIM must be able to educate the people to become good Muslims. It should focus mainly to strengthen the unity of faith and unity of the nation, as well as educate society on religious, scientific, and moral matters… In Malaysia, for instance, JAKIM is very concerned about their responsibility in preparing the khutbah texts. They will ensure that the khutbah texts prepared fulfill the actual needs and interests of the people.265

While Ibrahim is correct in understanding the purpose of the khutbah, she fails to reconcile Malaysia’s constitutional ideal of a secular state with the appointment of bureaucrats by politically-minded actors determining what religious lessons Muslims should hear and learn. With so many of the students who return from studying theology in Saudi Arabia and begin working for JAKIM and the state counterparts, a stricter, more puritanical form of Islam is able to reach the entire country.266 Because JAKIM and the state agencies have control over what is said during the Friday sermons, they can demonize those are considered deviant. As previously mentioned, JAKIM will regularly vilify Shi’as in the khutbah.267 In 2013, JAKIM’s khutbah criticized those who promote human rights, declaring that those who promote freedom of religion and equal treatment of LGBT people as attempting to “undermine” and “challenge” the place of Islam in Malaysia.268 In 2014, its prepared khutbah claimed that “Muslims in Malaysia will always be under siege…” despite the permanent special status of Islam within Malaysia’s Federal Constitution.269 In a column, Syerleena Abdul Rashid, a member of Parliament with the Democratic Action Party (DAP) stated:

These hate-filled sermons often caution that there are some Muslims (the liberals, the pluralists and the secularists) who are working together with the Christians, the communists and the Jews to destroy the walls that have stood to protect our sovereignty. Spreading these lies signaled the beginnings of Jakim’s pattern of bigotry that present day Malaysians have become familiar with… For years, Jakim had magnificently coined the term “enemies of Islam” which has become an “umbrella bogeyman” used to refer to so-called deviants and apostates of Islam. This act of name calling and pitting us against one another is downright evil and destructive.270
The Islamic Renaissance Front, a Malaysian NGO, has argued that because the federal government has centralized much of religious authority into the federal bureaucracy under the Prime Minister’s department, instead of leaving it in the hands of the proper state authorities per Articles 3(2) and 3(5) of the Federal Constitution, religious freedom for Muslims has been considerably restrained.\textsuperscript{271} And research confirms IRF’s sentiment; in 2015, the Pew Research Center listed Malaysia as having the sixth highest level of government restriction on religion in the world, ahead of Saudi Arabia, Eritrea, and Brunei.\textsuperscript{272} Interestingly, the Egyptian government which is at the top of the list, only began intervening in the khutbah in 2014.\textsuperscript{273} But those who would attempt to criticize JAKIM’s actions are jailed, as seen with Eric Paulsen, the executive director of Lawyers for Liberty.\textsuperscript{274}

As long as JAKIM continues to remain in operation and police religious activity and teaching, credible claims that Malaysia is an Islamic state will continue, the prospect of a secular government will be undermined, the liberal conception of justice in the protection of liberty and equality of rights in Malaysia will be limited, and the Malaysian model of religious freedom will not be achieved.\textsuperscript{275} It is this circumstance where Malaysia could actually benefit from the model of the early period of the United States. During this period, the population was composed of many conservative and ardent followers of Christianity, and there were many states that maintained an official state religion. These state religions were never considered to violate the Constitution, but the idea that the federal government would involve itself in the affairs of local congregations was unthinkable.\textsuperscript{276}

Following the 2018 general election, Malaysia’s PM should eliminate JAKIM and allow primary oversight of Islam to return to the Agong (royal sultan) of each state. Moreover, the writing of the khutbah should be performed not by bureaucracies, but by local clerics and imams,
who are better equipped to know what their congregants need to hear. Admittedly, this could potentially increase polarization between religious communities, especially in states like Kelantan and Terrengganu where PAS has strongholds. However, it would allow for a greater number of voices—voices that wish to revive muhibah—to be heard.

The next PM could also consider the reforms made in recent years by Morocco, a country where the royal monarchy oversees Islamic affairs in the country, much like the system Article 3(2) and 3(5) of Malaysia’s constitution established. Following the 2003 Casablanca bombing, Morocco’s King Mohammed VI, “the commander of the faithful,” began instituting reforms in its control over Islamic life in an effort to prevent extremist messages from being propagated—a rising threat in Malaysia. In 2004, the king instituted the High Council of Religious Scholars, which has regional and local divisions that accredit imams and ensure that all Islamic teachings do not detract from the official teachings of Islam, which in Morocco, is the Sunni Maliki school. While the councils have shut down “illegal mosques” receiving funds from groups that Shi’a Islam or views considered to be extremist, an act that would go against Article 18 of the UDHR, political actors motivated by maintaining during elections are not the ones overseeing it.

The High Council also uses similar telecommunications infrastructure as Malaysia’s IKIM to disseminate message of ‘tolerant’ Islam, although in conjunction with bureaucracies. And most interesting, the High Council started the Dar al-hadith which included the training of male imams and female mourchidat (counsellors) who assist spiritual instruction, but are not allowed to lead the khutbah. While female involvement in mosques could be controversial in Malaysia, as a muhibah society that historically not discriminated against women, it could be possible and even have a mediating effect on rising Islamism.
Reform the Conversion Process for Muslims

For those Muslims living in Malaysia, attempting to convert to another religion and leave Islam can be quite difficult, usually going through a poorly defined legal system and facing social prejudice.\textsuperscript{281} Interestingly, across the centuries, several prominent ‘ulama have held that apostasy is not a punishable offense.

Ibrahim al-Nakha’i, a leading Islamic jurist in the 7\textsuperscript{th} and 8\textsuperscript{th} centuries, and Sufyan al-Thawri, who is considered “the prince of the believers concerning the Hadith,” both held that apostates should be re-invited to Islam, but not sentenced to death.\textsuperscript{282} Shams al-Din al-Sarakhsi, a renowned 11\textsuperscript{th} century Hanafi jurist, believed in punishment for all the hudud offenses—adultery, theft, slander, drinking of alcohol, and highway robbery—but gave an exemption for apostasy, because “it is a matter between man and his Creator, and its punishment is postponed to the day of judgement.”\textsuperscript{283} Similarly, Ayatollah Morteza Motahhari, a 20\textsuperscript{th} century Iranian cleric, found coercion of religion to be incompatible with the spirit of Islam, and compared forced faith to spanking a child into solving arithmetic.\textsuperscript{284}

There are also a number of Quranic verses which explicitly identify the ideas of freedom of religion or belief:

I worship not that which you worship, nor will you worship that which I worship. And I will not worship that which you have been wanted to worship, nor will you worship that which I worship. To you be your way, and to me mine. (Qur’an 109:2–6)

Let there be no compulsion in religion. The right way is indeed clearly distinct from error. (Qur’an, 2:256)

The truth is from your Lord; so let him who please believe and let him who please disbelieve. (Qur’an, 18:29)

As previously discussed, those who have sought to leave Islam have faced significant obstacles in the Syariah Courts, whereby their requests are denied, or they are sent to a faith
purification center. These centers, as opposed to prisons, are seen as an alternative way to focus on the rehabilitation of religious belief, despite no precedent in Islamic jurisprudence for such penalties. In order to preserve the Malaysian model of religious freedom, and to maintain the Islamic principles of persuasion without compulsion, Malaysia’s twelve other states should consider the process of leaving Islam utilized in Negeri Sembilan.

Unlike the other 12 states in Malaysia, Negeri Sembilan does have a legal process for individuals to leave Islam. In 2003, Negeri Sembilan passed the Islamic Religious Administration Enactment, and under section 119, detailed how a citizen of the state can leave Islam. The individual desiring to leave Islam must first declare ex parte from the syariah that he is no longer a Muslim and then produce an affidavit explaining the facts of the conversion. Next, he must apply to the Syariah Court to leave Islam. And finally, he must stand before a syariah judge who will either encourage the individual to repent and return to Islam, or delay the hearing 90 days while the individual undergoes religious guidance sessions with a counselor from the office of the Mufti, who obtains more background and personal information on the applicant, and preaches to the applicant and requests that he return to Islam. In 2009, an amendment was made to Section 119(2A) of the 2003 act limiting the number of types of people who could apply to Islam in Negeri Sembilan to two—individuals who were born as Muslims, and were born and domiciled in Negeri Sembilan, or individuals who are muallafs (converts) and who embraced Islam in the state of Negeri Sembilan, and were registered according to the provisions of Section 111 and domiciled in Negeri Sembilan. The amendment prevents Muslims from other states from moving to Negeri Sembilan to move to the state and leave Islam.

Even though he is unbale to change th state law, in 2017, the mufti of Negeri Sembilan, Datuk Mohammad Yusof Ahmad, has asserted that there is consensus among Islamic scholars
that those who commit apostasy and refuse to return to Islam should be punished by death.287

This same charge was brought by Saudi Arabia in 1948 in a discussion surrounding Article 18 of the UDHR, but it was Pakistan that countered their charges and argued that freedom of religion or belief are supported by Islam.288 If the other 12 states of Malaysia were to adopt and implement the non-amended model of Negeri Sembilan, each state could still maintain the special status of Islam within the constitution and ensure that Article 11(4) had not been violated, while making steps to return to the Malaysian model of religious freedom and allow citizens to live by live out their religious convictions. Although religious and political actors have suggested that the faith purification centers and prohibitions on conversion maintain the special place of Islam in the Constitution, they do so against Malays’a legal landscape. In the landmark case, Che Omar Che Soh v. Public Prosecutor ([1988] 2 MLJ 55), Federal Court Judge Salleh Abas stated that the term ‘Islam’ or ‘Islamic religion’ in Article 3 of the Federal Constitution only applies to acts relating to rituals and ceremonies.289 Abas noted:

During the British colonial period, through their system of indirect rule and establishment of secular institutions, Islamic law was rendered isolated in a narrow confinement of the law of marriage, divorce and inheritance only. It is in this sense of dichotomy that the framers of the Constitution understood the meaning of the word ‘Islam’ in the context of Article 3.290

While proponents of Article 18 of the UDHR would criticize government involvement in one’s individual choice of religious identification, it is currently not politically feasible to eliminate the Malaysian government involvement’s in conversion under the Islamized bureaucracy.291 Therefore, the best feasible step in reforming the apostasy and conversion process, and thus restore the Malaysian model of religious freedom, states should adopt Negeri Sembilan’s process of application, consultation, and confirmation.
The Creation of an ASEAN Declaration of Religious Freedom

In order to preserve the Malaysian Model, and potentially draw closer to Article 18 of the UDHR, the international associations Malaysia is a party to must be committed to freedom of religion or belief. One of these organizations, the Association of Southeast Asian Nations (ASEAN), has opportunities to strengthen its commitment to religious freedom, and promote freedom of religion or belief in the entire region. In 2012, ASEAN Inter-Governmental Commission on Human Rights (AICHR) drafted the ASEAN Human Rights Declaration (ADHR), which was adopted by all of the member states. In the preamble of the ADHR, ASEAN states declared their “commitment to the Universal Declaration of Human Rights, the Charter of the United Nations, the Vienna Declaration and Programme of Action, and other international human rights instruments to which ASEAN Member states are parties.” Made up of 40 articles, the ADHR is the first step in creating a regional human rights system, which has been considered “indispensable in achieving effective compliance with international human rights law.”

Although deeply flawed, the existence of the ADHR and AICHR represents a shift from Southeast Asian governments disengaging from discussion based on a relativist understanding of human rights to acknowledging the existence of universal rights and listing them in a document to which they can aspire.

Only one article, Article 22, pertained to matters of religious freedom, which reads, “Every person has the right to freedom of thought, conscience and religion. All forms of intolerance, discrimination and incitement of hatred based on religion and beliefs shall be eliminated.” Noticeably, Article 22 omits references to the freedom to manifest one’s religion or belief in teaching, practice, and worship. It is also limited by Article 6, Article 7, and Article 8 which permit states to limit the exercise of guaranteed rights, and allows the realization of the
rights to be constrained to their contexts. Critics have pointed out that the presence of Articles 6, 7, and 8 undermine the foundations of international human rights law, making the entire document flawed and unenforceable.

In 2016, the AICHR named “freedom of religion and belief” as one of the topics of thematic study for its five-year work plan from 2016-2020. If AIHCR were to act upon its findings, it might consider drafting a declaration on religious freedom. For this paper, the author has named such a declaration the ASEAN Declaration on Freedom of Religion or Belief (ADFoRB), and ideally would be modeled after the United Nations 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. Such a declaration could be reasonably proposed, and potentially have support amongst multiple ASEAN members states for three reasons: the level of religious diversity in Southeast Asia, recent events in ASEAN member states, and the threat of religiously-motivated terrorism in Southeast Asia.

ASEAN member states makes up one of the most religiously diverse regions in the world. Thailand has the world’s largest population of Buddhists, Indonesia has the world’s largest population of Muslims, and Philippines has the largest population of Roman Catholics outside Latin America. Four countries within ASEAN were listed as being either high or very high in religious diversity, and two were listed as moderate in religious diversity, based on a 2014 Pew Report. Malaysia was ranked as the 18th most religiously diverse country in the world, while Singapore and Vietnam were listed as first and third, respectively. The level of diversity amongst religions is also matched by a diverse arrangement between church and state in each country.
Due to recent events, several of the nation states that might traditionally be opposed to an ASEAN religious freedom declaration could be pressured into creating and signing onto one. In 2017, Indonesia, the largest economic force in ASEAN, recognized indigenous religious groups as a registered religion, expanding beyond the previous six. Also in 2017, hundreds of thousands of Rohingya Muslims fled the Rakhine state in Myanmar after the military began burning Rohingya villages and killing thousands of “the most persecuted minority group in the world.” Although the Rohingya crisis could lead one to believe Myanmar would be one of the greatest critics of an ADFORB, given Aung San Suu Kyi’s past in promoting human rights, she could possibly be pressured to save face and help lead Myanmar in a more positive direction. In 2018, Vietnam, which has been labeled a Country of Particular Concern by USCIRF every year since 2002 due to severe restriction of religious minorities, saw the Law on Belief and Religion come in full affect at the start of 2018. Some groups have considered this a positive step for freedom of religion or belief in Vietnam, while others have considered it a danger to religious minorities by human rights groups. In March 2018, PM Najib Razak announced the start of the National Human Rights Action Plan. Observers have noted that the PM’s Cabinet first accepted the plan in 2012, before the 13th General Election, and it is only now taking affect in time for the 14th General Election. Even still, in his announcement of the plan Najib Razak said,

When I say Malaysia should strive to be the best and most progressive country in the world, it is not just about income per capita but about our ambitions to see a more just society, a country that’s more conscientious, a more compassionate society and a country that is a kinder Malaysia.

SUARAM, Malaysia’s premier human rights group, called the plan “cosmetic” and accused it of failing to address the biggest human rights violations Malaysians face. And considering one month later, both house of the Malaysian legislature passed the Anti-Fake News Bill 2018, penalizing those who spread “wholly or partially false” information with up to
six years in prison and a RM500,000 fine, SUARAM’s concerns about the sincerity of the human rights plan are well-grounded. All things considered, each of these actions provides an incentive for member states to adopt a ADFoRB. Vietnam can continue what it did with the Law on Religion and Belief, and further increase its status in the international community. Indonesia, in 2017, saw its highest court declare that it is unconstitutional to be forced to identify as one of the six registered religions, and determined that a seventh category be added to include indigenous religions. And considering PM Razak’s language surrounding the National Human Rights Action Plan, along with the recent court discussion banning the unilateral conversion of children, it would be reasonable for Malaysia to sign onto an ADFoRB.

Finally, an ADFoRB would help curb the tides of religious extremism in the region, and could be framed as an effort to counter terrorism. Threats of terrorism have been prevalent in Malaysia, Indonesia, and Philippines since the rise of ISIS and the formation of Abu Sayaff. But even Thailand has been dealing with a Muslim-led insurgency in the southern part of country since the early-2000s. In 2016, Thailand amended it constitution to include the following statement, “The state shall establish measures and mechanisms to prevent the desecration of Buddhism in any form and encourage the participation of all Buddhists in the application of such measures and mechanisms.”

As researcher Brian Grim showed, there is a causal connection between the absence of religious freedom and the incubation of religious terrorism, while greater levels of religious freedom correlate with peace and stability. Peter Henne, in his study of counterterrorism measures in Muslim-majority countries, found that countries which were more Islamic were significantly less cooperative than states with secular governments, so much so that the official status of Islam in a state had more of an effect on a state’s counterterrorism cooperation than did
the amount of aid it received from the United States or its history of conflict with America. By “break[ing] the monopoly over religion,” and allowing individuals to challenge religious dogmas with the free exchange of ideas, the extremist ideas that are often founded on simplistic arguments won’t be able to compete against robust, nuanced dialogues.

If the Islamic militants who have fought in Syria and Marawi returned to their homes in Malaysia and found their societies and their governments treating religious minorities with equal human dignity and respect, the aforementioned research has shown that they are less likely to re-engage in violent extremism. An ADFoRB, while it would likely face the criticism from Brunei, which has no constitutional protection for religious freedom, Myanmar, which would feel targeted following its 2017 Rohingya crisis, and Vietnam and Laos, the two communist countries which maintain heavy government restrictions on religious practice, would be a pre-emptive step in curbing the rising violent extremism in Southeast Asia, and would help fulfill ASEAN’s original mission of “promot[ing] regional peace and stability through abiding respect for justice and the rule of law in the relationship among countries of the region and adherence to the principles of the United Nations Charter.”

Malaysia Becomes a Party to the International Covenant on Civil and Political Rights

The UDHR was adopted in 1948 as an aspirational document, with no binding commitment upon any nation to comply with the enumerated rights. In 1966, the United Nations also adopted the International Covenant on Civil and Political Rights (ICCPR) as a treaty a country can bind itself to, and obligate its government to respect, protect, and fulfil the rights enumerated within the ICCPR. Article 18 of the ICCPR is similar to the UDHR, but contains three extra clauses.

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and
freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.

3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.  

Although Malaysia is a signatory to the UDHR, it is one of 21 countries, and only one of two countries within the Association of Southeast Asian Nations, that has taken no action on the ICCPR. By not becoming a party to the ICCPR, Malaysia is not bound by the treaty obligations or entitled to invoke those obligations against other state parties, and it is not under any international obligation to prevent the curtailing of human rights or take active steps to see human rights upheld. Following the 2009 Universal Period Review, Malaysia stated that it was progressively considering the idea of ratifying the ICCPR and, “would be in a position to do so once major issues related to the legislative framework are resolved.” Opposition to signing the ICCPR has been made clear by the Malaysian government officials. In 2013, the Deputy Foreign Minister said that, “However, a detailed study is needed to determine (if we can) allow the laws to be ratified in line the ICCPR and if there are any returns or benefit for the country by becoming a signatory,” and that the article on freedom of religion was one of the biggest hurdles to signing. In order to revive the Malaysian model of religious freedom, the Malaysian government should become a party to the ICCPR. And during the next Universal Periodic Review, if numerous foreign countries recommended that Malaysia become a party to the ICCPR, Malaysia’s leaders would potentially give it greater consideration and take action.
If Malaysia ratified the treaty, it would have a greater case for why it should be a part of the Human Rights Committee. In 2017, was the only country to lose its bid to join the Committee, despite being elected for the 2006-2009 and 2009-2013 terms.\textsuperscript{326} Although, its refusal to sign the ICCPR is not the reason it lost, Malaysia would have been more likely to beat out countries it lost to, if it had actually signed the ICCPR.\textsuperscript{327} The author notes that while he does not believe that the state of religious freedom would be dramatically improved if Malaysia ratified the ICCPR, it would be a positive step in recognizing the rights it assented to within the UDHR. Furthermore, as a nation that prides itself on being multi-cultural and tolerant, and as a nation with a premier who claims that diversity is Malaysia’s greatest strength,\textsuperscript{328} it is reasonable to expect Malaysia would become a party to the ICCPR, and in doing so promote the rights of religious freedom its constitution guarantees.

Establish Reformist Islamic Education Centers in Malaysia

In a post-9/11 United States, there remains a great deal of confusion surrounding the nature of Islam and the beliefs Muslims hold. There is often a false dichotomy made between “moderate Muslims” and ISIS-affiliates—Muslims who are constantly apologizing for violence done in the name of Islam and those who are carrying out or supporting the violence.\textsuperscript{329} These “moderate Muslims” are expected to be less outwardly religious and proponents of the American style of governance. Moreover, such a term necessitates that a “Muslim” would not support human dignity, institutions of democracy, pluralism, or non-violence.

Interestingly, it was Mohammed bin Salman, Saudi Arabia’s crown prince, who vowed to return to Saudi Arabia to “moderate Islam” in October 2017.\textsuperscript{330} Following this announcement, bin Salman said he was going to create the King Salman Complex, a center for the study of hadith, and it would root out “fake and extremist texts,” and serve as a “trusted source of the
correct and authenticate [sic] hadith.” This is a positive move, but will likely be incomplete. H.A. Hellyer suggested that such a complex would likely deconstruct the arguments of al-Qaeda and ISIS, but not confront questions about sectarianism or argue that Sunnis could legitimately be Sufis, as it remains a Saudi-funded institution. 

If the Malaysian model of religious freedom is to be preserved, there must be an educational effort to counter extremist Wahhabi influence with better ideas. As Hellyer argues, deep intellectual and theological reform is needed to combat Wahhabism:

It would require a recognition that the purist Salafi heritage that comes from Ibn Abd al-Wahhab—which is the underpinning of the Saudi religious establishment—is not normative, that it’s a minority approach within the Sunni universe… And that would require a reexamination as to whether Ibn Abd al-Wahhab’s message is intrinsically the best way to go. … If they take that to pieces, then they will have accomplished a genuine counterreformation of Ibn Abd al-Wahhab’s message.

Malaysians need more schools that promote the historical Malaysian understanding of Islam which was compatible with muhibah. Such an understanding would counter the traditional Wahhabi thinking which is closely related to Islamic extremism and persecution of non-Sunni Muslims. In May 2017, after a visit from King Salman Abdulaziz Al Saud to Malaysia in March, the Saudi and Malaysian governments opened the King Salman Centre for International Peace (KSCIP) in a bid to correct perception of the world community towards Islam, counter radical ideologies, and promote Islam as a religion of peace and moderation in the face of rising terrorist threats. As it is, in 2015, 11 percent of Malaysians had a favorable view of ISIS, and in 2013, 18 percent of Muslims in Malaysia felt that suicide bombings in the name of Islam could “often/sometimes be justified.” But in light of Mohammad bin Salman’s public decrying of extremism, it is difficult to determine whether the KSCIP will promote the puritanical Wahhabi thinking traditionally linked with Saudi Arabia, or if it will actually seek to moderate extremism.
Currently in Malaysia, there are five different types of Islamic schools which children attend, as identified by Liow: (1) People’s Religious Schools (SAR) that are maintained by private individuals, communities, foundations, and organizations; (2) State Islamic Schools (SAN) which are managed by state governments; (3) Private Islamic Schools which follow the national curriculum, but are operated by private groups; (4) National Islamic Schools (SAK); and (5) National Schools (SK). Within the school system, students were allowed to transfer to the different categories of schools, which might be taught in Arabic, Chinese, Tamil, or Malay, provided they be able to speak the necessary language. This flexible system of transfer creates an implicit need to “negotiate assertions of cultural identity against the backdrop of multiculturalism and integration.” However, because SARs are often affiliated with PAS, while SAS primary schools are funded by the government in power, students attending both sets of schools are inundated with an Islamized curriculum that is usually targeted at counteracting an opposing political party and balanced against private Chinese secondary schools.

If Malaysians are going to counter Islamist thinking, and revive muhibah and the Malaysian model of religious freedom, civil society groups which are committed to preserving religious freedom in Malaysia should open their own schools and after school programs which teach an understanding of Islam that correlates with Malaysian history. This is best seen in the thoughts and writing of Sayyid Shaykh bin Ahmad al-Hadi, the early 20th century student of Mohammad Abduh and father of the modern Malay novel. They could also be modeled after Zaitouna University in Tunisia, an eighth century school that was once an intellectual rival of al-Azhar University. It re-opened in 1986, and instructors began teaching an understanding of Islam that could counter the extremism within North Africa. Malaysian reformist schools could potentially be eligible to receive funding from the United Nations, which has recorded its
concern of the Arabization of Islam in Malaysia, and maybe even the Organization Of Islamic Cooperation (OIC). But without educational institutions in Malaysia that are widely available, the chances of a revival of muhibah are limited.

Appoint Sheikyh Abdallah bin Bayyah the next Secretary General of the Organization of Islamic Cooperation

As the largest inter-governmental organization other than the United Nations, the Organization of Islamic Cooperation (OIC) plays a significant role in the peace-building process of Muslim-majority nations. Its mission is to “safeguard and protect the interests of the Muslim world in the spirit of promoting international peace and harmony among various people of the world.” The OIC also identifies itself as the “the collective voice of the Muslim world.” In 2019, the group will name its next Secretary General. And following ISIS’ loss of territory in the Middle East, the Islamic world needs a voice to stand against future and smaller terrorist groups that may seek to re-establish a caliph.

Shaykh Abdallah bin Bayyah is an Islamic scholar of the first degree. Born in Mauritania and trained in Tunisia, bin Bayyah has served as the Judge at the High Court of the Islamic Republic of Mauritania, Head of Shariah Affairs at the Ministry of Justice, and the First Minister for Islamic Affairs and Education in Mauritania. He is a member of The Royal Aal al-Bayt Institute for Islamic Thought, the Counsel of Jurists attached to the Organization of Islamic Conference, and the Muslim League’s International High Council of Mosques. He is also a former professor at the King Abdul Aziz University in Jeddah, and the founder and president of Forum for Peace in Muslim Societies. In 2017, he was named the ninth most influential Muslim in the world by the Muslim 500.
In January 2016, bin Bayyah oversaw the conference which created the Marrakesh Declaration, a document building upon the Charter of Medina, calling for the protection of religious minorities in Muslim-majority countries. The gathering was made up of roughly 400 muftis, imams, scholars, diplomats, and politicians from Morocco, Saudi Arabia, Iran, Pakistan, Chechnya, the United States, and Bangladesh, amongst others, and bin Bayyah led the group in calling for religious minorities to be treated with kindness, honor, cooperation, reconciliation, human fraternity, wisdom, commonwealth, justice, mercy and peace. The document concludes by affirming that “it is unconscionable to employ religion for the purpose of aggressing upon the rights of religious minorities in Muslim countries.”

Bin Bayyah is a Sufi belonging to the Malaki Sunni school, but is accepted and revered by Muslims everywhere, with even the Saudi government accepting his fatwas as authoritative. If bin Bayyah could receive the support of political leaders from countries like Jordan, Mauritania, and Saudi Arabia to become the OIC’s next Secretary General he would have the chance to push heads of state across the Islamic world, including Malaysia, to adopt the Marrakesh Declaration within their own countries. Having been a former political leader, he remains fitting for a role as Secretary General, and would add intellectual leadership the group has not yet had. His influence working with heads of state would have tremendous trickle-down effects that could last for years in places like Malaysia where social hostility and government restriction towards religion remains a problem.

**Improve the United Nations Universal Period Review Follow-Up Process**

In November 2018, Malaysia will undergo its third cycle of the United Nations Human Rights Committee Universal Periodic Review (UPR). The UPR was one of the original roles of the Human Rights Council (HRC), when it was first established in 2008, and today exists as a
measure for the international community to comment on the state of human rights within each country. The review occurs during a session of the Working Group on the UPR, which is composed of the 47 member-states of the HRC, with an interactive dialogue between the State under review and the member and observer States of the Council. During the review, foreign governments, NGOs, and CSOs can submit their own reports of challenges to human rights existing within the state under review (SuR). Upon the review’s completion, which usually lasts one half of a day, the Working Group adopts an outcome document, which is later considered and adopted by the HRC at another session.\textsuperscript{348} The reports indicate where nations are not acting in accordance with the UDHR and human rights instruments which respective nations are parties to. The reports also include recommendations from foreign governments which indicate the areas of human rights the SuR is neglecting. The SuR can accept or reject the recommendations, and it is left to the state to oversee the implementation of the recommendations.\textsuperscript{349}

Observers have noted that “while the UPR’s support may be broad, it is not necessarily deep in terms of creating a more robust mechanism.”\textsuperscript{350} They have also noted that many nation-states are skeptical of the UPR’s impact.\textsuperscript{351} However, since its first cycle, the UPR has seen affects in promoting and protecting human rights. By the mid-term following the first UPR cycle, 55 percent of all accepted recommendations and 19 percent of noted recommendations had been fully or partially implemented. By the time of the second UPR cycle, countries like Burkina Faso, Pakistan, and Tajikistan had begun to comply with the recommendations of the UPR. Still, there remains a great deal of room in which the UPR process could be reformed. This paper will name three.

First, the UPR could be improved by instituting a requirement that states give mid-term reports to the HRC about their implementation of UPR recommendations following every
cycle. Over the first and second UPR cycles, 68 states voluntarily submitted mid-term reports. Requiring all states to submit reports would greater expose regimes which delay in complying with accepted and noted recommendations of the HRC report.

Second, the HRC should begin to allow CSOs to take the floor and speak during review. Currently, CSOs’ engagement in the UPR process is limited to submitting reports for States under review; they are not allowed to speak on the floor to the UPR working group, even though they typically have the best on-the-ground information. This is deeply problematic because the reports are typically due at least six months before the review in Geneva occurs, and the CSO-created reports are limited in word count. Requiring the written reports to be submitted half of a year in advance creates an information gap whereby human rights abuses and legislative measures restricting the full exercise of rights in the UDHR would go unreported by the CSOs. Allowing even a handful of CSOs to testify on the floor to the UPR Working Group for three minutes each would provide the working group and recommending states with newest and most relevant information, and it would allow for the most appropriate and specific recommendations to be made.

Third, general, non-specific recommendations made by countries to the states under review should be limited. A 2012 study analyzing the recommendations made during the first UPR cycle revealed that the number of recommendations increased as the different sessions of the UPR occurred, and that 73 percent of all recommendations were accepted; however, 16 percent of all recommendations were either: (1) recommendations directed at states not under review, or calling upon the state under review to request financial or other assistance from, or share information with other states (2) recommendations emphasizing continuity in actions and/or policies. These categories of recommendation, respectively, allow offending states to
deflect responsibility for resolving human rights issues onto the international community, and are often congratulatory in nature lacking substance.\textsuperscript{358} A third category, “recommendations of action that contain a general element,” was the largest category of recommendations in the first cycle, making up 39 percent of all recommendations.\textsuperscript{359} While this category of recommendation allows recommending states to address deep-rooted and systemic human rights violations in a SuR, and are action-oriented, it is often phrased in broad or vague phrases, which lack specific actions, such as repealing legislation or abandoning a practice. Without specific recommendations, a SuR has leeway to claim it has resolved is resolving the human rights violation, when in fact, no steps are being taken. In practice, states will often make general, non-specific recommendations towards an SuR in hopes that when it becomes a SuR, governments will act in a similar manner and decline to offer rigorous, specific recommendations.\textsuperscript{360} By limiting the number of general, non-specific recommendations a state can make, especially the first two categories, a SuR would be more clearly confronted and advised to resolve human rights issues occurring within its borders.

During Malaysia’s second UPR cycle, only one country submitted an advanced question relating to religious freedom—the United States of America. Only five foreign governments made any statement regarding religious freedom—Austria, Canada, Italy, Poland, and the United States of America. Sudan, a country where religious freedom is not highly regarded, did make a comment about interfaith dialogue, and recommended that Malaysia, “continue its efforts to promote inter-religious dialogues and reconcile different schools of Islamic thoughts and other religions.”\textsuperscript{361} Of the six recommendations pertaining to freedom of religion, Malaysia only fully accepted one, while rejecting two, accepting two in principle, and accepting one in part.\textsuperscript{362} Even still, the report summary of the recommendations prepared by the HRC contained 13 paragraphs
discussing the freedom of religion or belief, expression, association and peaceful assembly, and the right to participate in public and political life in Malaysia, making it the largest section of rights discussed. In contrast, SUHAKAM’s report for the third cycle did not even offer a section on freedom of religion or belief, but instead offered two suggestions in a miscellaneous category. They recommended that Malaysia “facilitate inter-faith dialogues for greater inter-religious understanding and harmony,” and “ensure the right to practice religion by all, in all conditions including in places of detention.” If more countries submitted advanced questions and recommendations surrounding freedom of religion or belief in Malaysia, and if the United Nations made the appropriate reforms to its UPR process, Malaysia would find itself under greater international pressure over the next several years to protect the rights of its citizens to practice their faith openly and freely. And if Malaysia began fully accepting the recommendations of the HRC report, the Malaysian model of religious freedom and a sense of muhibah might be revived.

The funding of a Malay Study Center at Universities in Western Countries

Since the inception of Malaysia’s diplomat relations with Saudi Arabia in 1961, the Saudi Kingdom has financially invested in Malaysia and deepen political its political ties with the Malaysian government, despite the general distaste for Wahhabism within Malaysia. The Saudi Kingdom has played a role in financing mosques, schools, scholarships for Malaysians to study in Saudi Arabia, hajj trips, and dakwah organizations like YADIM and the Islamic Welfare Association of Malaysia (PERKIM), which began receiving Saudi donations in 1975. It also received permission to begin broadcasting its radio program, “The Voice of Islam,” on Malaysian airwaves in 1985. While the number of Malaysian studying in Saudi Arabia has typically been around 100 students, in April 2018, Saudi Arabia announced it would increase
the number of scholarships for Malaysian students to 300.\textsuperscript{368} It should be noted that even 300 students pales in comparison to the tens of thousands that have studied at the ever increasing Al-Azhar in Cairo, which is coming under increasing control by the Egyptian government.\textsuperscript{369}

For decades, Malaysians wishing to further their study in Islam have had little opportunity alternative to receive training in a conservative understanding of Islam in a context that promotes religious freedom, or a localized understanding of muhibah. Frontealy, that is beginning to change. In 2013, Sheikh Hamza Yusuf founded Zaytuna Institute, now the Zaytuna College, in Berkeley, California. Zaytuna College is the United States’ only accredited Muslim undergraduate college. As a new school with only more than a handful of faculty members, Zaytuna still has time before it becomes an even more established center of learning in the Muslim world. However, if civil society groups and individuals provided the finances, Zaytuna could create a Malaysian Studies Center, or a center more broadly focused on Islam in Southeast Asia. Such an institute would draw Malaysians to the United States, the second most-desired country to study in for Malaysian undergraduates\textsuperscript{370}. Upon graduation, they would return to Malaysia with an understanding of Islam congruent with Wassatiyyah. The Wassatiyyah is an Islamic idea concerning moderation comparable to the Western concept of the Golden mean, and has been promulgated by PM Najib Razak since 2010 as a way to counter terrorism.\textsuperscript{371} In the academic literature, it has also been expanded to apply to all things including religiosity, globalization, and justice.\textsuperscript{372} Because Sheikh Hamza, who has been called the West’s “most influential Islamic scholar,” has had a proven commitment to the ideas of tolerance, moderation, and Wasatiyyah, Malaysian government leaders could be persuaded to encourage sending students to Zayunta.\textsuperscript{373}
The United Kingdom has also done a fairly good job at drawing Malaysians to its universities, and remains the country of choice for 49.5 percent of Malaysian undergraduates. The University of South Hampton and Heriot-Watt University have opened campuses in Malaysia, and the University of London School for Oriental and African Studies has six degree options in Malay literature and Jawi manuscript for its undergraduate and post-graduate degree in Southeast Asian studies. The University of Oxford’s Center of Islamic Studies also maintains a scholarship exclusively for Malaysian citizens, whereby Malaysians can study Islam in a countries that respects pluralism. Georgetown University’s Prince Alwaleed bin Talal Center for Muslim-Christian Understanding could adopt a similar scholarship considering it has a Malaysian Studies Chair, with no other faculty dedicated to a specific country. Granted, Malaysians that would travel to these institutions would not receive theological training like at Al-Azhar, they would begin to think about Islam in an environment that embraces the free exercise of religion. If individuals and groups were determined to increase funding for such scholarships and institutes, more Malaysian students might return to Malaysia with an understanding of Islam that is compatible with the historical muhibah and have a notable influence on the Malay world.

Admittedly, Malaysians will self-select which university they will attend, and those who are more open to Islamist ideas will likely be unwilling to receive training at Zaytuna in Berkley or Zitouna in Tunis. Still, when other academic options are open, Malay-Muslims will be able to consider other options for study. And if even if only small numbers of students actually attend, one voice is enough to begin societal and religious reforms within Malaysia, and potentially promote the revival of muhibah and the Malaysian model of religious freedom.
**Conclusion**

As the history surrounding pre-colonial, colonial, and the beginning of post-colonial Malaysia has revealed, Malaysian society experienced a robust sense of religious pluralism and just tolerance, that although was never formally codified, was the lived practice of Malaysian society and was a unique environment in the global Islamic world. But as feelings of ethno-nationalism strengthened in the post-independence era, and the Islamic religion was co-opted by political leaders to “out-Malay” competitors via greater control over the observance of Islam, religious tensions deepened, further exacerbating a problem that once did not exist. The politicization and bureaucratization of Islam, which came out of the 1980s, has contributed to the many challenges to religious freedom today—kidnappings, persecution of Shi’as, forced detention in faith purification centers for apostates, and the implementation of hudud. While these challenges are significant, and tread heavily on the ideas of muhibah and the Malaysian model of religious freedom, there are opportunities for the country to be restored, and to serve as an example to the Muslim world of how Islam, democracy, and human rights are compatible.

Shah and Mohammad have acknowledged that the debate surrounding the extent of religious freedom in Malaysia and its comparison to Article 18 of the UDHR represents the tension between universalist and relativist conceptions of human rights. But both the ASEAN Human Rights Declaration and recent voting trends amongst Malaysians reveal that a relativist understanding of human rights is shifting, and that more individuals in Asian countries are concerned with protecting their civil liberties.

There are some who are not optimistic, like Farish Noor, who in a 2008 interview, “The idea of a secular state is dead in Malaysia… An Islamic society is already on the cards. The question is what kind of Islamic society this will be.” This paper asserts that the deeply rooted
Malaysian ideals of muhibah have a place in Malaysian modern society, the trends of rising hostility and government restriction seem to confirm Noor’s statement. 2018 has been, and will continue to be a deciding year for Malaysians, in terms of religious freedom. The Federal Court’s decision to outlaw unilateral conversion of children re-affirmed the status of freedom of religion or belief in Malaysian society and law. But recent actions, including the fake news bill and the arrest of Mustafa Akyol, indicate that the politically frightened UMNO will undermine freedom of expressions and freedom of religion in order to preserve political power. Fortunately, with the May 2018 general election, there are opportunities for muhibah to be revitalized, and for the freedom to practice one’s religion, as seen in Malaysia’s past and its constitution, to be realized. Even if no new policies are instituted as a result of the election, there will be opportunities for new research in the areas of voting trends, the role of religion in campaigns, how the threat of terrorism Malaysia evolves with Islamist political movements, and how Islamist political parties organize and maintain power.
References

6 Ibid.
9 Ibid., 10.
10 Kamaruzaman, Religion and Pluralistic Co-existence, 116. Throughout this paper, when the author uses the term, ‘pluralism,’ or ‘religious pluralism,’ he does not mean that all religious faiths have been or should be accepted as equally true, but that each faith tradition and its various sects, have and can continue co-exist in the spirit of muhibah in Malaysia.
16 Ibid.
17 I use the term, “Malaysian constitutional model of religious freedom” to differentiate from the “Malaysian model of religious freedom,” which is not officially codified, and thus does not contain restrictions. The “Malaysian model of religious freedom,” represents the lived experience of the population living on the Malay peninsula and the states of Sabah and Sarawak, while the codified constitutional model is more specific and enumerates rights and limitations of the individual, and thus narrows the level of religious freedom available, for the Muslim and the non-Muslim, that was present for most of Malaysia’s history.
18 Federal Constitution, Art. 3(1).
19 Federal Constitution, Art. 11(1-5).
20 Federal Constitution, Art. 160(2).


25 Ibid., 9; Ahmad Fauzi Abdul Hamid, “The Impact of Sufism in Pre-colonial Malaysia: An Overview of Interpretations” Islamic Studies 41 no. 3. (2002): 472. Early Malay society held to an understanding that a Malay identified with his race with religion, and religion and custom with his ruler. Therefore, when Malay rulers adopted Islam, the entire Malay race would become Islamic.


28 Mutalib, 15-16.

29 Ibid., 16.


34 Hamid, “The Impact of Sufism,” 468. The hegemony of the Portuguese, and the Dutch (1641-1824), was limited to Malacca, and did not affect the political or religious structures of the other peninsular Malay states. It is also should be noted that Christianity did not thrive initially in the region likely because Portuguese were primarily economically motivated and the Malays saw it as the religion of foreign invaders. See more in Maria Perpetua Kana, “Christian Missions in Malaysia: Past Emphasis, Present Engagement, and Future Possibilities,” (master’s thesis, Australia Catholic University, March 2004), 1-2.

35 Mutalib, “Islamic Malay Polity,” 18. Unification around religion and ethnic features remains one of the distinguishing characteristics of ethnic Malays today. And it is the tolerance of other ethnicities and religions, combined with the steadfast concern for the Bumiputra (“Sons of the Soil”) that exemplifies the Malaysian model of religious freedom.


42 Ibid., 28.


46 Ibid., 210.

47 Ibid.


49 Ibid.

50 Ibid.


“Ijtihad,” Oxford Islamic Studies Online, accessed 5 April 2018. http://www.oxfordislamicstudies.com/article/opr/t236/e0354. Muhammad Abduh, the primary intellectual influence on Syed Ahmad al-Hadi, believed that the new contexts of modernity and democracy demanded that Islamic jurists should begin using their own legal reasoning (ijtihad) in favor of decisions made by jurists of the past.


Ibid., 60.

Ibid., 61.


Ibid., 62.

Zakariya, “Colonialism” 482.

John Funston, “Malaysia,” 51.

Funston, “Malaysia,” 56.

Liow, Piety and Politics, 151.

Ibid., 20.

Ibid.

British colonial administrators arrested the president and most of the members of the executive committee of Hizbul Muslimin because of alleged links to Communist groups. See Ibid., 21.

Ibid., 22.

Ibid., 22-24.


Ibid., 1:78.

One of UMNO’s positions which PAS decried, of was UMNO’s willingness to support and give financial aid to temples and churches. See Liow, Piety and Politics, 24-26.

In 1963, Malaya became the Federation of Malaysia when the states of Sabah, Sarawak, and Singapore voted to become a part of the Federation.

Noh, “Islam, Public Policy,” 211.

Quoted in Ibid., 212.

Ibid.

Ibid.


The targeted equity distribution of the NEP was divided between the Malays, non-Malays, and foreigners. By 1990, the NEP was expected to create an equity distribution in the ratio of 30:40:30, respectively. In 1970 the equity distribution of Malays, non-Malays, and foreigners stood at 1.9:23.5:60.7, respectively. The policy was crafted in egalitarian and pluralistic language, but its result was the elevation of Malay economic dominance. See Noh, “Islam, Public Policy,” 214.

Ibid., 214-215.
91 Chandra Muzaffar, a prominent Malaysian activist, has defined “Islamization” as “that process by which what are perceived as Islamic laws, values and practices are accorded greater significance in state, society, and culture.” See Liow, Piety and Politics, pp. 34, 44.
92 Hussein, Muslim Politics in Malaysia, 25-26.
93 Ibid., 27.
94 Liow, Piety and Politics, 35.
95 Ibid., 38.
96 Ibid., 39-40.
97 Ibid., 46-48.
98 Ibid., 48-49.
100 Liow, Piety and Politics, 48-49.
101 Ibid., 52
102 Ibid., 53.
103 Farish A. Noor, “Malaysia,” in Reformist Voices of Islam: Mediating Islam and Modernity ed. Shireen T. Hunter (Armonk, New York: M.E. Sharpe, 2009), 212-215. This form of statist Islam, implemented by Mahathir, had its intellectual undergirding in Syed Muhammad Naquib al-Attas, who became president of the International Institute of Islamic Thought and Civilization (ISTAC) in 1991. Al-Attas, who remains an intellectual force to this day, postulated that Islam’s arrival in Malaysia was the beginning of Malay modernity, insisted on Islam’s superiority within Malaysia, and claimed that Islam and Western secularism stood in stark contrast to one another.
107 Ibid., 3-5.
109 Ibid.
111 Mohammad Syakir Mohammad Rosdi and Noor Husna Mohammad Shafie, “Declaration Of Malaysia As An Islamic State In The Era Tun Dr Mahathir Mohamad’s Governance: Implications Towards
Liow, Piety and Politics, 82. PAS echoed Mahathir when they published a 2003 document also declaring Malaysia to be an Islamic state. But they also contended that non-Muslims should be allowed to decide if they wanted to be subject to hudud laws and penalties.

Liow, “Malaysia,” 93.

Ibid., 94-95.


“A Dangerous Result,” The Economist.

Helen Ting, “UMNO’s hand in Malaysian Islamic law,” East Asia Forum, 6 June 2017.


Mohammad Najib Tun Razak, Twitter Post, December 24, 12:22PM


USCIRF 2017 Annual Report, 182.

Anonymous interviewees, interview conducted by Zachary Jones, August 2017.


Ibid.

Ibid.

Ibid.

Ibid.

Seh Lih, “Malaysia,” 249.

In the Hjh Halimatussaadiyah bte Hj Kamaruddin v. Public Service Commission, the apex court held that government was entitled, "in the interest of the public service," to forbid a religious tradition that was non-essential and optional in the workplace, when there was a question about whether a female Muslim public servant could wear purdah to work. The same reasoning was applied in the Fatimah Siti & Ors v. Meor Atiqulrahman bin Ishak & Ors case, in which Muslim schoolboys failed to get court endorsement of their demand to wear turbans to school. See Ahmad Masum and Nehaluddin Ahmad. "Freedom of Religion and Apostasy under International Law: With Special Reference to Article 11 of the Malaysian Federal Constitution." Journal of East Asia & International Law 6, no. 2 (September 2013): 451-452.

The groups/beliefs are: Al-Arqam, Ayah Pin, Tal Tujuh group black metal groups, the teachings of Azhar bin Wahab, Tariqat Naqsyabandiah Al-Aliyyah Syeikh Nazim Al-Haqqan led by Syeikh Nazim, the teachings of Wahdatul Wujud, the teachings of the Al-Mas Syed Mohamad Al-Masyhor group, and Tarekat Naqsyabandiah Khalidiah Kadirun Yahya. See Seh Lih, “Malaysia,” 249.
For a complete list of the groups, see Seh Lih, “Malaysia,” 249-250.


Anonymous Interviewee, interviewed by Zachary Jones, August 2017.

Seh Lih, “Malaysia,” 241.


Ibid., 484-485.

Ibid., 485.

Ibid.

Seh Lih, “Malaysia,” 271.


Ibid., 488.

Ibid., 489.


Ibid., 490. Converts have been found to spend their financial assistance on alcohol, eat wild pigs, not observe Ramadan or the daily prayers, and even pretend not to be Muslims in other villages.

Ibid., 488.

Ibid., 489.

Seh Lih, “Malaysia” 272.

Ibid.

Ibid.

Ibid., 243. What the government originally said was a clerical error was discovered to be a policy that if a person had “bin” or “binti” in their name, they were registered as being a Muslim.


Nobuta, “Islamization Policy,” 481.


Ibid., 304.

189 Ibid., 305.

190 Ibid.

191 Ibid.


193 Ibid., 152.


198 Ibid., 209.


211 President Abdul Hadi Awang had first put the bill on the agenda on April 7, 2015, but the parliamentary session ended on April 9 before it could be tabled. He re-submitted on May 11, 2015 May for the following parliamentary sitting. It re-appeared on Parliament’s agenda on June 17, 2015 one day before the parliamentary session would end, and it was not tabled in time. See Helen Ting Mu Hung, “The Politics of Hudud Law Implementation in Malaysia” ISEAS - Yusof Ishak Institute, no. 4 (2016), 8.


222 Aslee, “Push for hudud law,” CNN.


226 Seh Lih, “Malaysia,” 259.


228 Seh Lih, “Malaysia,” 289.

229 Ibid.


231 Seh Lih, “Malaysia,” 259.

232 Seh Lih, 260.

233 Samuri and Quraishi, “Negotiating Apostasy” 508.

234 Ibid.

235 Ibid.


238 Samuri, “Detention of Syariah Offenders.”

239 Ibid.


Kamaruzaman, Religion and Pluralistic Co-existence, 17.

Ibrahim, Rokis, and Husin, “Muhibah is Not Religious Pluralism,” 69.

Ibid., 73.

Kamaruzaman, Religion and Pluralistic Co-Existence, 9.


Ibid., 5-6.


Seh Lih, “Malaysia,” 237.


Ibid., 3-4.


USCIRF 2017 Annual Report, 182.


Ibid.


Lim, “Re-Appraising Secular-Islamic Politics in Malaysia,” 239.


Ti Lian Ker, “The Rulers Institution & Federal Constitution (not politicians) will safeguard Islam and Malays” Malay Mail, 5 December 2017. http://www.themalaymailonline.com/what-you-think/article/the-rulers-institution-federal-constitution-not-politicians-will-safeguard. Article 3(5) reads, “Notwithstanding anything in this Constitution the Yang di-Pertuan Agong shall be the Head of the religion of Islam in the Federal Territories of Kuala Lumpur and Labuan; and for this purpose Parliament may by law make provisions for regulating Islamic religious affairs and for constituting a Council to advise the Yang di-Pertuan Agong in matters relating to the religion of Islam.” While Article 3(2) allows for powers of the Agong to be given to the Federation, Ker points out that each state Agong has given nearly all oversight of Islam over to the federal and respective state departments of Islamic affairs, and that politicians have attempted to claim to represent Islam, when the duty belongs to the monarchy. Article 3(2) reads, “In every State other than States not having a Ruler the position of the Ruler as the Head of the religion of Islam in his State in the manner and to the extent acknowledged and declared by the Constitution, all rights, privileges, prerogatives and powers enjoyed by him as Head of that religion, are unaffected and unimpaired; but in any acts, observance or ceremonies with respect to which the Conference of Rulers has agreed that they should extend to the Federation as a whole each of the other Rulers shall in his capacity of Head of the religion of Islam authorize the Yang di-pertuan Agong to represent him.”


Ibid., 202.

Ibid., 202-204.

Samuri and Quraishi, “Negotiating Apostasy,” 507.


Ibid., 93-94.

Ibid., 95.

Samuri, “Detention of Syariah Offenders.”

Samuri and Quraishi, “Negotiating Apostasy”, 511.


There were ten other issue areas of thematic study during this five-year work period: migration, trafficking in person particularly women and children, women and children in conflicts and disasters, juvenile justice, the right to information in criminal justice, the right to health, the right to education, the right to life, the right to peace, and legal aid. See more at “Five-Year Work Plan of The ASEAN Intergovernmental Commission on Human Rights (2016 – 2020)” AICHR, June 15, 2015, accessed March 7, 2017, http://aichr.org/documents/.


“The bill defines fake news as "news, information, data and reports which is or are wholly or partly false," and an offender as somebody who by any means "knowingly creates, offers, publishes, prints, distributes, circulates or disseminates any fake news or publication containing fake news." It covers online publications, which are often the outlets Malaysians can read news not controlled by the government. It will apply to those who are considered to be spreading "fake news" outside Malaysia, including foreigners, if Malaysians citizens are affected. See Joseph Sipalan, “Malaysia passed a'fake


317 Joseph Chinyong Liow, email message to the author, March 5, 2018.

318 Neo, “Realizing the Right,” 737-738


327 Ibid. Nepal, Pakistan, Qatar, and Afghanistan were received more votes to join the Human Rights Committee than Malaysia.
90


333 Ibid.


339 Ibid., 173.

340 Ibid., 174.


342 When the Special Rapporteur of Cultural Rights visited Malaysia, she noted, “Fundamentalist movements in many contexts often seek to impose a form of religion at odds with local forms of practice. In keeping with the spirit of the slogan, Malaysia Truly Asia, she hopes that the authorities will consider how to foster and allow to flourish the diversities of Malaysian Islam which represent the plurality and complex history of Southeast Asian Islams. Allowing religion to be homogenized under a hegemonic version of Islam imported from the Arabian Peninsula undermines the cultural rights of Malaysians.” Because the issue of Arabization of Islam in Malaysia is something the UN is concerned about, there might be reason to believe they would be willing to help fund the project. See “Preliminary Observations by the United Nations Special Rapporteur in the field of cultural rights Karima Bennoune at the end of her visit to Malaysia” United Nations Human Rights Office of the High Commissioner, 21 September 2017, accessed 2 April 2018. http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22121&LangID


346 “Marrakesh Declaration” (Marrakesh, 2016).
349 Ibid.
Cycle of the New UPR Mechanism of the United Nations Human Rights Council” Friedrich Ebert
351 Ibid.
352 “Improving Implementation and Follow-Up Treaty Bodies, Special Procedures, Universal Periodic
23 November 2010, 25. https://www.opensocietyfoundations.org/sites/default/files/improving-
implementation-20110307.pdf.
353 “UPR Mid-term reports” United Nations Human Rights Council, 1 December 2017, accessed 4 April
354 “UPR Info Pre-sessions: Empowering human rights voices from the ground” UPR Info, 2016, accessed
4 April 2018, 10. https://www.upr-info.org/sites/default/files/general-document/pdf/2016_pre-
sessions_empowering_human_rights Voices_from_the_ground.pdf.
355 Ibid.
357 Ibid., 13-14.
358 Ibid., 27.
359 Ibid., 15.
360 Ibid., 15-16.
362 “Table: Government of Malaysia’s Positions on the UPR Recommendations (Prepared by
international/upr/second-cycle-2013/.
363 “Compilation prepared by the Office of the High Commissioner for Human Rights in accordance with
paragraph 15 (b) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to
364 “Submission by the Human Rights Commission of Malaysia (SUHAKAM) to the United Nations
365 Mohammad Rizal Yaakop and Asmady Idris, “Wahabi Doctrine in Malaysia-Saudi Relations,” SSRN
366 Ibid., 19.
367 Yaakop and Idris, “Wahabi Doctrine in Malaysia” 19. In the 2002-2003 School year, there were only
127 students studying at four universities in Saudi Arabia.
368 Zulita Mustafa, “300 scholarships to be given to Msians pursuing studies in Saudi Arabia” New Straits
msians-pursuing-studies-saudi-arabia.
369 Nathan Brown and Mariam Ghanem, “The Battle Over Al-Azhar” Carnegie Middle East Center, 31
370 Song Bun Moon, “70% of M’sian students want to study overseas, says poll” The Sun Daily, 22
371 “International recognition of Malaysia’s ‘wasatiyyah’ speaks volumes, says Najib,” Bernama, 27


