

Islam, Public Policy and Public Administration in Malaysia: Negotiating Complexities

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ABSTRACT

This paper traces the incorporation of Islam in the administration of Malaysia/Malaya before, during and after British rule. It concludes that Islam has indeed contributed to Malaysia's administration and its political thinking but with a few qualifications. First, the infusion of Islamic values in local administration, in the precolonial period, was tempered with the need to incorporate the Malay idea of *Kerajaan* where the Raja (the King), not the Malay race or an Islamic Umma was the key object of loyalty. Second, even when British law and administration became vehicles for the Islamization process of the Malayan polity the incorporation of Islamic values in public administration had to be reconciled with the demands of an increasingly plural Malayan polity. Finally, instead of legislating Islamic behavior and punishing non-conformance, post-independent Malaysia has chosen a more subtle option of making Islamic behavior readily achievable by invoking a moderation ethos like *Islam Hadhari* and *Wassatiyah*.

Keywords: Malaysia, Islam, Consensus, Moderation, public administration.

1. Introduction

There are not many scholarly works on Islam and public administration (PA) in Malaysia, but to the few that touch on Islam and the state, the main debate has been on whether Islam or Malayness dominates the running of the state. Martinez (2001, 474-505) argues that Islam has had little influence on the Malaysian state, not in the past and certainly not now, emphasizing that Malaysia's administration is essentially Malay, not an Islamic administration. Milner (1981) points out that "if *shari'a* is to be seen as the kernel of Islam, and if the implementation of *shari'a* is understood as the principal function of Islamic government, then Islam contributed little to Malay political life" (Milner 1981, 48). Gullick (1953), an accomplished Malayan historian, also argues that Islam was not to any significant extent a "state religion" during British colonial rule. He describes that in colonial Malaya "there was no

priesthood other than the vicars of village mosque (*imam*) who were of the community and did not form a caste apart, and the chaplains of the more devout Sultans and chiefs who never attained any collective importance in the political system owing to lack of organization.” (Gullick 1953, 139)

There are those with a different opinion. Husin (2007), in her article on colonial Malaya, emphasizes that *Sharia* law is just one manifestation of an Islamic state. Islam, she argues, was an integral part of the Malay polity stressing that “Islamic law during the colonial era was at the core of Malay elite legitimacy and that Malay ethnicity and Muslim religious identity became closely identified.” (See Husin 2007, 765) Along the same argument Walker (2004) also argues that the conception of power in the *Sejarah Melayu* (Malay Annals) reveals that Malay kings did not have a monopoly of power. Power was contested, and one of those factors that interfered with the king’s absolute power was Islam. (Walker 2004, 213-255) Another historical account of Malaya also suggests that Islam was an integral part of the polity, stressing that the colonial administration found it difficult to separate “Malayness” from Islam. (Andaya and Andaya 2001). To illustrate this point Andaya and Andaya (2001) give the example of the Malay Reservation Land Act 1913 where Malay was defined as “any person belonging to the Malayan race, who habitually spoke Malay or any other Malayan language and who professed Islam.” (Andaya and Andaya 2001, 183). In fact, Malaysia’s existing constitution takes inspiration from the 1913 Act defining a Malay as “a person who professes the religion of Islam, habitually speaks the Malay language ... [and] conforms to Malay custom.” (Federal Constitution Article 160, clause 2)

Does Islam play a nominal role in the Malaysian state? Or are there systemic pattern of Islamic thinking in PA? Does the administrative philosophy of the Malaysian state run on the principles of Islam? Is the influence of Islam a function of Malaysia’s social, political, historical and economic setting? This paper provides a slightly different dimension to the current debates by attempting to trace the extent of the incorporation of Islamic values in Malaysia’s administrative thinking in pre-colonial, colonial and post-colonial Malaysia. The paper is arranged as follows. The first part will discuss the Malaysian society before British colonial rule. It will look at how Islamic ethos interacted with the Malay ideas of “*Kerajaan*” and Malay customary rights, which were important organizing principles in administering the Malay States at the time. The next part of the paper will touch on Malaysia’s (at the time called Malaya)¹ state administration under colonial rule, where it will describe the extent in which Islamic values negotiated with British ideas on civil administration and Malay customary rights in an increasingly plural Malayan polity. The last two parts of the article will describe the incorporation of Islamic values in post-colonial Malaya. The two sections are meant to demonstrate how the new Malaysian

¹ At the time of British administration “Malaya” refers to the collection of nine Malay states plus the British Straits Settlements of Penang, Malacca and Singapore. The nine Malay states are in the Malay Peninsula (South of Thailand), which is also referred to as West Malaysia. In 1957, Malaya gained independence. It was called the Federation of Malaya and involved the nine Malay states plus the straits settlements of Malacca and Penang. Malaya was renamed “Malaysia” in September 1963, when the Borneo states of Sabah and Sarawak (also referred to as East Malaysia) and Singapore joined the Federation of Malaya. Singapore, however, left Malaysia in 1965.

state attempts to strike a balance between handling the increasing demand for Islamisation and the demands that come from more plural polity. This was carried out by invoking a moderation ethos like Islam Hadhari and Wassatiyah motivated by the need to negotiate a new political reality.

Before we go further, a caveat is warranted. This article attempts to impress on the reader the element of Islam and how Islamic principles have been infused in Malaysia's administrative and political culture. The article will involve describing the state structures and the style of decision-making in the Malaysian bureaucracy in different historical episodes. Given the adoption of a wide scope of discussion and given the newness of the discussion on Islam and state administration in Malaysia, this article invokes elements of PA as well as public policy. What the author feels is more pertinent at this point is to stress the Islamic elements in Malaysia's PA and public policy, which hopefully could trigger more scholarly works.

2. Islam in the Pre-colonial Period

Islam came to the Malay Peninsula from as early as the ninth century, judging by the presence of small Arab communities around 878 AD (Arba'iyah Mohd Noor 2011, 29-50). The religion was first introduced to members of the Malay aristocracy by Arab and Indian Muslim traders. Arab scholars and traders also married members of the Malay aristocracy. In hindsight, this has proven to be an effective mode, because the feudal nature of Malay society at the time would help ensure Islam's rapid transmission to all levels of Malayan society.

Melaka was the first sultanate that saw the incorporation of Islamic principles in state administration. With the conversion of its King Parameswara to Islam, the kingdom quickly became a Muslim center. Islamic principles were first adopted to deal with religious matters but were later extended to become guides in the running of the state administration. (See various works by Andaya and Andaya 2001; Walker 2004; Husin 2007). One of the oldest documents to indicate this is the undang-undang Melaka, which was a compilation of Melaka laws promulgated by Sultan Mahmud Syah (1422-1444) and which was further improved by Sultan Muzaffar Shah (1445-1458). Also called the *Risalat Hukum Kanun*, which in Arabic means book of rule, norm or principle, the undang-undang Melaka had six sections, two of which – the Islamic marital laws (*Hukum Perkahwinan Islam*) and the laws on Islam and Johor (*Undang-undang Islam dan Johor*) – detailed the relevance of Islam in Malay statecraft (Walker 2004, 237). Besides the undang-undang Melaka, another document that gives us a glimpse on how the Malacca sultanate was run is the *Sejarah Melayu* (Malay Annals), which mentioned the roles of Islamic jurists in state administration at the time of Sultan Mansur (1456-1477). (Walker 2004, 237)

A point to note is that in the pre-colonial period, Islamic principles co-existed with Malay customary laws. Take the example of the Malay *Raja* or Sultan. Based on customary laws the Malay *Raja* (thus the name *Kerajaan*) was the primary object of loyalty. Malay *Rajas* were endowed with a sovereign power called *Daulat*, a term borrowed from the Islamic term “daulah”. *Daulat* was a covenant between the Sultan and his people, where in return for the *rakyat*'s (people) unswerving loyalty, the Sultan had to ensure that the *rakyat* were justly treated. This compact between the

ruler and the ruled is not inconsistent with Islamic principle. The *Sejarah Melayu* reflects this, highlighting that loyalty cut both ways and that in the event that the contract between the ruler and ruled was breached, the punishment from an Islamic point of view would be catastrophic:

And that is why it has been granted by Almighty God to Malay rulers that they shall never put their subjects to shame, and that those subjects however gravely they offend shall never be bound or hanged or disgraced with evil words. If any ruler puts a single one of his subjects to shame, that shall be a sign that his kingdom will be destroyed by Almighty God. Similarly it has been granted by Almighty God to Malay subjects that they shall never be disloyal or treacherous to their rulers. (Walker 2004, 220)²

The style of administration during the pre-colonial period was also consistent with the Islamic principles of *As-Syura* (consensus) and *Al-Adalah* (seeking equality and inclusiveness). Consensus and consultation were major features of Malay governance, and this was augmented by a legislative body that treated decisions as a collective act. Every *Negeri* (state) had a legislative body known as *mesyuarat bicara*, which was an assembly of ministers and nobles. The term *mesyuarat* comes from the Arabic term *Syura*. At the *mesyuarat bicara* decisions were made through *mua-fakat* (consensus) rather than majority-ruling. The idea of consensus is very much part of the Malay psyche. The Malays in fact have a saying that “*mua-fakat membawa berkat*”, which means that God’s blessing comes with seeking consensus and consultation. (Abdillah 2012) The *Syura* is different from democracy’s participatory method. Unlike the conventional democratic method that calls for a simple majority (51 percent of the votes), the *Syura* calls for a consensus (Walker 2004, 234-236).

There are other areas of PA during this period that demonstrate Islamic ideas on consensus and social compact between the ruler and the ruled. Heirs to the throne, for instance, were enjoined to heed the counsel of their advisers, perform their religious duties and temper their anger and greed. Malay rulers were also expected to be diligent in religious matters, to rule with justice, to consult the ministers of state and to limit the death penalty only to those infractions for which it is mandatory in Muslim law (Walker 2004, 235).

The idea of consensus and consultation was also demonstrated in the decentralized nature of Malay administrative structure. The Raja was the head of the *Negeri* (state) and given the honorific title of *Yang di Pertuan Negeri*. But even when he was made the *Yang di Pertuan Negeri*, the Sultan did not have absolute power over decisions. He was merely an important centralizing figure to express the unity and integrity of the state. At the *Negeri* level, power was devolved to Malay aristocrats (*orang kenamaan*), who formed an integral component of the governance structure. A typical Malay administrative structure constituted the Bendahara, the second in command after the Sultan, who assumed the role of Chief Executive (Prime Minister) and

² In fact this description is consistent with many historical descriptions by Malayan historiographers. A point to add is that this dispersion of power and the contract between the ruler and the ruled is not dissimilar to Western concepts of the social contract. Read also Walker (2004), 220.

had an influential role in deciding succession. Besides the *Bendahara*, other senior ministers in the administration included the *Temenggong*, who took charge of security and the police force, the *Laksamana*, who acted as chief naval officer, and the *Penghulu Bendahari*, who assumed the role of chief financial officer in charge of the state's revenue and the overall upkeep of the Sultan's servants and clerks. Another important type of officer were the *ulamaks*, who were ranked equal to other senior ministers described above. Below these senior ministers were other notables, either of royal descent or with a title or with a title bestowed by the Sultan. Besides the ministers, the Sultan was aided by territorial chiefs, who were tasked to take charge of an area in the state, most usually their area of residence. These chiefs had broad territorial power where they had near autonomy over their respective district. At times Malay chiefs exercised power far in excess of the Sultan's. In the case of succession, for instance, the appointment of the next ruler was often decided by consensus of Malay nobilities, not just the Sultan. Also, the appointment of the next Sultan may not necessarily follow the patriarchal line but instead lay at the discretion of Malay nobilities. (Adapted from various by Hooker 2003; Kennedy 1962; Wilkinson 1971; Ahmat 1970)

Islam's influence in the running of pre-colonial Malay states, however, came with few qualifications. Both the undang-undang Melaka and the *Sejarah Melayu* confirm that when running state administration, Islamic principles coexisted with Malay ideas of *kerajaan* and Malay customary laws that came from *adat temenggong* and *adat pepatih*.³ The undang-undang Melaka and the *Sejarah Melayu* were a mix of Islamic principles and Malay *adat* or customary laws. (Husin 2007, 778). Malay customary laws in the undang-undang Melaka, for instance, coexisted with Abu Shuja's and Ibn Qasim al-Ghazzi's ideas of *Al-Taqrīb* (the approach).⁴ This corpus of law was applied with varying degrees of modification in other states to suit local customs and interpretations of Islamic law. (Husin 2007, 778)

While one can argue that there was an absence of a comprehensive *Sharia* law, the undang-undang Melaka and the *Sejarah Melayu* have also suggested that it is not entirely true that Islam had no influence on Malay state administration. The period saw the Islamic vocabulary becoming part of the Malay lexicon. The Islamic ethos of consensus, the compact between the ruler and the ruled and the dispersion of power became features of Malay state administration. Seeking consensus from the state's multiple stakeholders was a *sine qua non* in running it, where the *syura* or *mesyuarat bichara* became an important legislative body. In fact terms like "*mesyuarah*", "*muhibbah*" and "*berkah*" – all Arabic derivatives – are still in use today to underline the need for consensus and to seek conciliatory decisions on issues. If this period saw Islam negotiating with Malay ideas of *Kerajaan*, British rule posed a different challenge. We turn to this next.

³ The *adat temenggong* was the traditional law for most Malay states and had Malay, Islam and Hindu influences, while the *adat pepatih* was developed by the *Minang Kabau* in the Malay state of *Negeri Sembilan* and had its roots in the island of Sumatra.

⁴ The *Al-Taqrīb* (also known as *Al-ghaya wa'l-taqrīb*) was written by Abu Shuja al-Isfahani and was later commented by Ibn Qasim al-Ghazzi in his book *Fath al-qarib*. The two books formed an important basis for Islamic jurisprudence in Malaysia, see Hussin (2007).

3. Colonial Period

British official rule in Malaya started with the signing of the Pangkor Treaty in 1874. The treaty marked a new power arrangement. If during pre-colonial times Islamic principles had to negotiate with the idea of Malay kingship and the *adat*, during colonial rule Islamic principles had to contend not only with the idea of Malay *kerajaan* but also with the British civil-service code and the demands that came with an increasingly plural society. The Pangkor Treaty encapsulates this new arrangement, making it clear that Muslim law would have to exist with British civil law. Under the Pangkor agreement, the Sultan would have to receive a British Resident who would take charge of all affairs of state and whose advice would have to be asked for and acted upon in all matters except those touching on Malay religion and custom. (Sadka 1968, 40).

Pluralism also became a feature of Malaya's new political arrangement. In the years after the signing of the Pangkor Treaty, British Malaya saw three significant actors in the running of state administration – Malay aristocrats, British as well business interests, which in this case comprised mainly of Chinese entrepreneurial community. Malaya's increasingly plural polity was reflected in the State Council, a new legislative and executive body set up by the colonial administration. In the early years of British rule, the council mirrored that of pre-colonial Malay feudal arrangement, where it performed the role of an advisory body for Malay aristocrats to sense and act on public opinion. (Abdillah 2012, 171)

This arrangement was changed in 1876 with the composition of the council becoming eclectic. In the state of Perak, the council consisted of the Sultan as President of council, the British Resident, selected Malay chiefs and two Chinese headmen from Perak's competing Chinese secret societies, the *Ghee Hin* and *Hai San*. The appointment of two Chinese headmen was unprecedented, because under the Perak state constitution "non-Malays had no rights at all, not even the right to possess land."⁵ Despite the law, the British Governor William Jervois insisted on the need to incorporate non-Malay members, emphasizing that the two Chinese headmen formed important business interests.⁶ Following Perak, the state of Selangor also had a more plural representation in the state council. Selangor had seven council members, four Malay chiefs, one British Resident and a Chinese Headman. (Abdillah 2012, 160)

The style of decision-making also changed under British rule. The *mesyuarat bichara* and the pre-colonial practice of *syura* or *consensus* had to make way for new arrangements. The State Council saw the British Resident (adviser) taking on *de-facto* rule while the Sultan assumed the *de-jure* role. If in the *mesyuarat bichara*, several hundred members of the ruling class would gather in a meeting open to the public, where decisions were reached after debates which could last for several days, under colonial rule the British Resident assumed the role of an adviser whose advice – on most occasions – counted as a decision. The Sultan, though appointed as President of the council, increasingly played a nominal role. In council meetings, the

⁵ CO 273/83, CO 273/90 and CO 273/91, see also Windstedt (1948), 69.

⁶ CO 273/83, 273/90, CO 273/91.

Resident would conduct and prepare the details of each meeting and then advised the Sultan to assent to the minutes of the meeting. The Sultan could only come to a decision with the approval of the council members, and in most cases the decision of council members was influenced by the opinion of the Resident. The Resident also increasingly influenced the appointment of council members; the Sultan merely endorsed the advice of the Resident (Abdillah 2012, 171-172; Sadka 1968, 178).

In the later years of British rule, even the State Council became increasingly irrelevant as a sounding board for public opinion. The consultative function of the council was bypassed, as once the government (British administration) had decided on a particular course of action, there was little that the council could do to reject it. The State Council became a mere rubber stamp for official endorsement. (Sadka 1968, 178; Andaya and Andaya 2001, 175)

The only area which remained under effective local control was the administration of Islamic religious law and the appointment of religious officials, the responsibility for which was left in the Sultan's hand. The colonial administration's decision to allow for Malay control in Islamic issues, however, provided 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. Take the case of the appointment of Judicial Commissioners. In 1896, the British administration replaced the Sultans as the final Court of Appeal in dealing with Islamic matters, and in the Sultans' place the administration appointed judicial commissioners. The decision, however, was changed in 1904 after Malay rulers demanded that Islamic law be administered by Muslims, not judicial commissioners who are non-Muslims. The Malay rulers also demanded that there be a separate institution to implement and adjudicate Islamic law. The British decision to uphold the demands of the Sultans saw an arrangement where the sultans were regarded as heads of Islam and that a final court of appeal and Islamic courts had to answer to the sultans. The decision institutionalized Islam in the bureaucracy. New administrative positions were established that saw the appointment of Muslim *Kadis* (judges), Islamic officials and Islamic scholars in the state administration. It was also during the time that the colonial administration expanded recruitment of Malays in the administration, insisting that seven out of ten new appointments must go to Malays. (Roff 1967, 116)

The colonial administration decision to demarcate legal institutions to cater to "Mohamedan" laws was partly due to fear that if left unchecked, Islamic law would come to dominate the thinking of Malaysians. Writing in 1908, RJ Wilkinson, a British administrator warned that "there can be no doubt that Moslem law would have ended by becoming the law of Malaya had not British law stepped in to check" (quoted in Roff 1998). But little did the colonial administration realize that by establishing institutions to deal with Islam and putting resources to such institutions, the colonial administration became a champion of Islamic laws. By appointing Malay sultans as heads of Islam in each state, the administration consolidated the sultans' role as guardian of Islam and Malay customary rights, which further consolidated a Malay-Muslim identity. The enhanced presence of Malays in the administration also improved Malay administrative capacity and led to greater expectations and demands

in the coming years. As Husin rightly points out, Malay elites gained the “ability to expand the region of personal law, and in their control over matters of religion and custom they also began to set the terms of the debate on the place of Islam and race in the state” (Husin 2007, 780).

To show greater administrative capacity, Malay elites began to debate the idea of Islam and Malayness, which further entrenched Malay-Islamic values within the polity. The war of ideas was fought by two distinct groups in the early twentieth century, both of which had different educational backgrounds. The first group involved the Malay ruling class and the traditional *ulama*, who formed part of the state apparatus. The second group comprised the *Kaum Muda* or Young Group, a group, mostly educated in the Middle East, which had reformist ideas and held considerable control over media publications (Abdillah 2012, 235, Roff 1967, 61). The *Kaum Muda* were encouraged by Egyptian leaders like Mohamad Abduh and held ideas of an Islamic state. They insisted to do away with the *adat* (customary laws), the monarchy or any manner of traditional authority, which they deemed unacceptable in Islam (Roff 1967, 59-62). This debate on the proper place of Islam and the Malays by various interests is very much alive in present Malaysia, and the debates only add to the entrenchment of Malay and Islamic values in the running of Malaysia’s PA.

Independence and negotiating Islam in a new polity

The debate on Islam and its place in the Malayan polity is best demonstrated during the drafting of the Malayan Federal Constitution in the lead up to Malaya’s independence. The episode depicts Malaya’s struggle to find the right mix between meeting the aspirations of many who want to incorporate Islam in the running of the state and the need to accommodate a plural polity. Fernando gives a comprehensive account on the dynamics behind the drafting of the Constitution. Initially, the Reid Commission – which was tasked to draft the Constitution – did not include any article to declare Islam the religion of the Federation. (Fernando 2006, 249-266). The Alliance Party – which was a coalition of three ethnic-based parties and later renamed the *Barisan Nasional* (BN) –, however, insisted that Islam be included in the constitution but with qualifications. The Alliance Party, in its memorandum to the Reid Commission requested that

the religion of Malaya shall be Islam. The observance of this principle shall not impose any disability on non-Muslim nationals professing and practicing their own religions and shall not imply that the state is not a secular state. (Fernando 2006, 256).

The Alliance Party’s stance was echoed by other Malay interests, all of which saw the importance of Islam included in the constitution but equally stressed the need to exercise religious forbearance and to include other religions. The Malay Forum, a group of high-ranking Malay civil-service officers, made known to the commission the need to make Islam the religion of the Federation but stated that such provision should not prejudice the freedom of worship. The idea was echoed by Dato Onn Jaafar, the founding father of the United Malay National Organisation (UMNO). In

his draft, which appeared in the Singapore Standard, Onn wrote that “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.” (Fernando 2006, 255)

While the Alliance Party saw both the importance of incorporating Islam as the religion of the Federation and to include other religions, there were those who wanted another option, based on the ideas of liberalism and pluralism. These interests advocated to the Reid Commission not to include religion in the Federal Constitution, persuaded by the argument to separate the state from religion. The Malayan Christian Council, for example, told the commission in a hearing on 23 August 1957 that “it would be proper if the new independent state were to be a secular one giving no particular favours or privileges to any one religion, as in the case of India.” (Fernando 2006, 255) The Straits Chinese British Association also urged the Reid Commission to put the necessary “cast-iron safeguards” in place and to emphasize the fundamental rights for all Malaysians, where there should be “no discrimination against any citizen on the grounds of religion, race, sex, place of birth or any of them.” (Fernando 2006, 255)

In the end, Malaya settled for Article 3(1) of the Federal Constitution that states that “Islam is the religion of the Federation; but other religions may be practiced in peace and harmony in any part of the Federation.” By doing so, the constitution recognizes that Islam is an integral part of Malaya’s political and social make up. Article 3(1) also indicates a new reality in Islam’s relation with the Malaysian state. While in the past, Islam had to compete with Malay customary rights and the idea of *kerajaan*, Article 3(1) indicates that Islam now has to negotiate not only “Malayness” but an increasingly plural society.

To the unfamiliar it is difficult to fathom Malaysia’s choosing of Article 3(1). The provisions in the article for one seemed ambiguous and not consistent with liberal ideas. The drafting of the constitution, however, invites some questions. Why did Malaya’s elites not go the way of Pakistan and declare Malaya an Islamic state? What principles guided Malaya’s elite to consider such an option, which in hindsight has produced political and social peace? What guided Malayan actors to consider such a vague and ambiguous approach? Are these principles guided by values that place emphasis on consultation, consensus and a sense of justice?

If we move away from the dichotomous thinking of secular versus non-secular or Islamic state versus non-Islamic state, Article 3(1) is 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. Constitution-writing is not just a product of the legal process but also of the political, social and historical one. In drafting the constitution Malaya’s actors were guided by principles of *As-Syura* (consultation and consensus) and *Al-Adalah* (justice), qualities that have been emblematic to Malaysia’s historical, political and social processes. (Abdillah 2012; Al-Buraey 1990, 321).

In dealing with a plural society, Malaya’s constitutional drafters in fact adopted what Lerner (2013) describes “as permissive constitutional approach”, an approach that allows them to circumvent direct conflicts and reconcile deep disagreements by

adopting strategies like indecisiveness, ambiguity and vagueness. (Lerner 2013, 620)⁷ By being vague and ambiguous in defining the status of Islam in the State, the framers of the Malayan constitution avoided conflict at the time of independence and “transferred these decisions from the legal/constitutional level to the realm of ordinary parliamentary politics.” (Lerner 2013, 618) Indeed, Article 3(1) is a product of a compromise between Malayan actors, a compromise that was hinged on the Malaysian values of tolerance, moderation and sense of justice. This act of seeking consensus and exercising moderation in policy-making has become the hallmark of Malaysia’s administration and the style adopted by the country’s ruling coalition, the *Barisan Nasional* that has remained in power since 1957. In describing the working relationship within the Alliance Party (the predecessor of the *Barisan Nasional*), the *Straits Times* reported that:

A curious feature of the Alliance is that it exists by virtue of a gentleman’s agreement between three political parties – the UMNO, the MCA and the MIC. This political marriage has never been regularized to define the precise relationship between these partners. To press the analogy, the partners never became one. Each retained its identity and its freedom of action. The Alliance has been no more than a voluntary subordination of the identities of the individual parties for cooperative action in the common objective of winning independence and fighting the elections last year.” (Vasil, R.K. 1971, 13)

This ethos of cooperation, consensus and moderation remains very much part of Malaysian politics and continues to be used in the post-colonial period as part of the administration’s effort to negotiate Islam and “Malayness” in an increasingly complex plural polity.

4. Malaysia after independence

At the point of its independence in August 1957, many were skeptical that Malaysia’s moderation and consensus-seeking style of policy-making would survive a highly plural society. To them, coexistence would prove difficult, if not impossible, because by the end of British rule Malaysia’s communities had developed mutually exclusive institutions. Granting of citizenship to migrant communities at the point of its independence gave fresh challenges to the new administration, as new communities needed time to reconcile with Malaysia’s political, social, economic and historical arrangement. Even today, Malaysia’s political, social and economic life remains

⁷ Lerner (2013) discusses the point that liberal constitutionalism fashioned after the Western Anglo-American model is ill-adept at accommodating the demands of newly independent countries that are religiously and ethnically divided. Constitutions, she argues, are a product of a political, not a legal process and hence should take into view political and historical realities. She proposes a “permissive” constitution, one that provides nations with room to negotiate a divided society. A permissive constitutional approach uses ambiguity, ambivalence and vagueness to allow a political system greater flexibility when making future decisions. It is a clever way of negotiating current problem by postponing hard issues which could be better addressed in the future when state institutions and constituents are better prepared for new constitutional proposals.

fraught with unresolved issues, and the significant ones include issues on the special position of the Malays (*bumiputera*) and Islam in the state.

One good example of Malaysia's struggle to negotiate a plural polity and to incorporate a moderation ethos would be the state implementation of the New Economic Policy (NEP). Introduced in 1970 as a response to the bloody ethnic riot on 13 May 1969, the NEP⁸ had two objectives; the first was to restructure the economy and society and eliminate the identification of economic function with a particular ethnic group and the second, to eradicate poverty irrespective of race. (See various works, e.g. Abdillah 2014b, Gomez and Jomo 1997 and Saravanamutu 2009) The NEP targeted equity distribution among the *bumiputeras* (Malays), non-*bumiputera* (non-Malays) and foreigners to be in the ratio of 30:40:30, respectively, come the year 1990. This was a lofty target considering that in 1970 the equity distribution of *bumiputeras* to non-*bumiputera* and foreigners stood at 1.9:23.5:60.7 respectively.

The initial reaction was, and perhaps still is, that the NEP was highly skewed towards the *bumiputeras*. Though one can never dispute that the Malays were the focal point of the NEP, the *bumiputeras* were not the sole beneficiary. The affirmative quality of the policy improved the wealth of all ethnic groups. The drop in poverty among Chinese and Indians was equally impressive as the drop in poverty among *bumiputeras*. In 1970, 26 percent of the Chinese were considered poor, but by 1990, only 6 percent of the Chinese were deemed poor. For the Indian community 39 percent were considered poor in 1970. By 1990, only 8 percent of the Indian community were classified as poor. For the *bumiputeras*, 66 percent were classified as poor in the 1970. By 1990 that had dropped to about 20 percent. (Drabble 2000, 278)

How is it possible that Malaysia was able to raise the wealth of all ethnic groups despite, arguably, the distortionary qualities of the NEP? Of greater import, how did Malaysia avoid overt conflict and deliver social and political peace despite having the NEP?

One explanation is that in its effort to promote qualities of *As-Syurah* and *Al-Adalah* Malaysia's policy-makers were not trapped by what Elbow describes as binary or dichotomous thinking – a thinking that is framed in terms of opposites. (Elbow 1993, 54-74)⁹ Binary thinking would see Malaysia adopting one of two options: either having state intervention in the form of affirmative action to improve the *bumiputeras* (which is perceived as unfair) or adopting a *laissez-faire* attitude (which is seen as fair) and allowing markets to decide on wealth distribution. In the case of the NEP, Malaysia avoided dichotomous thinking and took a third option. This involved assisting *bumiputeras* (in the form of affirmative action) and at the same time allowing non-*bumiputeras* to improve wealth creation by maintaining an open economy. By promoting qualities of *Al-Adalah* (sense of fairness), the state demonstrated that the NEP was meant to improve the living standards of all Malaysians, not just *bumiputeras*. The state took great pains to stress that the NEP

⁸ The NEP was replaced with another document, the New Development Policy (NDP). But analysts tend to use the two terms interchangeably.

⁹ Elbow discusses the issue that there is no point in denying that we are guided by binary thinking. But the more important point is to respond differently to the binary mode. So instead of saying that X is right and therefore non-X is wrong we can always exercise the third option by suggesting that both X and non-X might both be right.

was an attempt to boost local capacities not an outright nationalization strategy. It reassured the investing community that the NEP was not about providing for the poor and robbing the rich but a solution that attempted to improve wealth for both the poor and the rich.

But how is it possible that Malaysia has managed to come up with the third option? A possible clue is that Malaysia's entrenched political qualities of seeking moderation, consensus and justice made it possible to exercise the third option. *As-Syurah* demanded that Malaysia take into account all stakeholders and *Al-Adalah* declared that fairness could only come by focusing on expanding the economy by remaining true to an open trading regime and not place excessive restrictions on non-bumiputeras and foreign investors. In fact, knowing that the success of the NEP would only come with an expanding economy, the state was prepared on many occasions to amend terms in the NEP and to review priorities given to *bumiputeras*. Examples include the handling of the economic crisis in the 1980s, 1990s and the recent global crisis in 2008, where the crises tested Malaysia's flexibility to amend terms in the NEP and seek creative ways to expand and diversify the economy. (Abdillah 2014b, 40-52).

There are examples that demonstrate Malaysia's exercise of the third option – an option that was pivoted on the ethos of moderation, consensus and fairness. Take the case of two water-meter companies, both of which were vying to supply water meters to the government in 1984. One company, A, was restructured to comply with the 30-percent *bumiputera*-owned criteria. The other, company B was a 75-percent *bumiputera*-owned company but whose products were assembled entirely from imported parts. Under the 30-percent rule, a company with a minimum 30-percent bumiputera ownership would qualify. Given the case, company A, whose meters were made of local content, should get the contract. The decision was contested. A case was made by the Malay director of Company A to the Deputy Minister impressing the latter of Company A's locally-value-added products. At the end of it, the minister crafted a third option; he gave the contract to both companies. In seeking a compromise, the minister requested Company B (the 75-percent *bumiputera*-owned firm) to buy some Malaysian materials from the 30-percent firm and thereby keeping both in business. (Horowitz 1989, 267-270)

Another example involved the selling of majority shares of a local bank. A shareholder, a Chinese businessman, was contacted by the Multipurpose Holding (MPH) – an investment arm of the Malaysian Chinese Association (MCA) – to allow MPH to buy his share and take a controlling stake in the company. The businessman could not do it because he had made an agreement to give *Permodalan Nasional* (PERNAS), a state-owned enterprise, the first option on his shares. The matter became a heated debate between two of Malaysia's young ministers, with each taking the sides of MPH and PERNAS, respectively. In the end, a compromise was struck, a third option. The state decided that PERNAS and MPH would each acquire 41 percent of the share, with the balance held by the Chinese businessman. (Horowitz 1989, 275)

There are other instances that saw the state exercising ethos of moderation, consensus and a sense of justice that on occasions put the state in a position of being deemed vague, ambiguous and ineffectual. Take the recent case of the "Allah" issue.

In early October 2013, the Malaysian court ruled that the *Herald*, a Catholic newspaper, could not use the term “Allah” to refer to the Christian God in all its publications (Abdillah 2014a, 195). The three-judge panel found that the term “Allah” was not an integral part of the faith and practice of Christianity. The decision caught the government in a bind between imposing an outright ban on the use of the term “Allah” in all Christian publications and allowing the use of the term in publications in the Borneo states of Sabah and Sarawak, as has been practice in these states for many years. In the end the government exercised the third option saying that it would abide by the 10-point Agreement between the Federal government and the states of Sabah and Sarawak, which among other things allows the continued use of the term “Allah” in the two states, as had been the tradition. In justifying the partial ban, the Prime Minister Najib Abdul Razak said that the decision was made due to the need for national reconciliation and to maintain national unity and harmony. (Abdillah 2014a, 196). Though the decision was judged as ambiguous and vague, it was consistent with Malaysia’s adoption of the third option, one that is hinged on the need to seek moderation in policy application and provide a semblance of justice to all parties concerned.

Another case involved the decision-making regarding Malaysia’s five-year development plan. For the purpose of this research the author interviewed a former head of Malaysia’s influential economic agency, the Economic Planning Unit (EPU), who revealed that the state took great care in seeking consensus when implementing policies.¹⁰ The officer stated that the process involved several layers of decisions that saw the participation of key stakeholders. The crucial meeting would involve the Prime Minister, the Head of the Economic Planning Unit, the Minister of Finance and leaders of the *Barisan Nasional*’s component parties, 13 mainly ethnic-based parties. Such a meeting would see members engaging in hard-bargaining and intense no-holds barred debates on issues that would impact the different ethnic groups. The meetings would last for hours or at times over several days. On most occasions the policies made had the imprints of the exercise of the third option. The officer stated that on most occasions, policy decisions would satisfy every stakeholder without any parties feeling overwhelmingly shortchanged.

Malaysia’s public-policy-making trademark, one that demands moderating one’s expectations in the spirit of seeking consensus and cooperation, would be regarded an outlier when measured against Western ideas of statecraft. But this policy option has not failed Malaysia and is indeed consistent with Lerner’s (2013) and Elbow’s (1993) arguments on the need to look beyond conventional thinking. Malaysia’s adoption of the third option was exercised because the guiding light for its decision makers was the need to meet the interest of a plural polity while at the same time striving for justice (*Al-Adalah*) and seeking consensus (*As-Syurah*). This third option and moderation ethos is very much a work in progress, and the last ten years saw two of Malaysia’s prime ministers reinforcing this ethos, using concepts of *Wassitiyah* and *Hadhari*. We turn to this next.

¹⁰ The author held few sessions of interviews with two former senior civil servants in January-March for the purpose of this research.

5. Hadhari and Wassitiyah

The main qualities of *Wassitiyah* and *Hadhari* are moderation and seeking social justice. Islam *Hadhari* was mooted by Malaysia's fifth Prime Minister Abdullah Ahmad Badawi in 2004, in the latter's attempt to reemphasize Malaysia's commitment to moderation and economic equity. (Gatsiounis 2006, 79). Abdullah's proclamation came at a time when the world was gripped with fears of growing Islamism and increasing religious intolerance. Trained in Islamic studies, Abdullah had the added responsibility of showcasing Malaysia as a modern, thriving model of a successful Islamic nation, a moderate state that could meet the competing interests of its different ethnic and religious communities. In making his point on Islam *Hadhari*, Abdullah stressed that "a Muslim country can be modern, democratic, tolerant and economically competitive." (See Gatsiounis 2006, 79-80) Abdullah's Islam *Hadhari* had ten objectives that include, to name but a few, a just and trustworthy government, a free and independent people and mastery of knowledge. In the early days of his premiership Abdullah made known his commitment to stamp out corruption, and under his leadership a few high-profile cases have been brought to court. Abdullah also put in place the integrity institute and saw to it that the Anti-corruption Bureau was upgraded to a commission. Abdullah Badawi made weeding out corruption his number-one priority, and in the early years of his rule Malaysia saw few high-profile corruption cases. (Gatsiounis 2006, 78-88). Even though the political rhetoric of Islam *Hadhari* failed to last beyond Abdullah's term in office, the ethos of consensus, moderation and consultation continued with Malaysia's new leadership under Najib Abdul Razak.

Malaysia's next and present premier, Najib Abdul Razak, has continued with Abdullah's message on moderation and equity, albeit coining a different terminology. In 2010, Najib came up with the concept of *wassatiyah*, derived from the term *wasat*, which means middle or intermediate. *Wasatiyyah* emphasizes balance, fairness and diversity. (Mazlan Ibrahim et al. 2013, 6-14)¹¹ In one of his speeches, Najib pointed out that *wassatiyah* had universal value, emphasizing that the term promoted the idea of integration and moderation, which was consistent with the "Malaysian way" that placed emphasis on tolerance and consensus. In a recent address to promote the movement of global moderates Najib pointed out that moderation or *wasatiyyah* had always been a corner stone of Malaysia's administrative style reiterating that:

moderation has always been our chosen path. It is a testament to how we gained our independence from the British back in 1957; how we restored our relations with Indonesia in 1965; and how we helped build ASEAN in 1967, recovered from the tragic events of May 1969, engaged with China in 1972, and forged the ground-breaking ASEAN security and economic communities in 1993 and 2009. Each was a significant moment for our country, and all were gained through reasoned discussion and debate. (Najib Razak 2012)¹²

¹¹ This term is defined by Malaysia's Department of Islamic Department (JAKIM) in Mazlan Ibrahim et al. (2013).

¹² This was part of the speech by Najib Abdul Razak, Global Movement of Moderates Conference, Opening Address to the International Conference on the Global Movement of Moderates (IGMM), 17 January 2012

One might argue regarding the extent to which the Malaysian public identifies with the idea of *Hadhari* and *Wassatiyyah*. Ionnis, for instance, asserts that there is little evidence that Malaysia's Islam *Hadhari* has caught on with the rest of the world. (Gatsiounis 2006, 86) He believes that the use of *Hadhari* reflects the fact that Islam in Malaysia is in need of fixing. There could also be a possibility that these terms were used to serve political objectives.

But when viewed from a different perspective, the use of such terms is consistent with Malaysia's policy ethos. In fact, policy makers' use of *Hadhari* and *Wassatiyyah* should not detract us from the values associated with them. The terms *Hadhari* and *Wassatiyyah* could well be used to serve political ends, but the values associated with *Hadhari* and *Wassatiyyah* are not inconsistent with the message of the overall tenor of Malaysia's administrative style. Both *Hadhari* and *Wassatiyyah* invoke the language of moderation and toleration, an ethos that is synonymous with Malaysia's administrative style, which demands policies be moderated and weighted, given competing expectations. The examples given seem to agree that the values are well embedded in Malaysia's approach to administration. In fact, by invoking terms like *Hadhari* and *Wassatiyyah*, Malaysia has deftly made Islamic behavior more palatable and acceptable, instead of legislating Islamic behavior and punishing non-conformity.

6. Conclusion

The historical account described above suggests that Islam plays more than just a nominal role in Malaysia's administrative function. It is an integral component of Malaysia's administrative style, and denying Islam's impact on Malaysia's social, political and economic landscape risks denying the religion more than 1000 years of presence in the Malay Peninsula. Indeed, Islamic terms and values have entered the lexicon of Malaysian society to an extent that makes it impossible to separate "Malayness" from "Islam." The Islamic ethos of consensus, the compact between the ruler and the ruled and the dispersion of power have become features of Malay state administration.

But as much as this article is an attempt to convince the reader of the concept of history, Islam, consensus and their influence in the running of PA in Malaysia, the discussion should not lose track of the larger debates on democracies and styles of democratic decision-making. Malaysia's style of administration and decision-making fits nicely to a growing literature that is persuaded by the thesis that democratic regimes should not be defined only along Anglo-American democracies. This runs along the idea that democracy is a fluid concept, very much a function of state's political, historical and social structures. The pioneer of such alternative definitions of democratic regimes is Gabriel Almond, whose effort has triggered works by the likes of Lehmbruch (1967), Arend Lijphart (1968) and Lorwin (1971). Lehmbruch (1967), for instance, who worked on the decision-making process in Switzerland and Austria, concluded that the accommodative and consensual politics are rooted in the political culture of societies, a theme which is highly consistent with the Malaysian case. Along a similar vein, Lijphart promotes the idea of "consociational politics", accommodative politics where political elites are willing to strike compromises

which are acceptable to the different subcultures. Consociational democracy, Lijphart says, holds better promise to newly independent countries, as it advocates the “building of deliberate, purposive cooperation among the subcultural elites (McRae 1997, 281-283). In fact, Lijphart even labelled Malaysia a consociational democracy. Indeed Malaysia’s brand of accommodative or consensus decision-making has deep origins; history, political and social structure have had a huge influence on the state’s brand of PA.

To conclude, the Malaysian case confirms Mandaville’s (2007) argument that “while it may seem obvious to Western liberals that religion and politics constitute two separate spaces, each with its own rules, norms and logics, this may not be the case in other cultures and societies.” (Mandaville 2007, 10). This exceptionalism is reflected in the Malaysian case, where two examples are worth mentioning. First, Malaysia’s brand of consensus, which is often seen as preferring a particular ethnic group, should be viewed from an alternative lens, one that takes into account the context of history, Islam, Malay rule, colonization and migration. When viewed in this context and taking into account a plural society, consensus-based decision-making – which is very much grounded in Islam principle – would be the natural option. While we can always argue that such an option is less than optimal, the fact that the Malaysian nation is a stable polity and stands among one of the most successful economic stories speaks well of its administrative structures and state institutions. Second, Malaysia’s incorporation of Islam suggests that Islam and PA should not be judged merely from the absence or presence of *Sharia* law; the application of Islamic principles is strikingly different across Muslim-majority countries. While there are states that seek the creation of an Islamic state which is based on Islamic canons and tradition, others, like Malaysia, adopt a less dogmatic approach by seeking to establish a moral order inspired by Islamic principles. (Kikue Hamayotsu 2002) By not legislating Islamic behavior and punishing non-conformity, which could put its plural society at risk, Malaysia has skillfully chosen to invoke a moderation ethos and to make Islamic behavior readily achievable and palatable.

REFERENCES

- Abdillah, Noh. 2014a. "Malaysia's Dilemma: Economic Reforms but Politics Stay the Same." In Daljit Singh (ed.). *Southeast Asian Affairs 2014*. Singapore: Institute of Southeast Asian Studies (ISEAS), 190-205.
- Abdillah, Noh. 2014b. "Malaysia's Economic Diversification: A Historical Institutional Analysis." *Journal of Asian Social Sciences* 10(9), 40-52.
- Abdillah, Noh. 2012. *Small Steps, Large Outcome: A Historical Institutional Analysis of Malaysia's Political Economy*. Unpublished PhD Thesis, University of Oxford.
- Abdul Razak Najib (2012), Address to the International Conference on the Global Movement of Moderates (IGMM), Global Movement of Moderates Conference 17 January 2012
- Ahmat Sharom. 1970. "The Structure of the Economy of Kedah 1879-1905." *Journal of Malayan Branch of the Royal Asiatic Society (JMBRAS)* 43(2), 1-24.
- Al-Buraey, Muhammad. 1990. *Management and Administration in Islam*. Dhahran, Saudi Arabia: King Fahd University Press.
- Andaya, Barbar Watson and Leonard Y. Andaya. 2001. *A History of Malaysia*. London: Oxford University Press.
- Arba'iyah Mohd Noor. 2011. "Perkembangan Pensejarahan Islam di Alam Melayu" [The Historical Development of Islam in the Malay World]. *Journal Al-Tammaddun* 6, 29-50.
- Drabble, J.H. 2000. *An Economic History of Malaysia, c. 1800-1990: The Transition to Modern Economic Growth*. New York: St. Martin's Press.
- Elbow, Peter. 1993. "The Uses of Binary Thinking." *Journal of Advanced Composition* 13(1), 51-78.
- Fernando, Joseph. 2006. "The Position of Islam in the Constitution of Malaysia." *Journal of Southeast Asian Studies* 37(2), 249-266
- Gatsiounnis, Ionnis. 2006. "Islam Hadhari in Malaysia." In Hillel Fradkin, Husain Haqqani and Eric Brown (eds). *Current Trends in Islamic Ideology*, Vol. 3. Washington DC: Hudson Institute, 78 -88.
- Gomez, Terence and K.S. Jomo. 1997. *Malaysia's Political Economy: Politics, Patronage and Profits*. Cambridge: Cambridge University Press.
- Gullick, J.M. 1953. *Indigenous Political System of Western Malaya*. London: Athlone Press.
- Hooker, Virginia Matheson. 2003. *A Short History of Malaysia Linking East and West*. Crows Nest, New South Wales: Allen and Unwin.
- Horowitz, D. 1989. "Cause and Consequences in Public Policy Theory: Ethnic Policy and System Transformation in Malaysia." *Policy Sciences* 22(3), 249-287
- Husin Iza. 2007. "The Pursuit of the Perak Regalia: Islam, Law and the Politics of Authority in the Colonial State." *Law and Society* 32(3), 759-788.
- Kennedy, Joseph. 1962. *A History of Malaya, AD 1400-1959*. London. Macmillan.
- Kikue Hamayotsu. 2002. "Islam and Nation-Building in Southeast Asia: Malaysia and Indonesia in Comparative Perspective." *Pacific Affairs* 75(3), 353-375.
- Lerner, Hanna. 2013. "Permissive Constitutions, Democracy and Religious Freedom in India, Indonesia, Israel and Turkey." *World Politics* 65, 609-655.

- Mandaville, Peter. 2007. *Global Political Islam*. Oxford: Routledge.
- Martinez, Patricia A. 2001. "The Islamic State or the State of Islam in Malaysia." *Contemporary Southeast Asia* 23(3), 474-503.
- Mazlan, Ibrahim et al. 2013. "Wasatiyyah Discourse According to Muslim Scholars in Malaysia." *Advances in Natural and Applied Sciences* 7(1),6-14.
- McRae, Kenneth. 1997. "Contrasting Styles of Democratic Decision-Making: Adversarial versus Consensual Politics." *International Political Science Review* 18(3), 279-295.
- Milner, A.C. 1981. "Islam and Malay Kingship." *Journal of the Royal Asiatic Society of Great Britain and Ireland* 1, 46-70.
- Roff, William. 1967. *The Origins of Malay Nationalism*. New Haven, C.T. : Yale University
- Roff, William. 1998. "Patterns of Islamisation in Malaysia, 1890s-1990s: Exemplars, Institutions and Vectors." *Journal of Islamic Studies* 9(2), 210-228.
- Sadka, Emily. 1968. *The Protected Malay States 1874-1895*. Kuala Lumpur: University of Malaya Press.
- Vasil, R.K. 1971. *Politics in a Plural Society*, London: Oxford University Press
- Walker, J.H. 2004. "Autonomy, Diversity and Dissent: Conceptions of Power and Sources of Action in the Sejarah Melayu (Raffles MS 18)." *Theory and Society* 33, 213-255.
- Wilkinson, R.J. 1971. *Papers on Malay Subjects*. Kuala Lumpur: Oxford University Press.
- Windstedt, Richard. 1923. *Malaya: The Straits Settlements and the Federated and unFederated Malay States*. London: Constable & Co.
- Windstedt, Richard. 1948. *Malaya and its History*. London: Hutchinson University Library

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