

Country Report

Malaysia

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This Country Report offers a detailed assessment of religious diversity and violent religious radicalisation in the above-named country. It is part of a series covering 23 countries (listed below) on four continents. More basic information about religious affiliation and state-religion relations in these states is available in our Country Profiles series. This report was produced by GREASE, an EU-funded research project investigating religious diversity, secularism and religiously inspired radicalisation.

Countries covered in this series:

Albania, Australia, Belgium, Bosnia and Herzegovina, Bulgaria, Egypt, France, Germany, Greece, Italy, Hungary, India, Indonesia, Lebanon, Lithuania, Malaysia, Morocco, Russia, Slovakia, Spain, Tunisia, Turkey and the United Kingdom.

<http://grease.eui.eu>



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The EU-Funded GREASE project looks to Asia for insights on governing religious diversity and preventing radicalisation.

Involving researchers from Europe, North Africa, the Middle East, Asia and Oceania, GREASE is investigating how religious diversity is governed in over 20 countries. Our work focuses on comparing norms, laws and practices that may (or may not) prove useful in preventing religious radicalisation. Our research also sheds light on how different societies cope with the challenge of integrating religious minorities and migrants. The aim is to deepen our understanding of how religious diversity can be governed successfully, with an emphasis on countering radicalisation trends.

While exploring religious governance models in other parts of the world, GREASE also attempts to unravel the European paradox of religious radicalisation despite growing secularisation. We consider the claim that migrant integration in Europe has failed because second generation youth have become marginalised and radicalised, with some turning to jihadist terrorism networks. The researchers aim to deliver innovative academic thinking on secularisation and radicalisation while offering insights for governance of religious diversity.

The project is being coordinated by Professor Anna Triandafyllidou from The European University Institute (EUI) in Italy. Other consortium members include Professor Tariq Modood from The University of Bristol (UK); Dr. H. A. Hellyer from the Royal United Services Institute (RUSI) (UK); Dr. Mila Mancheva from The Centre for the Study of Democracy (Bulgaria); Dr. Egdunas Raciunas from Vytautas Magnus University (Lithuania); Mr. Terry Martin from the research communications agency SPIA (Germany); Professor Mehdi Lahlou from Mohammed V University of Rabat (Morocco); Professor Haldun Gulalp of The Turkish Economic and Social Studies Foundation (Turkey); Professor Pradana Boy of Universitas Muhammadiyah Malang (Indonesia); Professor Zawawi Ibrahim of The Strategic Information and Research Development Centre (Malaysia); Professor Gurpreet Mahajan of Jawaharlal Nehru University (India); and Professor Michele Grossman of Deakin University (Melbourne, Australia). GREASE is scheduled for completion in 2022.

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Religious diversity in Malaysia: constitutional framework and socio-demographic context ¹

Constitutional framework

Malaysia's long-persisting history encompassing religious practice and colonialism has influenced the making of the country's Federal Constitution; a document of the highest importance in the Malaysian legal system. The principles and provisions that are enshrined in the Constitution are mostly inspired by the incorporation of two historical legacies; (a) precolonial 'traditional' laws and customs, and (b) the colonial administrative system introduced during British rule in Malaya (Bidin, 1993, pp. 3-4). It is during colonial Malaya that secularization, understood primarily in terms of enforced separation between religion and the state became more pronounced. A succession of legal, administrative, and educational reforms based on the English law followed throughout Malaya when other Malay states concluded similar agreements with the colonial authorities. Consequently, these laws had effectively displaced Islamic law from its premier position in colonial governance (Ahmad SS and Roy Rajasingam, 2001, p. 25).

The establishment of an Independent Federation of Malaya (now known as Malaysia) in 1957 inaugurated the Federal Constitution, which was set in accordance with the Westminster model and the principles of federalism and constitutional monarchy. Although the word 'secular' is not mentioned in the Constitution, it is clear, as affirmed by the parties involved in the drafting process, that the newly founded sovereign state should embrace secularism as the governing principle by assuming the separation between religion and the state. The late Tunku Abdul Rahman, leader of the Alliance coalition and the first Prime Minister of independent Malaya, had once assured his fellow members of the Working Party that reviewed the draft prepared by the British-appointed Reid Commission, that the whole exercise of framing the Constitution was undertaken on the understanding that the resultant federation would be a secular state (Joseph Fernando, 2006, pp. 259-60; pp. 265-70).

However, it is worth noting that Article 3(1) of the Federal Constitution declares that whilst 'Islam is the religion of the Federation', other religions may be practised in peace and harmony in any part of the Federation (Malaysian Constitution, 2010, p. 19)- a

¹ In the process of writing this report, I have greatly benefitted from the valuable insights shared by list of individuals whom had granted me personal interviews to aid me with the research. I hereby would like to acknowledge their contribution and my thanks to them here: Dr Farouk Musa (Islamic Renaissance front), Dr Zulkfli Bakri (Federal Territory Mufti), Ustaz Zamihan Mat Zin (JAKIM Officer-cum-Spiritual Adviser for Rehabilitation program), Dr Danial Yusof (Peacebuilding and Civilizational Development Flagship Project), Marwan Bukhari (Maqasid Institute), Dr Mohammed Nawab Osman (S. Rajaratnam School of International Studies), Ustaz Abu Hafiz Salleh Huddin (Exco Member of Bersatu Youth), Prematilaka KD Serisena (Malaysian Consultative Council of Buddhism, Christianity, Hinduism, Sikhism and Taoism).

proclamation which arguably is not intended to alter the secular nature of the state. Historical evidence, based on the Reid Constitutional Commission Report, the legislative White Paper, and all the primary Constitutional documents, clearly suggests that such provision is primarily intended to have symbolic and ceremonial significance (Shad Salem Faruqi, 2005, p. 265) and that the vision of the state as insisted by the framers of the Constitution has always been a secular one (Joseph Fernando, 2006, p. 250, p. 262; Zawawi and Ahmad Fauzi, 2017, p. 172). Barely a year after independence, due to the confusion stemming from this provision, the Prime Minister Tunku Abdul Rahman, during the debate in the Legislative Council, when called upon to clarify the matter, insisted that : ‘I would like to make it clear that this country is not an Islamic State as it is generally understood, we merely provide that Islam shall be the official religion of the federation’ (Tunku Abdul Rahman, 1977, p. 246). This view was later affirmed by the serving chief justices’ statements and judgments by qualifying that the meaning of Islam formal status merely pertained to rituals and ceremonies on official occasions rather than as a triumph over the primacy of the secular legislative framework (Suffian Hashim 1962, pp.8–11; Ahmad Ibrahim, 1985, pp. 213-16). The passage of time has, however, blurred the initial intentions of the Malaysian framers of the Constitution , with some recent scholarly works and judicial decisions beginning to challenge the secular basis of the state². This will be discussed in more detail in later sections.

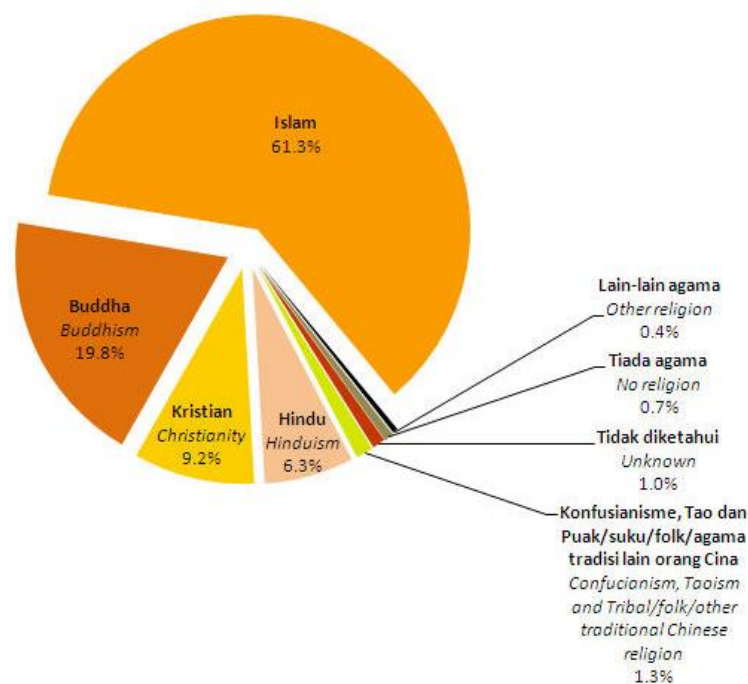
Socio-demographic context

According to Press Release on the Current Population Estimates, Malaysia 2017-2018, released by the Department of Statistics Malaysia, the estimated population of Malaysia in 2018 is 32.4 million people. When compared to 32.0 million in 2017, the annual population growth rate of the country is at 1.1 per cent (Press Release, 2018). Census figures from 2010 indicate that 61.3 percent of the population are Muslims; 19.8 percent embrace Buddhism; 9.2 percent are Christians; 6.3 percent practice Hinduism; and the other 1.3 percent are believers of Confucianism, Taoism, or other traditional Chinese philosophies and religions. The rest of the minority religious groups include animists, Sikhs, and Bahai communities (Table 4.1 Population and Housing Census, 2010).

The number of self-described atheists in Malaysia are unknown as the topic is very sensitive and rarely studied. A global poll released by WIN-Gallup International, a worldwide network of leading opinion pollsters, in 2015 stated that 3% of Malaysians falls

² Interviews conducted with few prominent individuals in the government shows that all of them take the view that Malaysia has always been an Islamic state, and not a secular one. Many of them felt that Article 3 of the Constitution must be read together with many policies and initiatives that favour Islam and Muslims done since Malaysia was established in 1957. They insisted such favouritism over Islam must continue to be defended today for Malaysia to maintain as an Islamic state. (Interview, Federal Territories Mufti, April 2019; Interview, JAKIM Officer-cum-Rehabilitation Spiritual Adviser, April 2019; Interview, Bersatu Youth Exco, April 2019)

under the category of “A convinced atheist”, while another 20% falls under the category of “Not a religious person” (WIN- Gallup International, 2015). Despite having no laws in Malaysia that restrict atheists from professing their belief, many of the atheist groups or individuals have been put under immense pressure by the authorities. For example, a casual meeting of 20 Malaysians organized by a Malaysian chapter of Atheist Republic in 2017 received a huge backlash from the Muslim communities. Asyraf Wajdi Dusuki, a former minister from a department in charge of Islamic affairs, responded to the incident by demanding an investigation to determine if any Muslims were involved in the meeting. In other instances, Shahidan Kassim, another former minister under the reign of Prime Minister Najib Razak, suggested a “forced education” for the atheists involved (Higginbottom, 2017). The repressive measures were justified by the authorities by referring to the first out of five principles of Rukun Negara (National Philosophy) which declared that every citizen is expected to believe in God (Interview, Federal Territories Mufti, April 2019). These practices resume under the leadership of Mujahid Yusof, the current Minister of Religious Affairs of Pakatan Harapan’s government³.



Percentage distribution of the population by religion, Malaysia, 2010

³ Last February, Mujahid Yusof has proposed an amendment to the Penal Code (Act 574) to provide heavier penalties to those who have insulted any religions. The nature of the ‘insults’ is not clear but it has been used to prosecute atheist that shared their experiences leaving religions. In March, Mujahid has also set up a special unit to monitor insults against Prophet Muhammad and Islam.

Being a society known for its multi-religious and multiracial attributes, racial and religious characteristics tend to be conflated in the realms of politics, cultural expressions and everyday social norms. The Muslim population is made up of mostly ethnic Malays in Malaysia, which accounts for approximately 55 percent of the population. The Federal Constitution, as stated in Article 160, dictates that all ethnic Malays are Muslim (Malaysian Constitution, 2010, p. 151). In Malaysia, only Sunni Islam is recognized while the Shafi'i school of thought assumes the legal basis for Islamic jurisprudence. Other forms of Islam, especially the Shia' sect, are deemed illegal and subject to action by religious authorities. Some even regard Shiism as a religion that promotes violence and must be persecuted on the basis of national security (Interview, Federal Territories Mufti, April 2019; Interview, JAKIM Officer-cum-Rehabilitation Spiritual Adviser, April 2019; Interview, Bersatu Youth Exco, April 2019).

Buddhism, after Islam, is the second largest religion in Malaysia whose history in the Malay world stretch far back before the period of Islamisation in the 15th centuries. Buddhist religion, specifically of the Mahayana tradition, is mainly practised by the ethnic Malaysian Chinese. In practice, most Chinese Malaysian follow a combination of Buddhism, Taoism, Confucianism and the Chinese folk religion but, when pressed to specify their religion, will identify themselves as Buddhist (Tan, 1983, pp. 217-219; Damodar Jnawali, 2007, p. 31).

The Christian communities in Malaysia generally comprise of non-Malay Bumiputeras. Statistically speaking, of the 9.2 percent of the Malaysian Christian population, 64 percent Bumiputra, 27.3 percent Chinese, 6.6 percent Indian and 1.8 percent belong to the "Others" category (Loh, 2006) while two-thirds of the community reside in East Malaysia, this being the states of Sabah and Sarawak (Population and Housing Census 2010). In place of an ethnic constituency, Malaysian Christianity has been closely associated, especially in academic research, with the metropolitan English speaking urban middle class of Chinese and Indian ethnic origin (Diana Wong and Ngu Ik Tien, 2014, pp. 262-263). The major Christian denominations in Malaysia include Anglicans, Baptists, Brethren, non-denominational churches, independent Charismatic churches, Lutherans, Methodists, Presbyterian and Roman Catholics. According to The Official Catholic Directory 2012, the Catholics make up the majority of the total Christian population (Herald Malaysia, 2012) due to their longer history of missionary work among the indigenes in the region when compared to the Protestants (Roxborough, 1990, pp. 54-55).

Hinduism makes up the fourth largest religion in Malaysia with 86 percent of the Hindu population being of Indian ethnic group (Population and Housing Census 2010). Many of the Malaysian Indians worship major deities such as Lord Ganesha, Lord Murugan, Lord Krishna, Lord Rama and Goddess Mariamman, whereas some others pray to guardian

deities, the likes of Muneeswarar, Muniyandy, Kalamman and Madurai Veeran and establish small shrines in places such as their residence compound, the border of estates, or the workplace (Manimaran Subramaniam, 2014, p. 20).

Total Population by ethnic group and religion (Population Census 2010)

Jadual 4.1: Jumlah penduduk mengikut kumpulan etnik, agama, jantina dan negeri, Malaysia, 2010

Table 4.1: Total population by ethnic group, religion, sex and state, Malaysia, 2010

Jumlah: MALAYSIA

Total

Jantina dan agama Sex and religion	Jumlah Total	Warganegara Malaysia Malaysian citizens							Bukan Warganegara Malaysia Non- Malaysian citizens
		Jumlah Total	Bumiputera			Cina Chinese	India Indians	Lain-lain Others	
			Jumlah Total Bumiputera	Melayu Malay	Bumiputera Lain Other Bumiputera				
JUMLAH	28,334,135	26,013,356	17,523,508	14,191,720	3,331,788	6,392,636	1,907,827	189,385	2,320,779
<i>TOTAL</i>									
Islam	17,375,794	15,762,012	15,538,928	14,191,720	1,347,208	42,048	78,702	102,334	1,613,782
Kristian/Christianity	2,617,159	2,392,823	1,549,193	-	1,549,193	706,479	114,281	22,870	224,336
Buddha/Buddhism	5,620,483	5,459,065	33,663	-	33,663	5,341,687	32,441	51,274	161,418
Hindu/Hinduism	1,777,694	1,666,365	2,941	-	2,941	14,878	1,644,072	4,474	111,329
Konfusianisme, Tao dan Puak/suku/folk/agama tradisi lain orang Cina									
<i>Confucianism, Taoism and Tribal/folk/other traditional Chinese religion</i>	356,718	351,073	131,407	-	131,407	218,261	716	689	5,645
Lain-lain agama									
<i>Other religion</i>	111,759	96,378	50,347	-	50,347	8,576	36,599	856	15,381
Tiada agama/No religion	202,763	183,808	132,560	-	132,560	49,320	824	1,104	18,955
Tidak diketahui									
<i>Unknown</i>	271,765	101,832	84,469	-	84,469	11,387	192	5,784	169,933

Places of worships and Religious Identifications

There have been many views expressed from time to time by political leaders, bureaucrats and non-lawyers that it is mandatory for religious organizations to register with the Registrar of Societies under the Societies Act, 1966. According to Tommy Thomas, the current Attorney General of Malaysia, such views are not in line with the meaning of Article 11(3) of the Federal Constitution. Article 11, especially clause 1 and 3 are “the practical constitutional manifestations of the doctrine of separation of religion and state”, which reaffirm the notion that Malaysia embraces the principles of secularism and is not by any means a theocratic state. In other words, there is no legal obligation for a religious group to register themselves. Yet in practice, many religious groups, especially of non-Muslim background, decide to register as non-profit charitable organizations or

companies to avoid being harassed by the religious authorities and to gain better access to funding and working opportunities with the government. Many anecdotal evidences suggest that quite a number of churches and nongovernmental organizations (NGOs), however, continue to find registration difficult, with the Registrar of Societies denying many applications for highly technical reasons. Some of the successfully registered may often face the risk of being heavily monitored by the government, which has led to self-censorship when running their community activities (Interview, Malaysian Consultative Council of Buddhism, Christianity, Hinduism, Sikhism and Taoism, June 2019).

As described in the previous section, racial and religious identities are often conflated at many levels of society. Islam has been featured prominently from time to time as the core of Malay identity. It is in fact presented as a condition: the protection of Malays, has been repeatedly expressed to be dependent on the preservation of Islam. According to a 2006 Centre for Public Policy Studies survey, when Malays were asked to choose their primary identity from the categories of Malay, Muslim, or Malaysian, 72% chose Muslim (*quoted from from Lim Beng Soon, Azirah Hashim and Richard Buttny, 2014, p. 10*). The notion that Islam and Malayness are inseparable, with the former assuming the definitive signifier for the latter, is not only codified in the Federal Constitution but is also narrated through national history syllabus across all educational levels (Ting, 2009). Religious differences continue to discursively create boundaries between groups while unifying people within those boundaries. National identity cards, for example, are designed to specify the religious affiliation of the card holder. The cards identify Muslims in a printed fashion; for the non-Muslims, religious affiliation is not printed, but encrypted in a smart chip within the identity card. Married couples of Muslim faith are also obligated to carry a special photo identification of themselves and their spouse as proof of marriage. All of these measures are used by the government to regulate the activities of their citizens, especially the Muslims, which is subjected to the Shari'ah court.

Main trends and challenges

Last year's 2018 General Elections (GE14) resulted in a widely unexpected outcome - the downfall of a coalition that had been in power for 61 years replaced by the newly elected government of Pakatan Harapan(PH). The immediate aftermath of the elections saw analysts and social commentators eager to celebrate and express their hopes through 'New Malaysia' - a concept that is rife with sentiments of change for a transformed race relations discourse in the country's new political landscape.

Instead, the first few months into the 'New Malaysia' unfolded a series of unprecedented events, indicating a further retreat into race and religion among the Malay Muslim populace. For example, a few weeks after the government's proposal to recognise the UEC (an examination system administered by private independent Chinese schools), a mass

demonstration of several thousands was rallied to defend the status of ‘Malay Muslim rights’ under the theme of ‘Himpunan Kebangkitan Ummah’ (Ummah Awakening Gathering) at the historic Padang Sultan Sulaiman in Kuala Lumpur. The mass rally clearly reflected a siege mentality and insecurity among Malay Muslims, who felt that their interests were facing multiple ‘threats’ from so-called minorities, ranging from the LGBT community (lesbian, gay, bisexual, and transgender) to Chinese-language education groups, Hindu pressure groups, Shia, and ‘liberal Muslims’.

A few months later, on the 8th of December 2019, another mass demonstration of 60,000 gathered momentum near Dataran Merdeka to protest against Pakatan Harapan (PH) government’s plans to ratify ICERD (the International Convention on the Elimination of All Forms of Racial Discrimination). The above ‘Malay Muslim Nationalism’ consists of two powerful political trajectories - the multifaceted drive of Islamisation and the narrative of *Ketuanan Melayu* (Malay Supremacy). A prominent observer observes that,

“What we are seeing today (post-election) is the amplification of Islamisation drive that is quite different with the one experienced in the 80s and 90s. Earlier, the Islamisation was a clear cut top-down approach. But as the anti-ICERD rally and a similar pattern shared by the anti-Ahok rally in Indonesia, have shown, there are now numerous forms of Islamisation at work : top-down, bottom-up, and sideways. This means that the newly elected Pakatan Harapan government will have a tougher time to dictate the Islamic narrative in Malaysia, let alone to reform it.” (Interview, Dr Mohammed Nawab Osman, April 2019)

As noted in the above, this phenomenon represents a challenge for the existing government to carry out the reforms it promised before the election. This is clearly seen when one observes how Mujahid Yusof Rawa, the current Minister of Religious Affairs, struggles to translate his agenda of *Rahmatan Lil Alamin* (Blessing for All Creations) into practice. Known by many as an outspoken figure who represents an inclusive and progressive strand of Islam, Mujahid seems to reverse back into a conservative mould after his first year in office (Interview, Maqasid Institute, May 2019).

Mujahid has recently expressed his support for Zakir Naik – arguably one of the most controversial Wahhabi ideologues in the world today – by calling his preaching works ‘inspiring’ (The Star, 13 March 2019), when only a few months earlier he was reported saying that Zakir Naik’s combative style of propagating Islam was “not suitable for Malaysia” (The Star, 24 September 2019). He denounced LGBT communities and civil rights organisations for “the misuse of the democratic space to defend things that are wrong in the religion of Islam” when they participated in the Women’s Day March (Malay Mail, 9 March 2019), by announcing the formation of special unit to monitor insults

against the Prophet and Islam, as well as to propose a bill in parliament towards enacting the Religious and Racial Hatred Act that will punish anyone found guilty of ‘insulting’ other religions (The Star, 24 July 2018).

This conservative turn indicates a worrying sign that the existing government may be bowing down to the rise of Malay Muslim nationalism on the ground., Further normalization of such intolerant and exclusionary religious views will risk destabilising sections of other Malaysian communities especially in the current societal context of increasing ethnic and religious polarization (Interview, Islamic Renaissance Front, March 2019).

History and current regulatory framework

Historical and Current overview of Religion-State relations

Throughout the course of Malay history, the amalgamation of religions and cultural norms has always been fundamental to the arrangement of Malay societal and political order. Pre-modern polities were administrated through laws and systems that were articulated via religious language and symbolism. When Islam became more widespread in the region in the early 14th century, Islamic law also began to be incorporated in the existing state and customary law, as seen from the codified documents of *Undang-undang Kedah* (Kedah Laws), *Undang-undang Pahang* (Pahang Laws), and *Undang-Undang Melaka* (Malacca Laws) (Fang LY, 2007, p. 87). This set of laws fused Islamic principles and jurisprudence into *‘adat* (customs), with the former being the regulative principle for the latter.

The advent of colonial period saw a gradual introduction of English style courts which repositioned Islamic law as a secondary law that was applicable only to Muslims in limited matters relating to family and inheritance and in some aspects of Islamic offences. According to Hooker, the only substantive Muslim principles dealt with were “offences against religion, i.e. attendance at mosque for prayers, fasting, teaching religion without authority, and unlawful proximity”(Hooker, 1983, p. 161, p.172). Here Islamic laws were relegated into the area of personal law, while English laws were to be applied to the “non-privatized” areas of life. By imposing legal restrictions upon jurisdictions of heads of State to matters concerning Islam and customary laws, a secular worldview hitherto alien to the Malay ideological view gained prominence in colonial governance. A more bureaucratised administration of Islamic affairs was also introduced during this period. For administrative purposes, the Council of Islamic Religion and Malay Customs was formed and this new arrangement personified a “newly found alliance between the Sultans, the aristocratic elite and a nascent religious bureaucracy linked to colonial officialdom” (Ahmad Fauzi, 2009, p. 16.; Maznah Mohamed, 2016, pp. 61-65)- an arrangement which has continued to survive until today.

Current regulatory framework

The Constitution, as a political charter of the new independent nation-state, elevates Islam as the “religion of the federation”. Traditional Malay rulers retain their positions as heads of Islam in their respective states and are made responsible to oversee the Shari’ah courts and appoint judges based on the recommendation of the respective state Islamic religious departments and councils which manage the operation of the courts (Malaysian Constitution, 2010, p. 20). The legal system in Malaya follows mostly the plural legal system that the British had established during the colonial era. It adopts the court system based on the UK legal system familiar to those from common law jurisdictions, as well as incorporates distinct characteristics in the form of Shari’ah courts and two separate High Courts for the Peninsula and for the Borneo states. With respect to Islamic matters, each of the states is given the constitutional right to identify an interpretation of Islamic laws that is applicable to Muslims within its territory. Each state is also given the right to establish courts to adjudicate disputes involving Muslims within a set range of areas as listed in schedule 9, list II (State List) of the Constitution:

“Islamic law and personal and family law of persons professing the religion of Islam, including the Islamic law relating to succession, testate and intestate, betrothal, marriage, divorce, dower, maintenance, adoption, legitimacy, guardianship, gifts, partitions and non-charitable trusts; Wakafs and the definition and regulation of charitable and religious endowments, institutions, trusts, charities, and charitable institutions operating wholly within the State; Malay customs; Zakat, Fitrah and Baitulmal or similar Islamic religious revenue, mosques or any Islamic public places of worship, creation and punishment of offences by persons professing the religion of Islam against precepts of that religion, except in regard to matters included in the Federal List; the constitution, organization and procedure of Syariah Courts, which shall have jurisdiction only over persons professing the religion of Islam and in respect only of any of the matters included in this paragraph, but shall not have jurisdiction in respect of offences except in so far as conferred by federal law; the control of propagating doctrines and beliefs among persons professing the religion of Islam; the determination of matters of Islamic law and doctrine and Malay custom.” (Malaysian Constitution, 2010, p. 198).

This provision accounts for each state to have the freedom to enact its own interpretation of Islamic law and is free to establish its own state Islamic courts to adjudicate disputes arising under the state’s Islamic laws. In recent decades, a series of constitutional amendments have given Shari’ah courts an increasing amount of autonomy to adjudicate disputes arising under Islamic law. States have begun to aggressively interpret the scope of their power to regulate the affairs of Muslim citizens located within their boundaries,

culminating in an increasing amount of Islamic legislation being passed by individual states (Farid Shuaib, 2014, p. 92).

Of late, a new trend has emerged involving court cases that invoke the constitutional rights to religious freedom. They have raised pertinent questions as to the boundaries of religious freedom for both Muslims and non-Muslims alike and the legal extent of Shari'ah court. The rising trend of Malaysian-style shariaisation, understood here as the institutionalisation of syariah-based values, norms and categories in the discourse and practice of Malaysia's legal corpus, whilst being attached to the larger secular judicial framework as sanctioned by the Federal Constitution, has raised worrying concerns over the practice of secularism in Malaysia (Zawawi and Ahmad Fauzi, 2017, p. 184). Beneath all these tensions are the creeping narrative that Malaysia has always been an Islamic state since its inception and the alleged 'ambiguity' of the Federal Constitution must be interpreted in ways that prioritise Islamic principles above all else (Interview, Federal Territories Mufti, April 2019). For instance, the 2001 High Court ruling in *Lina Joy v Majlis Agama Islam Wilayah & Anor* adopted the controversial view that:

"Article 3(4) does not have the effect of reinforcing the status of the Federation as a secular state . . . Malaysia is not purely a secular state like India or Singapore but is a hybrid between the secular state and the theocratic state. The constitution of this hybrid model accord [sic] official or preferential status to Islam but does not create a theocratic state like Saudi Arabia or Iran . . . Article 3(1) has a far wider and meaningful purpose than a mere fixation of the official religion (Faiza Tamby Chik 2004, p. 128).

Faiza Tamby Chik's verdict has opened the floodgates for a flurry of rulings that broaden the interpretation of Article 3(1) such that serious doubts are thrown on Malaysia's 'secular state' status. Many of the proponents of this view argue that the Federal Constitution does not explicitly state Malaysia as an Islamic state, yet the fact that it positively authorises the setting up and management of Islamic institutions and the enactment of Islamic by-laws by state assemblies is proof that Malaysia cannot be categorised as a secular state either (Interview, Federal Territories Mufti, April 2019; Interview, JAKIM Officer-cum-Rehabilitation Spiritual Adviser, April 2019).

The question as to whether Malaysia was, is, or should be an Islamic or Secular state is a legal question as much as it is political; and the position held by mainstream opinions and government institutions on this question will bear a great legal and political implication unto the Malaysian society (Whitling, 2010, p. 7). This is partly because the "legality of state action is determined by reference to the Federal Constitution, so the secular — or religious — identity of the state directly shapes judicial interpretation of the constitution

and answers to the question of what kinds of laws may lawfully be enacted” (Whitling, 2010, p. 8). As a result, much of state-sponsored Islamization in Malaysia will be conducted in an increasingly intolerant, authoritarian and chauvinist manner, to the extent that it directly challenges the existing constitutional rights and freedoms (i.e. freedom of religion, expression and association) that are granted to Malaysian citizens. These include the act of banning books⁴; the prosecution of individuals or groups for their involvement in practicing “deviant teachings”; raiding private premises to enforce sharia, for such ‘violations’ as indecent dress, alcohol consumption, or *khalwat* (close proximity to a nonfamily member of the opposite sex) (Malaysia 2017 International Religious Freedom Report, 2017).

With respect to Freedom of Religion, Article 11 of the Constitution declares that “Every person has the right to profess and practice his religion” (Malaysian Constitution, 2010, pp. 25-26). Yet in practice the freedom of religion is subject to several important restraints affecting both Muslims and non-Muslims alike. For example, the law of the state may prohibit not only non-Muslims to propagate their beliefs to the Muslims, but also to restrict any views or teachings by Muslims that are deemed heretical and deviation from Sunni Islam. Restrictions to religious expression in public and non-public spaces have also amplified over the years, which includes unnecessary regulations over publications, dress codes, social media contents, blasphemy, and the intention to establish inter-faiths commission (Mohd Sani and Dian Diana Abdul Hamed Shah, 2010, p. 9).

Violent religious radicalisation cases and responses

Terrorist attacks, trends and history

The terrorism threat in Southeast Asia, especially in Indonesia, Malaysia and Philippines, has continue to rise to new stage in the last few years. While IS is currently going through a phase of re-adaptation and decentralisation after losing its territorial control in Iraq and Syria, its ideology is still intact and continues to be propagated in cyber space. The groups, networks, personalities, and IS affiliates that operate outside the ‘physical’ caliphates are still active, with some of them being based in Southeast Asia and continue to pose danger and national insecurity to the region. The recent incidents of the Mako Brimob siege and Surabaya bombings in Indonesia, Marawi siege in Philippines, and the Puchong attacks in Malaysia; all of these serve to confirm the concerns raised by Singapore Prime Minister Lee Hsien Loong in May 2015 when he announced that Southeast Asia has emerged as a “key recruitment center” for ISIS. “The threat,” he emphasised, “is no longer over there; it is over here” (Kumar Ramakrishna, 2017, p. 4).

Malaysia experienced its first terrorist attack perpetrated by an Islamist extremist outfit on June 29, 2016. It took only two men using hand grenade to blast an explosion on a Movida nightclub in Puchong, which caused panic nationwide. The incident injured 28 people: 15 people were later arrested under SOSMA and the Inspector-General of Police, Tan Sri Khalid Abu Bakar confirmed that the attack was conducted under the direct order of Muhammad Wanndy Mohamed Jedi⁵, a Malaysian member of Daesh in Syria. In comparison to the neighbouring countries, the number of successful terrorist attacks led by IS-affiliates in Malaysia is significantly low. However, the number of terrorist related activities reported by the police is still worrying. By August 2015, 121 Malaysians, including civil servants, educators, and 70 military personnels, were arrested in connection with terrorist related activities (Kumar Ramakrishna, 2017, p. 5), and as of 25 March 2016, there have been 175 arrests made in Malaysia with regards to the threat. 17 were killed, of which six died as suicide bombers (Thomas, 2016, p. 60). In 2017, 300 individuals were arrested for their links to ISIS (The Diplomat, 3 September 2017). As for Malaysians who went abroad as a foreign fighter, it was reported in 2018 that there were at least 53 Malaysians who were still in Syria fighting for Daesh (24 males, 12 females and 17 children) (Berita Harian, 27 Februari 2018).

Several surveys conducted over the last few years could provide a window in determining the growing appeal to Islamist extremism in Malaysia. While the numbers may affirm the fact that Malaysian Muslims are generally disinterested in radical notions of Islam, some figures pointing in the opposite direction appear staggeringly high when compared to similar figures for Indonesia. This is quite a revelation since the general impression (in view of the greater number of terrorist attacks in Indonesia) is that Indonesian Islam is much more radical than Malaysian Islam. Surveys conducted by U.S.-based Pew Research Centre reveal that Malaysian Muslims' worries about Islamic extremism is at 8 percent, while for Indonesia, it is at 53 percent. However, the proportion of Malaysian Muslims approving suicide bombing as justifiable (18 percent) is more than double the figure of their Indonesian counterpart, which is at 7 per cent (Pew Research Center, 2010; Ahmad Fauzi, 2016, p. 2).

The rising influence of intolerant views of Islam among Malaysian Muslim is also reflected in various other surveys. A 2010 Merdeka Center study of Malaysian youth aged 15 to 25 indicated that more than 70% wanted the Quran to replace the Federal Constitution

⁵ Mohamad Wanndy Mohamad Jedi, or 'Akhi Wendy', the most prominent Malaysian in Katibah Nusantara. He played the role as the mediator between the newly recruited members in Malaysia and the central leadership in Iraq. Wandy, while residing Raqqa since January 2015, was the one that set up a Telegram group called "Gagak Hitam" (Black Crow) to give orders and facilitate the terrorist operations at home. He successfully recruited more than 30 Malaysian youths to support Daesh. Some of them gave bai'ah (pledge of alliance) to him and Daesh. (Ahmad el Muhammadiyah, 2016, pp. 102; Interview, Dr Muhammed Nawab Osman, April 2019).

(Merdeka Center, 2011). Another follow up research by Merdeka Center in 2014 revealed that 44 percent of the Malay Muslim community believed that Hudud could be fairly implemented in Malaysia (Merdeka Center, 2014). A 2017 survey of Johor residents by the ISEAS – Yusof Ishak Institute indicated that 75 percent of Malay respondents were in support of hudud law for Muslims, and 90 percent of Malay respondents felt that increased Islamic religiosity was a positive development for Malaysia (Saat, 2017). It is important to recognize that whilst the findings are not conclusive enough to conclude towards generalizing the majority of Muslims in Malaysia as a supporter of radical ideas, they do suggest that mainstream Islamic discourses in Malaysia are heavily coloured by intolerant and exclusivist signifiers, thus laying the fertile ground for the mainstreaming of militant and violent interpretations of Islam within the Malaysian Muslim community.

While the growing influence of Islamic conservatism as described earlier is relatively a new trend, the involvement of Malaysians in militant activities is not a new phenomenon in Malaysia. Malaysia began to encounter the rise of transnational Islamist terrorist groups in the late 1990s. The Soviet-Afghan War (1979-1989) and Afghan Civil War (1989-2001) had triggered the participation of Malaysian students in militancy outside Malaysia. From the 1980s until the 1990s, the Malaysian police had also detected movements of some Malaysian students into Pakistan and Afghanistan to join jihadi movements against the Soviet occupation (Ahmad El Muhammady, 2008, p. 97). When the war was over, the network of Afghan war veterans who returned to Malaysia continued to operate under two groups: *Jemaah Islamiyah* (JI) and *Kumpulan Mujahideen Malaysia* (KMM). After many of the KMM leaders were detained without trial under the ISA for allegedly trying to overthrow the government through violent means in the name of *Jihad* in the early 2000s, the group became completely paralyzed. The continuation of monitoring and rehabilitation programmes by police in collaboration with the Department of Islamic Understanding and Development of Malaysia (JAKIM) has restricted the movement of the key leaders and gradually lessened their influence in Malaysia.

The rise of IS to global prominence in 2014 has renewed motivation of some of the inactive groups or individuals who were involved in the militant activities in the past. Many of Malaysians who joined ISIS were initially grouped under a special militia called *Katibah Nusantara*, which was established in September 2014 and based in al-Shadadi, al-Hasakah province of northeast Syria. Through an extensive research and interviews conducted by Nawab Osman with ISIS sympathisers and supporters in Malaysia, Malaysian ISIS could be categorized in two groups. He suggests that,

“First of all, it seems to me that we have to recognize that ISIS groups in Malaysia and the networks of Malaysian foreign fighters in Syria as a separate category with different orientations and motivations. In Malaysia there are generally two groups in place. First, the significant category of ISIS in Malaysia represents the leadership

of the older Malaysian jihadi generation. They were responsible in setting up the networks of Jihadis in Malaysia with the aim to launch their operation within the country itself. The second category, also the largest recruitment pool, represents the wider public audience whose attention was captured by means of the social media and who do not have any ties to former jihadi networks in the region.” (Interview, Dr Mohammed Nawab Osman, April 2019)

The recent trend also indicates that Malaysian ISIS operatives are no longer interested to join the fight in Syria, but to bring the fight to Malaysia by establishing their own proactive and independent initiatives (Interview, Dr Mohammed Nawab Osman, April 2019; Interview, JAKIM Officer-cum-Rehabilitation Spiritual Adviser, April 2019). This leads to the formation of various isolated terror-cells like *Kumpulan Tandzim Al-Qaeda Malaysia*, *Briged Al Jamaah*, *Kumpulan Fisabilillah*, *Kumpulan Daulah Islamiah Malizia*, *Al Qubro Generation* and *Kumpulan Gagak Hitam* (Mohamed Nawab and Aida, 2018, p. 7).

The Strategic Plan Against Violent Radicalisation

The nature of Malaysian strategic plan against violent radicalisation can be understood through three fronts; *legislation, rehabilitation and education*. The initiatives are run through a collaborative effort between various ministries including the Ministry of Education, Ministry of Internal Affairs, Minister of Communications and Multimedia, Ministry of Foreign Affairs, and the Ministry of Religious Affairs. Some of the government institutions like Department of Islamic Development of Malaysia (JAKIM) and its forerunner Pusat Islam (Islamic Centre) — situated under the Prime Minister’s Department, the Islamic Dakwah Foundation of Malaysia (YADIM), Southeast Asia Regional Centre for Counter Terrorism (SEARCCT); all of these institutions prove to be vital in executing some of the PCVE and CT measures.

Anti- Terrorism Legislations

Before the introduction of the Security Offences (Special Measures) Act 2012(SOSMA) and the Prevention of Terrorism Act 2015 (POTA), the Internal Security Act 1960 (ISA) was the main law used by the administration to curb terrorist activities in the country. ISA was brought into existence in the 1960 in which it sanctioned initial detention without trials with unlimited renewals based solely on the will of the Home Minister. Its predecessor, the Emergency Regulations Ordinance 1948, was introduced in Malaya as a preventive measure against supporters of the insurgency led by the Malayan Communist Party in between 1948 and 1989 (Laura Khor, 2013, pp. 66-68). However, ISA had repeatedly been criticized by the Malaysian Bar Council, the Malaysian Human Rights Commission, and

international human rights groups since it ‘violates fundamental international human rights standards, including prohibitions on arbitrary detention and guarantees of the right to due process and the right to a prompt and impartial trial’ (Dhanapal and Sabaruddin, 2018, p. 50).

After ISA was repealed in 2011, the Malaysian government enacted the Security Offences (Special Measures) Act (SOSMA) 2012 (Act 747), followed by an enactment of the Prevention of Terrorism Act (POTA) 2015 and Special Measures against Terrorism in Foreign Countries Act (SMATA) 2015. These laws have been introduced to empower the Malaysian authorities to deal with terrorist threats and to provide the necessary procedures for arrest for serious offences under Chapter VI and VIA of the Penal Code, including offences against state and terrorism-related offences. Under SOSMA, initial police detention is cut to a maximum of 28 days, after which the Attorney-General must decide whether to prosecute and on what charges. Like its predecessor, SOSMA also received criticisms from human rights groups and civil society organisations when in 2016 the Act was used to arrest 15 prominent civil right activists after the Bersih 5 Rally⁶. They claimed that the use of SOSMA to detain organisers of peaceful rally was an abuse of power by the Barisan National government. POTA, on the other hand, privileges the power to the police to detain any person who falls under suspicion of terrorist activities, without warrant, up to a maximum period of 60 days. Five-to-eight members of Prevention of Terrorism board appointed by Yang di-Pertuan Agong can extend the detention extended for up to two years at a time. POTA 2015 relates much more directly to terrorism and extends the power of the SOSMA 2012, as the latter’s concerns is a broader scope of offences, meant to replace the now repealed Internal Security Act (ISA).

Rehabilitation Program

Malaysian deradicalisation programme represents a concerted effort between the Ministry of Home affairs, Royal Malaysian Police and religious institutions such as JAKIM that takes care of the spiritual aspects of the rehabilitation (Interview, JAKIM Officer-cum-Rehabilitation Spiritual Adviser, April 2019). The rehabilitation program separates the more “hard-line” group from the wavering terrorist to minimize radicalisation within the program and to provide more flexibilities in extracting any necessary intelligence from the detainees. The ‘soft’ approach becomes the main drive for the Rehabilitation program. For instance, a Special scheme was developed through the Royal Malaysian Police to give

⁶ Bersih Rally 5 peaceful democratic protest that took place on 19 November 2016 to call for a new and cleaner electoral system in Malaysia. SOSMA was used to arrest 15 key individuals in the organizing committee of the rally. When asked whether SOSMA has ever been abused for political gains, one of the drafter for SOSMA Zamihan Mat Zin denied the claim saying that the arrest was justified. (Interview, JAKIM Officer-cum-Rehabilitation Spiritual Adviser, April 2019)

financial assistance to the families of the detainees in order to ease their burden since many of them are breadwinners for their family (Zahid Hamidi, 2016, p. 13). Engagement sessions between case officers and ex-detainees are held continuously even after the detainees have been released. For the detainees to be recognized as fully reformed they will be assessed through few components; (a) their behaviour during class, (b) written exams, (c) interviews with their counsellor, religious officers and the necessary officers in the rehabilitation management (Interview, JAKIM Officer-cum-Rehabilitation Spiritual Adviser, April 2019). Their movements will still be monitored after their release to ensure that they do not fall back into their previous terrorist-related activities.

When describing the religious dimension of the program, Zahid Hamidi (Minister of Internal Affairs under BN) declared that “these deradicalisation programmes are based on the ‘Ahli Sunnah Wal Jamaah’ approach, an Islamic jurisdiction to counter the extremist interpretations of Islam” (Zahid Hamidi, 2016, p. 13). Zamihan Mat Zin, a JAKIM official seconded to the Prison’s Department to take charge of rehabilitation of Islamist extremists under detention, elaborates this further by asserting that:

“JAKIM’s approach is based on Ahli Sunnah Wal Jamaah’ framework. This means that we are in opposition to Salafism/Wahabism ideologies that are responsible for fuelling the terrorist narrative with violent proposals, as well as Liberal Islam that represents Western influences of Islamic interpretation. Thus, it is important that our CVE measures include restricting these narratives in every state.” (Interview, JAKIM Officer-cum-Rehabilitation Spiritual Adviser, April 2019)

It is interesting to note that Zamihan saw the approach adopted by JAKIM in oppositional terms, by referring to its contrast with Salafism and Liberal Islam. Zamihan himself was already infamous in Islamist circles for his vituperative attacks against fellow Islamists identified as being either Wahhabi-Salafi or ‘liberal’ in orientation. Among those who were heavily criticised by Zamihan as the bearer of radical ideologies was Abu Hafiz, a young Salafi preacher and an exco member of the Bersatu Youth. Abu Hafiz refuted Zamihan’s by claiming that he had inflated the variety of views among the Salafi themselves into one homogenous group. In practice, anyone “who refuse to follow the mainstream understanding of Islam will be labelled as extremist salafi or salafi jihadi” (Interview, Bersatu Youth Exco, April 2019; Interview, Maqasid Institute, May 2019). These contradictory narratives further highlight the polemical elements within the rehabilitation program and how it has also been politicised and shaped by the clash between two ideological Islamic camps; the neo-conservative group and the neo-salafis (Interview, Dr Mohammed Nawab, April 2019).

When asked the sort of Islamic narratives that JAKIM bring to the rehabilitation program, especially with regards to controversial issues such as Hudud, Islamic States, and freedom of religions, Zamihad replied:

“Our narrative of Islam is about peace, kindness and loves. Our session involves long hours of dialoguing with the detainees to clear their distorted understanding of Islam. When they told us that Malaysia is not an Islamic state (hence the need for Jihad), we told them to refer to Article (3) of the Constitution. The provision clearly shows that Malaysia is an Islamic state. When asked about Hudud, we shall tell them that laws fall under the category of Takzir, and this is not necessarily an abandonment of Hudud per se. The death penalty in Malaysia is akin to Hudud punishment, although it would be much truer to the spirit of Hudud if it is changed to beheading instead. Regardless, even if Malaysian government did not fully embrace Hudud laws this does not mean that one can simply kill the political leaders. This won't solve anything. The emphasis is on Da'wah.”(Interview, JAKIM Officer-cum-Rehabilitation Spiritual Adviser, April 2019)

Hence it is clear that the Hudud components are not abandoned in the Islamic narrative used in the Rehabilitation program. The same view was shared by the Federal Territory Mufti, Dr Zulkifli Bakri, when he made reference to Brunei as a model for Malaysia to emulate with regards to applying Hudud in society (Interview, Federal Territory Mufti, April 2019). The above clearly demonstrates that the Islamic narratives proposed by JAKIM and the Rehabilitation program are still divisive, intolerant, exclusionary and heavily centred on restoring the creed rather than focussing on the environment that creates the ground for radicalisation per se, i.e the continuous politicization of Islam by political figures and religious institutions (Interview, Convener of Peacebuilding and Civilizational Development Flagship Project, April 2019). Nevertheless, despite its glaring weaknesses, the Malaysian government has declared that its IS-era rehabilitation programme has had an impressive success rate of 97.5% (Muhammad Haziq, 2017, pp. 6-10).

Education

As part of a comprehensive counter-terrorism (CT) strategy against violent extremism and terrorism in Malaysia, the government also set up various programs and institutions to develop effective communications strategies and counter-narratives against violent extremist groups such as Al-Qaeda, Daesh and their affiliates. Various institutions including Malaysian Special Branch, the Department of Islamic Development of Malaysia (JAKIM), Southeast Asia Regional Centre for Counter-Terrorism (SEARCCT)) and Counter Messaging Centre (under the jurisdiction of Royal Malaysia Police (RMP)) are made

responsible to consolidate the works among themselves to produce effective public campaign aimed at “winning hearts and minds of the segments of society that are normally targeted by extremist and radical groups for recruitment, support and funding” (quoted in Laura Khor, 2013, p. 65).

Some of the initiatives include the setting up of Jihad Concept Explanation Action Committee to address misconceptions about jihad at different social groups and institutions by JAKIM in 2015. The initiative designs a series of engagements with communities at various levels including schools, universities, mosques, suraus (community prayer areas), and the Internet (Muhammad Haziq, 2017, p. 7). The spheres of social media have proven to be a very powerful tool for conveying messages and convincing users to take a certain course which makes it very strategic for extremist recruitment. In Malaysia, according to a study by the Institute for Youth Research (IYRES), 85% of 39 militants cite social media (Facebook, YouTube, Twitter, Telegram and WhatsApp) as their main source of information (Ringkasan Eksekutif Profail Belia Dalam Kegiatan Ekstrimisme, 2017, p. 26). In response to this, the Malaysian government has initiated the Regional Digital Counter Messaging Communication Centre aimed at synchronizing efforts to counter radical social media messages and present a more inclusive narrative of Islam in the region.

Concluding Remarks

The three-prong strategy (legislation, rehabilitation and education) adopted by the Malaysian government to combat violent radicalisation has proven to be quite effective and vital in curbing terrorism-related activities. In summary, the first measure includes putting counter terrorism policies and legislative mechanism in place to curb terrorism activities in the region, followed by strengthening “operations of law enforcement, intelligence and security forces” to carry the necessary security measures more productively (Zahid Hamidi, 2016, p. 3). The second measure involved devising a multifaceted rehabilitation program to help de-radicalising the former militants and IS sympathisers who have been detained under the anti-terrorism laws. The aim of the program is to allow the detainees to re-join the society with a more inclusive understanding of religions and religious extremism, as well as to assist the authorities with necessary intelligence and information. The third measure is educational in nature, targeted towards the wider public. The aim is to combat the spread of extremist narratives that circulate and prevail in various platforms. These three measures form a comprehensive approach that has shaped the Malaysian success story in countering the threat posed by ISIS and its counterparts.

While Malaysians have arguably scored quite well in suppressing radicalisation, it seems to fall short in two other dimensions that become the focus of the project, namely in

maintaining its secular practices and pushing for more effective governance of religious diversity. Since its inception, it is clear that Malaysia was established to be a secular state as guaranteed by the Federal Constitution. However, in recent decades, the nature of constitutional components – which includes the provision of Islam as the religion of the Federation, and the scope of judicial power given to States– have become urgent and divisive matters of political and legal controversy, particularly through several well-publicized court cases involving jurisdictional disputes between the Shari’ah and the common law. Over time, the secular basis of the Federation has become weakened and the force of Islamisation that began in 1970s has instead become more prominent. Both the ruling Pakatan Harapan political coalition and the opposition UMNO- PAS alliance instrumentalise the language of religious politics, with some having staked their political legitimacy and electoral fortunes on the promise to deliver ‘Islamic’ governance (Interview, Maqasid Institute, May 2019). This further retreat into religion and race which normalizes intolerant and divisive views in society, will not only disrupt the existing initiatives set to combat violent extremism and weaken the inclusive and peaceful messages used for the public campaign, but will also risk escalating the penetration of radical ideas into the mainstream understanding of religion in Malaysia. Various surveys cited in the previous sections have indicated that Malaysia is already heading into that direction. For the present and future of Malaysia, this phenomenon will pose as the greatest challenge for the country to maintain its sense of balanced governance over religious diversity and to curb the rise of violent extremism in civil society.

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