

‘DAP’s Opposition of Malaysia as an Islamic State’

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Abstract

The brave and controversial declaration of Malaysia as an Islamic state by YABhg Tun Dr. Mahathir Mohamad on the 29 September 2001, was vehemently opposed by the DAP. This paper analyses and explores the justification of the said declaration as well as the pattern and rationale for DAP’s oppositionism. The DAP had specifically highlighted and protested via its “929” campaign that YABhg Tun Dr. Mahathir Mohamad’s declaration of Malaysia as an Islamic state was unconstitutional, undemocratic and arbitrary. The DAP party stalwarts maintained that Malaysia was a secular state since Independence and ought to continue remaining so in the best interests of a pluralistic Malaysia. The primary focus of this paper therefore is to identify and discuss the flaws in the DAP’s said claim, and instead highlight the fact that Malaysia is rightfully an Islamic state from Independence and beyond. YABhg Tun Dr. Mahathir’s declaration of Malaysia as an Islamic state is the climax of the Islamisation policy conducted throughout to put Malaysia back on the world map as a reputable Islamic state just as how it had been during the days of the pre-colonisation era.

Malaysia was declared as an Islamic state by the former Prime Minister of Malaysia, Tun Dr. Mahathir Mohamad on the 29th September, 2001 at the Gerakan national 39th delegates’ conference with the consensus of all other BN component parties present. This brave and controversial declaration of Malaysia as an Islamic state by Tun Dr. Mahathir Mohamad had formally transformed Malaysia from its perceived status as a secular state since Independence in 1957.

It cannot be denied that the previous Prime Ministers' of Malaysia namely Allahyarham Tunku Abdul Rahman Putra Al-Haj, Allahyarham Tun Abdul Razak Dato' Hussein and Allahyarham Tun Hussein Dato' Onn had knowingly subscribed to the fact that Malaysia was a secular country. Allahyarham Tunku Abdul Rahman Putra Al-Haj, had on 8 February 1983, when celebrating his 80th birthday, said Malaysia should not be turned into an Islamic state because the country had a multi-racial population with various beliefs. Allahyarham Tunku Abdul Rahman Putra Al-Haj also said that the nation was set up as a secular state with Islam as the official religion and that this was enshrined in the Constitution. Allahyarham Tun Hussein Onn, on his 61st birthday, had also told reporters that he supported Allahyarham Tunku Abdul Rahman Putra Al-Haj's view that Malaysia should not be turned into an Islamic state, and added that any move of this kind was neither wise nor practical. Allahyarham Tun Hussein Onn had further said that the nation can still be functional as a secular state with Islam as its official religion.

Thus, expectedly, Tun Dr. Mahathir Mohamad's declaration was met with intense opposition from several quarters, who questioned the validity and reliability of the said declaration. However, this paper serves to explore and analyse only details pertaining to the DAP's opposition on the declaration of Malaysia as an Islamic state by Tun Dr. Mahathir Mohamad. To my mind, comparatively, the DAP had been the most consistent and persistent opponent of the Islamic state of Malaysia and had vigorously struggled to defend the secular state of Malaysia via their "No to 929" awareness campaign. One of the hopes of the "No to 929" campaign is that the call for Malaysians to stand up to defend and preserve the 1957 Merdeka Constitution and "social contract" could reach all political leaders especially those in the BN, to impress on them that the vital issues at stake concerning fundamental rights of Malaysians and future generations as well as the best welfare of plural society like Malaysia should not be trifled with for short-term political gains, whether

personal or party. The DAP claimed that the advocacy and introduction of “sovereignty of law based on Islamic Syariah law and jurisprudence” would mean a fundamental change to the 1957 Merdeka Constitution and “social contract” and would require a fundamental constitutional alteration and tectonic shift in the nation building process as it would derogate from the “social contract” that the Merdeka Constitution is the supreme law of the land, automatically rendering non-Muslims as second-class citizens in the country. The DAP claimed that the 1957 Constitution has provided a strong and sound basis for the creation of a modern and progressive nation state for all Malaysians, but the ruling party BN under the leadership of Tun Dr. Mahathir Mohamad has subsequently rewritten it many times to suit its political agenda, so much so that many rights and provisions vital for maintaining justice and freedom for the Malaysian people have been stripped away. In this regard, the DAP had openly chided the BN component party leaders, in particular Tun Ling Leong Sik (MCA) and Datuk Seri Dr. Lim Keng Yaik (Gerakan) for supporting the said declaration. The two, according to Lim Kit Siang, were suffering from the “Mudah Lupa” syndrome, as they had forgotten what the founding fathers of the nation and founding principles of their political parties who had never compromised with the fundamental nation-building principle that Islam is the official religion but Malaysia is not an Islamic state.

Before I proceed on with my discussion as regards the above mentioned, I would like to offer a brief profile-summary on the background of the DAP as a dominant non-Malay political opposition party in Malaysia from the post-independence era till to-date. With such an understanding, we can then comprehend the DAP’s political philosophy and motive in opposing the declaration of Malaysia as an Islamic state by Tun Dr. Mahathir Mohamad. To start with, the DAP is the largest socialist and secularist opposition party in Malaysia. Its main constituents are non-Malay voters in the urban areas with its stronghold in areas such as Penang, Perak and Sarawak. Until 2006, the DAP was the largest opposition party in

the Dewan Rakyat. Initially, the DAP was a Malaysian branch of the Singapore's PAP. However, when Singapore separated from Malaysia in the year 1965, a majority of its Malaysian PAP members decided to remain with the original party, whilst some other members (including the then future President of Singapore, Devan Nair) stayed back in Malaysia to form the DAP in October, 1965. The DAP was officially registered as a socialist democratic party on the 18 March, 1966. Subsequently, the official DAP party organ, *The Rocket*, was published for the first time in August, 1966. During the first DAP National Congress in Setapak, Kuala Lumpur on the 29 July, 1967, the DAP declared its party as irrevocably committed to the ideal of a free, democratic and socialist Malaysia, based on the principles of racial and religious equality, social and economic justice, and founded on the institution of parliamentary democracy. Meanwhile, in October 1967, the DAP joined 55 other socialist parties which combined under the Socialist International (SI) at the Socialist International Conference in Zurich, Switzerland.

The DAP contested for the first time in Malaysia in the 1969 general elections, and had campaigned aggressively against the Bumiputera special privileges as guaranteed in Article 153 of the Federal Constitution. Also, the DAP had continued on with Lee Kuan Yew's *Malaysian Malaysia* campaign, and consequently won 13 Parliamentary seats as well as 31 State Legislative Assembly seats in the said election. However, a rally which was co-joined by DAP and Gerakan at this time had brought about chaos and violence in what is better known today as the *13 May Black Tragedy*, which followed with a suspension of the Parliament for 2 years. Ever since the 1969 elections, the DAP had not managed to repeat its success. Nevertheless, the DAP had continued on as the main opposition party and via its campaigns, opposed the Bumiputera special rights and struggled for the establishment of a socialist Malaysia. In the year 1987, several of its leaders including the Parliament Opposition Leader, Lim Kit Siang, were arrested by the government under the "Lalang Operation" on grounds that they were a threat to national security. It is widely believed

that their arrests were due to their actions in protesting against the New Economic Policy which expanded the Bumiputera special rights.

Following the dismissal of the then Deputy Prime Minister Datuk Seri Anwar Ibrahim on September, 1998, the DAP had jointly formed the Alternative Front along with PAS and Keadilan. However, this pact did not work well for the DAP and two of its stalwarts, Lim Kit Siang and Karpal Singh suffered heavy losses in the 1999 general election. The DAP only managed to win 1 out of 193 Parliament seats. Subsequently, the DAP left the pact in the year 2001 owing to a lack of understanding with PAS on the Islamic state issue. Lim Kit Siang had reiterated that, based on the records, the DAP had made it very clear whether before or during DAP's participation in the BA or after their pull-out from BA, that their cooperation with PAS is purely on common areas of promoting or restoring justice, freedom, democracy and good governance and does not extend to the issue of Islamic state, where the DAP has maintained a consistent and uncompromising stand since their founding days - in opposing an Islamic State, whether ala-PAS or ala-UMNO.

In the 2004 general elections, the DAP managed to win back all 12 Parliament seats and witnessed Lim Kit Siang's come-back and who was subsequently reappointed as the Parliament Opposition Leader. Lim Kit Siang was the DAP Chairman from the year 1999 till 2004. Previously, he was the DAP Secretary-General since 1969. In the year 2004, his position as the DAP Chairman was succeeded by Karpal Singh. Lim Kit Siang's son, Lim Guan Eng took over the Secretary-General's post, and Lim Kit Siang was appointed as the DAP Chairman for Policy Planning as well as maintaining the post of the Parliament Opposition Leader. Lim Kit Siang, Karpal Singh and several other DAP leaders had vehemently opposed the declaration of Malaysia as an Islamic state by Tun Dr. Mahathir Mohamad. The DAP claims to be a multi-racial political party but it is heavily supported and dominated by the Chinese, who were very much fearful that an Islamic state of Malaysia would drown their rights

and interests as legal citizens of Malaysia and consequently render them as second class citizens in Malaysia.

For the record, the negative reaction of the DAP towards an Islamic state of Malaysia first became oblivious in the DAP yearly convention in the year 1989, which had passed 12 resolutions that was presented. Amongst the resolutions is an endorsement of the party's standpoint not to tolerate with any quarter(s) who are instrumental in establishing an Islamic state or to islamise Malaysia, which the DAP claimed was contradictory to the Constitution of Malaysia. The DAP had also during this time endorsed its Central Supreme Committee's decision so as not to cooperate with PAS as PAS was not willing to compromise with its Islamic state objectives.

The fourth Selangor DAP Assembly, conducted at the MTUC Building on the 20th August 1989 had passed 30 resolutions, amongst which, a resolution to wholly support a multi-racial, multi-lingual and multi-cultural Malaysia. It strongly opposed the one-language, one-culture and one-religion system adopted and practiced by the BN government, and also vehemently rejected any form of religious extremism as well as the establishment of an Islamic state of Malaysia. The DAP had also rejected the policy on the absorption of Islamic values in administration. Lim Kit Siang (Secretary-General at this time) was quoted to have said that the government ought to regard the issue of religion as a sensitive sentiment for all quarters. He noted that in the policy on the absorption of Islamic values in administration, there was no participation from other religious groups. Lim Kit Siang added that this phenomenon is worrying to the non-Malays as in the absence of opposition towards the Islamisation policy, the government would gradually move ahead towards the establishment of an Islamic state of Malaysia. The DAP was obviously disagreeable with this said government policy on grounds that Malaysia is a composition of people from various races and religion. Amongst others, on the drive towards Islamisation policy, the DAP cited

an example whereby force was used on non-Malay students to take-up a course on Tamadun Islam at the local universities.

The DAP insisted and stressed that the non-Malays would indeed feel suspicious if Malaysia was transformed into an Islamic state. The DAP warns that an Islamic state can be established either through an open struggle and which aims to achieve the two thirds majority in parliament just as how PAS's strategy is, or, it can be established by groups who struggle to achieve it in a gradual manner such as that done by UMNO via its Islamisation policy. In this respect, according to the DAP, only BN with its political power can endeavour to establish an Islamic state of Malaysia owing to its majority seats in the Parliament, and not an opposition party like PAS. Hence, the DAP stressed that the Malaysian people ought to be more worried about the possibility of an Islamic state to be established by BN and not so much of that of PAS. The DAP had admitted the fact that the actual basis for its worry stemmed from an amendment on the Selangor Islamic Law Administration Act which was passed (with the support of the MCA and MIC) by the Selangor State Legislative Assembly on 19th July, 1989. This said amendment makes it lawful to convert non-Muslim children to Islam without the consent of their parents.

So, just what is the basis for the DAP's opposition of the declaration of Malaysia as an Islamic state by Tun Dr. Mahathir Mohamad on 29th September, 2001? The DAP claimed that the 929 declaration "constituted a tectonic shift in Malaysia's nation-building, jettisoning the fundamental constitutional principle and nation-building cornerstone in the 1957 Merdeka "social contract" agreed by our forefathers from the major communities that Malaysia is a democratic, secular, multi-religious, tolerant and progressive nation with Islam as the official religion but is not an Islamic state – buttressed by the constitutional, political and legal history of over 4 decades, starting from the Reid Constitution Commission Report 1957, the Government White Paper

on the Constitutional Proposals, the Federal Constitution 1957, the Cobbold Commission Report 1963, and the highest political and judicial pronouncements of the land such as by Bapa Malaysia and the first Prime Minister, Allahyarham Tunku Abdul Rahman Putra Al-Haj and the Lord President, Tun Salleh Abbas in the landmark case *Che Omar bin Che Sob vs Public Prosecutor* (1988) that Malaysia is a secular and not an Islamic state.” The DAP had further claimed that the “No to 929” awareness campaign was launched to influence Malaysians to say “No to 929” to save the country from terrorism and extremism of any form.” Hence, the DAP stressed that the attempt by Tun Dr. Mahathir Mohamad on 29 September 2001, to declare Malaysia as an Islamic State was unilateral, undemocratic and unconstitutional.

The DAP had also quoted the statement of support towards its standpoint made by the Malaysian Consultative Council of Buddhism, Christianity, Hinduism, Sikhism and Taoism (MCCBCHST) on 31 January, 2002 which stated that “when Malaya and later Malaysia was founded there was a “social contract” among the different communities of different races and religions on the type of constitution the country shall be governed by. Such a “social contract” was then enshrined in our constitution and cannot be changed without consultation and consent of all the communities that make up Malaysia. Both the Federation of Malaya Constitutional Commission 1956-1957 (commonly known as the Reid Commission) and the Commission of Enquiry, North Borneo and Sarawak 1962 (commonly known as the Cobbold Commission) has reported that the position of Islam being the religion of the Federation shall not imply that Malaya and Malaysia is not a secular state. In other words, Malaya and Malaysia is a secular state. The Reid Commission is the body that framed and drafted the Constitution of the Federation of Malaya after consulting all the communities of Malaya while the Cobbold Commission was formed to seek the views of the communities of Sabah and Sarawak. The Constitution of our country provides that the Constitution is the supreme law of the country and any law passed

which is inconsistent with the Constitution shall to the extent of the inconsistency be void. State legislatures may only pass with regard to any of the matters enumerated in the State list of the ninth Schedule of the Constitution, of which the Syariah law, applicable to persons professing the religion of Islam, is one of the matters. Hence, State Legislatures and Parliament in respect of the Federal Territories derive their authority to make such laws from the Constitution.

The DAP claimed further that since Malaysia's Independence in 1957, the mainstream nation-building agenda was to develop and sustain the democratic, secular and multi-religious nature of the Malaysian Constitution and voices calling for an Islamic state were at the periphery, but overnight, with the declaration by Tun Dr. Mahathir Mohamad at the Gerakan national delegates' conference on 29 September, 2001, the controversy over what type of an Islamic state Malaysia should become had hijacked the mainstream nation-building agenda. The DAP was utterly disturbed by the statements made by Allahyarham Tan Sri Harun Hashim, in the "Benchmark" column in the New Straits Times dated 9th May, 2002, who was the former Federal Court judge and a professor at the International Islamic University as well as the Suhakam Deputy Chairman. Lim Kit Siang claimed that Allahyarham Tan Sri Harun Hashim's statements must be taken seriously as it is the first "fruit" of the "929 Declaration", as the government sent a delegation headed by Allahyarham Tan Sri Harun Hashim to four Middle Eastern countries at the end of 2001 to study various aspects of the syariah law and its implementation in Islamic countries. The countries visited to study the standardization, codification and administration of Islamic laws were Saudi Arabia, Egypt, the United Arab Emirates and Jordan. The two statements made by Allahyarham Tan Sri Harun Hashim was firstly, that the first part of Article 3 of the Federal Constitution which provides that "Islam is the religion of the Federation; but other religions may be practiced in peace and harmony in any part of the Federation" means "that Islam is the religion of the state which makes Malaysia an Islamic

state, and secondly, that “to dispel any doubts that Malaysia is an Islamic state, Article 4 of the Constitution should be amended to finally declare that the sources of the laws of the Federation are the Qur’an and the Sunnah” notwithstanding that such a declaration will not derogate from the provision that the Constitution is the supreme law of the Federation. It is obvious that Allahyarham Tan Sri Harun Hashim had offered these statements by giving his views as how the “929 declaration” that Malaysia is an Islamic state could be entrenched and put beyond a shadow of doubt. However, Lim Kit Siang and the DAP had responded that Allahyarham Tan Sri Harun Hashim’s public statements endorsing that Malaysia is an Islamic State, not only runs counter to the sheaf of historical constitutional documents, stemming back to the Reid Constitution Commission Report 1957, the White Paper on the Reid Constitution Proposals 1957 and the Cobbold Commission Report 1963, but also all legal precedents, including the decision of the highest court of the land in *Che Omar bin Che Sob vs Public Prosecutor* (1988) ruling that Malaysia is a secular and not an Islamic state.

Whilst delivering the judgment of a five-man Federal Court panel, the then Lord President Tun Salleh Abas had held that the Constitution and the legal system are “secular” and that the meaning of the expression “Islam” or “Islamic religion” in Article 3 “means only such acts as related to rituals and ceremonies”. Tun Salleh Abas had further said that “there can be no doubt that Islam is not just a mere collection of dogmas and rituals but it is a complete way of life covering all fields of human activities, may they be private or public, legal, political, economic, social, cultural, moral or judicial” but rejected the contention that the terms “Islam” or “Islamic religion” in Article 3 is “an all-embracing concept, as is normally understood, which consists not only the ritualistic aspect but also a comprehensive system of life, including its jurisprudence and moral standard”, as this was not the meaning intended by the “framers of the Constitution”. Tun Salleh Abas’ judgment that Malaysia was a secular nation was in keeping with the interpretation of his predecessor,

Allahyarham Tun Mohamed Suffian Hashim who in 1962 had defined the scope of Islam in the constitution as being primarily for ceremonial purposes, such as the permission for prayers to be offered in the Islamic way on official public occasions such as the installation of the Yang di Pertuan Agong, his birthday, Merdeka Day and other occasions.

Lim Kit Siang further claimed that Allahyarham Tan Sri Harun Hashim's misinterpreted proposals of Article 3 as the constitutional basis for an Islamic state or his proposal to amend Article 4 of the Constitution to remove any doubts whatsoever about the status of Malaysia as an Islamic state, was only the first step towards the full implementation of the "final objective" of an Islamic state, if the "929 Declaration" is given national endorsement by the multi-racial, multi-lingual, multi-cultural and multi-religious Malaysian civil society and citizenry in the following general election. The "final objective" to fully implement an Islamic state in Malaysia have been spelt out clearly in government documents, whether in print or on official websites after the "929 Declaration" and they constitute 2 important elements: firstly, the policy that everything that conflicts with Islam will be brought in line with the requirements of Islam in stages and in a way that is wise; and secondly, that the policy to instill the values of Islam will continue incessantly until the aim of establishing an Islamic state in the national system is fully implemented. There are 2 articles on the website of JAKIM, the Department of Islamic Development in the Prime Minister's Department, (<http://www.islam.gov.my>), which throw more light on the "final objective" to implement an Islamic state in all its full perfection in Malaysia after declaring that the question of Malaysia as an Islamic state is no longer open to dispute. The 2 articles on the JAKIM website are "Malaysia Negara Islam" – by Jabatan Kemajuan Islam Malaysia (JAKIM) and "Konsep Negara Islam" by Dr. Abd. Halim El-Muhammady – from the Law Faculty, UKM. The second article advocated the amendment of all Federal laws, the Federal Constitution and state laws which are obstacles to the full establishment of a perfect Islamic state.

CONCLUSION

Even though the BN government under the leadership of Tun Dr. Mahathir Mohamad during the time of the 929 declaration, had stated and assured that the declaration of Malaysia as an Islamic state would not effect any changes in the national status quo and amendment to the Constitution, I believe that efforts are gradually being made for the Constitution to be amended to declare the Qur'an and the Sunnah as the sole supreme law of the land. This has to be done if Malaysia aspires to be a genuine Islamic state. Tun Dr. Mahathir's declaration of Malaysia as an Islamic state on 29 September 2001 is an ideal starting point. Throughout his leadership of Malaysia, since 1981 till 2003, as the fourth prime minister, Tun Dr. Mahathir Mohamad had made dynamic and aggressive efforts towards developing and glorifying the position of Islam in Malaysia. In my viewpoint, this has been a strong and clear foundation of Islamisation in Malaysia. The height of all these efforts in total is the declaration of Malaysia as an Islamic sState on 29 September 2001. Islam, via this declaration, has regained once again its supreme position it once enjoyed in this land. This declaration had also effectively sidelined the misguided perception that Malaysia is a secular state. The DAP's attempt to preserve the secular Malaysia (as how it was generally believed to be since Independence) does not hold water any longer after this declaration is made. There is certainly a shift in the status quo to be expected in nation-building in Malaysia with the necessary and relevant implications for the political, economic, social and citizenship rights of all Malaysians and generations to come, so that this transformational change, following the declaration, would be met with true and genuine Islamic spirits. All Malaysians irrespective of race, religion and culture ought to realize, accept and respect this transformation. As a matter of fact, Malaysia was already an Islamic state long before the declaration – since Independence. However, owing to the prevailing difficult pluralistic conditions then, the Prime Ministers' before Tun Dr. Mahathir Mohamad, had not portrayed Malaysia as an Islamic state even when the Federal Constitution had clearly stipulated

via Article 3 (1) that Islam is the official religion of Malaysia which certainly brings to meaning that Malaysia is an Islamic state. Owing to the persistent racial, religious and cultural problems then, Allahyarham Tunku Abdul Rahman Putra Al-Haj, Allahyarham Tun Abdul Razak Dato' Hussein and Allahyarham Tun Hussein Onn had instead wisely focused on the material development of a harmonious plural Malaysia, and had therefore not emphasized Malaysia as an Islamic state. To my mind, pluralism may have been a factor during the early times of post-Independence, but certainly, after so many years since independence, and consequently upon the successful implementation of the Islamisation policy, Tun Dr. Mahathir Mohamad had made the right and timely move to officially declare Malaysia as an Islamic state on 29 September 2001 and this move ought not be disputed. Malaysia, which is ruled by the BN government since Independence itself is a country with strong Malay-Muslim base with UMNO in the forefront, and all BN non-Malay component parties namely the MCA, Gerakan, MIC, PPP, SUPP, SAPP and PBS understand this well in the spirit of the "social contract". Historically speaking, Malaysia's independence on 31 August 1957 is the outcome and struggle of UMNO, and subsequently the UMNO-MCA-MIC political collaboration (Perikatan) is manifested in the political power sharing between the Malays, Chinese and Indians. Nevertheless, since Independence, UMNO had still maintained its dominance in political power in the administration of Malaysia. Even though UMNO is known to be a nationalist party, its members are from that category of Malay-Muslims who are still sensitive towards Islam and the Malay special rights. This is also the reason why Islamic institutions at both the state and the federal level were given special prominence. Hence, Malay Muslims in Malaysia have every right as the 'sons of the soil' to transform this country into an Islamic state as it is their religious 'fardhu kifayah' obligation to do so. The DAP cannot deny the truth in this fact. By persistently harping on the fact that Malaysia, constitutionally, was a secular state despite the status of Islam as its official religion, as was framed by the Reid Commission, the DAP is treading on dangerous grounds.

It has been established that a secular state cannot have any religion as its state religion in the Constitution. But Malaysia's Constitution has Islam stated as its official religion. So, how can this country be called a secular state? Moreover, there is no mention at all of the word 'secular' in the Malaysian Constitution but the word 'Islam' appears 24 times, and this goes to show the prominence of Islam via provisions such as the specific privileges awarded to Islam and not to any other religions in the Malaysian Constitution. Perhaps the Reid Commission did not understand or was confused about this position. And that was why they had included the provision that "even though the religion of Malaysia is Islam this does not mean that Malaysia is not a secular State". And, to add salt to injury, it was most unfortunate that our country's very own high-ranking legal advocates had made supporting judgments on the status of Malaysia as a so-called secular state. However, we are well aware that lately, legal judgments are being made in the spirit of Islam as the official religion and this would indeed go a long way to solidify the position of Malaysia as an Islamic state. Samples of case judgments that can be offered here are such as the *Meor Atiqurahman vs Fatimah bte Sibi (2000)* and *Lina Joy vs Majlis Agama Islam Wilayah Persekutuan (2004)*. It is my hope that there would be a concerted effort by all quarters in the government towards making amendments on the Constitution, Federal and State laws which obstruct the overall implementation of Islam in Malaysia. The BN government has already made several efforts towards this, and the current Constitution of Malaysia has indeed become much more reflective of Islam. Efforts must still continue on until the teachings of Islam is completely reflected in the Constitution so as to rid especially the non-Muslim from any form of xenophobia on Islam. The legal fraternity in Malaysia must truly make genuine efforts to study the possible substitution of Common Law with the Syariah Law in Malaysia. Islam as the *Ad-din* (way of life) must be accepted and practiced by all Malaysians in this country as its teachings are universalistic. Perhaps this is the reason why we find it encouraging that Lim Guan Eng, the son of Lim Kit Siang and current Chief Minister of Penang had decided

to emulate the great Caliph Umar Abdul Aziz in his leadership and introduce the administration of 'syura' in Penang. Is it possible that Lim Guan Eng, as compared with his father, is much more confident and tolerant of the teachings of Islam and its multi-dimensional applicability in the socio-political and economic administration of Malaysia?

After all, both classical and contemporary scholars and ulama' of Islam had indeed endorsed the position of Malaysia as an Islamic state. The Ijtima' Ulama Se Malaysia, as early as 21-23 September 1985, had already unanimously made a decision that the organization and structure of the current government of Malaysia is not in contradiction with the concept of an Islamic state. Therefore, the DAP must be clear on this fact that Tun Dr. Mahathir Mohamad was merely making a formal declaration as an extension to consolidate the decision made by the Islamic scholars and ulama' as mentioned. The DAP ought not be misguided by the fact that the said declaration would render the non-Muslims in Malaysia as second class and would therefore be consequently discriminated by the whatsoever conditions stemming from an Islamic state. A great majority of the non-Muslims in Malaysia regard the Malay-Muslim leaders in high esteem as these leaders have thus far not committed any form of suppression and oppression of the non-Muslims here. If we care to take some effort to study the al-Qur'an and Hadis/Sunnah, we will know that Islam forbids any form of discrimination towards the non-Muslim citizens. If we study the life of Prophet Muhammad s.a.w., we would be exposed to several episodes of his kind and fair treatment of the non-Muslims in Madinah. The kind and fair treatment of the non-Muslims here as legal citizens in their own right is nowhere comparable to other countries. However, at this point, it is important to retrospect on a very sensitive but important historical fact. The non-Muslims of today may claim that they are the legal citizens of this country but the fact remains that they were indeed historically the sons, daughters, grandsons or granddaughters of the large number of immigrants who had come as early as the 19th century to Malaysia to earn a living, improve economically

and subsequently settled down by the grace of the Malay-Muslims here. Hence, the act of challenging the special rights of the Malays, as enshrined in Article 153 of the Constitution is not a wise move as it only means that we are being ungrateful. In this respect, the DAP ought to show some gratitude as a thriving non-Muslim political party which has been awarded the democratic liberties to operate as a registered and legal political party. As I've mentioned earlier, the DAP claims to be a multi-racial political party but a great majority of its members are Chinese with the exception of a few high performing non-Chinese notably the MP for Jelutong, Mr. Karpal Singh. This is the man who had openly declared that any move to transform Malaysia into an Islamic state would only happen over his dead body! A very bold statement from a very bold man indeed. But facts are facts. The history of Malaysia cannot be disregarded by Mr. Karpal Singh and all the other DAP stalwarts and members. Perhaps, to the DAP, the constitutional history of Malaysia only came into being when the Reid Constitution drafted the Constitutional proposals in 1956 and enforced it in Independent Malaysia. But, what the DAP had failed to acknowledge is the fact that Malaysia's constitutional history has an even earlier beginning dating back to the times of the Malay Malacca Sultanate and other Malay States' Sultanate. The laws in the Malay states of Kedah, Pahang, Perak, etc were based on these laws of Malacca. The Hukum Kanun Melaka and Undang-Undang Laut Melaka already had codified Islamic laws in the 14th century itself. However, with the arrival of the Portuguese, Dutch and especially British colonialism, Islamic socio-cultural and political laws and conditions that were prevailing during the pre-colonial period were replaced. The impact of English law (based on the Indian Code) on the Malay land, especially in the Federated Malay States, was the most noticeable. It was so, especially when we consider the fact that when there is a contradiction between Islamic Law and English Law, involving the Muslims, then only the English Law is adopted. There has been several specific samples of case-judgments then which showed the English Law superceding Islamic Law. Subsequently, Islamic Law was confined only

to matters pertaining to personal and family matters. And, like I have mentioned earlier on in my discussion, this has been the scenario until efforts were made under Tun Dr. Mahathir's administration in 1988 to introduce Article 121 (A) so as to functionally separate the Syariah Court from the Civil Court. Otherwise, what had happened prior to this said amendment was a position where the Syariah Court was inferior to the Civil Court. Legal judgments made by the Syariah Court could be overturned by the Civil Court and this was a source of embarrassment to Islam in Malaysia. It is our hope that the Syariah Court would one day hold supreme with its laws enforced in every facet of life in this country and not matters only confined to personal and family life. If Malaysians were able for so long to adopt the British common law which is so very alien to them, what is preventing them from adopting the syariah law which is much closer at home?

In conclusion, Malaysia is definitively an Islamic State without a shadow of doubt. The other reasons offered here is the majority Muslim population, peace and harmony enjoyed in the country, the implementation of almost a big part of the syariah law and the control of the Malaysian leadership by the Malay-Muslims. However, whatsoever unislamic impurities still prevailing in the country must be eventually rid off. Tun Dr. Mahathir's declaration of Malaysia as an Islamic state on 29 September 2001 must be viewed positively and optimistically by all Malaysians now and for many years to come.

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