

## MALAYSIA: A MODERN EXAMPLE WHERE RELIGION AND DEMOCRACY CO-EXIST

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To people who are influenced by Western post-Enlightenment thought that separation between church and state is necessary for any democracy, it is natural for them to also believe that Islam and democracy are incompatible.

This view is buttressed by events in Muslim-majority countries in the Middle East, West and Central Asia and Africa, where revolution, reformation or transformation is usually no more than a transfer of dictatorship from one person to another.

Dictatorship is largely the result on a people of the influence of millennia of history, geography and culture that necessitated the rise of and rule by tribal leaders, Pharaohs, Emperors, Kings, Caliphs, Emirs and, in modern times, Presidents. By whatever name they are called, the fact remains that the bottom-line is the same: dictatorship. In my view, the “Arab Spring” has not yet delivered anything different.

However, *it is wrong to attribute it to Islam*. As an example, we need only look at Malaysia. It is a Muslim majority country. Its Constitution clearly stipulates that the religion of the Federation is Islam, that the Rulers (hereditary Kings of States in the federation) are Heads of the Religion of Islam in their respective States. The Constitution makes provision for the establishment of Sharia Courts and application of the Sharia particularly in family and personal laws of Muslims. The Federal and State Governments spend huge sums of money on Islamic education and research, building of mosques and other Islamic institutions, including holding the annual International Quran Reciting Competition. Islamic religious activities are also carried out in Government offices during office hours.

At the same time, the Government also finances the construction of houses of worship of other religions and gives financial aid for other faiths’ religious activities.

The Malaysian Constitution also provides for a democratically-elected Government based on the Westminster model, indeed a replica of it. The English legal and judicial system is adopted. Indeed the English common law and equity are applicable unless otherwise provided by written law.

What is important is that it has worked for the past 55 years, making Malaysia one of the few countries in the world that still has its original Constitution in place, neither “suspended” nor replaced in over half a century since independence (Malaya became independent in 1957, and the Malaysian Federation was formed in 1963). It remains a sacrosanct document, the supreme law of the Federation strictly adhered to by the Executive, Legislative and Judicial branches of Government.

Free elections have been held regularly in Malaysia. The price of democracy in Malaysia is that religion is always an important issue in any general election. The Islamist party always tries to show that it is more Islamic than its opponent,

promising Paradise to its voters and condemning their Muslim political opponents as un-Islamic, even going as far as to assign them and those who vote for them to a place in hell! The parties representing Malaysians of other faiths meanwhile demand more and more financial assistance for their religious institutions, depending on their bargaining position.

In any event, the bottom line is that the system has worked reasonably well. The proof is the undisputed social and economic development of Malaysia since independence.

This should not come as a surprise. After all, Islam and democracy preach the same thing: wellbeing of the people. The *maqasid* (objectives) of Sharia focus on protecting and advancing six main deliverables, faith, life, dignity, family, intellect and property. That covers the whole scope of human rights.

Malaysia has gone one step further in its efforts to harmonize common law, introduced into Malaysia during colonial British rule, and the Sharia, particularly for their application in Islamic banking, finance and insurance (*takaful*), in which Malaysia is the world leader. The interesting finding of this harmonization exercise is the realization that most of the principles of both laws are similar and complementary to one another. That facilitates the absorption of each other's principles and the development of both laws, particularly Sharia, which had been dormant in the area of commercial law in the last few centuries, mainly due to colonization of Muslim-majority countries. On the other hand, the positive effect of colonization is the introduction of common law in countries colonized by the British, including Malaysia, most of which has been found to be not un-Islamic, and therefore adopted and accepted as Islamic. Hence, my conclusion in defining Islamic law as any law that is not un-Islamic!

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