

Position of Islam as a Federal Religion and a Determinant of Stable Socio-Religious Relations in Malaysia: Medina Charter for Reference

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ABSTRACT

The consensus on the goodwill in the form of a social contract manifested in the Federal Constitution has become an efficacious tip for a harmonious Malaysia. It is evident that the prestigious position of Islam in Malaysia has played a role in creating stable socio-religious relations. Hence, post-14th General Election Malaysia (GE14) saw the enthusiasm of certain parties who tried to challenge the social contract and dispute the position of Islam as the country's official religion resulting in a less than harmonious situation. Therefore, this article analysed the position of Islam in the Federal Constitution according to its role as a stabilising factor in socio-religious relations in Malaysia by making the Medina Charter a reference. In order to achieve this objective, Malaysia's multi-racial background as well as efforts to pave the road to a consensus between followers of various religions that creates an understanding guaranteeing stable socio-religious relations must be thoroughly

reviewed. This study adopted the qualitative approach based on the content analysis design by applying the library research method involving document analysis and the ensuing data were then analysed using the descriptive method. Findings show that the recognition given to the position of Islam in the Federal Constitution is the main factor that determines the stability of socio-religious relations as well as guarantees the country's harmony. The implication is that all parties, especially the government, need

ARTICLE INFO

Article history:

Received: 15 October 2019

Accepted: 22 April 2020

Published: 25 September 2020

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to consolidate the position of Islam in the Federal Constitution.

Keywords: Article 3(1), Federal Constitution, Medina Charter, socio-religious, social contract

INTRODUCTION

Malaysia is a multicultural country from diverse origins. This diversity also leads to multiple religions' practices that almost all major religions in the world are embraced by Malaysians (Sharif, 2012). In the local context, the Bumiputeras are not all Muslims, especially in Sabah and Sarawak. Some are Christians, and some hold to local beliefs. According to the law, the Malays are Muslims. At the same time, the Chinese people have always been associated with Chinese religious beliefs such as a Buddhist, Confucius and Toa. In contrast, Indians are mainly of Tamil ethnic and Hindus. Also, there are Malaysians who adopt the Sikh, Bahai, Jain and Shinto religions but on a tiny scale (Ahmad, 2019). This diversity is indirectly a vital hurdle in preserving socio-religious relations as each religion and belief has a high degree of religious sensibility in sustaining its purity of faith (Meerangani et al., 2018).

In multi-religious Malaysia, Islam is sure to have a special position so much so that many questions regarding customs and traditions, politics and governance is influenced by Islam (Baharuddin et al., 2014). The special privilege accorded to Islam is enshrined in the Constitution aimed at preserving a stable society (Muslim, 2014) and as an effort to seek a balance between

retaining Malaysia's historical factor as well as ensuring there is no religious oppression in Malaysia (Meerangani & Ramli, 2016). Hence, post GE 14 has seen extreme groups being very brazen in voicing their rights, with some not just questioning the Constitution but contesting the position of Islam and its decrees as well as directly meddling with the affairs of Muslims (Kassim & Hazmi, 2018; Ramli et al., 2018). Thus, if the position of Islam is not taken seriously, surely this would create a sense of instability in the socio-religious relations (Sharif, 2012).

METHOD

The research questions were fully explained using the qualitative method, which applied the library research technique to carry out a content analysis (research design) on three types of data, namely primary, secondary and tertiary data. Primary data, which became the basis for answering research questions, were the Federal Constitution and the *Fiqh al-Islami* scriptures consisting of three works by al-Qaradawi, which is *Ghayr al-Muslimin fi al-Mujtama' al-Islami* (2001), *al-Watan wa al-Muwatanah* (2010) and *Fiqh al-Jihad* (2014) and the book of *Ahkam al-Zimmiyin wa al-Musta'minin fi Dar al-Islam* by Zaidan (1988). Whereas secondary data that accelerated the understanding about socio-religious policy were books related to nationhood and *sirah* scriptures such as the book of *al-Sirah al-Nabawiyyah li Ibn al-Hisham* (1996) and the book of *al-Rahiq al-Makhtum* by al-Mubarakfuri (1976). Besides that, tertiary data from thesis,

journal articles, proceedings, working papers and internet reports related to the research questions were used to consolidate the understanding in this study. Findings obtained from the document analysis were analysed using the descriptive method in order to interpret and summarise the position of Islam in the Federal Constitution according to its stabilising role in socio-religious relations in Malaysia.

RESULTS AND DISCUSSION

The Plurality of Malaysia as a Challenge in Sustaining Socio-Religious Relations

Malaysia though a multireligious country has strong Islamic features as enunciated by the Federal Constitution as the supreme law of the land (Mahmud & Haneef, 2019). According to history, socio-religious relations in Malaysia has gradually grown in several stages (Ghani & Awang, 2017). Before the colonial era, the Malay States was a homogenous country. The number of foreigners living in the Malay States at that time, such as in Melaka, were very small (Wariya, 2010). Their presence at that time did not give rise to any problem because

they were able to create a harmonious relationship with the locals, environment and the existing socio-political-religious system, which sometimes leads to the natural assimilation of culture (Ramli, 2009). Hence, during the 19th century, after the Malay States were controlled by the English, began the large-scale exploitation of local natural resources aimed at supporting the capitalists’ economic activities. The British had encouraged the entry of Chinese and Indian labourers to work in tin mines and rubber estates while enjoying the resulting economic gains and this left the original inhabitants of the Malay States to live in the villages (Institut Tadbiran Awam Negara [INTAN], 1994). Table 1 shows the multi-ethnic composition of the Malay States from 1911-1941.

Therefore, that is the illustration of ethnic diversity in the Malay States from 1911-1941, as shown in Table 1. While in Sarawak, the Chinese immigrants in 1908 were estimated at 45,000 people (10%) and increased in 1960 as many as 229,154 people (32%). While the number of Chinese residents in Sabah in 1907 was about 13,000 people and increased to 47,779 persons in

Table 1
Population of the Malay States according to ethnic background from 1911 to 1941

Ethnicity	Total Population (in thousands)			
	1911	1921	1931	1941
Malay	1437.7	1651.0	1962.0	2278.6
Chinese	916.6	1174.4	1709.4	2379.2
Indian	267.2	471.7	624.0	744.2
Others	29.3	33.0	56.1	58.4

1931. Sarawak and Sabah did not experience the influx of Indian immigrants as occurred in the Malay Peninsula. Instead, Javanese workers were brought in to work there (INTAN, 1994). This situation indicates that the arrival of immigrants due to British encouragement was the beginning of the process of pluralization among its people, thus making Malaya unique (Mohamad et al., 2019)

During the colonial era, the presence of these immigrants was not voluntary but rather due to the dire living conditions in their country of origin that had forced them to seek a better life, while the burning desire to return to their homeland had kept their hopes alive. Consequently, the immigrants failed to assimilate and blend with the local conditions and were happier to retain their original lifestyle that led them to lead an isolated life (Ramli, 2009). The phenomenon was elaborated by Furnivall (1948), who stated that a multi-racial society was characterised by disunity due to the existence of differences in ethnicity. Besides that, the separation of economic and social activities due to the Divide and Rule Policy by the British has also contributed to ethnic isolation that easily caused tensions (A'zmi et al., 2017). In this context, the Indian community was concentrated around the estates, whereas the Chinese was situated around the tin mines (Hanafi et al., 2016). The resulting ethnic polarisation due to colonial policies has changed the demographic background of the Malaya (A'zmi et al., 2017). Societal life is purposely allowed to grow in individual

cultural spheres (Amin et al., 2017) leading to the stereotyping of race and religion that has been growing until today (Ramli et al., 2018).

Most historians have mentioned that differences in attitude and the administration of each group by the British was intentional in order to tighten political and economic control of the Malay States. The implementation of this policy allowed the British to continue holding on to the status of the "middleman" so that they could solve any conflict (Ramli, 2015). Moreover, this gratifying relationship was becoming ever critical after the Japanese invasion (Ghani & Awang, 2017), which basically lead to the oppression of the Chinese (Redzuan, 1999). In reference to this, the Malays were accorded preference for helping the Japanese to administer the districts, whereas the Chinese were oppressed and until March 1940, some 40,000 Chinese, including women and children were killed (INTAN, 1994). This massacre by the Japanese was due to deep seated enmity against the Chinese as many Chinese living overseas had aided China during the Japan-China War of 1937. Moreover, the Chinese in the Malay States were equally vengeful towards the Japanese army following the cruelty shown by the Japanese towards the Chinese in mainland China (Ahmad, 2009). This resulted in the Japanese causing disputes between the Malays and Chinese, like the skirmish in Johor (Ramli, 2009).

After the Japanese surrendered on 14 August 1945, members of the Bintang Tiga, who were Chinese, had sought revenge

on the Malays because the Malays had supported the Japanese during the Japanese Occupation. A period of 14 days from 15 August to 30 August 1945 was a moment of tragedy that engulfed the Malays (INTAN, 1994). The Bintang Tiga army had begun killing mercilessly and this situation ignited the flame of racism until terrible acts of violence erupted between the Malays and Chinese (Ahmad, 2009; INTAN 1994). Meanwhile, the Indian were preoccupied with the struggle for independence in India, so much so that they were not involved with mainstream politics in the Malay States, it was as if they were not present in Malaya at that moment (Ramli, 2009). The racial tension was avoided only with the coming of the British Army. However, feeling of anger and hatred between the two races was high (Portal 1Klik, n.d.). Hence, although the British were said to have succeeded in returning peace, the Communist Party of Malaya, which had become increasingly active in widening its influence among the Chinese, began to incite the flame of racial enmity (Ramli, 2015). Not long after the anti-Federalist AMCJA-PUTERA movement was overcome by the British, there appeared the Pulau Pinang separation movement of 1948, which saw the continued Malay-Chinese conflict (Low, 2013).

Pivoting on the long-lasting turmoil from 1948, there emerged an awareness among all ethnic groups to create a formula for compromise in the framework leading to independence as a condition stipulated by the British. Therefore, in 1955, Perikatan had compromised on the issue of Islam as

the official religion, the special rights of the Malays, position of the Malay Rulers and the Malay language as the national language as well as citizenship based on the *jus soli* principle (Wariya, 2010). Hence, several ethnic clashes that occurred in Pulau Pinang from 2 to 7 January 1957 had caused the death of five Chinese and injured 23, 46 Malays, 1 Indian and 4 of other ethnic backgrounds (Ramli, 2015). Post-independence saw the May 13 tragedy was the climax of the racial riots in Malaysia (Abd Khahar, 2016; Gill & Kaur, 2010). After the May 13 tragedy, there were several racial incidences, such as the Maria Hertogh case, the Singapore riots of 1964 and the Pulau Pinang riots of 1967 (Ramli & Jamaludin, 2012). However, almost 30 years after the May 13 tragedy, the nation was shocked by the Malay-Indian racial conflict in Kampung Rawa in 1997 and Kampung Medan in 2001 (Wen, 2014).

The reality is that Malaysia has never quite distanced itself from sensitive issues that can instigate racial tensions (Abd Halim, 2017; Muda et al., 2018). Muslim (2014) stated that issues, such as challenging the social contract and religious friction, which were frequently raised, could create long-standing conflict if not handled well. Now, the special rights long enjoyed by the Malays is beginning to be challenged with the interference of several devious parties who had threatened the position of Islam and religious tolerance in this country (Khambali & Haled, 2008). In fact, the Islam's position as a Federal religion plays a significant role in racial domains covering political realm (Sharil, 2018), making religion-related

subjects to be regarded as holding a more considerable impact on race relationships in comparison to other issues and thus critically affecting society in particular in the 1990s and the millennium (Rahman & Shah, 2019). According to Sofian and Hussein (2014), Yasin and Adam (2017), separate studies by Halimahton et al. (2006), Yong and Md Sidin (2010), Dafrizal et al. (2011), Yang and Md Sidin (2011, 2012) also demonstrate that religious issues are presently the pioneer component of racial unity in Malaysia.

Recently, religious upheavals have created tensions (Harun et al., 2019), and this matter appears complex, contradictory and extremely worrying (Kassim & Yakob, 2019). According to Ramli et al. (2018), this is due to the fluid pattern of interracial relations in Malaysia after GE14. In the past, each race highlights their agendas and interests. Nevertheless, currently, there has been an ultra-pluralist block across religious and ethnic groups who fights for the equality of rights ignoring the initial agreement in the social contract during the establishment of Malaysia and disregarding the provisions of the Federal Constitution. The group appears to be questioning the various rights that have been exercised, including matters relating to Islam as a national religion, even though previously it has been established by certain ethnic groups. These actions have triggered sensitive issues among the pluralistic community in Malaysia now.

Figure 1 shows the three main ethnic groups in Malaysia, namely the Malays, Chinese and Indians, each comprising

69.3%, 22.8% and 6.9% of the Malaysian population, respectively, in 2019. This statistic shows the existence of various ethnic groups in Malaysia; hence, becoming the main challenge when forming friendlier socio-religious relations. This is because ethnic group will surely have its own religion. Moreover, religion is a prominent issue of human society and is one of the main components of cultures (Khazaie et al., 2020). Hence, the religion of choice must be respected without any oppression or insult by other religions that could eventually lead to sensitivities towards that religion. Recently though, the religious element had frequently become an instrument that breeds disunity and conflict. The issue of religion surely has a negative impact on Malaysian society. The religious sensitivity that emerges would somehow or rather cause frailty in inter-racial relations if the religion that they embrace is insulted or demeaned by followers of other religions (Yasin & Adam, 2017).

The Position of Islam in the Social Contract as a Guarantee in Socio-Religious Relations as well as the Road to Independence

In the Malaysian context, socio-religious relations are built based on the consensus reflected in the Federal Constitution. According to Zainuddin (2018), the present Constitution is based on the Federal Constitution of 1948 is a fact that has been augmented by legislation and history. Another fact is that the Federal Constitution of 1948 was based on the *Kanun Melaka*, which is the core element in the Constitution

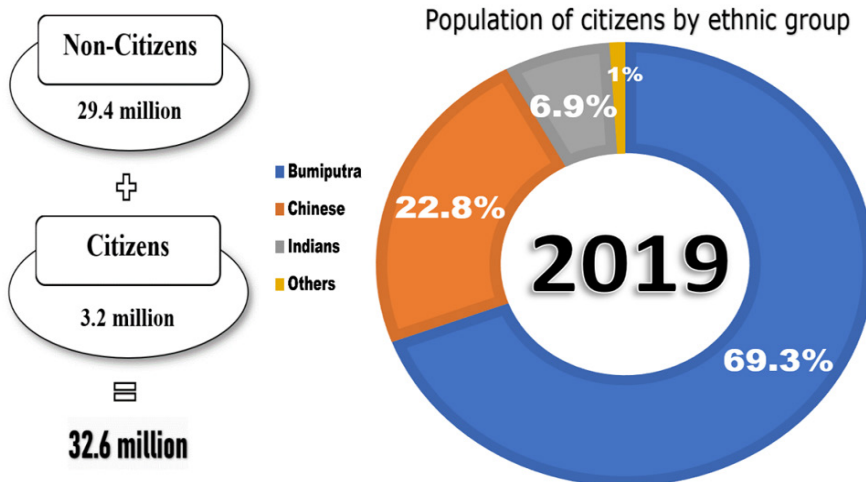


Figure 1. Current population estimates, Malaysia, 2019

of the Melaka Malay Sultanate. Moreover, there existed before this an old Malay government, complete with an Old Melaka Constitution. According to Wariya (2010), during the process of achieving a consensus for independence, the non-Malays initially wanted the Malay States to become a nation of various religions with equal rights among all. Thus, although they were reluctant to accept Islam as the country’s official religion, the Malays were adamant in this issue. They reasoned that since the Malay States belonged to the Malay race, then Islam must be the country’s official religion. Pivoted in this tradition, finally, the position of Islam as the Federation’s religion was included in Part 1 and shows how important the provision of Islam is in the structure of the Constitution (Aziz, 2018).

Aziz (2018) asserted that the enshrining of Islam in Article 3(1) had confirmed the position of Islam as the country’s official religion, which implies that Islam

is dominant and influential in administrative affairs, culture, legislation, social and national politics. According to Yaakop and Aziz (2014), and Ramli (2015), the agreement to make Islam the country’s official religion can be justified from the traditional and historical aspects, which are consistent with the development of the monarchy concept. Muslim (2014) emphasised that Islam was accepted as the country’s official religion because it was suitable with the definition of Malay itself, in which Article 160 defines a ‘Malay’ as a person of Islamic faith, speaks the Malay language and practices Malay culture. According to Abas (1997), these elements of tradition reflect a characteristic that allows the Constitution to be better known and understood. Moreover, these elements are very important because if it is disputed, then there is a possibility of creating widespread disunity.

As a result, history has shown that the Federal Constitution was formed through a consensus of goodwill and some parts of it is referred to as a social contract that was agreed upon before independence. The social contract was based on cultural heritage, history and reality of the country's plural society by considering the fact that the Malays are the majority and the *pribumi*. Although the Constitution is not like the Holy scripture that cannot be amended due to changing times, but certain aspects that pose as the core element that maintains harmony among the races must be retained and become the unique characteristic of Malaysia (Ramli, 2009). Yaakop and Aziz (2014) mentioned that even though the term 'social contract' did not exist in the Constitution, it could still be adopted to translate the meaning of entente or unanimity regarding social justice between races as enshrined in the Constitution. According to Mahathir (as cited in Portal 1Klik, n.d.), to say that a social contract does not exist is akin to negating or nullifying the contents of the Constitution. Ahmad (2009) asserted that the social contract was a form of unanimity regarding the norms of life of various races achieved voluntarily through negotiations, immortalised in history and presumably binding for generations to come.

When reassessing Islamic history that has long been embedded and thriving in the Malay States, Means (1978) iterated that since the 15th century, Islam had been the dominant religion in the Malay world and had become the symbol of unity, religious identity as well as culture of the Malays.

When independence came, Islam was one of the main factors when drawing the Constitution. During independence, Islam was given a special status in the Federal Constitution (Talib et al., 2014). Moreover, before the existence of the Islamic-based Laws of Melaka and Melaka Maritime Law (Redzuan, 1999), Islamic law was practiced as in Prasasti Terengganu, dated 14 Rejab 702 Hijrah or 22 February 1303 (INTAN, 1994; Muslim, 2014). After Parameswara had founded Melaka in 1400, he married Puteri Pasai and embraced Islam as well as Islamised Melaka (INTAN, 1994). Starting with this Islamization process, Islam was ingrained into the word Malay and whenever the word Malay was mentioned it became synonymous with Islam (Ramli, 2015).

Al-Attas (1972) also asserted that Islam should have an important place in Malay history and culture. This position itself shows why Islam was removed from the framework of the agreement between the Malay Rulers and the British, which began with the Pangkor Treaty of 1874 (Bari, 2005). Moreover, wholly associating religion with race is the basis of the Malay's thinking until Islam had become an important element in the definition of 'Malay', as enshrined in Article 160. Based on this position, the Malays rose to war and battled the Portuguese and Dutch to defend their religion. When the Portuguese and Dutch left the Malay States and the British took over, Islam was left to be (Abas, 1997). Hence, after World War II, the British planned to convert the Malay States into a political entity (Wariya,

2010) by changing their role from advisor to administrator (Abas, 1997). Under the Malayan Union, Malay Rulers who had the right to protect the sovereignty of the religion and administer religious affairs, had those rights revoked because all that power was now with the Governor (Ahmad, 2009; Simandjuntak, 1985).

Clearly, this move had angered the Malays. Formation of the Malay Advisory Council had challenged the sensitivity of the Malays since the Governor possessed power through an agreement whereby the Governor would administer legal matters pertaining to Islam. This action, if implemented, would have jeopardised the power of the Malay Sultans and weakened their position, who had been enjoying unprecedented power and influence on matters related to Islam (Ramli, 2015). Thus, due to this opposition, the Malayan Union was dissolved and substituted with the Federated Malay States 1948. Through this Constitution, the rights of the Sultans as the Religious Leader for their respective state, was returned to them (Muslim, 2014). In the framework for independence, serious efforts to include Islam in the Independence Constitution was fervently implemented. The history of enshrining Islam in the Constitution began with the actions of the UMNO, to include Islam as the Federation's religion in the Memorandum Perikatan, which was conveyed to the Reid Commission on 25 September 1956 (Din et al., 2017).

Besides that, several memorandums from Malays and Islamic organizations outside of UMNO had also suggested a

similar move (Ramli, 2015). However, reactions of non-Malays, including the Perikatan itself, frequently exhibited dissatisfaction about this issue. Although consensus was achieved through a compromise, the attitude of non-Islamic parties opposing the position of Islam in the Constitution continues until today (Din et al., 2017). To complicate the situation, initial suggestions to include Islam as the Federation's religion in the Constitution was initially opposed by the Malay Rulers because their stand was that religion was a state matter and should be retained under the control and power of the Ruler in each state (Aziz, 2018). The reluctance of the Ruler's Council to acknowledge the enshrining of Islam as the Federal religion was because it was seen as a position contrary to theirs, which is the Religious Leader in their respective states (Ibrahim, 1983). However, Tunku Abdul Rahman successfully raised the confidence of the Malay Rulers by convincing them that the enshrining of Islam in the Federal Constitution will not jeopardise the position of Islam under the powers of the Local Governments (Din et al., 2017).

In the meantime, the Commission also received numerous requests from various non-Islamic organizations, including a confidential letter from the Secretary to the Colonies, Alan Lennox-Boyd, urging that the *Secular Nature of The State* be maintained and the freedom of religion safeguarded (Ramli, 2015). After conducting 118 meetings and reviewing 131 memorandums from various parties (INTAN, 1994), the

Reid Commission began to structure and write the draft Constitution in Rome with the excuse that the Commission should be kept free from outside influence. At the early stages, the suggestion to enshrine Islam in the Constitution was rejected by the Commission because the Ruler's Council did not give their blessing. However, during the writing of the final draft in Rome, Hakim had changed his mind and accepted the suggestion of enshrining Islam in the Constitution (Din et al., 2017). Besides this matter being accepted unanimously by the Perikatan, Hakim also stated that not less than 15 countries at that time had provided for religion in their respective constitutions, which was found not to inconvenience any party (Aziz, 2018; Ibrahim, 1983).

In order to strike a balance with the demands from the non-Muslims, Hakim suggested a provision that would guarantee the right to freedom of religion and no citizen should be deprived of something just because he is not a Muslim, should be included in the Constitution (Ibrahim, 1983; Ramli, 2009). Lastly, at the last Working Committee Meeting on 27 April 1957, the Malay Rulers gave their blessing to accept the proposal to enshrine Islam in the Federal Constitution as the Federation's official religion (Din et al., 2017). In the minutes of the meeting held in London in May 1957; the provision related to religion was not discussed at length. Conversely, the writer of the draft Constitution was given stern instructions to write a draft that was almost similar to the text written by the Working Committee related to provisions about Islam

being the Federation's religion. Hence, the last version of Article 3 of the Constitution emerged after the meeting in London, which was agreed upon by the Working Committee in the Malay States (Ramli, 2015).

When debating the White Paper in the Federal Legislative Assembly on 10 and 11 July 1957, majority of members accepted the suggestion (Muslim, 2014). However, there was a last-minute effort by a small group of Chinese representatives, such as S.M. Yong, who raised the issue related to the special rights of the Malays, including the position of Islam as the Federal religion. Nevertheless, pressure by this minority did not receive any support, including that from Chinese representatives such as Tan Siew Sin and Goh Chi Yan (Ramli, 2015). Hence, suggestions related to the Constitution that was debated on 10 July 1956 and the second reading on 11 July 1957 was eventually passed unanimously on 11 July 1957, which indicates that was agreement between the various races although not all the demands from the races were met (Yaakop & Aziz, 2014). When Sabah and Sarawak joined Malaysia, this social contract was also extensively utilised in the establishment of the Federation of Malaysia on September 16, 1963, and remains operational to this date (Wariya, 2010). With the sealing of a goodwill consensus and its aspirations enshrined in the Constitution, hence, everyone should ennoble this consensus. It is evident that the pillar in this consensus has produced a solid social contract, which can be further harmonised (Ahmad, 2009).

Islam in the Federal Constitution Inspires Socio-Religious Stability in Malaysia: Reference to Medina Charter

The Medina Charter is a comprehensive document that interprets a social contract (Mahyuddin et al., 2016) that is internationalist and non-racial in upholding universal rights (Nor & Ibrahim, 2019). The Medina Charter does not make religious sentiment as a factor of social alliance, but rather the value of humanity as a factor (Md Supi, 2001). In fact, the most critical policy of the Medina Charter is the disposition of the *ummah* by understanding and explaining its various rights and obligations as an integrated society (Ibrahim & El-Qasimy, 1985). Among the important key factors towards the success of the Charter are unity and protections against human rights. Other than that, the heterogeneous society in Medina achieved peace due to respect of religion. It is important to understand that god and one *ummah* highlighted in the Medina Charter not only refer to Islam and Muslim, but also encompass the whole community regardless race and religion (Md Jani et al, 2015).

According to al-Qaradawi (2010), the main secret of the Medina Charter's success was that it upheld the supremacy of Islam and assumed the al-Quran and Sunnah as its main sources of reference. This is clearly stated in Articles 43 and 23 of the Medina Charter. By placing Islam as the nation's main policy instrument, social justice for non-Muslims was also included in the Charter, such as citizenship (Article 2), freedom of religion (Article 25), right to

practice customs and tradition that do not contradict the Charter (Article 3-11), right to fair protection and assistance (Article 16), right to a trial (Article 25, 31 and 38), right to mutual corporation, assistance and guarantees in good faith (Article 37), right to neighbours (Article 41), right to conciliation (Article 44a) and right to safety and freedom of movement (Article 46). Yusuf al-Qaradawi (2001) affirmed that Islam not only provided rights but also guaranteed its implementation through faith and societal responsibilities. Hence, the provision of each right would be implemented fairly without any discrimination, as demanded by the call of Islam.

In the Malaysian context, Al-Sultan Abdullah Ri'ayatuddin Al-Mustafa Billah Shah (as cited in Official Parliament Statement, 2019) had iterated that the position of Islam as the religion of the Federation should be thoroughly understood by each citizen regardless of religion. His Highness asserted that Islam was not a religion exclusive to certain groups, rather, it was a universal way of life and carried its blessings to all of nature. According to Disa (n.d.), as a fundamental national framework, Islam has successfully proved to the world that human nature instilled in the minds of Muslims has successfully brought all the races in Malaysia, to the pinnacle of success and continuous peace. Thus, when citizens of this country are relishing the blessings of development and peace, there is no other choice then to continue to uphold the sovereignty of Islam as the national religion. Aziz (2018) stated that the history of the

Malay Settlements had strongly indicated that Islam had thus far been practiced in this country without showing any injustice to non-Muslims.

However, some separate incidents may cause non-Muslims to be concerned about their religious freedom, such as the Bible confiscation case in Selangor (Ismail et al., 2018). The findings of Vivian et al. (2018), study show that factors leading to religious intolerance are diverse but dominated by religious institutions identified with governmental powers. There are many issues, such as the use of the word Allah and cross issues in the Petaling Jaya Church, which is more politically motivated. Islam's unique position in the Constitution should be used as the best platform for manifesting Islam as a universal religion of peace. Referring to the Medina Charter, the prophet PBUH has given full independence to religious and financial matters to the Jews. Consequently, Medina Charter has emerged as an Islamic theory and practice in maintaining a pluralistic social system based on a harmonious living, tolerance, peace, tenderness, calmness, help, respect, justice and freedom of religion (al-Mubarakfuri, 1976; Ibn Hisham, 1996). In fact, the right to freedom of religion has already been clearly stated in Article 25 of the Medina Charter (al-Qaradawi, 2010).

In response to the right to freedom of religion under Islamic rule, non-Muslims are required to maintain the sensitivity of Islam and its people (al-Qaradawi, 2014; Zaidan, 1988). Thus, some restrictions such as the prohibition of spreading other religions to

Muslims should be respected as they aim to protect the religion of the Muslims who are one of the *Shariah Maqasid* (Kamal, 2017) and to keep the common good from becoming a mess (Zaidan, 1988). In addition, Islam allows non-Muslims to practice their religion safely and peacefully following the assurance of religious liberty given by the prophet to the people of Najran (al-Mubarakfuri, 1976; Ibn Hisham, 1996), Umar to the people of Iliya, Khalid al-Walid to the people of Anat and Amr bin al-As to the people of Qibti (al-Qaradawi, 2010, 2014). However, Yaacub (1986) noted that even though the right to freedom of religion was guaranteed in Islam, the appreciation of the way of life in any religion was still subjected to state law so as not to lead to confusion. Malaysians should respect the assurance of freedom that is given without taking advantage of their interests (Nor, 2011).

In the Malaysian context, the right to freedom of religion as provided in Article 11 of the Federal Constitution has long been the essence of racial unity and harmony (Khambali & Haled, 2008). Besides, the right to freedom of religion can also be referred to in Article 3(1), Article 10, Article 8 and Article 12 (Aziz, 2018; Muslim, 2014). However, it is subject to a number of other restrictions such as peace and security (Article 3 (1)), which does not create a situation that could endanger public order, morality and prosperity (Article 11 (5)), not spreading other religions to Muslims thus respecting the law while maintaining the sensitivity of Muslims (Article 11 (1)&(4)),

does not compel to pay any fees (Article 11 (2)) or accept teachings or participate in any religious ceremony other than its own religion (Article 12 (3)) and has the right to be involved in religious affairs or religious institutions or its own religion's *khairat* and to be involved in its property in accordance with law (Article 11 (3)(a),(b),(c)) are included in the field of education (Article 12 (2)) (Jabatan Peguam Negara, 2010). Thus, in order to secure socio-religious sustainability, the constitutional guarantees of the practice of each religion should be a unifying mechanism of all religions in the context of freedom for each religion to practice within their group (Mahyuddin et al., 2016).

The confirmation of Islam as the country's official religion, as enshrined in the Constitution, should be respected. Similarly, the right to freedom of religion of other religions must be guaranteed as it is not only enshrined in the Federal Constitution, it is also an Islamic claim. Thus, followers of all religions should respect the eminence of the Constitution that has ennobled Islam in a special position in addition to celebrating the freedom of other religions. This position is a social contract that has been agreed upon through a consensus of goodwill that is translated in the Merdeka Constitution. No matter what the reason, the special position of Islam which also celebrates the freedom of other religions cannot be disputed. According to the policies and principles of Islam that have been ingrained in the Malays, the non-Muslims would be given citizenship rights and freedom of religion

in a peaceful manner without imposing conditions as long as the special rights of the Malays are not disputed, including the sovereignty of Islam, which has been the local religion for ages.

History has proven that Malays were willing to lose their absolute right to their own country. Nevertheless, the Malays would never allow their religion to be insulted, at any cost. Hence, although the Malay States were once coerced to accept the advice of the British, the colonisers did not interfere with the customs and traditions of the Malays and Islam (Abas, 1997). In fact, they knew that Islam had become a part of the Malay's flesh and blood and could not be separated. Efforts by colonisers to degrade the supremacy of Islam by suggesting the Malayan Union 1946 had clearly angered the Malays. Consequently, they were more confident that attempts to interfere in Islamic matters would only invite disaster upon themselves. The history of Medina also shows how the Jews were disgracefully expelled because they betrayed the social contract sealed through the Medina Charter (al-Mubarakfuri, 1976; Ibn Hisham, 1996). Yusuf al-Qaradawi (2014) stated that Islam is capable of reconciling with anyone including Jews although they had betrayed an agreement and created chaos. Therefore, all parties should understand, comply and respect the special position of Islam and the right to freedom of other religions as enshrined in the Federal Constitution. This is the source of socio-religious relations policy that has been built and proven successful in creating harmony in Malaysia. With

the nobility of Islam found in this country, hence, each individual would continue to enjoy the prosperity gained by the virtue of Islam being the country's official religion.

CONCLUSIONS

The Federal Constitution was drawn based on the development of several important events that have set the course of this country's history. It was enacted through the consensus of goodwill between differences ethnicities, which was termed as a historical bargain that translated into the give and take approach. In this case, the privileged position of Islam is justified from the historical perspective, until it was recognised by the colonisers and accepted by non-Malays who then eventually agreed to enshrine Islam in the constitution as the official religion of the country. The consensus was tied to the agreement to acknowledge citizenship to non-Malays in exchange for their acceptance of special rights accorded to Malays, including the issue of Islam being the official religion of the country. History has also recorded that any controversy regarding the consensus agreed upon could cause tensions. Hence, pivoting on the principle of the Supreme Constitution, the Federal Constitution should be the main reference for the country when sustaining socio-religious relations. In this matter, the Constitution has acknowledged the supremacy of Islam as the official religion of the country that guarantees the right to justice as well as recognises the basic rights of followers of all religions. Therefore, followers of all religions must understand

the historical background, the process of drawing-up the Constitution and the provisions stipulated to strengthen the cordiality in the context of socio-religious relations that leads to the formation of a united Malaysian *ummah*. Any form of provocation, especially one that leads to a conflict, pertaining the special position of Islam in the Constitution must be acted upon immediately.

ACKNOWLEDGEMENT

We would like to thank the reviewers for their useful comments.

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