

CONSTITUTIONAL PROBLEMS IN THE FORMATION
OF AN ISLAMIC STATE IN MALAYSIA AND ITS
SOLUTIONS

by

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PREFACE

Of late, the present government is giving serious attention to the development of the Islamic law in this country. Several steps and actions like the 'implementation of Islamic values' in the government administration and the setting up of several Islamic oriented institutions such as Bank Islam, International Islamic University (IIU), Takafful (Islamic insurance) etc. denotes the seriousness of such efforts.

Nevertheless, the writer thinks, the most significant question for the reader to ask is why is the establishment of a full fledged Islamic State in our country remained a distant hope?

We were riddled with many serious misunderstanding and confussions. What is in fact Islamic law and Islamic State? Can the Shariah or Islamic State fulfill the requirements of our modern state and society in this twentieth century? What about the feelings of the non-Muslims and even some of the Muslims who will never tolerate the dominance of the Islamic law and will resist it with all the force at their command?

The above problem pose a great challenge because as what Syed Abul A'la Maududi stated in his book the 'Islamic Law and Constitution', Islam is not a mere collection of dogmas and rituals. It is the embodiment of Divine Guidance (Shariah) for all fields of human life, private or public, political, economic, social, cultural moral, legal and judicial.

Therefore this paper will emphasize the problems and barriers surrounding the issue of the establishment of the Islamic State based on our Federal Constitution. The writer hopes that from here, we can study various problems (in theory and practical) and help us in understanding the various aspects of an Islamic State.

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To my Delima roommate's - 'Susi', classmates and all my friends especially my '6A' juniors - I CARE!!

To my family members who always give me their love, support and encouragement. Lastly, my sister K'Mid and her friends; K'Zarah, K'Nor and Sal has richly earned an expression of appreciation for sharing the burden with me in typing this paper.

For the views expressed and for all shortcomings, errors and omissions of this work, I alone remain responsible.

INTRODUCTION

A. Aims of the Paper

In this paper, the writer has painfully tried his best to prove the workability of the Islamic law to be carried out in the multiracial society in Malaysia. The purpose of this paper is mainly to bring out the problems which are obstructing the implementation of the law, their proposed solutions from the view point of our Federal Constitution in order to put the Islamic law and State into effect in Malaysia.

Futhermore, in writing this paper, the writer hopes that he has not only provided useful reading materials for teachers and students alike, but also to bring about an awareness in the reader on the issue of the need to establish an Islamic State in Malaysia notwithstanding its multi-racoial nature of its society.

B. Outline of the Paper

The work has been devided into five chapters. Chapter one is a brief discussion of the chracteristics of the Islamic law and state.

Chapter two is about the position of the Islamic law and its implementation in Malaysia before and after its colonization by the British. The chapter also discusses the effect of the implementation of British law to our Federal Constitution and laws.

Chapter three will forecast and examine the constitutional and legal problems which are hindering or obstructing the fulfillment of the Islamic law and State in Malaysia.

Chapter four is a discussion about the proposed solutions to the problems which are obstructing the establishment of the Islamic law and State, and what actions that need to be taken to implement it.

Chapter five briefly discuss my conclusion to this paper.