Siyasah Shar’iyyah and Its Implementation in Malaysia

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ABSTRACT

Background: As an important political component of Islamic Shariah, Siyasah Shar’iyyah serves as a guideline for Muslim to better govern the day-to-day affairs of a country to ensure the furtherance of public order for the benefits of mankind. The first part of this article deals with the theoretical perspectives of Siyasah Shar’iyyah in which the concept is defined. The demographic and legal overviews of Malaysia were further discussed to establish the backdrop against which the Siyasah Shar’iyyah principle is examined in this article. The discussions on legal and constitutional framework in Malaysia are essential to elaborate some constraints in the implementation of Islamic law which also falls within the tenet of Siyasah Shar’iyyah. The second part accordingly discusses the practical perspectives of Siyasah Shar’iyyah in Malaysia. In essence, it covers the areas of Islamic banking and finance, halal industry as well as administrative and judiciary bodies. Objective: This article aims at examining the principle of Siyasah Shar’iyyah and the perspectives of its implementation in Malaysia. Results: In short, despite some constraints especially those deriving from legal and constitutional limitations, it can be concluded from this article that Siyasah Shar’iyyah principles are increasingly gaining its momentum through its implementation in various areas by the authorities in Malaysia. Conclusion: This is the proof that Siyasah Syar’iyyah is a viable political system which will transform Malaysia into a more peaceful and prosperous country.

INTRODUCTION

In his “final sermon” during the Hajj shortly before his death, the prophet Muhammad peace be upon him (PBUH) has given an important admonition to the congregants for the benefit of the people at that time and the generations to come. Upon the completion of the sermon, the following revelation came down:

اليوم أحكمت لنك يدانًا وانعمت عليك يعانم وضقت نك الإسلام فينا

Which means, “This day, I have perfected your religion for you, completed My Favour upon you, and have chosen for you Islam as your religion” (al-Quran. Al-Ma’idah: 2).

Islam, in particular its Shariah principle is holistic and comprehensive in nature. Shariah governs every matter in the people’s daily life underlying their relationship with Allah and the relationship among themselves. It serves as a compass which guides Muslims to the right path based on moral, dignity and ethical considerations. The Shariah incorporates all aspects of life, ranging from personal, family and community matters to the political administration of a country. On the notion of Statehood i.e. governing a Country, Islam provides a special guideline based on Shariah called Siyasah Shar’iyyah. Siyasah is the Arabic term for political while Shar’iyyah reflects the practice that conforms to Shariah principles. As such, Siyasah Shar’iyyah, being read together connotes “a set of political guidelines created by Muslim leaders/governments based on the maqasid/objective of Shariah and in line with al-Quran and al-Sunnah”.

Despite its political concentration, the coverage of Siyasah in Islam is not only limited to political matters per se. Rather, the concept also deals with administration, financial, economic, legal and social affairs. The ultimate aim of the implementation of Siyasah is to assure public order for the best interest and benefits of humanity in tandem with Islam’s role as a mercy to the whole universe. This article aims at examining the

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implementation and practices of Siyasah Shar‘iyah in Malaysian perspective. It defines the conceptual meaning of Siyasah Shar‘iyah which has been agreed by both the previous and recent scholars. Also, this article highlights some issues underlying the concept of Siyasah Shar‘iyah in order to examine the extent of its implementation in Malaysia.

**Malaysia: Demographic And Socio-Legal Perspectives:**

Malaysia is a federation of fourteen states covering the areas of Peninsular Malaysia and Borneo States of Sabah and Sarawak. The outcome of government’s census in 2010 (Economic and Planning Unit [EPU], 2000) suggests that the Malays make up the predominant inhabitants in Malaysia with 14.8 million people or 50.4% of the 28,908,795 Malaysia’s total population (CIA World fact Book, 2011). This figure followed by Chinese who accounts for 23.7%, Indigenous (11%), Indian (7.1%) and others (7.8%) (EPU, 2000). However, if the figures are divided into religious group (CIA World fact Book, 2011), Muslims make up 60.4% of the population, whereas Buddhist (19.2%), Christian (9.1%), Hindu (6.3%), Confucianism, Taoism, other traditional Chinese religions (2.6%) and other or unknown (1.5%).

Due to the fact that Malaysia is a Muslim-majority country, Islam was therefore made the religion of federation by the drafters of Malaysia’s Federal Constitution. This provision gives rise to the adoption of Siyasah Shar‘iyah principle as the country’s political system. Under Article 3(1) of the Malaysian Federal Constitution, it was stated that: “Islam is the religion of the federation; but other religions may be practiced in peace and harmony in any part of the Federation”. Even though Malaysia has given a special position to Islam - being the only religion whose name is mentioned in the Constitution – the debates on whether Malaysia is an Islamic State seem to be far from over. This could be because Islamic legal system or Shariah laws are not fully adopted and implemented in the current Malaysian legal system.

The Constitution stipulates a limited jurisdiction for Islamic law to cover matters such as matrimonial and inheritance (to name a few), whereas the vast majority of Malaysian legal system are based on common law. Indeed, the current Malaysian legal system exemplifies the deep influence inflicted by the British imperialists. The scarce jurisdiction of Islamic law in Malaysia is still commonplace today despite Malaysia has gained its independence status from Britain since 1957. The Constitution of Malaysia, being drafted by a special commission established by the British i.e. the Reid Commission – is the highest and supreme law of the land. It was drafted in the manner that suits the Malaysian niche and needs by taking into consideration its demographic nature and domestic circumstances.

Indeed, it is worth mentioning that despite the Constitution stipulates Islam as the religion of federation, the same Constitution, however, does not provide Islamic law as supreme law of the country. The Islamic law, with its limited jurisdictions, was made a State’s matter and its jurisdictions are enumerated under List II in the Ninth Schedule of the Constitution. Despite all the odds, Malaysia has, since its independent until today, continuously made a great effort to apply Shariah principles within its administration system. The practice of Siyasah Shar‘iyah in Malaysia can be seen in the establishment of numerous Islamic-based departments and agencies throughout the country. The aim for Siyasah Shar‘iyah was reinforced in the foundation of government structure covering the areas of jurisdiction, financial, and administration.

Aiming to discover the extent of Siyasah Shar‘iyah application in Malaysia, the authors will analyze a number of government departments / agencies which have been established to guarantee public order for the maslaha/interest and benefits of the people. The authors also will highlight several issues taking place in Malaysia and how such issues have been dealt with in accordance to the principle of Siyasah Shar‘iyah by the government of Malaysia. Before and for the purpose of understanding how Malaysia has implemented the Siyasah Shar‘iyah principle in its government administration, it is worthy to understand the concept Siyasah Shar‘iyah in the first place.

**Definition Of Siyasah Shar‘iyah:**

Dr. Sayyid Ahmad Farj (1993) in his book al-Sultat al-Idariyyah Wa al-Siyasat al-Shar‘iyah states that the concept of Siyasah was first coined by the prophet Muhammad peace be upon him (PBUH). Being a divine law of Allah, the principle of Siyasah has existed since Prophet Adam and practiced by all prophets after him until the era of the last prophet i.e. the Prophet Muhammad Peace be upon him (PBUH).

In this article, the authors chose to refer the definition of Siyasah Shar‘iyah according to the book entitled al-Madkhal ila al-Siyasat al-Shar‘iyah written by ‘Abd al-Ahmad ‘Utwah. In his book, the definition of Siyasah Shar‘iyah can be classified into three parts.
Part 1 = definition of siyasah in “lugah/literal”.
Part 2 = definition of siyasah among non-jurist.
Part 3 = definition of siyasah among jurist fuqaha.
Part 1 = Literal Definition of Siyasah In “Lughah”/Literal:

‘Abd al-Ahad ‘Utwah (1993) illustrates that the word *Siyasah* originates from Arabic language which, literally speaking, was taken from the term ساس ياسوس (sasa yasusu). Containing various meanings, most of the definition stands for something which is governed for the *maslahah/benefits*. The term *Siyasah* can be used for various things and described for various meanings. If it is used for the thing like animal, it thus means that *Siyasah* is taking a good care of such animal. However, if the term is used for human, it means the good governance in relationship or transaction between people i.e. *maamalah*. To be precise, the term *Siyasah* deals with *maslahah* which means the government implements their administration policies according to Allah’s command and avoids prohibition from Him by referring to the *Maslahah* of the people.

Nevertheless, al-Maqriiziy in his book الخلاف (al-Khatat) said that *Siyasah* was not an Arabic term. Rather, it was adapted from the word بانس which derives from Mongolian language. It was claimed as an Arabic term as the results of the distortion of its original nature by the Egyptians (‘Abd al-Ahad ‘Utwah, 1993). In addition, it was mentioned by Syeikh Hamzah Fathullah, an Egyptian expert in Arabic language that most of the people are of the view that the word is a non-Arab term which has been ‘Arabized’. Firstly, رسه ينس which is a Persian word for three. Secondly, it is a Mongolian word which means succession. This opinion has been rejected mainly due to its lack of basis. Undoubtedly, that word was a pure Arabic term supported by evidence from al-Sunnah in Hadith from Sahih Al-Bukhari and narrated by Abu Huraira in which the Prophet PBUH said;

(كان ينسَ إسرائيل يتبعوا موسى) (كان ينسَ إسرائيل يتبعوا موسى)

Which means: "The Children of Israel used to be ruled and guided by prophets".

In addition, there was also a famous poem quoted by an Arab Princess Hind bint Nie’man bin Mundhir which mentioned the term *Siyasah*. Also, most of language book did not mention about words that have been arabized (‘Abd al-Ahad ‘Utwah, 1993)

Part 2 = Definition of Siyasah Among Non-Jurist (Ghayr Fuqaha):

‘Abd al-Ahad ‘Utwah (1993) in his book “Al-Madkhal ila Al-Siyasat al-Shar’iyyah” wrote that siyasah according to al-Maqriiziy in الخلاف (al-Khatat), Abu al-Baq’a in al-Kulliyat and al-Thahanawin in Kashf Istilahat al-Funan can be divided into four categories:

i. *Siyasah Mutaqlaqh*.

ii. *Siyasah Madaniyyah*.

iii. *Siyasah Nafsiyyah*.

iv. *Siyasah Badaniyyah*.

*Siyasah Mutaqlaqh*, also called *Siyasah al-Anbiya*, is a direct revelation from the Creator to all creatures that is applicable in all circumstances. It is genuinely from Allah and restricted from any forms of amendment or modifications. The second category; *Siyasah Madaniyyah* is related to its role of governing people. This type of *Siyasah* touches on the roles of Rulers, governors and authorities to implement the legal system enacted by experts towards their citizen. Accordingly, the third category is *Siyasah Nafsiyyah* which aims to foster a good character. Lastly, *Siyasah Badaniyyah* is related to govern the country according to *maslahah* (interest) of the citizen. This type of *Siyasah* can be categorized under the *Siyasah Madaniyyah*.

Part 3 = Definition of Siyasah Among Jurist/Fuqaha:

Undeniably, the man-made politics were different from the Islamic *Siyasah* one. The man-made politics systems were influenced by carnality which is susceptible to deficiencies and errors. While *Siyasah Syar’iyyah* is a political system which administers the people according to Islamic spirit (Ruh al-Shariah) based on *maslahah*. The *Shaﬁ’iyya* jurists allow ample opportunities for making *ijtihad* of the provision of *Siyasah*. The provision was classified into two categories. First, the fixed provisions which will not be altered, modified or replaced despite the change of situation and circumstances. Second, the provision that preserves the *maslahah* of the people at the time it is made. Most of the *Shaﬁ’iyya* jurist in their books had different opinion and approach on *Siyasah*. There were few books that discuss solely on *Siyasah Shar’iyyah*. For example the Ibn Taymiyyah’s book entitled al-Siyasat al-Shar’iyyah Fi Islah al-Ra’iy Wa al-Ra’iyyah (‘Abd al-Ahad ‘Utwah, 1993).

‘Ala’ al-Din al-Tarabulsiyiy defines *Siyasah* as provision which is fairly strict in nature. According to Imam Hanafiyy, *Siyasah* is tantamount to increasing the volume of punishments which has not been fixed before. Furthermore, Ibn ‘Abidin in Hashiyah Radd al-Muhtar describes *Siyasah* as implementing more severe punishment for criminal offences. However, to other definition, Ibn ‘Abidin mentions that *Siyasah* refers to *takzir* punishments. On the other hand, Zayn al-Din bin Nujaym defines *Siyasah* as judgment made by the judge for the benefit/maslahah of the people. This however, was not based on dalil jue’iy or any specific hukm (Islamic rulings). Ibn ‘Aqil from the Hanbaliyiy’s school describes *Siyasah* as something that is done by the people with an aim to enjoin for good thing (ma’raf) and to avoid the evils things (munkar). Despite the above definitions, the notion of *Siyasah Shar’iyyah* was not explained by the Prophet Muhammad peace be upon him (PBUH) and there also is no revelation touching on it (‘Abd al-Ahad ‘Utwah, 1993).
Additionally, Abd al-Ahad 'Uthaw (1993) wrote that Siyasah Shar’iyyah is merely the act of Hakim or leaders for the maslahah/benefit of the people. Since it has no specific basis from the Quran or Hadith, its implementation is rather flexible in the sense that, to a certain extent, it can or even must be changed and replaced to suit with the changing of situation, time and place. As a conclusion, the authors believe that Siyasah Shar’iyyah can be summarized as the action made by imamate or leadership in a country according to maslahah/benefit which does not have specific revelation on it. As a matter of fact, that action must be taken to avoid harmful consequences in the future.

The Concept Of Imamate/Khalifah:

Ibn Taymiyyah is one of the eminent scholars in Islam who devoted their knowledge in the area of Siyasah Shar’iyyah. In his book entitled al-Siyasat al-Shariyyah Fi Islah al-Ra’iyyah Wa al-Ra’iyyah, Ibn Taymiyyah has presented some opinions about Siyasah Shar’iyyah which mostly deal with leadership. A leader should protect his religion or the din of Islam in their administration. Further, al-Mawardiyin in al-Akhkam al-Sultaniyah specified that there are ten matters regarding affairs of a public nature which are binding on leader:

i. He must safeguard the din as it was established in its original form and about which the first generations of ummah are agreed; if an innovator appears or someone of dubious character deviates from this din, the leader should counter the deviations by proving legal proofs to rectify such error, explain the right way to him and take the appropriate measures including to punish him with reasonable punishments in order to ensure the image of Islam is protected and the whole ummah are prevented from going astray.

ii. He must execute the legal judgments between two contestants and bring to an end any dispute between two litigants so that equality prevails, the tyrant does not transgress and the weak are not oppressed.

iii. He must protect the territory of Islam and defend the sanctuaries so that people may earn their sustenance and journey safely from any threat to their person and belongings.

iv. He must establish the hadd punishments in order to protect what Allah may He be glorified and exalted has made inviolable from being violated and prevent the rights of his slaves from being abused.

v. He must fortify the border posts against attack and defend them with force against an enemy which might appear unexpectedly and violate what is sacred or shed the blood of Muslims or dhimmis protected by a pact or treaty.

vi. He must implement jihad against those who resist Islam after having been called to it until they submit or accept to live as a protected dhimmis-community so that Allah’s rights, may He be glorified and exalted, “be made uppermost above all (other) religion” (al-Quran 9: 33).

vii. He must collect the fay’ and zakah taxes from those on whom Shariah and legal judgment has made it an obligation to pay, and this without fear or oppression.

viii. He must apportion the stipends and whatever is due from the baitulmal without wastefulness or meanness and make payments punctually, neither before their time nor after it.

ix. He must ensure the employment of trustworthy persons and the appointment of worthy counselors capable of undertaking those tasks delegated to them and of safeguarding monies made over to them.

x. He must personally take over the surveillance of affairs and the scrutiny of circumstances such that he may execute the policy of ummah and defend the nation without over –reliance on delegation of authority (Asadullah Yate, 2005).

The law on Islamic governance binds for the caliph/imamate as mentioned by al-Mawardiyin was an excellent guidance for a great governance to administer their political system according to Shariah. However, as mentioned earlier in this article, Malaysia’s hundred years of foreign colonization and its colorful demographic nature has made it difficult for it to achieve the standards mentioned above. Despite all of deficiencies, Malaysian government managed to do its best to bring the country’s administration in line with Shariah principles.

Siyasah Shar’iyyah In Malaysia:

In Malaysia, the spirit of Siyasah Shari’yyah is translated in the momentum of government effort through numerous examples of the proactive actions. It can be seen in the economic systems, administrative system, and jurisdiction system. Among the example are as follows:

Economic System: Islamic Banking:

The Malaysian government has set guidelines for Islamic banking services in Malaysia in order to ensure that the implementation of such services are genuinely in accordance with Shariah principles or Shariah-compliance for example by rejecting funds from conventional banking activities. Other features of Islamic banking include the avoidance of economic activities based on speculation (gharar), introduction of Islamic tax (zakat) and rejection of goods and services that are contrary to Islamic values (alcohol, pork, etc.) Moreover, investments in activities such as gambling, prostitution, pornography and weaponry are prohibited (http://islamicbanking-malaysia.com).
After the establishment of Malaysia’s first Islamic Bank i.e. the BIMB (Islamic Bank Malaysian Berhad) in 1983, the Islamic banking services has since received positive feedback from the Malaysian people. Numerous banks started to realize the brighter prospect of Islamic banking market and thus follow the BIMB’s step by introducing Islamic banking administration in their bank. Simultaneously, Shariah advisors were introduced in every single Islamic banking organization to advise their top administration so that their business operations are in line with Shariah. For that reason, a new act named Islamic Financial Service Act 2013 (IFSA) was enacted and passed by the Parliament to govern and supervise Islamic finance in Malaysia. For example, Part IV of the Act provides a number of Shariah requirements which have been divided into three divisions i.e. in divisions 1, 2 and 3. Division 1 touches on Shariah compliance, Division 2 on Shariah Governance whereas Division 3 touches on Audit on Shariah compliance.

In Division 1, several matters have been provided by the Act. Among others, they include; interpretation, duty of institution to ensure compliance with Shariah and Power of Bank to specify standards on Shariah matters. In Division 2, on the other hand, the Act provides matters related to Shariah governance on establishment of Shariah committee, appointment of Shariah committee member, duties of Shariah committee and its members, cessation as member of Shariah committee, notice of cessation as member of Shariah committee, information to be provided to Shariah committee and qualified privilege and duty of confidentiality. Accordingly, in Division 3, on audit on Shariah compliance, the Act provides the appointment of person by institution to conduct audit on Shariah compliance and appointment of person by Bank to conduct audit on Shariah.

As far as the establishment of Shariah committee is concerned, Section 30, Division 2, Part IV of the Islamic Financial Service Act 2013 (IFSA), stated that:

“(1) A licensed person shall establish a Syariah committee for purposes of advising the licensed person in ensuring its business, affairs and activities comply with Syariah.

(2) For the purposes of subsection (1), where there is more than one licensed person within a financial group, one of the licensed persons may apply to the Bank for the establishment of a single Syariah committee within the financial group and the Bank may approve the application in writing if the Bank is satisfied that the Syariah committee so established is capable of ensuring compliance with Syariah by all licensed persons within the financial group.

(3) The Bank may require an approved person or operator of a designated payment system to establish a Syariah committee for purposes of advising the approved person or operator of a designated payment system in ensuring their business, affairs and activities comply with Syariah.”

In Section 31, the Act further set forth the requirements for the appointment of Shariah committee members. The Section provides that:

“No person shall be appointed, reappointed or accept any appointment as a member of a Syariah committee unless such person meets the requirements as set out in any standards as may be specified by the Bank under subparagraph 29(2)(a)(ii) and has obtained the prior written approval of the Bank.”

Having explained the above provisions, it can be concluded that the introduction of the Act by the Government has had positive impacts to the Islamic financial system in Malaysia. The Act serves as the guidance for the financial institutions in Malaysia to effectively implement Shariah-compliant business activities. Indeed, the government’s proactive move of establishing the IFSA 2013 has influenced various financial institutions in the country such as banks to embark on implementing Islamic finance. This was evident to the fact that many banks have now established Shariah chapter which complies with Shariah principles, on top of their existing conventional chapter.

Global Halal Hub:

Malaysian government has moved one step further in the implementation of Islamic-based administration by transforming this country into a global or at least regional halal hub. For Muslims, everything consumed in their daily life must be Halal, not only limited to what they eat and drink but also include services or products they used. Allah says in the Holy Quran:

Which means, “O mankind! Eat of that which is lawful and wholesome in the earth, and follow not the footsteps of the devil. Lo! he is an open enemy for you” (al-Quran. al-Baqarah: 168).

However, for the non-Muslim, halal is not a pivotal requirement. They are not compelled by their religion to comply with halal requirement either in dietary or in any transaction they are engaging with such as banking and finance. Despite this fact, non-Muslims are not prohibited to consume Islamic finance or banking products. This is because the Islamic principles contained in the Islamic finance principles are compatible with all human being to protect the maslahah for all people. Indeed, this is the proof that Islam is a mercy to the whole universe (rahmatan li al-‘alamin). In this regard, Allah says in the Holy Quran:

Which means, “We sent thee not, but as a Mercy for all creatures” (al-Quran. Al-anbiya’:107)

The constant and tireless effort by the Malaysian government to promote Halal industry in today’s global market is paid off when it has been undisputedly recognized as leader in Halal trade and industry in ASEAN
region (Nazery Khalid, 2009). By aiming the objective of Shariah in hirasat al-din with the practiced of Halal and spread the din rahmatan li al-‘alamin begins to play its significance importance. The concept of Halal had catalyzed advancements in the Halal-base businesses, creating new business drive within the supply chain. This effort, despite aiming to serve the needs of Muslims, was also taken to encourage non-Muslims to embark on profitable-prospect of Halal industries.

According to an article in the News Straits Times on 29 March 2013 entitled: Belgium creates ‘Halal Club’ in Malaysia it was reported that Halal club was founded to assist almost 75 Belgian companies penetrate Halal markets such as Malaysia (The New Straits Times, 2013). Indeed, Malaysia has shown its significance practice in promoting Halal industries and managed to attract other countries to join the club. Among the components of the halal industry in Malaysia are:

Components of the Halal industry in Malaysia (Nazery Khalid, 2009):

<table>
<thead>
<tr>
<th>No</th>
<th>Activity</th>
<th>Products and Service</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Food production and manufacturing</td>
<td>Fruits, vegetables, herbs, organic products, chocolates, drink mixes, beverages, palm oil, cooking oil, flour-based products, packaged foods, spice mixes, spice blends, seasonings, flavorful, ketchup, dough, butter.</td>
</tr>
<tr>
<td>2</td>
<td>Feed milling</td>
<td>Animal feed</td>
</tr>
<tr>
<td>3</td>
<td>Livestock rearing/ dairy production</td>
<td>Meat, poultry, eggs, milk, milk powder, yogurt, ice cream</td>
</tr>
<tr>
<td>4</td>
<td>Aquaculture/ fish farming</td>
<td>Freshwater fish, prawns, eels.</td>
</tr>
<tr>
<td>5</td>
<td>Pharmaceuticals</td>
<td>Medicines, vitamins, supplements</td>
</tr>
<tr>
<td>6</td>
<td>Personal care and cosmetic products</td>
<td>Toiletries, toothpaste, mouthwash, grooming products, lotions, make-up, perfumes.</td>
</tr>
<tr>
<td>7</td>
<td>Textile</td>
<td>Apparels, clothes</td>
</tr>
<tr>
<td>8</td>
<td>Life sciences</td>
<td>Advanced biotech, wellness, medical products and services</td>
</tr>
<tr>
<td>9</td>
<td>Financial services</td>
<td>Financing structures, products and financial services such as banking, stockbroking, takaful (insurance) and asset / fund management based on the Islamic sharia principles</td>
</tr>
<tr>
<td>10</td>
<td>Tourism and hospitality</td>
<td>Halal-concepts hotels and hospitality services, halal eateries</td>
</tr>
<tr>
<td>11</td>
<td>Logistic services</td>
<td>Transportation, warehousing/ distribution services, supply chain management, cold chain services for halal products</td>
</tr>
<tr>
<td>12</td>
<td>Accreditation/ certification</td>
<td>Issuance of halal certification/ approval and halal logo</td>
</tr>
<tr>
<td>13</td>
<td>Human resource development</td>
<td>Training, workshops, audit programs</td>
</tr>
<tr>
<td>14</td>
<td>Events</td>
<td>Exhibitions, conferences, seminars, forums</td>
</tr>
<tr>
<td>15</td>
<td>R&amp;D</td>
<td>R&amp;D to ensure products and services are sharia compliant</td>
</tr>
</tbody>
</table>

By promoting and championing halal hub and industries, Malaysia is actually offering a noble platform for maintaining and safeguarding the maslahah/benefit of its people and economic development.

Islamic Administrative System: Department of Islamic Development Malaysia (JAKIM):

The Department of Islamic Development Malaysia or Jabatan Kemajuan Islam Malaysia (JAKIM) has its humble beginning in 1968 as a small Islamic Council when the Conference of Rulers has approved the establishment of the National Council for Islamic Affairs, Malaysia (MKI). In 1974, the MKI has been upgraded to a special body called Islamic Affairs Division (BAHEIS) under the auspices of the Prime Minister’s Department. In line with the country’s development and the growing Muslims needs, BAHEIS has been undergoing a number of restructuring and transformation processes. As the result, the Cabinet Meeting on 2nd October 1996 has agreed to upgrade BAHEIS into a full-fledged Department called the Department of Islamic Development Malaysia (JAKIM), taking effect from 1st January 1997.

Bearing in mind the facts that Muslims constitute 60% of the country’s current 30 million population and that Islam is the religion of Federation as stated in Article 3 of the Federal Constitution, JAKIM plays a pivotal role as a platform to cater Muslims affairs in Malaysia in tandem with the country’s development agenda. Its functions are laid down under three main scopes of responsibilities, namely: the legislation and standardization of Islamic laws by the States in Malaysia, the Islamic administration coordination and the adjustment and the development of Islamic education.

To effectively promote and manage Islamic affairs in the country, JAKIM is divided into three main sectors i.e. Policy Sector, Human Development Sector and Management Sector. Under the Policy Sector, there are eight divisions which are responsible for the matters related to planning and research, Fatwa management divisions, law coordination division, halal hub division, relations division, Islamic developments division, innovation and civilization division and mosque management branch. The Human Development Sector, on the other hand, specifies further responsibilities of JAKIM under ten separate divisions namely the dakwah division, family, social and community development division, publication division, Putra Mosque, Tuanku Mizan Mosque, media division and National Mosque. Accordingly, under the management sector, there are four divisions which consist of human resources management division, finance division and information management division.

All the above-mentioned divisions are equally important so as to ensure that JAKIM plays its roles effectively thus to become a catalyst of the Islamic development in the country. Ultimately, JAKIM is the platform to safeguard the sanctity of Islam by portraying true image of Islam and enhancing the people’s understanding about Islam. Such a noble responsibility has long been emphasized by the Prophet Muhammad
Saw who says; “Every one of you (people) is a shepherd. And every one is responsible for whatever falls under his responsibility. A man is like a shepherd of his own family, and he is responsible for them”

Judicial System: Department of Syariah Judiciary, Malaysia (JKSM):

Despite having JAKIM as a body in-charge for Islamic affairs, streamlining and restructuring the Syariah Courts in Malaysia are unfortunately falling outside the jurisdictions of JAKIM. As such, a specific body called Department of Syariah Judiciary, Malaysia (JKSM) was established following the Cabinet approval on July 3, 1996 to the proposal to Restructure Syariah Courts throughout Malaysia. JKSM is headed by the Syariah Chief Justice of Malaysia who is also Head of Open Service scheme for Syariah.

Among the objectives of JKSM are to enhance the uniformity of Islamic laws to establish Islamic Laws relating to the administration of the Uniform Court for adoption in the states; to ensure that all states use the Open Service Shariat Officer of General Federation; to ensure that the cases handled by the Shariat Appeal Court fair, efficient and orderly; to facilitate the use of information technology systems to facilitate widespread Islamic judicial administration; to develop a resource center for use by public officials and related legal and judicial system of syariah; to mobilize resources and research related to the legal system of Sharia judicial system for the promotion of judicial management and the Islamic Shariah Court of Malaysia; and to implement training requirements for all officers and employees of the Shariat legal and judicial institutions throughout the country.

In addition, in exercising its responsibilities, JKSM widely utilized the information and communication (ICT) systems in its administration. Undeniably, today’s challenging globalization era demands everyone to be well-versed with the use of ICT. The use of ICT application by JKSM can clearly be seen in its E-Syariah system. This system was built to ensure the public matters related with courts and trials are conducted effectively. From time to time, the number of cases has been increased and this trend will not be better served by the old, manual type of case registration procedure. The use of ICT has enhanced the effectiveness of JKSM in discharging its roles and duties. As such, the E-syariah online portal service created and maintained by JKSM is important for maslahah and best interest of the public, government agencies and Syarie lawyers.

For the public, E-Syariah application provides a pre-registration of Mal Cases Online and registration of Mal cases with online payment. Besides, the faraid calculation system was also made available in order to give a lenient and speedy method of calculating property. This system will calculate the distributions automatically after all the information of heirs are entered. In addition, the E-Syariah application also offers the public an opportunity to easily and speedily check the status of public case and search the information of Syarie Lawyers. Besides, E-syariah also provides a platform for the public to apply for syarie lawyer position and that application can be made with online payment. Further, sales of printed material (jurnal Hukum) were also available. For the government agencies, their administrative system will be more efficient through collaboration with JKSM. The agencies like Royal Malaysia Police (PDRM), Immigration Department of Malaysia (JIM), Syarie Prosecutor and Religious Corps of the Malaysian Armed Forces (KAGAT) are among the registered members under JKSM online portal (http://www.jksm.gov.my).

For the Syarie judge and lawyers, the E-syariah system under JKSM is important for them as a channel to renew their certification in legal practice. In fact, they also can update the information of Syarie lawyers and search for Syarie lawyer online. Besides, they manage to check their client case status and make registration of Mal cases with online payment. This system help the jurisdiction system in Malaysia works more effectively than before. The system also has been upgraded in order to make its relevance with the changing society (http://www.jksm.gov.my).

Conclusion:

Al-Mawdudiyy, in Mahadi’ al-Islam towards understanding Islam states that Shariah stipulates the law of God and provides guidance for the regulation of life in the best interest of mankind. Islam is a comprehensive religion as it deals with all aspects of life including Syisah or political and administrative system. Syisah Shari’yyah can be classified into tree types of definition which are by literal, among jurist and among the non-jurist. The concept of Syisah Shari’yyah widely discusses by Ibn Taymiyyah and his book al-Syisah al-Sharcyyah Fi Islah al-Ra’iyy Wa al-Ra’iyy were referred by many writers.

The basic foundation for administer the Islamic country or practice Syisah Shari’yyah was by selecting the suitable innamate to run the country. In verse 58 of al-Nisa’ which means, “Verily! Allah commands that you should render back the trusts to those, to whom they are due; and that when you judge between men, you judge with justice. Verily, how excellent is the teaching which He (Allah) gives you! Truly, Allah is Ever All-Hearer, All-Seeer”.

With its unique multi-ethnic community, Malaysia has the capabilities to manage and govern its people in line with Syisah Shari’yyah principle. In fact, the principle of Syisah Shari’yyah has already been implemented in numerous of department and agencies whose establishment was aimed at assuring the public interest for the benefits/maslahah of everyone.
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