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Arab and Islamic Studies in honor of
John J. Donohue s.j.

edited by

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RELIGIOUS FREEDOM IN LIMBO:
*The Cases of Dar al-Arqam and
“Sky Kingdom” in Malaysia*

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In Malaysia, a country undergoing rapid modernization and ever increasing capacities, religious freedom which at first sight seems to touch the right of the minorities, is one of the much contested pillars in the internal Muslim debate about the role of the state and its responsibility and the role of the individual and its rights. Since Islam is considered (by government and opposition alike), an all-inclusive system of life (*al-Islām dīn wa-dunyā/wa-dawlah*), this amalgamation of Islam with politics has far reaching implications: it implies that public order and morals are indispensable for both existence and exercise of religion, and that the state has the duty to control not only the public order but also the morality and faith of its citizens. The borderlines between the responsibility of the self and the state are blurred. While Western Renaissance has put the individual as the norm of all things, classical Islamic thought has always viewed the community as central piece of life, the community whose well being, unity and cohesion has to be maintained and defended, – an argument which is often referred to (“Malay unity” or “national security”). The interface of the responsibilities of the individual and the state/government is the crux of many if not most internal Muslim struggles in Malaysia. While the interethnic conflicts or fault lines are more visible, it is the internal Muslim struggle for “the” Islam which dominates the discourse and which will determine the future of the country. This struggle which is carried out by the ruling party in government and its Islamic opponents is mostly fought on the political level, but there have been – and still are – some theoretically apolitical Islamic movements with charismatic leaders which have entered the political domain by challenging the government’s definition of what Islam is, should be, or in any case should *not* be.

Although Islamic rhetoric is used by all the players involved, my hypothesis is that it is the security of the government which is the main

concern of its actions, driving it to declare non conforming Islamic movements to be a threat to Islam and to the country. In the following I will introduce the concept of religious freedom as understood in the Constitution and in Islamic thinking and how Islam is manipulated in the political and legal field, especially after the upgrading of the Shariah-courts in the 1980s (I). The two case studies of *Dar al-Arqam* and “Sky Kingdom” will illustrate the depth and seriousness of this conflict (II) which is then further scrutinized in the third chapter (III).

I

Religious Freedom in the Constitution

A recent research lists religious freedom of Malaysia as comparing favorably with international standards.¹ Malaysia, which consists of three main ethnic groups (Malays and Aborigines, Chinese, and Indians) with Muslims (Malays) constituting a slight majority,² offers – in theory – religious freedom to all: Art. 11 of the constitution guarantees freedom of religion³ and self-administration to all religions. It rejects all religious coercion,⁴ but only proselytization amongst Muslims is specifically forbidden.⁵ Islam is given a special place in the constitution⁶, which has been understood to imply that the state’s duty is to actively promote Islam.

¹ Report of the United States Commission on International Religious Freedom (in the following quoted as USCIRF): *The Religion-State Relationship and the Right to Freedom of Religion or Belief: A comparative textual analysis of the constitutions of predominantly Muslim countries*. March 2005, www.uscirf.gov (accessed 17.12.05), p. 15.

² The ethnic composition of the country is: 65% Malay and “Asli Orang” (Aborigines), 26% Chinese and 8% Indian Malaysians. In the case of the Malays ethnic and religious affiliation overlap (Islam), while the other ethnic groups are confessionally more mixed (most of the Indians are Hindu, and most of the Chinese Buddhists, but there are Christians in both groups [9% of Malaysians]).

³ Art. 11(1): “Every person has the right to profess and practice his religion and, subject to Clause (4), to propagate it”.

⁴ Art. 11(2) assures that tax money will not be used for any other religion, while Art. 11(3) grants self-administration.

⁵ Art. 11(4): “State law and (...) federal law may control or restrict the propagation of any religious doctrine or belief among persons professing the religion of Islam”.

⁶ Art. 3: “Islam is the religion of the Federation; but other religions may be practised in peace and harmony in any part of the Federation”. see: www.helplinelaw.com/law/constitution/malaysia/malaysia02.php.

So while religious freedom is granted, the question of apostasy from Islam poses a difficult dilemma to Malaysia's Muslims. In the West religious freedom includes the right to religious dissent, change of religion and atheism, as implied in the International Covenant on Civil and Political Rights, the main international human rights text after the Universal Human Rights Declaration of 1948.⁷ In Islamic thinking, apostasy (from Islam) is considered a taboo. Historically it used to be that apostasy, – though not accepted by the Muslim public – did not constitute a criminal act. Malaysia which has maintained its two parallel legal systems operating side by side (federal, secular law including criminal law based on the English Common Law, and the Shariah as personal status law for the Muslims)⁸ had in the 1980s upgraded its Shariah-system which resulted in tightening and narrowing down religious freedoms for Muslims. Apostasy however, is excluded from the secular penal code and thus not liable to persecution, yet, the Shariah-courts are increasingly trying to indict and criminalize apostates. Apostates from Islam nowadays face a legal gray zone in which conflicting competencies overlap.

Apostasy in Islam

In Malaysia as in many other Muslim societies, the dominant traditional view is that apostasy endangers the community and leads to a split within.⁹ Since this split is to be avoided at all costs, Muslims should not get exposed to

⁷ In contrast to Art. 18 of the Universal Human Rights Declaration of 1948, the 1966 International Covenant on Civil and Political Rights dropped the right to leave one's religion *expressis verbis* (due to pressures from some conservative Arab countries), which is now understood by implication. However, the UN Human Rights Committee observes in its General Comment No. 22: "The Right to Freedom of Thought, Conscience and Religion" (UN Doc. CCPR/21/Rev.1/Add4), para. 5: "(...) that to 'have or to adopt' a religion or belief necessarily entails the freedom to choose a religion or belief, including the right to replace one's current religion or belief with another or to adopt atheistic views" (quoted in USCIRF, p. 100). Malaysia is not a state party to this document. – See also the detailed discussion in Forstner, Martin: "Das Menschenrecht der Religionsfreiheit und des Religionswechsels als Problem der islamischen Staate", in: *Kanon*, 1991, 1, pp. 105-186; here p. 110ff.

⁸ See Ibrahim, Ahmad: "The Position of Islam in the Constitution of Malaysia", in *Readings on Islam in Southeast Asia*, ed. A. Ibrahim, Sh. Sidique, Y. Hussain, Singapore ISEAS 1985, p. 213-220; here p. 219.

⁹ A detailed analysis of this subject can be found in Hasemann, Armin: "Zur Apostasiediskussion im modernen Ägypten", in: *Die Welt des Islams*, vol. 42, no. 1, 2002, pp. 72-121; here p. 117f.; for the consequences in civil law as dealt with in classical literature and its modern application see p. 108ff.

teachings or movements that doubt the Islamic faith and weaken the Muslim spirit.¹⁰ This leads to the conclusion that it is the state's duty to protect its Muslim citizens against any unorthodox (or perceived as such) teachings.

Since the Muslim tradition expresses a strong unease about the possibility of apostasy from Islam, in all Islamic *madhāhib* apostasy is punishable by death.¹¹ This interpretation is not based on the Qur'an but on later Islamic tradition. While in the Qur'an the apostate is dealt with quite mildly (16:108, 109; 3:80ff., he is cursed by God but will receive his true punishment only in the Hereafter), a new element slipped in later: apostasy was understood as an attack on the state itself.¹² In the 19th century this death penalty was transformed into lighter penalties (like jail or deportation).¹³ In most penal codes of Muslim states nowadays apostasy is not listed as criminal act; – it appears however in many of the theoretical fundamentalist drafts for Islamic States.¹⁴

The most spectacular case of death penalty for apostasy in the 20th century is Salman Rushdie's, whose murder was declared a duty to all true Muslims by Ayatollah Ruhollah Khomeini. This is a new development in Islamic thought since contrary to tradition no court was evoked to identify the apostasy claim. Khomeini had called on all Muslims to kill Rushdie since his "Satanic Verses" were considered an attack on, and treason of *Islam*, itself. If not death, then other severe social consequences await the apostate, like the confiscation of property, annulment of marriage and so on. This is what happened to the Egyptian scholar Nasr Hamed Abu Zayd whose writings and research on the Qur'an did not please the religious authorities of Egypt. Since there (like in Malaysia) apostasy is not considered a crime and is not included in the penal code of the country, depriving them of any *legal* means to take action against the scholar, they turned to the personal status law. The simple fact that a Muslim woman cannot be married to a non-Muslim was the only means to punish Abu Zayd by forcefully divorcing him from his wife. The famous āyah *Lā ikrāha fil-dīn* (2:256) does not seem to be applicable anymore to internal Muslim struggles.

¹⁰ Forstner, in *Kanon*, 1991, footnote 117, p. 163.

¹¹ Even if hardly ever applied in praxis, so Forstner p. 113ff.

¹² See M. Lecker, Article "al-Ridda", in *EI*, 2nd ed., suppl. fasc. 9-10, Leiden 2004, pp. 692-695. The term *Ridda* was used in Arabic historiography for the series of fights against rebellious Arab tribes who had renounced Islam; – thus the connection between apostasy and (high-)treason.

¹³ W. Heffening, Article "Murtadd", in *EI*, 2nd. ed., VII, Leiden 1993, pp. 635f.

¹⁴ Forstner, in *Kanon* 1991, p. 118.

Mapping the contested space of Islam in Malaysia

In Malaysia Islam itself has become a contested space for diverging interpretations. While no special governmental attention was given to Islam after independence (1957) through the 1960s, this changed with the rise of the Islamic Renewal movements (*Dakwah* from Arabic *daʿwa*, the “Islamic Call”) which swept the country in the wake of the worldwide Islamic rise in the 1970s. The *Dakwah*-movements were attractive mostly for the young Malay middle class, a class of Muslims that had profited from the country’s economic program, the New Economic Policy (NEP), launched in the 1970s after the May riots 1969.¹⁵ *Dakwah* implies the Islamization of Muslims rather than the proselytization of others.¹⁶ The *Dakwah*-movements worked mostly in the social field, trying to Islamize Malay society through educational efforts (*tarbiyah*). The rapid growth of the *Dakwah* was due not only to impulse from the Islamic, mostly the Arab world, but resulted largely from discontent with the political situation in Malaysia and internal social grievances and injustice. As criticism of the national Islam policies it showed a yearning for more religious spirituality. In the different movements of the arising *Dakwah* Islam manifested its power as protest, – a development which was registered by the government and the official Islamic organs with suspicion and mistrust.

Since Islam constitutes one of the outstanding markers of Malay identity the government could not afford to lose its authority to define and interpret Islam. UMNO (*United Malays National Organisation*), the dominant Malay party in the ruling coalition, which had traditionally focused on Malay nationalism and perceived itself as keeper of Malay interests, now tried to use Islam as motor for its civilizational, developmental project, catapulting Malaysia from a backward Third World country into the industrialized world. In a country that underwent rapid social change and modernization

¹⁵ In May 1969 Kuala Lumpur and some other big cities witnessed interethnic clashes over the election results when the ruling coalition lost its two third majority. The government suspended parliament, introduced martial law, and came up some 2 years later with the NEP as an effort to ensure economic growth while eliminating economic disparity. Although the aims of the NEP were poverty reduction and society restructuring to overcome ethnic identities it was in fact a kind of positive affirmative action for Malays, allowing special quotas reserved for them in business, the public sector and education. For more information see Wolff, Jürgen H.: *Stadtplanung in Kuala Lumpur: Politik und Verwaltung in einer pluralen Gesellschaft*. Frankfurt a.M. 1989, p. 152ff.

¹⁶ Funston, John: “The Politics of Islamic Reassertion: Malaysia”, in *Readings on Islam in Southeast Asia*, ed. A. Ibrahim, Sh. Sidiq, Y. Hussain, Singapore ISEAS 1985, pp. 170-179.

Islam was kept as main point of reference and identity for Malays and was exploited by the government and then Prime Minister Mahathir (1982-2003) to create a brand that is work-oriented, modern and “progressive” Mahathir wanted to instill a development-oriented and -compatible Islam which would encourage industrialization and modernization. To secure that Malays conform to this interpretation of Islam the government had to retain its authority over Islam, an authority it was not willing to leave to other Islamic movements like the *Dakwah*.

In the early 1980s the government was confronted with the choice to partake of the Islamization-drive, thereby controlling it, or to suppress it and push it in the underground, as happened in most Arab countries. The government’s strategy to pioneer the new Islamic spirit cannot just be dismissed as *reaction* to the Islamic renewal; – it resulted from the conscious decision to keep the authority over religion and the strong will to survive on the Islamic ticket. This is obvious in the extent of governmental Islamization programs which resulted in the further institutionalizing of Islam and strengthening of the government’s Islamic institutions, the expansion of its own influence and the control of its political opponents.¹⁷

The traditional Malay party, UMNO, which until recently behaved and was perceived as a secular-nationalist party Islamized itself in the course of the last 20 years. It was pushed into this direction by the Islamic opposition party PAS (*Parti Islam SeMalaysia*)¹⁸ which demanded more and more Islamization in law and society. This internal Muslim rivalry for votes and political power created an escalation in the Islamization programs of the government, resulting in mainstreaming many of the Islamic demands previously held only by a minority.

“Which Islam?”

The two political parties – UMNO and PAS – are opposed in their interpretation of Islam and or the role Islamic Law, the Shariah, should have in an Islamic society. While UMNO’s Islam could be described as

¹⁷ See the very interesting analysis of Nasr, Seyyed Vali Reza: *Islamic Leviathan. Islam and the Making of State Power*. Oxford University Press 2001, p. 16f. where he discusses this phenomenon in detail.

¹⁸ For a detailed history see Noor, Farish: *Islam Embedded – Historical development of the Pan Malaysian Islamic Party PAS (1851-2003)*, Kuala Lumpur, Malaysian Sociological Research Institute, 2004, 2 vols.

“progressive” and PAS’ version as “conservative” or even “fundamentalist”¹⁹, both positions, as different as they may be from each other, claim to possess the ultimate “truth” and offer no place for non-conform attitudes. The Shariah however, is not as clear-cut as hegemonic discourses would like us to believe. The push for conformity and orthodoxy in both government and opposition policies stems from the perceived necessity to establish once and for all a superior authority.²⁰ Both political actors, UMNO and PAS, seem to agree on the existence of the one, pure and orthodox Islam in whose name the state is *entitled* to demand the obedience and submission of its Muslim citizens.

The internal Muslim debate on the nature of Islam is fought with vehemence and aims to define “which Islam” is good for the country. Noteworthy is the absence of openness: although the debate on Islam grew louder, and the debate on how best to comply with the Shariah, the discussion was characterized by narrowness and intolerance. The attempt of the government to keep the monopoly of definition and to abolish Islamic polyphony, plurality and ambiguity was never criticized as such from PAS. On the contrary, it claimed the same monopoly for its own benefit, and never tried to question this claim. Never did the PAS criticize the government for marking some *Dakwahs* as deviant.²¹ While representing opposing views, the debate the two parties initiated did not grow into a broad inclusive and open discussion on the nature of Islam, or into a discussion with a plurality of opinions or where such a plurality would have been viewed as positive. It led to a reduction of the discourse on “true Islam” and resulted in the repression of diverging attitudes and denouncing them as deviant.

Governmental attempts to create a uniform Islam that includes only Sunni, Shafi‘i Islam, leads to considering other Islamic trends as “deviant” or even un-Islamic and thus to excluding them automatically from the country’s Muslim-Malay community. The methods with which to enforce the official version of Islam differ. As Lee and Ackerman found out, the Malaysian government seldom recurs to outright repressive methods. It prefers

¹⁹ I agree with the German Malaysia-expert Jan Stark that such a categorization obscures the fact that both parties follow policies that transgress the borders of any clear-cut classification. Stark: “The Islamic Debate: The Unfinished Project”, in: *South East Asia Research*, vol. 11, 2003, pp. 173-201; here p. 201.

²⁰ For a detailed discussion of this phenomenon in the global context, see al-Azmeh, Aziz: *Islams and Modernities*. London/New York 1993. For a vivid picture of the Malaysian discussion see malaysiakini, www.malaysiakini.com/print.php?id=53326, feature by Cl. Theophilus on “Religious Freedom: still no common ground”, 3.7.2006.

²¹ See Noor, *Islam Embedded*, p. 514.

to use the “ameliorative approach”²² which is based on the assumption that any split or fractioning of the Muslim community is to be avoided, – an attitude shared by the majority of Malays²³. Most attempts of the government to keep control were made through cooption (as in the case of Anwar Ibrahim)²⁴ and rehabilitation rather than through open repression; but when considered necessary (like in the Memali-incident 1986)²⁵ the government does not hesitate to use force, too.

The reinvigoration of the Shariah-System

Since the 1980s the Shariah-system of the country has been constantly strengthened. In 1981 the UMNO general assembly decided on maintaining the “purity of Islam” by making it the duty and priority of the federal/state Islamic bureaucracies to identify Islam and defend it.²⁶ This drive to orthodoxy resulted in 1982 in the identification of the Ahmadiyah, a Shiite “sect” originating from Pakistan, as deviant,²⁷ stripping its Malay

²² Lee, Raymond L.M. / Susan E. Ackerman: *Sacred Tensions. Modernity and Religious Transformation in Malaysia*. Columbia, 1997, p. 135ff.

²³ As can be seen by the opinions of many of the interviewees of a survey which the author conducted in Sept./Oct. 2005 in Kuala Lumpur. Some 40 personalities of the public sector, law, media and religion were interviewed about their perception of Islam, the state, the role of Islam in the state. See Tramontini, Leslie: *Riding the Islamic Tiger – Zu Islam und Islamisierung in Malaysia*, forthcoming. See also Wolff, Jürgen H.: A Plurality of Nations? Malaysia’s Quest for a Viable Polity. *Lettres de Byblos*, No. 11, Centre International des Sciences de l’Homme, Byblos, 2005.

²⁴ He was the charismatic leader of Malaysia’s biggest *Dakwah*, ABIM (*Angkatan Belia Islam Malaysia*). In 1982 he quite unexpectedly left ABIM and joined UMNO to pursue a steep and brilliant career, reaching the post of deputy prime minister. In 1998 however, Mahathir let him down, Anwar was indicted of moral misconduct and corruption and imprisoned until the year 2004 when the newly elected PM Abdullah Badawi freed him. For biographical details see Noor, Islam Embedded, p. 246ff.; for his writings see Riddell, Peter: *Islam and the Malay-Indonesian World. Transmission and Responses*. Singapore 2001, pp. 241-246.

²⁵ Memali stands for the violent government response to a militant threat: In 1985 the government resorted to unprecedented use of force against the PAS-militant leader Ustaz Ibrahim Mahmood “Libya” who had called for jihād against the government and for the establishment of an Islamic State by revolutionary means. Before the military action against Ustaz “Libya”, the Islamic bureaucracy declared him deviant. For details see Noor, *Islam Embedded*, pp. 397-405; Kamarulnizam Abdullah: *The politics of Islam in contemporary Malaysia*. Bangi 2003, pp. 196-200.

²⁶ Noor, *Islam Embedded*, p. 374.

²⁷ Nair, Shanti: *Islam in Malaysian Foreign Policy*. London 1997, p. 152, talks of 47 “deviationist” groups being identified in the country in 2005. The bureaucracy did not

followers from their Malay/Bumiputra status.²⁸ In the following years the autonomy of the Islamic bureaucracy was greatly expanded; it culminated in the constitutional amendments of 1988 which Mahathir pushed through overnight, jailing his political opponents under the Internal Security Act (ISA) and empowering Shariah courts²⁹. This was a watershed in Malaysian law. Constitutional amendments largely destroyed the independence of the judiciary. Government policies expanding the authority of the Shariah courts were an attempt to coordinate the different state legislations on Islam. They succeeded – through absorption of the *ulama* into the state apparatus – in securing the continuing religious authority of the state.³⁰ This religious authority has become firmly rooted in the political landscape and constitutes one of the key players in the Islamic field, enforcing “official” Islam and trying to homogenize it. Homogenization however, is difficult to push through: on state level, the various Islamic bureaucracies have gained great autonomy and dynamic so that their enforcement-policies sometimes collide with UMNO’s views³¹; on federal level, the interpretation and implementation of official UMNO-policies greatly differs from state to state³²; and on societal level the internal Muslim fault lines remain in the country and will most probably get worse.

dare declare the country’s Shia deviant and disband the community, – it is however, under surveillance; p. 154.

²⁸ This has far reaching consequences since it means losing the Malay privileges that go with being identified as Bumiputra (lit.: sons of the earth).

²⁹ For a detailed discussion of the strengthening of the Shariah system see Hamayotsu, Kikue: “Politics of Syariah Reform – The Making of the State Religio-Legal Apparatus”, in *Malaysia: Islam, Society and Politics*, eds. V. Hooker and N. Othman, Singapore 2003, pp. 55-79; esp. p. 59.

³⁰ Hamayotsu, “Politics of Syariah Reform”, p. 74.

³¹ When the government adopted the rhetoric of the “true Islam” as motor and incentive for modernization, it overlooked the fact that rhetoric creates reality. The by now well-established Islamic bureaucracy of the state seems bent to stray from the “progressive” Islam the government intended to propagate. For instance, the “moral police” JAWI (the Federal Territory Religious Department) raided a nightclub in early 2005, separating Muslim from non-Muslim youth and arresting Muslims. This caused a major outcry in the country and culminated in a memorandum asking the government to contain the powers of the JAWI. This in turn led some more conservative-minded Malays to accuse the request of “Islam-bashing” In the interviews conducted in fall 2005 many interviewees expressed their fear of the (eventually uncontrollable) momentum and boost the Islamic bureaucracies gained, whereas UMNO-politicians downplayed the incident; see Tramontini, *Riding the Islamic Tiger*, forthcoming.

³² The Islamic bureaucracies on both federal and state level have by now developed an independence from the actual political leadership that makes categorization into

By trying to keep the monopoly over the definition over Islam the government declares awkward Islamic trends as heretical, un-Islamic or immoral, – its favorite political maneuver to date. This begs the question whether governmental actions are Islamically, theologically motivated, or if those movements are better considered as a threat to its hegemony and plans for capital accumulation and nation-building.³³ It is not only the political opposition-party PAS and their version of an “authentic” Islam that challenge official Islam, but also movements like the *Dar al-Arqam* or the “Sky Kingdom” which were banned in 1994 and 2005 respectively. By comparing the official argumentation and justification for banning these movements it will become clear that the government pursues a game which enhances its political power under the disguise of Islam, and seeks at the same time the elimination of all kinds of non conforming Islam. In the following sections I will discuss two case studies and examine the implications of governmental crackdown against them.

II

Dar al-Arqam

The charismatic movement *Dar al-Arqam* (in the following: *Arqam*)³⁴ offered a Sufi-inspired holistic spiritual alternative to the dominant Islam in Malaysia. Although not a declared political party, its activities were perceived by the government as threat which finally led to its suppression. Founded in 1986 by the charismatic leader Ustaz Ashaari Muhammad³⁵ in

“modern/progressive/liberal” and “fundamentalist/Islamist” policies increasingly difficult: in 2000 the UMNO state government of Perlis tried to issue a bill (*Islamiyah Aqidah Protection Bill*) assigning the exclusive authority to identify non-practicing Muslims and bring apostasy cases to Shariah courts; for the full text of the Bill see Noor, *Islam Embedded*, app. II, pp. 793-802.

³³ As many analysts assume, so Hamayotsu, p. 72.

³⁴ Muhammad Syukri Salleh’s PhD *A Grassroot Approach to Rural Development: The Case of Darul Arqam in Malaysia*, PhD Oxford Univ. 1991, London 1992 was not available to me in its entirety, but he published some articles on various internet sites, see e.g. www.geocities.com/muhammadsyukri/STISLAMIKA, 1998 (accessed 2006).

³⁵ Ashaari was born 1938 in Negri Sembilan into a religious family. He joined PAS early but left the party in the mid-1960s. After founding *Dar al-Arqam* he brought his group for a while into the biggest and most active *Dakwah*, ABIM, but this joint venture did not work out. So *Arqam* went its separate way and became ABIM’s main rival; the eloquent Ashaari developed quickly into a charismatic leader. For his biography see Mutalib, Hussin: *Islam and Ethnicity in Malay Politics*, Singapore / Oxford University Press 1990, p. 85ff.

Selangor, the group follows the Sunnah in a most literal way, and believes in the necessity of *hijrah* as the coming of the End of Times and the return of the Mahdi. These convictions bear some resemblance to the chiliastic beliefs of the Shiah, – an allegation made later to discredit the movement.

Structured in a strongly hierarchical manner, the organization built up 48 communities in Malaysia and a few others outside the country.³⁶ They established a strong network of schools, clinics and communities with their own infrastructure, mosques and agricultural enterprises. In these communities the followers lived in complete isolation in order to realize Ashaari's vision of a true Muslim live. They were encouraged to wear "Islamic" dress and imitate "authentic" ways in following the Prophet: no Western clothes, no TV or music, only certain food items.³⁷ Economically independent³⁸ they financed themselves through donations and the sale of their *halal*-products. In contrast to PAS' policy to establish first an Islamic State in whose framework the Islamization of society would proceed, Ashaari envisioned a truly Islamic society which later on would quasi automatically lead to an Islamic State.

By targeting the youth and the middle class *Arqam* became a rival to other Islamic groups of the *Dakwah*-movement and political parties alike (including ABIM,³⁹ Malaysia's biggest *Dakwah*, PAS and even UMNO). In the mid-1970s when PAS was part of the ruling coalition, it was easily discredited as part of the system. *Arqam*'s popularity reached its peak. It was not only PAS but also ABIM and the government organs which drew the criticism of Ashaari for being too theoretical, too rhetorical and without sufficient faith; aspects which Ashaari claimed were the main reason for the failure of the *Jamaah Islamiyah* in Pakistan and the *Muslim Brothers* in Egypt.

³⁶ Noor, *Islam Embedded*, p. 509.

³⁷ He propagated *halal*-food instead of "non-Muslim Soya and noodles"(!), see Jomo, K.S. / Ahmad Chabery Cheek: "Malaysia's Islamic Movements", in: *Fragmented Vision. Culture and Politics in Contemporary Malaysia*, eds. Kahn, Joel S. / Francis Loh Kok Wah, Sydney 1992, pp. 79-105.

³⁸ See Adam, Askiah for more details on their economic model: "Islam and Civil Society: Islamic NGOs and Electoral Politics", in: *Elections and Democracy in Malaysia*, eds. M. Puthuchery / N. Othman, Bangi 2005, pp. 222-246; here p. 228ff.

³⁹ See Stark, Jan: *Kebangkitan Islam: Islamische Entwicklungsprozesse in Malaysia von 1981 bis 1995*. Hamburg 1999, pp. 36-45; idem.: „Zwischen politischem Kalkül und ideologischem Wettbewerb: Modelle des islamischen Staates in Malaysia“ in *Orient*, 43, 2002/3, pp. 417-437. In their website <http://www.ABIM.org.my> the group introduces itself as social movement (accessed 15.8.2006).

In the late 1970s and the early 1980s Ashaari's criticism of the government policies abated; he entertained good relations with Mahathir. This culminated in 1981 with Mahathir's famous plaudit of Arqam as "true Islamic movement",⁴⁰ implying that the other *Dakwah* movements are not. Despite this rapprochement, the group was still viewed with suspicion, and the attraction it held for the middle class was a direct threat to the governmental brand of Islam as support for modernization and a new work ethos.⁴¹ In 1986 the cordial relation with the government deteriorated rapidly with the publication of Ashaari's work *Awrad Muhammadiyah*.⁴² There he described his struggle for a just Islamic society and his vision of the return of the Mahdi (expected to be a Malay scholar). It was especially this point which aroused tensions with the orthodox-obsessed officials⁴³ who issued a fatwa against him for heresy.⁴⁴ Ashaari countered the accusation by attacking the official Islamic bureaucracies for not promoting Islam seriously enough.

But no serious steps were taken against him or the movement at that moment. The crackdown came only eight years later at a time when Ashaari didn't pose a mere "theological" but also a political threat: he pretended to be more popular than Mahathir.⁴⁵ In a concerted action with neighboring countries the Malaysian government put an end to the movement. In 1994 Ashaari was arrested in Thailand, handed over to the Malaysian authorities and imprisoned under the infamous *Internal Security Act* (ISA)⁴⁶. Under the pretext of building an underground army (a claim which later turned out to be totally made up) the action was justified in the name of "national security" The official Islamic Council (*Pusat*

⁴⁰ Kamarulnizam, *The politics of Islam*, p. 175.

⁴¹ Lee / Ackerman: *Sacred Tensions*, p. 136.

⁴² *Awrad* are the daily spiritual exercises of the Sufis', consisting in repeating verses of the Qur'an and the *shahādah*. They express the teachings of the Malay Sheikh same who was expected as Mahdi (see Kamarulnizam, 2003, p. 110ff.). As soon as the book appeared fatwas were issued, classifying the book as deviant; see *New Straits Times*, "Action only after second circular on al-Arqam membership", 7.7.1994.

⁴³ Lee / Ackerman, *Sacred Tensions*, pp. 49-51.

⁴⁴ Jomo / Chabery, p. 84; Lee / Ackerman, *Sacred Tensions*, p. 50.

⁴⁵ Kamarulnizam, p. 170.

⁴⁶ Originally introduced in the early 1960s as legal means against the Communist tide it has served increasingly to arrest militant or otherwise dissident Islamists. By now about 80 Islamists are imprisoned under the ISA, sometimes held for years without trial; see Amnesty International, <http://www.amnestyusa.org/countries/malaysia/document.do?id=ar&yr=2005> (accessed 16.8.206).

Islam)⁴⁷ declared *Arqam* a security threat which jeopardized the Muslim community and the national unity of the country. It issued a fatwa declaring *Arqam* deviant, a danger to Islam and misguidance to Muslims. The movement was officially banned⁴⁸ after Ashaari appeared publicly in TV, renouncing his teachings. PAS, which had been under pressure at the same time for its attempt to introduce the *hudud*-laws in Kelantan,⁴⁹ never protested the *Arqam*-ban, – its spiritual leader Nik Aziz even argued in its favor, because it meant the removal of a rival.⁵⁰

⁴⁷ Subject to the prime minister's office, meanwhile renamed Jakim (*Jabatan Kemajuan Islam Malaysia*), Kamarulnizam, 2003, p. 166. Its duties are to coordinate the religious affairs of the states.

⁴⁸ At the same time, in summer 1994, the Indonesian Moslem Council (MUI) initiated a ban on the Indonesian *Arqam*; see *Jakarta Post*, "Govt studying demands to ban Moslem sect", 25.7.1994. The Indonesian government never indulged in any action against the movement since its priority was the maintenance of harmonic relation between the communities and not addressing the religious doctrine per se. *Arqam* was never considered a national threat in Indonesia or Thailand. Meuleman, Johan H.: "The History of Southeast Asia – Some Questions and Debates", in: *Islam in Southeast Asia – Political, Social and Strategic Challenges for the 21st Century*, eds. K.S. Nathan / Mohammad Hashim Kamali, Singapore 2005, pp. 22-44; here p. 37.

⁴⁹ In 1993 the PAS government of Kelantan introduced the Syariah Criminal Code (II) Bill, challenging the Malaysian notion of Shariah as personal status law. This bill envisaged the introduction of Islamic criminal law (*hudud*) in the state, causing a major uproar for several reasons. First: criminal law is the prerogative of the federal government, and in case of collision between state and federal law the latter overrides the former (Constitution, art. 75). More important however, is PAS' contention to interpret the constitution as subject to the Shariah, – a new position that is gaining ground. (See Moten, Abdul Rashid, professor at the International Islamic University in Kuala Lumpur, who represents such a view in his article "*Malaysia as an Islamic State: a political analysis?*", in: *Malaysia as an Islamic State*, ed. by the Institute for Islamic Understanding, Kuala Lumpur, 2005, pp. 27-94, here p. 71. For a discussion of this phenomenon see Martinez, Patricia: "Islam, Constitutional Democracy, and the Islamic State in Malaysia", in: *Civil Society in Southeast Asia*, ed. by Lee Hock Guan, Copenhagen/Singapore 2005, pp. 27-53.) Second: for the bill to get implemented it needed a constitutional amendment, something which is not likely to happen, for the time being at least. The crux for the federal government, which is engaged in Islamization yet not interested in a literal or complete implementation of the Shariah, is that there are few counter-Islamic arguments. For more information see Ismail, Rose (ed.): *Hudud in Malaysia. The Issues at Stake*. Kuala Lumpur 1995; Kamali, Mohammad Hashim: *Punishment in Islamic Law. An Enquiry into the Hudud Bill of Kelantan*, Kuala Lumpur 1995; M.B. Hooker: "Submission to Allah? The Kelantan Syariah Criminal Code (III). 1993", in: *Malaysia: Islam, State and Politics*, ed. V. Hooker and N. Othman, ISEAS, Singapore 2003, pp. 80-98.

⁵⁰ So Noor, *Islam Embedded*, p. 514; he also mentions the fact that PAS considered his teachings as heretic, very much like UMNO.

“Sky Kingdom”

In 2005 governmental repression of a charismatic movement occurred again, this time against Ayah Pin and his “Sky Kingdom”, provoking a vivid, emotional debate in the country on freedom of religion.⁵¹ Ayah Pin, whose original name was Ariffin Mohammad, established a community in the north of the country with a huge variety of members from all religious affiliations. He was a charismatic leader who taught love, understanding and interethnic harmony and who allegedly had healing powers. He drew the wrath of the official organs when he claimed to be in direct contact with God. When he was accused of apostasy he declared not to be Muslim anymore. But even this could not save him: the *Malaysian Islamic Development Department* (Jakim) did not accept his renouncing Islam and declared his community a national threat.⁵² In summer 2005 the government sent in troops to demolish the “Sky Kingdom” and arrest its members. Ayah Pin fled the country and remains in hiding.⁵³ The appeal of some of the accused members of the “Sky Kingdom” to the Supreme Court was rejected. The Court declared itself incompetent and remanded the case back to the Shariah courts whose duty it is to establish who is Muslim and who not.

III

Religious Freedom in Limbo

Apostasy in Islam is nowadays considered an offense which includes anyone who doubts some any fundamental pillar of the faith⁵⁴. In both cases just discussed religious freedom is at stake: with *Arqam* it is religious freedom as the right to unorthodox opinion within Islam, while the “Sky Kingdom” highlights religious freedom as the right to convert out of Islam, both declared by the government as “apostasy”.

The long eight years span between the fatwa declaring Ashaari heretic and the final crackdown shows that the move was a political maneuver,

⁵¹ www.malaysiakini.com/print.php?id=39405: Claudia Theophilus, “Cyberwar over Ayah Pin”, 23.8.2005, gives an insight into the emotional atmosphere dominating the discussions.

⁵² See *malaysiakini*, 27.6.05.

⁵³ See NST, 3.5.2006, “Ayah Pin still hiding in Thailand”.

⁵⁴ Forstner, in *Kanon* 1991, p. 106.

albeit underpinned by theological arguments.⁵⁵ The economic independence of his communities and the infiltration of *Arqam*-members in the civil service and UMNO⁵⁶ together with Ashaari's charismatic personality had produced an explosive mixture which threatened the government's vision of Islam and ran counter to the so-often evoked Malay unity. Ashaari himself defended his teachings in an interview on the eve of his arrest in Thailand: "*We have answered [the accusations of heresy] with the Holy Books of Islam. But they [the official organs] didn't want to listen to us because they never do. In Islam there are issues on which you can disagree since they have never been fixed. The scholars do not always agree, and we have to accept differences in opinion. State officials however try to impose on us a view which is not correct.*"⁵⁷

In his analysis of the *Arqam*-case, Islamic Law scholar Abdullahi an-Na'im argues within a human rights framework that the government's crackdown of the movement did not respect any legal proceedings: "(...) *if the government of Malaysia wishes to uphold this regressive principle of Shari'ah, it should have explicitly enacted an "offense" of apostasy in its penal code (...) the government has given itself license to penalize and persecute Ashaari and his followers without conforming to the demands of the principle of legality and rule of law under Shari'ah itself. (...) This is a case of official abuse of religion for political ends by denying a group of citizens their freedoms of belief, expression, and association*".⁵⁸ The right of the state to speak in the name of Islam is questioned from within an Islamic point of view, and the hegemonic discourse of the state unmasked as a strategy of tutelage. An-Na'im pleads for overhauling the allegations of apostasy/heresy both within the Islamic framework and under Universal Human Rights. He argues for abolishing criminalization altogether since it is "*totally inconsistent with freedoms of conscience and belief from an Islamic point of view and/or a Malaysian cultural perspective, as well as being in violation of universal human rights*

⁵⁵ Kamarulnizam, p. 219, 171, 174. Likewise Mhd Syukri Salleh, 1998.

⁵⁶ See the report in the NST, "Action only after second circular on al-Arqam membership", 7.7.1994, which counted ca. 7000 members of government as *Arqam*-members.

⁵⁷ In www.inwent.org/v-ez/lis/malaysia/944maala.htm the German translation of Ashaari's interview 28.8.1994 is available. Here my own retranslation into English. I don't have access to the original interview which appeared in *The Nation*, Bangkok, 28.8.1994.

⁵⁸ an-Na'im, Abdullahi A.: "The Cultural Mediation of Human Rights: The al-Arqam Case in Malaysia", in: *The East Asian Challenge for Human Rights*, eds. Bauer, Joanne R. / Daniel A. Bell, Cambridge University Press 1999; pp. 147-168; p. 163. He calls the government's attitude a "strategy for the legitimation of oppression" which is used indiscriminately, p. 166.

to freedoms of belief and expression".⁵⁹ Here is a renowned Islamic voice arguing that the government's stance against *Arqam* was neither compatible with Islamic precepts nor with Human Rights.

In the case of the "Sky Kingdom" the apostasy-discussion focused on the legal gray zone, esp. the competence of courts. Before 1988 the courts enjoyed some independence to decide that conversion out of Islam "(...) cannot (...) by itself be regarded as a threat to the security of the country. (...) The guarantee provided by Article 11 of the Constitution, that is, the freedom to profess and practice one's religion, must be given effect (...)".⁶⁰ Now it seems impossible for a Muslim to invoke religious freedom when trying to convert out of Islam: such a case cannot be dealt with any longer by a federal, secular court. Judges of the federal courts shy away from dealing with anything even remotely connected with Islam and prefer to refer those cases back to the Shariah courts. Now apostasy-cases must be brought before a Shariah-court. The refusal of the Supreme Court to adjudicate the matter has created an ambiguous legal position. By renouncing its basic function of last juridical instance the Supreme Court shirks its responsibility, in fact violating art. 11(1) and art. 74 of the Constitution which guarantee freedom of religion and freedom of opinion. Although the Badawi government is working to homogenize Islamic laws,⁶¹ the current opaqueness of jurisdiction and competence has created a gray zone in which fundamental human rights are easily violated.⁶² Constitutional lawyers view the incident with great alarm, and Shad Saleem Faruqi regrets the "silent re-writing of the Constitution": *A great deal of legislation on Islamic matters appears to disregard constitutional limitations (...) The superior courts appear reluctant to intervene or to adjudicate whenever an "Islamic" law's constitutionality is challenged (...) even when human rights violations are involved.*⁶³

⁵⁹ Ibid., p. 163ff.

⁶⁰ Quoted in Thomas, Tommy: "Is Malaysia an Islamic State?" Nov. 2005, in www.malaysianbar.org.my.

⁶¹ And especially to issue a standardized law concerning apostasy and deviant teachings, NST, 14.9.2005.

⁶² See Ahmad, Salbiah: "Islam in Malaysia, Constitutional and Human Rights Perspectives", in: *Muslim World Journal of Human Rights*, 2004, vol. 2, No. 1, available under www.bepress.com/mwjhr/vol2/iss1/art7, pp. 23ff. with many examples from court-records, pp. 26, 32.

⁶³ Faruqi, Shad Saleem: *Jurisdiction of State Authorities to Punish Offences against the Precepts of Islam: A Constitutional Perspective*; under www.malaysianbar.org.my, dated 28.9.2005. Salbiah Ahmad is of the same opinion in *ibid.*, pp. 3 and 34.

In Malaysia, the government sees itself entitled to defend and enforce its own version of Islam against all others, justifying this attitude under art. 11 of the Constitution. Originally intended for foreign, mostly Christian proselytization, art. 11(4) is increasingly used to get hold of “deviant” or heretic Muslim groups.⁶⁴ In its plight against non conforming, officially not authorized, Muslim groups, the government relies on art. 11 for legal support, although such an interpretation is constitutionally ambiguous.⁶⁵ Art. 3 of the Constitution (*Islam is the religion of the Federation*) does not deal with definition by government, and doesn’t entitle the federal nor the state governments “(...) to determine or prescribe what Islam is or which of its variant doctrines, tenets and principles shall be practiced”.⁶⁶ But the government rejects the argument and refers to the “threat for the national unity and security” which would arise if diverging Islamic trends were allowed to co-exist. In both cases the government justified its crackdown with the need to keep “Malay unity and national security” The “unity” theme alludes to the traditional notion that any challenge to orthodox Islam is considered a threat for the state while the “security”-theme begs the question whether the “security” evoked is indeed a “national” one or rather one that ensures the security of the regime.

“National security and Malay/Muslim unity”

Usually “national security” indicates threats from both within and outside the country. In our cases the government had to deal with a clearly internal threat. In Malaysia’s political make-up which was largely inherited from British colonial rule, Islamic affairs and the definition of orthodoxy had been the prerogative of the Sultans, an arrangement which was adopted in the Constitution.⁶⁷ This connection of power and Islam has continued with the state being considered responsible for the well-being of Muslims and Islam. Any challenge to official Islam can be viewed as direct affront of the government, which implies that the term “national security” in this

⁶⁴ Faruqi, Shad Saleem: “Is Malaysia an Islamic State?” in: *Is Malaysia an Islamic State? Secularism and Theocracy – a study of the Malaysian Constitution*, ed. A. Baginda and P. Schier, Malaysian Strategic Research Centre and Konrad-Adenauer-Foundation, Kuala Lumpur 2003, p. 51.

⁶⁵ Faruqi, *ibid*, p. 58.

⁶⁶ Mohammed Imam in his article “Freedom of Religion under the Federal Constitution of Malaysia – A Reappraisal”, 1994; as quoted in Thomas, www.malaysianbar.org.my.

⁶⁷ Art. 42(1) calls the Sultans the “protectors of Islam”.

context indeed means the security of the regime. Since UMNO is the major and dominant partner in the governing coalition, security is in fact about UMNO's hold on power. While the stability of the government is important to the well-being of a fragile country,⁶⁸ the concept of "national security" gets applied to an over-broad range of offenses. It includes the incarceration of opposition leaders and increasingly of suspected Islamists: a handy concept the government can use arbitrarily to justify actions which are evidently repressive.

The other pole of the argument, "Malay/Muslim unity", alludes to the traditional Islamic notions of unity. In a multi-ethnic and multi-religious society like Malaysia it has been the priority for government policies to maintain communal trust. Interethnic and communal trust has been one of the main pillars of UMNO's policies because instable interethnic relations would endanger the fabric of the society and its security. There is a general agreement that events like the inter-ethnic riots of May 1969 must be avoided at all cost. However, the internal Muslim debate adds a new dimension to the unity problem, adding to interethnic co-existence and harmony. The demographic situation, especially the economic dominance of the Chinese minority inside the country (and increasingly the economic boom of China) make frictions in the Muslim community ever more dangerous, and reinforce the general apprehension about "Malay unity" which must be preserved. As early as November 1984 the government came out with a "White Paper on Threat to Muslim Unity and National Security" in which it clearly outlined its position concerning "unity", arguing that "religious extremism"⁶⁹ would affect "Islamic solidarity and national security"⁷⁰ In a later "White Paper on the Memali Incident" the government warned again that it wouldn't tolerate any movement which "...uses force, creates chaos or splits the solidarity of Muslims in [the] country".⁷¹ Disputes and splits within the Muslim community are perceived as a threat to the nation as a whole since the state's mission is to protect Islam. This chain of thought summarizes the inherent logic of UMNO: The Malay/Muslim unity is evoked as a government priority which

⁶⁸ Kamarulnizam Abdullah: "National Security and Malay Unity: The issue of radical religious elements in Malaysia", in: *Contemporary Southeast Asia*, vol. 21, no. 2, August 1999, pp. 261-282; here p. 275.

⁶⁹ Whatever that may mean. The White Paper is not available to me but it seems that it was mostly PAS which at that time was implicated as dangerous, extreme, and active in subversive actions, see Kamarulnizam 1999.

⁷⁰ Quoted in Kamarulnizam, 1999, p. 270.

⁷¹ Quoted *ibid.*, p. 272.

must be maintained as essential for survival not only of the government but of Malay supremacy in general. The evocation of “Malay unity” serves the status quo, while it remains in fact empty of any Islamic concerns.

IV

Conclusion

The concept of religious freedom in Malaysia is more contested than ever.⁷² The big question remains unresolved: should violations of Islamic norms count as crimes in the legal sense, and should deviant teachings be criminalized?⁷³ As Gramsci said, hegemony includes the acceptance by the ruled. Most Malays fear that the government will lose its authority and monopoly over the definition of Islam.⁷⁴ They also fear the slow erosion of constitutional rights and guarantees, most of all freedom of religion. Only a small portion of the Muslim Malays openly criticizes the national Islam policies, and only a small minority of them gets organized to demand the full right of religious freedom for Muslims too. The Islamization of the country has by now been cemented in laws and in the judicial order, and so the last straw to which many activists cling is the Constitution of the country and the spirit it represents. The opinion of this minority is to leave personal responsibility intact vis-à-vis the duties of the state. This is a dangerous and potentially lethal undertaking: in 2006 death threats were issued to a lawyer representing apostates.⁷⁵

The hegemonic discourse of official Islam vis-à-vis other forms of Islamic spirituality or practices, while trying to reduce or streamline Islamic heteropraxy and heterodoxy, is rooted in political calculus. The traditional co-existence of legitimate and as such acknowledged divergent Islamic trends in the history of Islam and in the history of Asian Islam in particular, is increasingly denounced by an official Islam which wants to substitute

⁷² See the reports by Claudia Theophilus in *Malaysiakini*, 3.7.2006, “Religious freedom: still no common ground”, where she interviews outstanding Muslim personalities about Islam and its role in society, www.malaysiakini.com/print.php?id=53326, see also her other interviews on Islam, in June-August 2006.

⁷³ Faruqi, 2005, argues for argumentative, theological means. See also Hasemann, in *WI* 2002, p. 113f.

⁷⁴ See Tramontini, *Islamic Tiger*, forthcoming.

⁷⁵ See *Malaysiakini*, 19.6.2006, “Apostasy: Death threats against lawyer”, Muda Mohd Noor, www.malaysiakini.com/print.php?id=55622.

any heterodoxy with “universal” orthodoxy.⁷⁶ In Malaysia the duty of the government to protect its Muslim citizens against “deviant” groups results in a reduction of religious freedom and bears testimony to a negative understanding of plurality, originating more in the will for political survival and in anxiety over the developmental project the country has undertaken than in a sincerely felt concern for Muslim well-being.

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⁷⁶ For a discussion of a similar rivalry between global and regional Islam in the Pakistani context, see Jamal Malik, *Religionsschulen als politischer Faktor*, lecture at the University Freiburg, 26.1.2006. – I don’t feel qualified to talk about possible direct influence, ideologically and financially, from fundamentalist groups of the Arab Middle East on Malaysia; – it seems however quite clear that the drive for orthodoxy and uniformity is fed and stimulated by like-minded groups in those countries or even by their governments.

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