Criminalising Religious Pluralism: The Legal Treatment of Shi'ites in Malaysia

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ABSTRACT: Shi'a teachings and doctrine are currently being socially-constructed as a new threat to the survival of Sunni Islam, followed by the majority of Muslims in Malaysia. The Government has taken action by using legal mechanisms to control the influence of Shi'a teachings and to prevent its widespread proliferation. The Islamic legal provisions concerning aqidah (Islamic creed)-related offences and fatwas are potentially regarded as tools to monitor the lives of Shi'a individuals and communities in Malaysia. This article critically evaluates the formal consequences for Shi'a communities in Malaysia stemming from a legal framework, which is based on Sunni Islam. Furthermore, this article evaluates the extent to which Islamic law and fatwas in Malaysia can control the practice and promulgation of Shi'a teachings. The significance of this article is in its depiction of how Islamic law in a Sunni Islamic state may impact the religious practices of individuals and communities who make up a Muslim minority, with Shi'ites being the prime example.

KEYWORDS: Faith-related crime; Sharia law in Malaysia; Minority religious group rights; Sunni-Shi'ite relationship; Islam in Malaysia;

Introduction

In Sunni Muslim majority Malaysia, the conversion of Islamic tenets to statutory laws that govern the lives of Muslims in private and in the

public sphere is arguably undertaken rather aggressively and quite regularly. One of the unique traits of Islamic law in Malaysia is the provision for offences related to *aqidah* (Islamic creed) that can be found in each respective state's Sharia criminal law enactment. These provisions are aimed to, among other things, control the promulgation, practice and belief in doctrines and teachings other than Sunni Islam in Malaysia. Additionally, these laws also serve as a means to govern individual Muslims so that they practice their religion according to the Sunni interpretation of Islam, particularly from the aspect of aqidah.

In the late 1970s, Malaysia experienced a well-documented process of 'Islamisation', which permeated down from state policies to personal commitments in religious practice (Camroux 1996; Roff 2005; Mohamad 2010; Lee 2010; Abbott & Gregorios-Pippas 2010; Barr & Govindasamy 2010). Ghoshal (2010) dubbed this process as '*Arabization*' and argued that the *Salafiyyah-Wahabiyyah* interpretation, one of the schools in Sunni Islam, has notably changed the religious aspect of peoples' lives in Asian Muslim communities, including those in Malaysia. Despite Ghosal never having expressed this, we are of the view that the effect of this change may be viewed in the Islamic legal provisions related to *aqidah* found in each state. Although the Muslim communities in Malaysia embraced the Shafie School of thought and are consistent in their control over the influence of *Salafiyyah-Wahabiyyah* (Yaakop & Idris 2010), the impact of the latter is still evident in the landscape of Islamic law in Malaysia, especially in aqidah-related offences.

The majority of these provisions came into force around 1995, after the Government of Malaysia immobilized the Al-Arqam organization, whereby state Islamic criminal law enactments and acts were renewed and updated. While this move was not motivated exclusively by Anti-Shi'ism, the effective consequence of it was to discriminate against Shi'ism. By using the pretext of enforcing legal action against 'heretics' more effectively, these laws were enacted in every state, with Pahang being the last state to pass them in 2013. Despite the media's obsession with threats from what are deemed 'heretic' interpretations of Islam, there have been very few formal prosecutions of individuals or groups. Nevertheless, some well-publicised recent reprimands include Al-Arqam (presently going by the name Global Ikhwan), the followers of Ayah Pin and Abdul Kahar Rasul Melayu. The latest to emerge are the local Shi'a Muslims, who are the main subject of discussion in this article.

Local Shi'a groups in Malaysia have found their religious interpretation of Islam the subject of punitive action (Saeed & Saeed 2004; Hamed Shah & Mohd Sani 2011; Musa 2013). In the same way that Sunnism is often construed in homogenous terms, the diversity among Shi'a is not fully comprehended by Sunni States like Malaysia. This omission may have permitted foreign minority Shi'a sects with limited social interaction with Malaysian Muslims to have gone more or less undetected by the Malaysian State. Malaysian Islamic authorities may only take an action based on public complaints or reports of any allegedly 'suspicious' religious activities. Malaysia is one of the few countries in the world, in addition to The Maldives, Morroco and Brunei, to adopt a discriminatory punitive stance by restricting Shi'a followers and defining their belief as illegal (Zweiri & Konig 2008), notwithstanding the political, economic, and social discrimination experienced by Shi'ites in other countries like Saudi Arabia and Bahrain (al-Rasheed & al-Rasheed 1996; al-Rasheed 1998; Ismail 2012; Bahry 2000; Husayn 2015).

The introduction of laws concerning offences related to *aqidah* in Malaysia has indirectly caused legal action to be taken by religious authorities and the Sharia court against non-Sunni groups that have been categorised as 'heretical,' including local Shi'a groups. (Hamid 2000; Hamid 2003). The Sultans, who act as Religious Head of States, and some of the other local religious authorities have urged the public and community leaders to report any move to spread Shi'a teachings in their respective communities (Bernama 2014b), where monitoring activities are increased during important events in the Shi'a calendar, such as on Karbala Day. Such observation also covers teachings in public and private universities (Utusan Online 2016). These monitoring activities have been conducted through a joint operation carried out in collaboration with the home ministry and the Royal Malaysian Police (Bernama 2015). At the end of 2013, the Malaysian Inspector-General of Police reportedly stated that the police will work with the Department of Islamic Development Malaysia (Jakim) to curb the influence of Shi'a among Muslims in the country, which 'if allowed to spread, could cause instability and violence' (New Straits Times 2013c). Interestingly, the legal action taken in such cases has not been limited to the States' Islamic law framework; the government has also utilized civil law provisions in order to curb Shi'a groups in Malaysia. For example, in April 2014, the Shi'a Imamiyyah (Ja'fari) Society committee chairman was arrested

under the allegation that the society was not registered with the Registry of Societies (Bernama 2014c).

There are several cases that have been brought to the Syariah courts that evidently show just how seriously the religious authorities are moving forward legally against Shi'a Muslims in Malaysia. In 2014, dozens of Bukhara Shi'a books were seized following a raid conducted by the Pahang Islamic Religious Department (JAIP) and the police. All of the 19 men and 13 women involved were brought to the JAIP district office to record their statements (Bernama 2014a). In 2013, two people were charged at the Sharia Subordinate Court for possessing books and documents relating to Shi'a teachings in Perak (New Straits Times 2013a). Months later, six people were detained for their alleged involvement in Shi'a teachings in Perak and five of them were charged with disobeying a fatwa by the state Mufti Department (New Straits Times 2013b).

In January 2014, a former imam from Kelantan was charged with possession of books containing Shi'a teachings, which violated a fatwa in the state of Pahang (Bernama 2014d). In January 2016, a farmer was charged under Section 9 of the 'Sharia Criminal Offences Enactment of State of Johor 1997' at the Sharia Subordinate Court in Johor for being in possession of books concerning the teachings of Shi'a two years ago (Sinar Harian 2016).

As of the time that this article is being written, all cases in the states of Perak, Pahang and Johor are still ongoing, and when exactly a court decision will be reached for any of these cases cannot be determined as of now. So far, only one case has been decided; in January 2013 the Syariah court came to a decision in the case of *Ketua Pendakwa Syarie Selangor vs. Mohd Kamil Zuhairi bin Abdul Aziz & Mohamed Mohsen bin Radmard* (No case: 10002-136-0015-2011), which will be discussed in a subtopic on the Sharia courts' jurisdiction to try Shi'a followers.

Long before the current conflict in Syria, the Government of Malaysia had taken legal action against Shi'a followers in 1998 in the interest of national security. In that case, 10 Shi'a followers were detained for a year under the Internal Security Act (Berita Harian 1997). The Prime Minister at the time, Dr Mahathir Mohamad, who also acted as Home Minister, used his discretionary power to order the detention (New Straits Times 1997). Dr Mahathir's critical stance and opinions of Shi'a remained in place right up to the time the Syrian conflict broke out. In 2013, Dr. Mahathir urged the Malaysian States 'to gazette an anti-Shi'a fatwa to

check the Shi'a belief from spreading as it will bring negative consequences and divide Muslims' (Bernama 2013). His main concern was that the proliferation of Shi'a teachings in Malaysia would further segregate Malaysian Muslims who were already polarizing themselves into groups due to political differences, thus weakening them as a whole (Utusan Online 2013).

The following Prime Minister, Abdullah Ahmad Badawi, also held a similar standpoint towards Shi'a teachings, despite the fact that Malaysia was a signatory of the Amman Message in 2005. During his time serving as Prime Minister, Abdullah issued a statement urging the Muslim community to heed the ulamas' advice and views on heretic teachings and ideologies, which included hia (Berita Harian 2009). Furthermore, in 2014, even though he was no longer in office, Abdullah continued to appeal to the Muslim community in Malaysia to strengthen their Sunni Muslim principles and distance themselves from wrongful teachings including Shi'a (Berita Harian 2014). When Najib Razak became Prime Minister, the Arab Uprising and Syrian war brought sectarian differences into sharp focus. Gee (2013) posited that the legal pressure put on the Shi'a community in Malaysia may be a reaction to the conflict between Sunni and Shi'a populations in Syria. However, Najib did not issue particularly large numbers of statements and orders regarding Shi'a, and instead chose to delegate the issue to be actively handled by his Deputy Prime Minister, Home Minister and Minister of Religious Affairs (Free Malaysia Today 2013, Free Malaysia Today 2016). In August 2013 during his Eid-ul-Fitr address, Najib Razak clearly stated that the Government of Malaysia rejected Shi'a teachings because of the dangers they posed to the Malaysian ummah's harmony and unity (Utusan Malaysia 2013). All of the above give a partial background view of how Malaysia has utilised legal provisions and directives from Ministers to control and restrict the practice and propagation of Shi'a teachings, which simultaneously has an adverse affect on the religious rights of Shi'a followers.

The question therefore is: why does the Government of Malaysia issue such statements and pressure Shi'a followers in this manner, but at the same time maintain good diplomatic international relations with other Shi'a States, and support unity of the ummah? There is a disconnect between international relationships between Malaysia and Shi'ite governments and the treatment of Shi'a people in Malaysia who are governed and subject to Malaysian state or federal jurisdiction. The

international relationship between Malaysia and Iran for example does not affect local Islamic law implementation as it falls under the Malaysian states' jurisdiction. In addition, international trade and economic interests have little impact on the domestic Islamic legal system as its jurisdiction falls under the Sultan's power at state level. The actions of the Prime Minister as an opportunistic politician show how pressing current issues concerning Islam have been used to reap support from the majority of Sunni-Muslim voters. Several researchers such as Martinez (2001), Hamid (2000) dan Moustafa (2013) have found that politicians in Malaysia frequently exploit issues relating to Islam to compete against Islamist influences and reinforce political interests.

In relation to the above, this article will discuss the extent to which Islamic law in Malaysia controls the religious aspect of peoples' lives in Shi'a communities, and the legal implications that are likely to follow. To date, this discussion has yet to be explored by any local or international researchers, who have instead been more focused on the re-creation of Shi'a history in the Malay world and the right to freedom of religion (Mukherjee 2005; Marcinkowski 2008; Marcinkowski 2009; Musa 2013). This article will first discuss the recognition of Sunni Islam in Malaysia via legal mechanisms. The article will critically evaluate the Islamic legal provisions that may potentially be used against Shi'a followers, followed by an analysis of the *fatwas* that prohibit Shi'a teachings. This article will also discuss the extent to which Islamic law governs the personal laws of Shi'a individuals and communities. We feel the issues presented in this paper have a relevance far beyond Malaysian shores given that the historical schism between Sunni and Shi'a Muslims resonates amongst a wide range of contemporary sectarian conflicts in many Muslim countries and communities around the world.

Legal Recognition of School of Thought

Malaysia has employed legal mechanisms to recognize and acknowledge the Sunni school of thought as the 'official' jurisprudence of Islam, which simultaneously has its own implications on the acceptance of other schools of thought including the Shi'a. Article 3(1) of the Federal Constitution provides that Islam is the religion of the Federation, but that other religions may be practiced peacefully in any part of the

Federation. This illustrates that Islam is of the utmost significance as it is the only religion that is expressly mentioned by name in the Constitution. This was further cemented by the decision of the Federal Court in the case of *Fathul Bari Mat Jahya & Anor V. Majlis Agama Islam Negeri Sembilan & Ors* [2012] 4 CLJ 717 which proved that Islamic law in Malaysia was enacted to control the propagation of any teachings other than Sunni Islam amongst the Malaysian community. In this case, the first petitioner was charged in the Sharia Subordinate Court, Negeri Sembilan for an offence under s. 53(1) of the Syariah Criminal (Negeri Sembilan) Enactment 1992 for conducting a religious talk without a teaching licence. Chief Justice Arifin Zakaria posited his reason as to why a secular court needed to defend the role of Islamic law to contain the proliferation of teachings other than Sunni Islam:

> "…all the experts share the common view that the teaching of Islam needs to be regulated to prevent deviant teachings. The authority must first verify whether a preacher is sufficiently qualified to teach or preach a religion and this must be done before the preacher goes around preaching. Clearly, the requirement of a teaching licence is just a mechanism to achieve this purpose. …The requirement of a teaching licence for the purpose of protecting the public interest falls within the concept of Siyasah Shari'yah. Such order or direction is made not merely to prevent deviant teachings, but also to maintain order and prevent division in the community. Clearly, no one could suggest that the requirement of a teaching licence as stipulated in s. 53 of the Enactment is a maksiat (vice). On the contrary, it is necessary in this day and age for the authority to regulate the teachings or preaching of the religion in order to control, if not eliminate, deviant teachings. The integrity of the religion needs to be safeguarded at all cost."

Furthermore, the question arises as to which 'version' or interpretation of Islam is actually referred to by the Constitution? Does it signify one specific school of thought, or does it include any or all sects within the Islamic world? Mohammed Imam (1994) opined that the definition of Islam in Malaysia is the *Ahli al-Sunnah Wa al-Jamaah* school of thought, also known as Sunni Islam. This statement is based on the authority of

most of the Malaysian states' constitutions that have included the term '*Ahli al-Sunnah wal-Jamaah*' as the official school of thought. Nonetheless, Mohammed Imam's opinion is somewhat questionable as not all Malaysian states acknowledge Sunni Islam as the official school or even as the definition of Islam. To clarify, only the three Northern-most states in Malaysia, Kedah, Kelantan and Perlis, constitutionally declare the "Islam of *Ahli al-Sunnah Wa al-Jamaah* as the official religion of the State, and the Sultan must also be a practitioner of this religion." The state of Perak is even more detailed in their choice of words, where the state religion Islam is defined as being "of the Shafie School", one of the branches of *fiqh* within Sunni Islam. As such, only four out of the 14 Malaysian states expressly and clearly denote the version of Islam in their respective constitutions. Other states such as Johor, Negeri Sembilan, Pahang, Selangor and Terengganu simply proclaim Islam as the religion of the state.

Despite this not being expressly stated in many of the state constitutions, the Sunni School of thought is upheld by state Islamic law as the primary resource for legal authority. All of the written state laws relating to Islam in Malaysia define '*hukum sharak*' (a Malay term for Islamic law) as 'Islamic law according to any officially acknowledged school of thought', specifically, 'the Shafie or Hanafi, Maliki, or Hanbali Schools.' Reference to the authority of Sunni Islam is included in statutes relating to Islamic administration, Islamic family law, Islamic criminal law, civil and criminal procedure, and the law of evidence in Sharia courts. Provisions such as these would surely narrow the number of acceptable sources and references in Islamic law. This is because there are schools that are authoritative and recognized, for example Zahiri (Goldziher & Behn 2008), but are not mentioned in any written law in Malaysia.

There are two fundamental angles from which discussion is required regarding the status of Sunni Islam as an authoritative resource. Firstly, all *fatwas* from each state must refer to a definitive opinion or judgment within Sunni Islamic interpretation. However, the existing provisions are only for *fiqh*-related matters, which refer to the 'final legal opinion' (*qawl muktamad*) according to the Shafie school of thought. If there is conflict with public interest, the views and conclusions found in the other major Sunni Schools (Maliki, Hanbali and Hanafi) are consulted. If the Mufti or the *Fatwa* Commission decides that none of the 'final

legal opinion' (*qawl muktamad*) from the four Schools can be implemented without conflicting with public interest, the Mufti or the *Fatwa* Commission may issue a *fatwa* by exercising *ijtihad* (independent reasoning) and not be bound by the 'final legal opinion' of any of these four Schools. Such provisions are found in all the states except for Perlis, which utilizes slightly different terminology but maintains the same meaning. According to Section 54 of the Perlis's Administration of the Religion of Islam Enactment 2006, the *Fatwa* commission must abide by the Quran and the Sunnah in their proclamation of *fatwas*. The same legal provisions define *'hukum sharak'* as *Ahli al-Sunnah wal Jamaah*.

Secondly, all respective state Islamic legal provisions must abide by *'Hukum Sharak'* according to the Sunni interpretation, and are deemed null and void in the event of conflict with the above. Moreover, should there be any lacunae present in Islamic state law reference must be made to the Sunni view as found in the classic *fiqh* texts. This therefore further strengthens the sovereignty of Sunni Islam in Malaysia. Take for instance Section 245 of the Sharia Court Civil Procedure (Federal Territories) Act 1998 and Section 130 of the Sharia Court Evidence (Federal Territories) Act 1997, which provides:

(1) Any and all provisions or interpretation of such provisions found in this Act that are inconsistent with Islamic law are null and void to the extent of the inconsistency.

(2) If there are any matters not provided or not clearly stated in this Act, the Court must therefore refer to Islamic law.

In addition, there are a few states that have included provisions regarding the Sunni School of thought concerning posts in several Islamic institutes, both in the public and private sectors. This may be clearly construed as to mean that the purpose of these provisions is to ensure that no individuals who practice anything other than Sunni Islam may enter any Islamic administrative institutions in Malaysia. For example, it is compulsory in the states of Perlis and Johor for all Sharia lawyers practicing in the Sharia courts to profess *aqidah* according to the *Ahli al-Sunnah wa al-Jamaah*, which is prescribed via Section 25 of the State of Perlis Sharia Court Administration Enactment and Rules 9, Sharia Lawyers (Johore) Rules 1982. These abovementioned states conduct interviews and assessments to verify that the future Sharia counsel is a Sunni Muslim. However, there is some variation between states on this issue, for example, in the Federal Territory of Kuala Lumpur, it is enough

for the person in question to be a Muslim. Furthermore, in Selangor, there is no mention at all of any such prerequisite regarding a Sharia counsel's religion.

Besides the abovementioned examples, in Perlis the seven members of the Sharia Court of Appeal must also be Sunni Muslims elected by the Official Ruler as mentioned in Section 10, Administration of Sharia Court Enactment (1991) Perlis. The state of Kelantan has also determined that, to be a member of the Islamic Religious Council and Malay Traditions Kelantan, the said member must be a Sunni Muslim as stated in Section 14 of the Council of The Religion of Islam and Malay Custom, Kelantan Enactment 1994. Furthermore, Section 26, Administration of Islamic Law (Federal Territories) (Permit to Teach the Religion of Islam) Rules 2006, provides that every teacher who has been conferred the authority to teach religion is bound by the condition to not teach or preach anything that conflicts with Sunni Islam. This means that any individuals who are not Sunni Muslims will not be authorized to lecture, conduct intellectual programmes or give sermons. Besides this, teachers are also prohibited from criticizing the diversity of legal opinions amongst the four main Sunni Schools of thought.

Based on all of these regulations and enactments, only three of the Northern Malaysian states (Perlis, Kelantan dan Kedah) consistently include provisions relating to Sunni Islam in the three components of the Islamic legal system in Malaysia; the state constitution, Islamic law and Islamic institutions. This may be attributed to the stronger influence of Islamic education and Islamic practice in these three states (Roff 2005; Zain & Abu Bakar 2012) and their impact on the formation of the law. The other states merely provide a 'blanket provision' to govern all aspects of Islamic law therein. These provisions appear to be extensive and result in serious implications for Shi'ites and related branches.

Islamic legal provisions that are 'Sunni-centric' in nature often consequently influence the views of the government, bureaucracy and the Muslim community towards minority Muslim groups such as the Shi'a in Malaysia. The issue of how far Islamic law in Malaysian states controls and impacts upon Shi'ite individuals and communities will now be evaluated.

The Jurisdiction of Islamic Law over Shi'a Followers

Legal control over minority religious groups in any given country is nothing new, especially since conflicts concerning freedom of religion arise not only between different faiths, but also between the fundamentalists and modernists or reformists within a given faith. The more dominant religious group will more often than not insist on imposing the laws of its religion on the minority, the alternative usually being to eliminate them entirely (Cooray 2000). Islamic countries are no exception to this type of conflict as freedom of religion is not given absolutely to their people (Stahnke & Blitt 2007). In Malaysia, legal actions against religious minority groups tend to court controversy (Fauzi 2005; Musa 2013), whilst prompting questions about the jurisdictional capacity of the law to govern them.

There are no specific legal provisions that expressly outlaw Shi'a beliefs and practices in any state in Malaysia. However, there are several legal provisions in the state Sharia criminal enactments that may be potentially wielded against Shi'a followers as an 'umbrella' provision, applying to all teachings that are categorised as heresy in Sunni Islam. Presently, a number of states are in the process of trying cases involving Shi'a followers under particular state Islamic legal provisions discussed in this article.

The first provision that may potentially be used is the commission of a false doctrine offence. Provisions that contain 'false doctrine offences' are found in only five states in Malaysia, namely, Selangor, Federal Territory Kuala Lumpur, Penang, Sarawak, Terengganu and Pahang. Conversely, the states of Malacca, Perlis, Perak, Sabah and Negeri Sembilan use the equally emotive term 'deviant teachings.' These provisions were enacted in stages respectively starting from 1995 until 2013, all utilising the same texts.

> (1) Any person who teaches or expounds in any place, whether private or public, any doctrine or performs any ceremony or act relating to the religion of Islam shall, if such doctrine or ceremony or act is contrary to Islamic Law or any fatwa for the time being in force in the Federal Territories, be guilty of an offence and shall on conviction be liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not

> exceeding three years or to whipping not exceeding six strokes or to any combination thereof.
> (2) The Court may order that any document or thing used in the commission of or related to the offence referred to in subsection (1) be forfeited and destroyed, notwithstanding that no person may have been convicted of such offence.

Based on the aforementioned provision, there are three offences that, if committed by Shi'a followers, may be charged by the Sharia court. The first is *teaching* Shi'a doctrines to members of the public. Secondly, *explaining* Shi'a doctrines and teachings to people. The third is *performing* ceremonies or practices on private or public property that are the norm for Shi'a followers and are related to Islam. This provision proves that Shi'a followers are not only prohibited from practicing their faith, but are also forbidden from promulgating it to any Muslims in these states.

Furthermore, the provision states that in order for the charge to succeed, the doctrine, ceremony or practice in question must oppose Islamic law or any *fatwas* currently in force in the Federal Territory of Kuala Lumpur. It is thus the responsibility of the Sharia prosecutor to provide evidence to the court that the doctrine, ceremony or action in question conflicts with Islamic law according to Sunni Islamic interpretation. This provision also shows that individuals who are not Sunni practitioners will be sentenced and tried from the perspective of Sunni Islam. If there is no Sunni Islam opinion available concerning the doctrine or teaching in question, the Sharia prosecutor must refer to the *fatwa* issued in relation to it.

One of the impressions given by this provision is that the *fatwa* is the most important 'weapon' used to control any teachings and ideologies that contradict Sunni Islam. All states in Malaysia have, therefore, issued *fatwas* to forbid the practice, belief in and propagation of Shi'a teachings, which we discuss more fully below. When the law enables the prosecution to refer to mere *fatwas* to charge non-Sunni Muslim believers, it provides ample opportunity to the Sharia Court to legally curb the proliferation of religious groups such as Shi'a followers. This is because the process of issuing *fatwas* in Malaysia does not take a very long time and does not entail any complex legal procedures as compared to statutory laws.

In addition, there is another provision that may apply, which is the offence of expressing opinions that go against *fatwas*. Section 12, Sharia

Criminal Offences (Federal Territories) Act 1997 states that:

> Any person who gives, propagates or disseminates any opinion concerning Islamic teachings, Islamic Law or any issue, contrary to any fatwa for the time being in force in the Federal Territories shall be guilty of an offence and shall on conviction be liable to a fine not exceeding three thousand ringgit (£600) or to imprisonment for a term not exceeding two years or to both.

Such provisions present a considerable challenge to any Muslim individuals who are not Sunni Muslims since their right to speak freely, give opinions and practice their religion fully is consequently limited. It may therefore be understood that the abovementioned provision is aimed at preventing any form of propagation of teachings other than the principles of Sunni Islam in Malaysia. This also illustrates that *fatwas have* become the primary authority which influence and inform any legal action against individuals who are followers of non-Sunni religious sects. All personal opinions must be consistent with the requirements of Islamic law and *fatwas* and difference of opinion may result in legal action being taken.

A further provision, which may be potentially used against Shi'a followers, is the offence of printing, broadcasting, publication, recording, distribution and possession of Shi'a reading material or text books. For instance, Section 13 of the Sharia Criminal Offences (Federal Territories) Act 1997 provides:

> (1) Any person who:
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> (a) prints, publishes, produces, records, distributes or in any other manner disseminates any book, pamphlet, document or any form of recording containing anything which is contrary to Islamic Law; or
>
> (b) has in his possession any such book, pamphlet, document or recording, shall be guilty of an offence and shall on conviction be liable to a fine not exceeding three thousand ringgit or to imprisonment for a term not exceeding two years

> or to both.
>
> (2) The Court may order that any book, pamphlet, document or recording referred to in subsection (1) be forfeited and destroyed, notwithstanding that no person may have been convicted of an offence connected therewith.

Interestingly, the provision above does not mention that a *fatwa* must have been issued concerning the reading material in question being opposed to Islam; it is sufficient to merely prove that the books and reading material are in conflict with Malaysian Islamic law. If the Sharia prosecutor successfully proves that the contents of the book in question oppose Islamic principles according to Sunni interpretation, the court may charge the accused with the offence. This provision is unique in that it enables the court authorities to seize and destroy any books that deviate from Sunni doctrines and teachings.

An Analysis of the Fatwa to Ban Shi'a Worship

The *fatwa* is the prerequisite for legal enforcement in relation to offences involving Islamic creed (*aqidah*). If a particular teaching has not been forbidden by the State *Fatwa* Commission, any attempt to initiate legal proceedings against it in the Sharia Court is likely to fail. This was strongly emphasized in the case of *Nor A'shedah Jamaludin @ Yusof & Anor v. Datuk Zainul Arifin Mohammed Isa & Anor* [2012] 1 LNS 926:

> To label a Muslim a deviant, heretic or apostate without cogent evidence is a very serious matter. In the State of Selangor, where the Defendants reside and where Darul Saka is located it is only the Fatwa Commission of Selangor which has the power to declare anyone or a group as deviant. Defendant Witness 1 is an officer from Jabatan Agama Islam Selangor (Jais) had testified that the Jawantankuasa Fatwa Negeri Selangor had not declared the Plaintiffs as being involved in or propagating deviant Islamic teachings. In fact, Defendant Witness 1 had stated in his evidence that Jais had conducted investigations on the activities, practices and teachings of the Plaintiffs one

> year prior to the publication of the said impugned articles and had not found its teachings to be contrary to Islam and its law.

Therefore, a *fatwa* must be issued declaring the teachings illegal before initiating legal action against them. As mentioned in Section 34(1) of the Administration of Islamic Law (Federal Territories) Act 1993, the basis of the *fatwa* may stem from the Mufti's own request or an application from any party with any inquiry regarding the status of a particular teaching from the perspective of Sunni tradition. Next, the *fatwa* must be gazetted via Parliament (or States Legislative Bodies for states other than the Federal Territory of Kuala Lumpur) to bear legal effect. No legal action may therefore be taken against any individuals who follow non-Sunni sects if there is no *fatwa* declaring that sect to be illegal beforehand. Once a *fatwa* has been gazetted, it is automatically binding upon every Muslim in that particular State. The law also states that the Sharia court is required to accept and treat each gazetted *fatwa* as authoritative.

There were three 'waves' of *fatwas* relating to the ban of Shi'a teachings in Malaysia. The first *fatwa* was issued in 1984, which defined several Shi'a ideologies and acknowledged them as Shi'a teachings. The second wave of *fatwas* declared all Shi'a sects and teachings illegal, and were issued around 1996-1998, involving several states. The third wave took place between 2010 to 2014 and represented a series of reiterations of previous *fatwas* to ban Shi'a teachings in the states that had not yet issued their respective *fatwas*. The states that had issued *fatwas* during the second wave did not re-issue any during the third wave. There were also a few states that had issued *fatwas* in the first wave but did not Gazette them until the second wave; for instance, the state of Pahang only gazetted the *fatwa* in question in 2011. This meant that no legal action could have been taken against any Shi'a followers in the state of Pahang for that period of time before the *fatwa* was gazetted.

During the first wave (24 and 25 September 1984 [No. 2/8/84, Item 4.2. (2)]), The Conference of the Fatwa Committee issued a *fatwa* that acknowledged the position of certain sects in the Shi'a School, which were the *al–Zaidiyah* and *Jaafariah*. The pronouncement of the *fatwa* was:

> "After discussing and considering this working paper, the Committee has decided that the Shi'a schools from the *al–Zaidiyah* and *Jaafariah* sects, and only these, may be practiced

in Malaysia."

This *fatwa* was issued four years after the 1979 Revolution in Iran, which had subsequently influenced the socio-politics of many Muslim countries. In his study, Bakar (1981: 1048 & 1053) argued that the Islamic Revolution in Iran had left a lasting impression on Muslims in Malaysia, the effect of which was seen in both their political and religious conduct. The proclamation of the aforementioned *fatwa* and its ilk may have been caused by the Malaysian religious bureaucrats' predisposition at the time, which had a favourable view of Shi'ite ideology. How far *fatwas* in Malaysia are influenced by geo-political factors across the globe would certainly make for significant research.

However, this *fatwa* was only enforced for about a decade, during which Shi'ites in Malaysia could practice and propagate their faith freely. After the second wave of *fatwas* occurred, the landscape of Islamic law in Malaysia was irrevocably changed. It is highly probable that this second wave was part of a Government initiative at the time to curtail Shi'a teachings in the name of national security (Liow, 2009: 163). The first action taken was to render the decision of the The Conference of the *Fatwa* Committee that acknowledged the Shi'a sects *Zaidiyyah* and *Jaafariah*, obsolete. In other words, all Shi'a Schools, doctrines and sects were presumed conflicting with Sunni teachings, and could no longer be believed in, practiced and propagated in any state in Malaysia that had gazetted this *fatwa*.

To add to this, The 40th Special Muzakarah (Conference) of the Fatwa Committee of the National Council for Islamic Religious Affairs Malaysia, Malaysia, which convened on 5 May 1996, made the following four decisions that influenced the renewal of Islamic law enactments in each state:

> A provision to amend all State Legislation and Islamic law to standardise the definition of '*Islamic law*' in Malaysia as thus: "Islamic Law means Islamic Law based on the principles of the *Ahli Sunnah Wal Jamaah* from the aspects of *aqidah*, *sharia* and *akhlaq (Islamic etiquette)*."
>
> 1. To declare that Islamic teachings that differ from the principles of the *Ahli al-Sunnah Wal Jamaah* are in contravention

> with Islamic Law, and thus the propagation of any teachings beside that of the *Ahli al-Sunnah Wal Jamaah* is prohibited.
>
> 2. To confirm that all Muslim *ummah* in this nation are subject to Islamic laws based on the principles and teachings of the *Ahli al-Sunnah Wal Jamaah* only.
>
> 3. To determine that the publication, broadcast and propagation of any books, pamphlets, films, videos and other materials related to Islam that oppose the principles of the *Ahli al-Sunnah Wal Jamaah* is strictly forbidden.

This *fatwa* does not explain in detail the 'deviance' in Shi'a teachings, nor does it discuss the discrepancies and contentions between the Sunni and Shi'a Schools. However, the legalistic nature of this *fatwa* is what enables legal action to be taken against non-Sunni Muslim practitioners. This *fatwa* not only states which schools of thought are recognized by Islamic law, but also prohibits the promulgation of any teachings besides Sunni Islam. As a result, each state took the aspirations of this original *fatwa* to issue *fatwas* of their own which were similar in terms of their legal effect, but different in their explanation of Shi'a's deviance. It is worth noting that given the exponential rise of the internet, any practical policing and enforcement of such prohibited materials become extremely difficult.

The second wave (from 1996-98) involved the following states - Kedah, Melaka, Pulau Pinang, Kelantan, Negeri Sembilan, Sarawak, Selangor, Terengganu, Sabah and Federal Territory Kuala Lumpur. The third wave (from 2010-2013) on the other hand involved these states - Pahang, Johor, Perlis and Perak. Sarawak, Pahang and Sabah are the states that have yet to gazette the *fatwas* concerning the illegal status of Shi'a Muslims. The focus of the *fatwas* issued during the second and third wave was to empower the states concerned to provide statutory laws with regard to:

> A) The affirmation of Sunni Islam as the only recognized school of thought in state Islamic law.
> B) The authority conferred to judicial bodies to take legal action against any individuals who believe in the teachings of Shi'a.

The *fatwas* issued in the states of Kelantan, Selangor and Perak are the only ones that comprehensively clarify why Shi'ite Islam is viewed to be in conflict with the principles of Sunni Islam. The *fatwas* from these three states mention that the source of the ban on Shi'ite Islam stems from certain matters related to *aqidah*, *sharia* and *akhlak* within Shi'a teachings which contradict Sunni doctrine. These *fatwas* also list Shi'a references as authority proving that the matters mentioned in the *fatwas* are truly part of Shi'a practice and belief. Interestingly, there is no uniformity between the states in determining the Shi'a beliefs and practices that oppose Sunni Islam. For instance, specific areas that are mentioned in the Perak state *fatwa* are not present in the Selangor and Kelantan *fatwas*. This means that representatives of each state conducted their own research and held their own discussions on the teachings of Shi'a, and therefore did not influence one another. The *fatwas* from the remaining 11 states are almost exactly the same in that they focus more on the aspect of legal enforcement. These *fatwas* merely follow the text issued at state level without any addenda clarifying the *fatwa*. The *fatwas* were composed using legal language, and took into account legal technicalities to enable any state to take legal action against Shi'a followers based on these *fatwas*. This explains why states such as Penang amended the first *fatwa* by rearranging the terminology to be more legalistic in the second wave.

The *fatwa* to ban Shi'a Islam issued by the state of Perlis is quite unique as it contains two elements which are absent from the other states. As discussed previously, Perlis is one of the three states that clearly included a provision regarding Ahli Sunnah wal Jamaah being the state's official school of Islam, which consequently predisposed the state's *fatwa* on Shi'a Islam. This state is also recognized for being the one and only state in Malaysia that regularly refers to the *Salafiyah* School of thought in matters of *aqidah* and Islamic law (Othman & Rahmat 1996). The first aspect of this uniqueness is the controversial statement that Shi'a teachings are allegedly 'a branch of knowledge that contradict and oppose the true teachings of Islam. The followers of Shi'a could be considered to be deviants and apostates from Islam.' Other states merely state that Shi'a teachings conflict with and veer away from Sunni principles. The second aspect is that the *fatwa* from this state also notes the possibility of marriage between a Sunni Muslim and a Shi'ite. Although such inter-marriage is not considered illegal *per se*, the *fatwa* nevertheless uses the

term 'not encouraged (to marry),' and does not mention the penalty for individuals who do proceed to wed. Importantly, however, the *fatwa* concerning marriage was not gazetted, thus rendering it legally ineffective.

Shi'a Followers in the Sharia Court

How far are Shi'a followers subject to the jurisdiction of the Sharia Court? If there is indeed jurisdiction over them, does the Sharia Court preside specifically over local Shi'a followers, or are foreigners also included? The Sharia Court in Malaysia has at its foundation a rather limited jurisdiction, whereby it may only try cases involving Muslims relating to matters stated in the Federal Constitution. However, the decisions and orders of the Sharia Court may indirectly affect non-Muslim parties in cases such as determining the religion of the deceased and the right to custody when only one parent is a Muslim. Sharia criminal cases, on the other hand, only have legal consequences for Muslims (Shuaib 2008a; 2008b). The primary legislative source on the Sharia Court's jurisdiction is Table 9, List II State List, Federal Constitution, which provides that Sharia Courts shall have jurisdiction over matters wherein all parties are persons professing the religion of Islam. This is further reinforced by the Federal Law provision of the Sharia Courts (Criminal Jurisdiction) Act 1965 that states:

> The Sharia Courts duly constituted under any law in a State and invested with jurisdiction over persons professing the religion of Islam and in respect of any of the matters enumerated in List II of the State List of the Ninth Schedule to the Federal Constitution are hereby conferred jurisdiction in respect of offences against precepts of the religion of Islam by persons professing that religion which may be prescribed under any written law.

All laws relating to the Administration of the Religion of Islam at State level clearly state that the jurisdiction of the Sharia court applies exclusively to Muslims for civil and criminal cases. However, each State's enactment uses the term 'Muslim' and not 'persons professing the religion of Islam'. Although the word 'persons' is not defined, the word

'Muslim' is defined in section 2 of The Administration of Islamic Law (Federal Territory) Act 1993 (Act 505) as (a) a person who professes the religion of Islam; (b) a person either or both of whose parents were, at the time of the person's birth, Muslims; (c) a person whose upbringing was conducted on the basis that he was a Muslim; (d) a person who has converted to Islam in accordance with the requirements of section 85; (e) a person who is commonly reputed to be a Muslim; or (f) a person who is shown to have stated, in circumstances in which he was bound by law to state the truth, that he was a Muslim, whether the statement be verbal or written.

Therefore, 'persons professing the religion of Islam' or 'Muslim' should mean to include all believers in Islam from any school or sect unless and until there is a national or state *fatwa* declaring them as non-Muslims or apostates. This may be derived based on a case involving Ahmadiyah followers, *Abdul Rahim Bin Haji Bahaudin v. Chief Kadi, Kedah* [1983] 2 MLJ 370. In that case, the Applicant was arrested by the officials of the Religious Department on charges of distributing religious pamphlets relating to the Ahmadiyyah sect which was an offence under section 163(1) and (2) of the Administration of Muslim Law Enactment. The Applicant's argument was the State's *fatwa* dated 10 April 1972 declares that whosoever believes in the teachings of the Ahmadiyyah sect is an apostate. Since the applicant is a follower of the Ahmadiyyah sect and that the Islamic Council stipulate that he is not a Muslim, the Islamic Council and its Sharia Courts therefore have no jurisdiction to try him. The Civil High Court accepted his argument and mentioned that the applicant is not a Muslim as declared by the Islamic Council itself and thefore is not subject to the jurisdiction of Sharia Courts. Furthermore, the courts in Malaysia have expanded the construction of 'persons professing the religion of Islam' to individuals who were initially Muslims but left Islam while court proceedings were still taking place. For example, in the case of *Kamariah Bte Ali Ors. v. Kerajaan Negeri Kelantan and another* [2005] 1 MLJ 197, followers of Ayah Pin and his teachings declared that they had left Islam just prior to sentencing by the Sharia Court. The Federal Court decided that the determining factor was whether the appellants were Muslims at the time they committed the offence or otherwise.

Based on the above, it is clear that all Shi'a followers in Malaysia fall under the jurisdiction of the Sharia Court for all civil proceedings and

criminal actions. This is because presently, there is no *fatwa* in any state that has declared Shi'a followers in Malaysia as apostates, unlike the circumstances surrounding the Ahmadiyyah sect case. The jurisdiction of the Sharia Court extends to all Muslims in Malaysia, regardless of their individual background or school of thought. Indeed, the Sharia court is in fact unable to accept the argument that a person is not a Sunni Muslim so as to avoid any legal action.

To explain clearly how a Shi'a follower is processed in a Sharia Court, we may turn to the case of *Ketua Pendakwa Syarie Selangor vs. Mohd Kamil Zuhairi bin Abdul Aziz & Mohamed Mohsen bin Radmard* (No case: 10002-136-0015-2011). In this case, the first and second defendants were charged with propagating Shi'a teachings in a group and violating a *fatwa* on Shi'a in the State of Selangor which was gazetted in September 1998. The prosecution called 18 witnesses that comprised investigative officers and the religious authorities who had participated in the raids, and expert witnesses. As many as 335 exhibits were received by the court as evidence.

A number of issues were raised by the defence counsel to throw doubt on the prosecutions' case. Firstly, there was no Form 5, i.e. the 'first information report'. The court rejected this argument by stating that the absence of Form 5 did not critically affect the prosecution's case nor cause it to be thrown out. Secondly, the issue of digital photos taken during one of the raids on a Shi'a centre and their use as evidence was also raised. The defence objected to the use of the said photos as an exhibit, arguing that the memory card containing the pictures was not tendered to the court. The court rejected the defence's argument and accepted the photos as evidence because the officer involved had sworn that his camera and computer were in perfect order under his supervision. Thirdly, the defence raised the issue of how 9 items in the exhibit were presented to the court with discrepancies in names, signatures and dates. Once again, the court rejected the defence's objections because there was no need for the court to call all witnesses who signed the exhibit documents in question. However, the court did decide that there was no evidence that successfully connected the exhibits taken from the premise during the raid and the two defendants. This was decided due to the prosecution's failure to prove that the books on Shi'a teachings belonged to both the defendants.

Ideally therefore, this case should not be cited as an argument that the Sharia court allows and enables freedom of religion or bears a positive

stance with regard to Shi'a followers. Rather, the Sharia Court provides guidelines on how to conduct raids properly to ensure the success of similar cases in the future. Sharia Judge Kamarulzaman bin Ali stated:

> "The court found that the team conducting the raid that night had acted too hastily in their attempt to arrest, and should have waited a little longer to observe what exactly the First and Second defendants were doing and saying on the night in question….the court therefore finds that the investigating team and the raid failed to conduct their investigation more comprehensively and in more detail, which would have allowed for the collection of key evidence to fortify the circumstances surrounding the case. The rushed nature of the raid resulted in a gap in the chain of evidence…despite the court partially finding that that night's assembly is linked to Shi'a teachings and activities, there remain other aspects of the prosecution's case that could not be proven due to lack of evidence. It must be reminded that the Court decides only based on the evidence presented in front of it."

This case has therefore become a lesson to the Sharia prosecutors in other states for conducting raids, documenting evidence, and filing cases in the Sharia court against Shi'a followers and practitioners of teachings sects other than Sunni Islam. It is erroneous to deduce that this abovementioned case is proof that the Sharia court shows favour to Shi'a; conversely, this case has become a training ground for prosecutors and religious authorities to criminalise a person's beliefs in the future.

The case above also serves to highlight attempts by the Malaysian authorities to prosecute Shi'a Muslims. The reason for the prosecution's failure rests upon technical factors around legal evidence rather than reflecting judicial support for freedom of religion in Malaysia. Therefore, this highlights a disturbing precedent in the sense that it is likely where practising Shi'a Muslims who engage and socialise with local Malaysian Muslims open themselves to potential prosecution. It is conceivable, therefore, that the risk of prosecution will have an adverse impact upon the qualitative social interaction between Shi'a Muslims residing in Malaysia and other Muslim populations.

Furthermore, the above case clearly answers the next question: does

the Sharia Court have jurisdiction over a Muslim who is not a Malaysian citizen, or is the Court's jurisdiction limited only to Malaysian Muslims? For example, could a foreigner who delivered a lecture on Shi'a teachings in Malaysia be arrested and tried in a Sharia Court for the offence of contradicting a *fatwa* as previously discussed? Considering that the law states 'Muslims' and there are no legal provisions that limit Sharia criminal prosecution and civil proceedings to non-citizens, the Sharia Court therefore indeed has jurisdiction to try any case involving Muslim foreign nationals. In fact, the Sharia prosecution of foreign nationals has long been practiced by Sharia Courts in Malaysia as reported by the media (Utusan Online 2003; The Malaysian Insider 2014a). The reason for this is that the Sharia Court has local jurisdiction toward all Muslims living in or temporarily residing in Malaysia with no limitation to Malaysians only, a concept similar to that of the Civil Court's local jurisdiction. Legal provisions such as this should therefore be paid heed to by any individuals or Shi'a groups who wish to conduct any religious activities or deliver lectures on Shi'a teachings within local Shi'a communities. If they do not, they run the potential risk of arrest, prosecution and punishment by the Malaysian Sharia Court for the previously discussed offences. Until now, religious authorities in a few Malaysian states have actively engaged in the legal harassment of local Shi'a followers and foreigners conducting their religious ceremonies (PressTV 2010; PressTV 2011; The Malaysian Insider 2013; The Malaysian Insider 2014b).

Another important question raised is: to what extent can Shi'a followers use authorities such as laws or *fatwas* according to the Shi'a School in matrimonial cases in the Sharia court? There are currently no explicit provisions to explain which references or source material may be used during Sharia court proceedings. The Islamic Religious Administration statutes in every states only mentions references for issuing *fatwas*, but is silent on references for parties to court proceedings. Acts concerning civil procedure and evidence also do not mention which schools of thought may be used as authority during Sharia court proceedings. Section 245(2) Sharia Court Criminal Procedure (Federal Territories) Act 1998 states:

> In the event of matters which are not provided or clearly mentioned in this Act, the Court is bound to refer to

Islamic law.

Seeing how the law is silent on the matter of authority for parties to court proceedings, the abovementioned provision therefore applies. This means that, in all aspects of evidence and civil procedure in the Sharia court, final reference may only be made to the Sunni interpretation of Islamic law. Therefore, any and all authorities from Shi'a sources may not be presented as valid reference in the Sharia court.

Regardless of the fact that this issue has yet to be debated in any Sharia court in Malaysia, there are examples of civil court cases that illustrate the limit of acceptance or rejection of Shi'a authorities in Malaysian courts. In the case of *Saeda Binti Abubakar & Malek Bin Haji Mohamed Yusup v. Haji Abdul Rahman Bin Haji Mohamed Yusup & Usman Bin Haji Mohamed Yusup* ([1982] 1 LNS 60) which involved sunni Muslims, The High Court [Selangor] rejected counsel's argument that cited cases from India, where the judgments were based on Shi'a principles. In this case, the civil court denied the authority of *Banoo Begum v. Mir Abed Ali* (ILR 32 Bom 172) as it was decided according to Shi'a legal doctrine. The court determined that this case may bear effect if the writer of the will in this case was a Shi'ite, but there is no such effect on a Malay *Shafie* Sunni. The significance of this case lies in the impression that if the parties to the case were Shi'ites, the court may actually accept Shi'a authorities in court. However, since Saeda's case was tried in civil court, the Sharia court is not bound by the decision in that case. Moreover, the Sharia Courts in Malaysia do not subscribe to the doctrine of judicial precedent, which is observed by the civil courts (Mikail & Arifin 2013).

Shi'a Mosque in Malaysia?

Finally, to what extent is the local Shi'a minority community permitted and able to build mosques or premises to worship and conduct religious ceremonies in Malaysia? According to the laws of each state in Malaysia, the construction of mosques must receive prior authorisation from the State Islamic Religious Council. For example, in section 73, Administration of Islamic Law (Federal Territories) Act 1993 provides:

(1) No person shall, without permission in writing of the

> Council, erect any building to be used as a mosque, or otherwise apply any building for the purposes of a mosque, or cause or permit any building to be used as a mosque.
>
> (2) The Council shall not give its permission under subsection (1) unless the site of the building for the proposed mosque has been made a wakaf in perpetuity.

In Malaysia, the mosque is a ubiquitous and influential religious symbol in the Muslim community. Naturally, the government actively observes mosque-related activities, and their administration is used as a platform for the government to disseminate its own construction of Islam (Ismail & Rasdi 2010; Najafi & Mohd Shariff 2014). This government control also extends to the appointment of the imams and mosque officials, financial administration and mosque real estate, the preparation of the weekly Friday prayers khutbah text, and close monitoring of teachers' credentials in mosques. The justification for this level of control was stated by the Civil High Court in the case of *Abdul Rahman Bin Mamat v. Zakaria Bin Senik and Ors*. [2002] 7 MLJ 34:

> It is important for all parties to constantly obey the rules and laws of administration of mosques, as by simply obeying them, the sanctity and peace of the mosque and the harmony of its worshipers may always be preserved.

The local Shi'a community may not have any intention of building mosques as a result of legal prohibitions such as the one mentioned above, but how far does the law permit them to use a particular premise as a community or learning centre, *musalla* (place for prayer), and library, as they currently do now? If they register their activity centres as companies or NGOs, any legal action taken against them would consequently have to be according to the relevant civil law, and not under the jurisdiction of Islamic law. Furthermore, there are no civil legal provisions that may prevent any individual or group from assembling, establishing organizations, moving, operating and owning premises. This legal lacuna has so far enabled some foreign Shi'a Muslims to run their community services and learning centres. However, this lacuna is looked upon unfavourably by the religious authorities because legal

action cannot be taken against those who assemble for business or social purposes without any involvement of religious activities. Nevertheless, on the same note, the owner or tenant of such premises may be prosecuted for owning Shi'a religious texts that contradict *fatwas* as was discussed earlier.

Conclusion

This article has debated the issue of how far Islamic law in Malaysia may affect the religious way of life of Shi'a individuals or communities. The existing laws would surely present a significant challenge to Shi'a followers, as not only are they forbidden from promulgating their teachings, but they are also prohibited from believing and practicing them freely. This is in spite of the matter being a basic right guaranteed by the Federal Constitution, and such prohibition is in direct contravention of international human rights conventions such as Article 18 and 19 of the Universal Declaration of Human Rights. The whole situation is seemingly paradoxical as freedom of religion is granted to any religious group other than Islam via Article 3(1) of the Federal Constitution, but for the sake of protecting the sovereignty of Sunni Islam, Shi'ites residing in Malaysia are legally pressured to limit the practice and expansion of their faith and jurisprudence.

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