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A CONSTITUTIONAL PERSPECTIVE ON THE LEGAL EFFECT OF INTERNATIONAL LAWS AND TREATIES ON SYARIAH IN MALAYSIA

*Khairil Azmin Mokhtar**

ABSTRACT

The International Human Rights Treaties that have been ratified by Malaysia are not prejudicial to the Syariah and Islamic Religious legislations made by Federal legislature and State legislature. International instruments cited by some quarters to be the basis for declaring Syariah and its legislations void due to their 'inconsistency' or 'in conflict' with international law on human rights are not binding on the Malaysian court and on executive and legislative bodies in the country.

International law cannot override the Federal Constitution, which is the supreme law of the land. International law and international treatise and conventions must be adopted as long as they are not in conflict with the Syariah as well as religious values and norms of other religion practiced in Malaysia. This is in line with the Rukun Negara which states that 'Belief in God' as one of the pillars of the nation. The view has been recognized by the Malaysian court in a recently decided case.

INTRODUCTION

As a member of international community, Malaysia cannot exist without having regards to international convention and treaties. These treatises and conventions are meant to regulate relationships between this country with other countries. The status and role of international treaties and conventions are becoming more and more important in the present era of globalization. One of the contemporary issues relating to role of International law is its effect on sovereignty of the states/countries. It may be argued that International law may be used as a gauge of democracy in the states but must states comply with every aspect of International law? What happen is law in a country is not consistent with an International treaty or convention that it does not ratify. If the International law is incompatible with the rules, custom or religion of the community in a country is the country oblige to adhere to the rules of values propounded by the International law? These are among the questions dealt with in the research.

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