

RELIGIOUS PERCEPTIONS ON THE LAWS REGULATING MAJOR SOCIAL ILLS IN MALAYSIA: QURANIC AND BIBLICAL PERSPECTIVES

Norman Zakiyy¹
Alifah Haji Hamid²

Abstract

This study analysed to what extent the existing laws in Malaysia regulating the three major social ills, namely illegal drugs, alcoholic drinks and adultery are in harmony with or in violation of the teachings of the Holy Qur'an and Bible respectively. To achieve this purpose, a comparative analysis between the Quranic and Biblical scriptures was carried out. The findings showed that both religious texts view that the three major social ills are forbidden acts. However, this study found that the current laws used to deal with the three major social ills are not in full harmony with the teachings of the Holy Qur'an and the Bible. This study found that the punishment for alcoholic drinks and adultery under the Malaysian Syariah criminal offences enactments/acts are not in harmony with the prescribed punishment as mentioned in the texts of the Holy Qur'an. In addition, the non-existence of capital punishment (namely death penalty) for the commission of adultery by Christians is not in harmony with biblical texts.

Keywords: Islam, Christianity, laws, social ills, Malaysia.

Abstrak

Kajian ini menganalisa sama ada undang-undang sedia ada di Malaysia berkaitan dengan gejala sosial utama iaitu najis dadah, minuman beralkohol dan zina adalah sejajar atau bertentangan dengan ajaran Islam dan ajaran Kristian. Bagi mencapai tujuan kajian, suatu analisa perbandingan telah dilakukan antara teks

1 Faculty of Syariah and Law, Universiti Sains Islam Malaysia (USIM), Bandar Baru Nilai, 71800 Nilai, Negeri Sembilan. Emel: zakiyy@usim.edu.my.

2 Tamhidi Centre, Universiti Sains Islam Malaysia (USIM), Bandar Baru Nilai, 71800 Nilai, Negeri Sembilan. Emel: Alifah@usim.edu.my.

al-Qur'an dan Bible. Hasil kajian menunjukkan kedua-dua teks keagamaan berpandangan bahawa ketiga-tiga gejala sosial tersebut adalah haram. Walau bagaimanapun, kajian menunjukkan undang-undang sedia ada yang digunakan untuk mengawal ketiga-tiga gejala sosial tersebut adalah tidak selari dengan teks Al-Qur'an dan Bible. Kajian juga menunjukkan bahawa hukuman bagi minuman beralkohol dan zina di bawah enakmen/akta kesalahan jenayah Syariah Malaysia adalah tidak selari dengan hukuman yang telah dinyatakan di dalam teks al-Qur'an. Ketiadaan hukuman mati bagi kesalahan zina yang dilakukan oleh penganut Kristian juga didapati tidak selari dengan teks Bible.

Kata kunci: Islam, Kristian, undang-undang, masalah sosial, Malaysia.

INTRODUCTION

In Malaysia, the religious perception on certain issues has no doubt been given judicial recognition as evidenced by civil law judgments or statutes/ordinance. For example, in the case of *Myriam v. Mohamed Ariff* (1971) 1 MLJ 265, Abdul Hamid J. (as he then was) had among others, mentioned that section 5 of the Guardianship of Infants Act, 1961 (which lays down the welfare of the infant as the paramount important factor for the court to consider in a child custody case) is indeed consistent with the underlying principle under the Syariah. Nonetheless, the coexistence of other religions embraced by Malaysian citizens other than the Islamic faith must not be discounted for in determining the rationality of certain laws that are applicable to the society - both Muslims and non-Muslims. In this regard, such laws are in respect of major social ills that are correlated to each other - illegal drugs, alcoholic drinks and adultery.

According to Mohammad Hashim Kamali (1989), all divinely revealed laws emanate from the same source, namely God the Almighty and they convey a basic common message. In this sense, such referral is to the three religions of the world - Islam, Christianity and Judaism. On a global basis, finding a common ground of agreement between Muslims and Christians is a challenging task. This is also the case in Malaysia. As observed in the past and in recent times,

racial and religious issues have reared their ‘ugly heads’ again in the society. Examples of religious tussle are regarding the last rites of a deceased non-Muslim who has converted (or technically ‘reverted’ to Islam) and the child custody of a parent who has converted to Islam (Norman Zakiyy, 2008:7). In Malaysia, the fracas between Muslims and Christians had been previously reported in the mass media for numerous times. Examples of such reports are about the various arson attacks on mosques and churches (malaymail Online, January 27, 2014) and the discontentment about the Federal Court Appeal decision pertaining to the constitutional right of the Catholic Church to use the word “Allah” (*Titular Roman Catholic Archbishop of Kuala Lumpur v. Menteri Dalam Negeri* [2010] 1 CLJ 300). These incidents tend to draw the negative perception that there is little sense of tolerance among Muslims and Christians in Malaysia on religious issues.

There is a set of laws governing certain social ill that are argued as only applicable to persons of a particular religion but not to persons of other religions. This begs an answer to the question: Whether Malaysian Muslims as well as Christians must comply with the governing authorities and law which they deemed as contravening the religious teachings or principles of their very own religion? This issue must not be taken lightly, especially where civil laws have been occasionally used to be labeled as the man-made law or the law of the unbelievers, and as such need not be followed (Hamid Mohamad, 2009).

In July 2015, the National Unity Consultative Council’s (NUCC) produced a report which, among others highlighted a proposal to increase religious and ethnic consultation (The Rakyat Post, September 18, 2015). In this respect, there arises a genuine need to bridge the gap between Malaysians. At a glimpse, Malaysian laws regulating the said social ill seem to be ‘Islamic-oriented’ especially in the light of constitutional recognition of the fact that Islam is the religion of the Federation (Article 3 (1), Federal Constitution). However, current literature has not dealt with the issue as to whether the current laws regulating the major social ill are in harmony with the teachings of both Islam and Christianity. Azman Mohd Noor (2008) discussed about stoning for adultery from the Muslim and

Christian interpretations, but had not discussed on the relevancy of the punishment under Malaysian laws. The study by Jasri Jamal and Noryati Anuar (2012), on the other hand, dealt specifically with the sale of alcohol in Malaysia from the Shari'ah and law perspectives but had not delved into the issue from the Christian perspective. In addition, not much is known as to whether the religious scriptures allow the adoption of a certain method in determining whether social ills which are 'born' in modern times should be prohibited or allowed. Thus, this study is important in the sense that it encourages greater appreciation of religious values in the law making process. This can be realized by revealing the ignorance or misconceptions about the acceptability of certain civil or codified Shari'ah laws regulating the said social ills, thus reduces animosity and antagonism among Malaysians.

A comparative approach is used to identify the similarities and differences between the Holy Quran and the Bible regarding their standpoints on the major social ills. However, with exception to *qiyas* (analogical deduction), this study did not venture into analysing other sources of Shari'ah such as *Sunnah* (doings and practices of the Prophet), *hadith* (sayings and deeds of the Prophet), *ijma'* (consensus), *ijtihad* (personal reasoning) and *'urf* (custom) or even the edicts issued by the Malaysian National Fatwa Council. The major social ills, namely illegal drugs, alcoholic drinks and adultery are chosen for analysis in this study because they are correlated to each other in the sense that they diminish the ability of a person to think rationally; have the tendency to be committed alongside another; are on the increase; and greatly affect the well-being of the society irrespective of one's faith.

MAJOR SOCIAL ILLS AND THE GOVERNING LAWS IN MALAYSIA

The major social ills relating to illegal drugs, alcoholic drinks and adultery are notorious vices known to mankind. In Malaysia, adultery (and other vices associated with it such as sexual intercourse out of wedlock, prostitution, incest and unnatural sexual intercourse) and consuming intoxicating drinks are Shari'ah criminal offences which are punishable by whipping if found guilty.

Illegal Drugs

Any yearly report from the official National Drug Agency (NDA) would show an annual increase of new addicts and ‘relapsed’ addicts. In Malaysia, drug addiction is a social problem and the Malaysian Government is serious in combating illegal drugs. Illegal drug (or known as *dadah* in the Malay language) was announced as the Malaysia’s Number One Enemy on 19 February 1983 and is one of the main threats to the national security (Malaysian Country Report Asean Inter – Parliamentary Assembly (AIPA) Fact Finding Committee Meeting on Combating Drugs 2015). Currently, the approaches used to combat illegal drugs are by way of prevention, treatment and rehabilitation and also drug enforcement via the use of six statutes on drug laws which include: The Dangerous Drugs Act 1952; the Poisons Act 1952; the Drug Dependants (Treatment and Rehabilitation) Act 1983; and the Dangerous Drugs (Special Preventive Measures) Act 1985. The Dangerous Drugs Act 1952 under section 39B (1) (a) prescribes the death penalty, but it does not seem to serve the role of a deterrent sentence.

Alcoholic drinks

There is a steady increase of Malaysian teenagers to start drinking alcoholic beverages from an early age. It was reported that 45% teenagers under the age of 18 consume alcohol on a regular basis (Alcoholism in Malaysia: Brief Overview, <https://alcobevgs.wordpress.com/>; September 26, 2015). According to Alcohol.rehab.com, Malaysia is notoriously ranked as the “10th largest consumer of alcohol in the world” which involves a yearly expenditure of USD 500 million (Alcoholism in Malaysia, leoholrehab.com/alcoholism/alcoholism-in-malaysia/, (September 26, 2015). This figure in itself confirms that excessive liquor consumption is a social ill.

Consuming, selling and exhibiting alcohol described as “intoxicating drink” is an offence as stipulated in various Malaysian Syariah court enactments/acts. For example, under the Syariah Criminal Offences (Federal Territories) Act 1997 (Act 559), any person who consumes “intoxicating drink 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” (Section 19 (1) of Act 559). In addition, any person (in this case as

referring to a Muslim) “who makes, sells, offers or exhibits for sale, keeps or buys any intoxicating drink shall 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 both.” (Section 19 (2) of Act 559). Notwithstanding the number of laws prohibiting Muslims from being ‘involved’ in alcoholic drinks, it is practically difficult to prevent Muslims from purchasing such drinks, especially from the convenient shops which are operating 24 hours per day.

While consuming alcoholic drinks by non-Muslims are not statutorily prohibited in Malaysia, driving a motor vehicle under “the influence of intoxicating liquor” (alcohol) is one under s. 44 (1) of the Road Transport Act 1987 (Act 333). A person may also find himself in violation of the law if he is driving a motor vehicle “under the influence of intoxicating liquor or drug” (s. 45 (1) of the Road Transport Act 1987). Currently, the sale of liquor is controlled in the sense that current regulation requires a person who intends to venture into the liquor business to obtain a liquor license from the local authorities. The local authorities referred herein are such as the District office, Police and Custom (Liquor License, <http://www.president.com.my/liquor.html>; September 26, 2015). Thus, the freedom of non-Muslims to consume alcoholic drinks is subject to the condition that the carrying out of such act does not pose danger to the safety and peace of the public.

Adultery

According to Curzon (1995), the term “adultery” means “an act of voluntary sexual intercourse (which need not be completed) between two persons not married to each other, but one or both of whom are married at the time of the act to a third person.”

Under the Malaysian Penal Code, adultery and fornication are not regarded as criminal offences. Nevertheless, adultery can be used as an evidence to support the allegation of “irretrievable breakdown of a marriage” in a divorce petition under section 53 and 54 of the Law Reform (Marriage and Divorce) Act 1976 which governs non-Muslims. In contrast, adultery is regarded as a serious crime which is triable and punishable by the Shari’ah court. For example, the

Selangor Syariah Criminal Enactment No. 9/1995 enlists a number of sexual offenses which include incest (s. 22); prostitution (s. 23); pump (s. 24); illegitimate sexual intercourse (s. 25 (1) (2)); prepare for illegitimate sexual intercourse (s. 26) and sexual intercourse against the order of Nature (sodomy) (s. 28). Sodomy (or *liwat* in Arabic) is spelt out as an offence under section 14 of the Syariah Criminal Offences (Kelantan) Enactment 1985 and s. 25 of the Syariah Criminal Offences (Federal Territories) Act 1977. Notably, sodomy is an offence spelt out under sections 377A and 377B of the Malaysian Penal Code, whereas incest is mentioned in sections 376A and 376B of the Malaysian Penal Code.

FINDINGS AND DISCUSSION

Compliance to Governing Authorities

Islam

According to Haykh Muhammad Hisham Kabbani and Shaykh Seraj Hendricks (2015), Muslims are obligated to obey and give their allegiance to a lawful and just government. There are abundant verses in the Holy Qur'an which command Muslims to obey the government by giving their loyal pledge to obey the laws of their country so that they may live peacefully.

Allah (SWT) says:

O ye who believe! Fulfill (your) obligations.
(Al-Qur'an. Al-Mai'dah: 1)

In another verse, Allah (SWT) says:

And fulfil (every) covenant. Verily! The covenant will be questioned about.
(Al-Qur'an. Al-Isra': 34)

Allah (SWT) also says:

And fulfil the covenants to Allah when you have covenanted, and break not the oaths after you have confirmed them.

(Al-Qur'an. Al-Nahl: 91)

Allah (SWT) says:

Allah loves not the treacherous.

(Al-Qur'an. Al-Anfal: 58)

In this regard, there a number of Quranic verses that emphasis on the implementation of justice in worldly affairs and are useful guides in determining what constitutes justice. The Holy Qur'an states as follows:

We created not the heavens, the earth, and all between them, but for just ends. And the Hour is surely coming (when this will be manifest). So overlook (any human faults) with gracious forgiveness.

(Al-Qur'an. Al-Hijr: 85)

In another verse, Allah (SWT) says as follows:

O ye who believe! Stand out firmly, as witnesses to fair dealing, and let not the hatred of others to you make you swerve to wrong and depart from justice. Be just: that is next to piety: and fear God. For God is well-acquainted with all that ye do.

(Al-Quran. Al-Maidah: 8)

Other verses that mentioned about the concept of justice are *ad-Dukhan*: 38-39; *a-Nisaa*: 58; *a-Nisaa*: 105; and *al-Hadid*: 25.

The government is expected to act with uprightness. According to Haykh Muhammad Hisham Kabbani and Shaykh Seraj Hendricks (2015), if Muslims are required by the government to uphold a principle which is contrary to Islamic teachings, they have to obey to

the minimum that the law requires them to do. The authors added that rebellions against the government simply for the sake of rebellion have no place in Islam. Based on the above references, Muslims have the obligation to obey the government on condition that he (it) acts justly, for the sake of protecting the safety and welfare of the public at large and performs his (its) duties which are not in violation of the Shari‘ah. Thus, Muslim citizens are deemed to have given their covenants to abide by the laws of their country and at the same time obeying the Shari‘ah.

Christianity

There are numerous examples in the Bible that advise Christians to honour and obey the governing authorities. This emphasis is laid in the following biblical texts:

Remind them to be subject to rulers, to authorities, to be obedient, to be ready for every good deed

(Titus 3:1)

With regards to Titus 3:1, Cole (2013) states that when Christians disrespect the government, disobey the law and refrain from doing good, “it leaves a bad taste in the mouths of those who are prone to criticize Christianity”.

Paul plainly writes as follows:

Submit yourselves for the Lord’s sake to every human institution, whether to a king as the one in authority, or to governors as sent by him for the punishment of evildoers and the praise of those who do right. For such is the will of God that by doing right you may silence the ignorance of foolish men.

(1 Peter 2:13-15)

According to Cole (2013), the phrase “Submit yourselves for the Lord’s sake” means that the submission of the Christians to the governing authorities is regarded as a submission to the Maker.

Similarly, the Bible states as follows:

Every person is to be in subjection to the governing authorities. For there is no authority except from God, and those which exist are established by God. Therefore whoever resists authority has opposed the ordinance of God; and they who have opposed will receive condemnation upon themselves.

(Romans 13: 1-2)

The above biblical texts advise Christians to submit to the governing authorities that are established for the benefit of mankind. However, the submission to the governing bodies is not without limitation. The Bible states as follows:

Honour all people, love the brotherhood, fear God, honour the king.

(1 Peter 2: 17)

Based on the above explanation, the Bible advises Christians to be good citizens by submitting to the government provided that it does not violate the fear of the Maker.

The study found that both the Holy Qur'an and the Bible command their respective followers to obey the governing authorities and the laws passed by them. In this instance, if in modern society, the existing government sets out laws on the prohibition of drugs, alcohol and prostitution for the benefit of the community, then Muslims and Christians are obligated to obey the governing authorities and abide by such prohibitions.

PERCEPTIONS ON THE MAJOR SOCIAL ILLS (ILLEGAL DRUGS, ALCOHOLIC DRINKS AND ADULTERY)

Islam

Notably, *qiyas* (analogical deduction) has been used by Muslim jurists in solving a new case that is not found in the Holy Qur'an, the *Sunnah* or a definite *ijma'* (Mohammad Hashim Kamali, 1989).

Technically, *qiyas* is an extension of a Shari'ah value from an original case (*asl*) to a new case, because the latter has the same effective cause (*illah*) as the former. The ruling of the original case originated from the Holy Qur'an or *Sunnah* and *qiyas* aims to extend the same ruling to the new case based on the same *illah*. Muslim scholars draw inferences on the validity of the use of *qiyas* by referring to the following relevant text from the Holy Qur'an.

... then if you quarrel of anything, refer it to Allah and the Messenger...

(Al-Qur'an. Al-Nisa' 4:59)

In another verse, Allah (SWT) says:

"We have sent to you the book with the Truth so that you may judge among people by means of what Allah has shown you".

(Al-Qur'an. Al-Nisa'4:105)

Based on the above verses, Muslim scholars have reasoned that a dispute can only be referred to Allah (SWT) and Prophet Muhammad (PBUH) by referring to the indications found in the Holy Qur'an and *Sunnah*. Thus, *qiyas* works by way of identifying the rationale of a ruling found in the Holy Qur'an and *Sunnah*, and subsequently apply it to a matter in question on condition that both issues in question share similar rationale and *illah*. In this connection, exercising *qiyas* is regarded as adhering to the guidance of the Holy Qur'an.

In Malaysia, the recognition of *qiyas* is evident in codified Shari'ah offences such as drinking liquor. One of such example is the Syariah Criminal Offences (Federal Territories) Act 1997 (Act 559). Notably, drug offences are spelt out under the Dangerous Drugs Act 1952; the Poisons Act 1952; the Drug Dependents (Treatment and Rehabilitation) Act 1983; and the Dangerous Drugs (Special Preventive Measures) Act 1985. Although there is no evidence that parallel assimilation or analogy is used, the determination of illegal drugs as an offence is in harmony with the mechanism of *qiyas* in determining a new crime or social ill. In this case, the extension of a

Shari'ah value from the original case of drinking liquor to a new case of illegal drugs which bears the same effective cause of the former.

The process of *qiyas* regarding alcoholic drinks, illegal drugs and adultery is shown below:

(a) Alcoholic Drinks and Illegal Drugs

In Islam, consuming alcoholic drinks is a *hudud* offence. Prophet Muhammad (PBUH) said:

Alcohol is the mother of all evils and it is the most shameful of evils. (Ibn-I-Majah Volume 3, Book of Intoxicants, Chapter 30 Hadith No. 337).

The Holy Qur'an condemns the taking of alcoholic drinks. Allah (SWT) warns as follows:

O ye who believe! Intoxicants and gambling, (dedication of) stones and (divination by) arrows are an abomination of Satan's handiwork. Avoid (such abominations) that you may prosper.

(Al-Quran. Al-Maidah 5:90)

Similarly, in another verse, Allah (SWT) warns as follows:

Satan's plan is to sow hatred and enmity amongst you, with intoxicants and gambling, and to hamper you from the remembrance of Allah and from prayer. Will you not give up?

(Al-Quran. Al-Maidah 5:91)

This particular verse mentions about the despicable act of Satan of creating enmity among believers and prevent them from remembering the purpose of them being created.

Quranic verses hereinbefore mentioned (*al-Maidah* 5:90 and *al-Maidah* 5: 91) prove that consuming alcoholic drinks are sinful for they possess intoxicating effect and are thus forbidden. The term "intoxicant" includes beer, wine and; other intoxicating drinks and

food. On the other hand, the term also includes narcotics in modern times. In modern times, illegal drugs come in various forms and names such as marijuana, heroin, ecstasy pills *et cetera*. These illegal drugs are not mentioned in the Holy Qur'an. However, these drugs deplete the human mental capacity to act consciously – which carries the same effect as consuming alcoholic drinks.

It has not been revealed by the drafters of the Dangerous Drugs Act 1952 that the provisions therein are formulated based on *qiyas*. However, the prohibition of illegal drugs by way of *qiyas* from alcoholic drinks is shown below:

- New case (*Far'*) : use of illegal drugs and substances mentioned in the First Schedule under the Dangerous Drugs Act 1952.
- Original case (*Asl*) – alcoholic drinks
- New case (*Far'*) – illegal drug(s)
- *Illah* (effective cause) – the intoxicating and damaging effect to human's rationality
- *Hukm* (rule) – prohibited (*haram*)

It is observed that there is an extension of the rule from the original case (pertaining to the prohibition of alcoholic drinks in *al-Ma'idah*, 5:90) to the new case (taking illegal drugs). The same method can also be applied to confirm the prohibition on the use of *Shisha* or known by other names such as *Nargeela*, *Nargileh*, and *Argeela*. *Shisha* smoker inhales up to 200 times more carbon monoxide than a cigarette smoker and the health effects of using *Shisha* includes cancer, heart, skin and gum diseases (The health effects of smoking *Shisha* and hookah, <http://www.quitshisha.com/effects-of-shisha.html>; November 25, 2015).

The Holy Qur'an (*al-Baqarah* 2:219) explains the greater harm of consuming intoxicant and gambling than their benefit. Abdul Rahman I. Doi (1984) states that consuming intoxicant may bring some benefit, but the harm, is greater than the benefit especially of a social and personal viewpoint. Mohamed El-Moctar El-Shinqiti (2005) referred to the *hadith*: "What intoxicates in big quantity, a small amount of its consumption is also forbidden" and states that Muslims must endeavour to choose the alternative medication that is alcohol-

free rather than medication that contains alcohol. Nevertheless, he mentioned that based on the principle of *istihlak* (when the forbidden matter is immaterial compared to the permissible one), a medicine that contains alcohol is permissible. Thus, a Muslim is allowed to take certain kinds of permitted drug within the prescribed dosage and under the consultation of a physician about its side effects for the betterment of his health. These permitted drugs are such as aspirins, antihistamines and antibiotics.

(b) Adultery

In Islam, adultery (*zina*) is a *hudud* offence. According to Ibn Rusyd (1997), Maliki scholars define adultery (*zina*) as intentional intercourse which is done by a *mukallaf* (a person obligated by law to discharge a legal duty) with a virgin of the son of Adam without a legitimate marriage. In contrast, Imam al-Ramly (1967) provides a more comprehensive definition of the term by describing it as an act of inserting the penis into the virgin by illegal means and done without any doubt. Thus, it can be viewed that such heinous act is done with full consciousness and intention. The reasons behind its prohibition are aplenty which includes protecting the family lineage, family break-up and the spread of venereal diseases.

There are numerous verses in the Holy Qur'an which deal with the prohibition of adultery (*zina*).

Allah (SWT) prohibits *zina* as seen in the following verse:

And do not come near to adultery: For it is a shameful (deed) and an evil, opening the road (to other evils).

(Al-Qur'an. Al-Isra' 17:32)

In addition, Allah (SWT) says in another verse:

The woman and the man guilty of fornication, flog each of them with a hundred stripes: Let not compassion move you in their case, in a matter prescribed by Allah, if ye believe in Allah and the Last Day: and let a party of the Believers witness their punishment.

(Al-Qur'an. An-Nur 24:2)

And those who accuse free women then do not bring four witnesses, flog them, (giving) eighty stripes, and do not admit any evidence from them ever; and these it is that are them transgressors. Except those who repent after this and act aright, for surely Allah is Forgiving, Merciful.

(Al-Qur'an. An-Nur 24:4-5)

With regards to sodomy, the Holy Qur'an states about how Prophet Lot (AS), the nephew of Prophet Abraham (AS) tried his very best to lead his people away from homosexuality:

And [remember] Lot, when he said unto his people; "Will you commit abominations such as none in all the world has ever done before you? Verily, with lust you approach men instead of women: nay, but you are people given to excesses!

(Al-Qur'an. A'raf; 80: 81)

In another verse, Allah (SWT) says:

AND LOT, [too was inspired by US] when he said unto his people: "Verily, you commit abominations such as none in all the world has ever committed before you! Must you indeed approach men [with lust], and thus cut across the way [of nature]? – And must you commit these shameful deeds in your [open] assemblies?"

(Al-Qur'an. Al-Ankabut: 28-29)

Other Quranic verses that forbid male homosexuality are *Ash-Shu'ara*, 26: 165-168, *An-Naml*, 27: 54-55, and *Al-Hijr*, 15:72-75. The above cited Quranic verses confirm that Islam forbids homosexual relations and anal intercourse is strictly forbidden in all circumstances.

Generally, Malaysian Syariah criminal enactments/acts stipulate that offences that are closely related to zina are incest, prostitution, pimping, illegitimate sexual intercourse, preparing for illegitimate sexual intercourse and sodomy. The determination of such offences is evidenced from an extension of *qiyas* from the original case of *zina* to the new case of *musahaqah* (sexual relations between women) and

the extension of *qiyas* in the prohibition of approaching adultery to the new case of *khalwat* (close proximity). However, it has not been revealed by the drafters of Malaysian Syariah criminal enactments/acts that these offences are formulated based on *qiyas*. However, the applicability of *qiyas* in a few instances is shown below:

Example 1: The condemnation/prohibition of rape – an offence under sections 375 and 376 of the Malaysian Penal Code.

- *Asl* (Original case) – zinā'
- *Far'* (New case) – (rape)
- '*Illah* (effective cause) – destroying the victim's lineage and dignity
- *Hukm* (rule) – prohibited (*haram*)

Example 2: The condemnation/prohibition of Incest – Sections 376A and 376B of the Malaysia Penal Code.

- *Asl* (Original case) – zinā'
- *Far'* (New case) – incest
- '*Illah* (effective cause) – destroying the victim's lineage and dignity
- *Hukm* (rule) – prohibited (*haram*)

Example 3: The condemnation/prohibition of prostitution – Sections 372, 373 & 373A of the Malaysian Penal Code.

- *Asl* (Original case) – zinā'
- *Far'* (New case) – prostitution
- '*Illah* (effective cause) – destroying the victim's lineage and dignity
- *Hukm* (rule) – prohibited (*haram*)

In Malaysia, laws on rape, incest and prostitution are offences spelt out in the Penal Code in spite of the fact that there is no evidence that such offences are formulated based on *qiyas*. These offences are similarly recognised as Shari'ah criminal offences. Adultery and fornication are not offences under the Penal Code but are such under the various Malaysian Syariah criminal enactments/acts. The Malaysian Syariah courts can only pass sentences of not more than three (3) years imprisonment, a fine of up to RM5, 000, and/or up to six (6) strokes of the cane (see for example, s. 11 Kelantan

Syariah Criminal Offences Enactment). Thus, it can be argued that the punishments for committing the offences is inconsistent with Shari'ah law that prescribes the penalty of 100 lashes for the unmarried adulterer and unmarried adulteress.

Christianity

(a) Alcoholic drinks and illegal drugs

The Bible has mentioned about the effects to the mind of a person who indulges in alcoholic drinks. For example, the Bible describes the effects of Lot who became so drunk that he slept with his daughters. An example of this can be found in the consequences of a person who gets drunk. For instance, the Bible states that Lot left Zoar and lived in a cave and on that night he was so drunk that he slept with his own daughters.

The Bible states as follows:

That night they got their father to drink wine, and the older daughter went in and lay with him. He was not aware of it when she lay down or when she got up. The next day the older daughter said to the younger, "Last night I lay with my father. Let's get him to drink wine again tonight, and you go in and lie with him so we can preserve our family line through our father." So they got their father to drink wine that night also, and the younger daughter went and lay with him. Again he was not aware of it when she lay down or when she got up.

(Genesis 19: 33-35)

Similarly, the Bible warns about the ill effects of drunkenness in various parts such as follows:

Do not gaze at wine when it is red, when it sparkles in the cup, when it goes down smoothly! In the end it bites like a snake and poisons like a viper. Your eyes will see strange sights and your mind, imagine confusing things. You will be like one sleeping on the high seas, lying on top of the rigging. "They hit me," you will say, "but I'm not hurt! They beat me, but I

don't feel it! When will I wake up so I can find another drink?"
(Proverbs 23: 31-35)

*On the day of the festival of our king the princes become
inflamed with wine, and he joins hands with the mockers.*
(Hosea 7:5)

*Wine is a mocker and beer a brawler; whoever is led astray
by them is not wise.*
(Proverbs 20:1)

*He who loves pleasure will become poor; whoever loves
wine and oil will never be rich.*
(Proverbs 21:17)

The Bible also warns as follows:

*You and your sons are not to drink wine or other fermented
drink whenever you go into the Tent of Meeting, or you will
die. This is a lasting ordinance for the generations to come."*
(Leviticus 10:9)

*Finally, the Bible advises Christians to refrain from wine,
but "be filled with the Spirit" of God:*

*Do not get drunk on wine, which leads to debauchery.
Instead, be filled with the Spirit.*
(Ephesian 5: 18)

Although it is argued that Christians are allowed to take any intoxicating drink moderately as evidenced by the act of Paul, who suggested Timothy to "use a little wine" to aid his digestive disorder (1 Timothy 5:23), it is best to refrain from it for health reasons. For example, the Bible states: "So whether you eat or drink or whatever you do, do it all for the glory of God" (1 Corinthians 10:31). Other evidences are as stated above in Proverbs 20:1 and Proverbs 23:31-35. Thus, abstinence from it is in the best interest of the body. This is especially true when it is already within the public knowledge that overindulgence in alcoholic drinks may cause impairment of vision

and judgment; and liver diseases such as liver cirrhosis and liver cancer.

The hereinbefore quoted Biblical texts (namely, Genesis 19: 33-35; Proverbs 23: 31-35; Hosea 7:5; Proverbs 20:1 and Ephesian 5: 18) prove that the Bible acknowledges that alcoholic drinks bring ill effects to persons who consume them. But other types of substances known as permitted drugs in modern times such as aspirins are not stated therein. Based on the guidance of the Bible, such drugs are deemed permissible for improvement of health.

For example, the Bible states as follows:

He makes grass grow for the cattle, and plants for people to cultivate—bringing forth food from the earth: wine that gladdens human hearts, oil to make their faces shine, and bread that sustains his heart.

(Psalm 104:14-15)

Nevertheless, drug abuse is prohibited by following the analogy of alcoholic drink. Reference as to this can be made to the Bible which states as follows:

Do not get drunk on wine, which leads to debauchery. Instead, be filled with the Spirit.

(Ephesians 5:18)

By virtue of Romans 13: 1-5 as hereinbefore cited regarding the duties of the people to obey their lawful government, Christians are required to abide by certain laws regulating social ill. In this regard, it is the obligation of Christians to abide by the decision of the government. Thus, illegal drugs such as *marijuana*, *ecstasy* pills *et cetera* are prohibited as they are prohibited by the government. Malaysian drug laws are applicable to Muslim and non-Muslim citizens. Although the Bible warns Christians about the ill effects of alcoholic drinks, the consumption of alcoholic drinks was enacted as a Shari'ah criminal offence but not a penal offence.

(b) Adultery

Quite similar to the Holy Qur'an, the Bible forewarns its believers to refrain from pre-marital sex. In this regard, sexual relationship can only be enjoyed by the union of a man and woman as husband and wife (Hebrews 13:4). Thus, adultery is deemed an evil act.

There are a number of scriptures of the Bible, which clearly prohibit adultery. For examples:

You shall not commit adultery.

(Exodus 20:14)

If there is a man who commits adultery with another man's wife, one who commits adultery with his friend's wife, the adulterer and the adulteress shall surely be put to death.

(Leviticus 20:10)

The one who commits adultery with a woman is lacking sense; He who would destroy himself does it.

(Proverbs 6:32)

You have heard that it was said, 'YOU SHALL NOT COMMIT ADULTERY'; but I say to you, that everyone who looks on a woman to lust for her has committed adultery with her already in his heart.

(Matthew 5: 17-28)

Similar to the Holy Qur'an, the Bible condemns pre-marital sex and regards it as an immoral act. They are as follows:

But since there is so much immorality, each man should have his own wife, and each woman her own husband.

(1 Corinthians 7:2)

In this verse, Paul states that marriage is the "cure" for sexual immorality. There are numerous Biblical verses that declare sex before marriage to be a sin (for instance, Acts 5:20; Corinthians 12:21; Ephesians 5:3; Colossians 3:5 and 1 Thessalonians 4:3).

With regards to sodomy, the Bible mentions about Sodom and Gomorrah in the Book of Genesis (i.e. Genesis 19:1-38). In the account, a group of lustful male sought to force themselves upon two angels who were in the form of human (men).

The Bible does not mention about anal sex explicitly. However, the Bible clearly condemns homosexuality as an immoral and unnatural act as follows:

Because of this, God gave them over to shameful lusts. Even their women exchanged natural relations for unnatural ones. In the same way the men also abandoned natural relations with women and were inflamed with lust for one another. Men committed indecent acts with other men, and received in themselves the due penalty for their perversion.

(Romans 1:26-27)

Do you know that the wicked will not inherit the kingdom of God? Do not be deceived: Neither the sexually immoral nor idolaters nor adulterers nor male prostitutes nor homosexual offenders nor thieves...will inherit the kingdom of God.

(1 Corinthians 6: 9-11)

The Bible condemns rape as follows:

But if in the open country a man meets a young woman who is betrothed, and the man seizes her and lies with her, then only the man who lay with her shall die. But you shall do nothing to the young woman; she has committed no offense punishable by death. For this case is like that of a man attacking and murdering his neighbor, because he met her in the open country, and though the betrothed young woman cried for help there was no one to rescue her.

(Deuteronomy 22: 25-27)

The Holy Qur'an and the Bible view illegal drugs, alcoholic drinks and adultery as forbidden acts. The effective cause present in alcoholic drinks and adultery that are mentioned in the Holy Qur'an and Bible can be used in deciding whether current social ill of modern times

(such as illegal drugs and *Shisha*) are forbidden or permissible. It is also found that the type of penalty for alcoholic drinks and adultery under the Malaysian Syariah criminal offences enactments/acts are not in parallel with the punishment as mentioned in the texts of the Holy Qur'an. In addition, the non-existence of capital punishment (namely death penalty) for the commission of adultery by Christians is also not in parallel with biblical texts. Although it is not a criminal offence for Christian (as non-Muslims) to consume alcoholic drinks, it is a civil offence if they are found to be under the "influence of intoxicating liquor", thus reflecting the biblical texts which prohibit and call for abstinence from it for health reasons.

RECOMMENDATIONS

It is suggested that the government and NGOs should introduce programmes that can educate the public on the importance of respecting each other religious belief. This effort is crucial to avoid any untoward incidents such as the ones are occasionally published in the dailies – especially attacks on churches and mosques. Apart from understanding the Holy Qur'an as the primary source of Shari'ah, Christians and other non-Muslims should also be made aware of other sources of Shari'ah (such as *Sunnah*, *ijma'*, *qiyas*, the *fatwa* of Companion, *istihsan* and *'urf*) that are important to clarify certain matters which are not explicitly mentioned in the Holy Qur'an. Without referring to these texts, one may not fully appreciate the Shari'ah in its totality. However, this study is limited in the sense that it has only ventured into examining the laws purely from the perspective of the Holy Qur'an and *qiyas* without quoting other sources of Shari'ah.

It is also recommended that scholars (both Muslims and Christians) should cooperate in more in-depth studies in order to discover any similarity or difference in other areas that are mentioned in their religious scriptures. Studies of such kind are beneficial in the sense that they can forge better understanding in each other's religion and avoid from raising religious sensitivity issues ignorantly.

CONCLUSION

Building national unity in a multi-racial and multi-religious country is not easy for it requires its authorities and citizens to adopt racial and religious tolerance without attempting to demonstrate religious superiority of a certain religion. Sometimes, it is easier said than done. Notwithstanding this fact, based on clear guidance from the Quranic and Biblical scriptures, the existing laws of a state must be respected, especially if they are introduced by a just ruler or government to ensure peace and security of its citizens. A citizen can show obedience and respect to the government by abiding the laws which are introduced to curb or reduce crimes. Remarkably, the study showed that both Muslim and Christian citizens in Malaysia can share many common understandings in relations to efforts to curb the major social ills. More importantly, there are clear authorities from their religious scriptures that necessitate them to assist the government in dealing with the said social ills.

The study also showed that the prevailing indifferences (and similarities) at various degrees between Muslims and Christians should not be a hindrance for them to work together in finding viable solutions to resolve social ills. Such cooperation should not be limited to the major social ills under the study, but also extend to other social ills in the future. It is also important to examine how both Muslims and Christians in Malaysia can benefit from the understanding of the Holy Quran and the Bible, and in what ways such understanding can promote the acceptability of certain civil laws (and Shari'ah laws) which are in harmony with the teachings of their own religions.

REFERENCES

- Al-Ramly, A. (1967). *Nihayat al-MuhtajilSyarh al-Minhaj*: Vol. 7. Egypt: MaktabahwaMatba'ah Mustafa al-Halabiyy.
- Anon. Alcoholism in Malaysia. (2015, September 26). Retrieved from <http://lcoholrehab.com/alcoholism/alcoholism-in-malaysia/>.
- Anon. The health effects of smoking shisha and hookah (November 25, 2015). Retrieved from <http://www.quitshisha.com/effects-of-shisha.html>.
- BibleStudyTools.com. (2015,September 26). Retrieved

- from <http://www.biblestudytools.com/psalms/passage/?q=psalms+104:14-15>.
- Biblia.com. Bible study online. (2015, September 26). Retrieved from <http://biblia.com/bible/esv/Deuteronomy%2022.25-27>
- Curzon, L.B. (1995). *Dictionary of Law* (4th Ed.). Kuala Lumpur: International Law Book Services.
- Cole, S.J. (2013). Lesson 11: Christian Citizenship (1 Peter 2:13-17). (2015, November 25). Retrieved from <https://bible.org/seriespage/lesson-11-christian-citizenship-1-peter-213-17>.
- Doi, A.R.I. (1984). *Shariah: The Islamic Law*. Kuala Lumpur: A.S. Noordeen.
- E- Shari'ah Official Portal. (September 21, 2015). Retrieved from <http://www.esyariah.gov.my/portal/page/portal/Portal%20E-Syariah%20BI/Portal%20E-Syariah%20Prosedur%20Mahkamah/Portal%20E-Syariah%20Prosedur%20Mahk.%20Tinggi/Portal%20E-Syariah%20Kes%20Mahk%20Tinggi>
- El-Shinqiti, M.E. (2005). Fatwa: Alcohol-Based Medicine (2015, November 27). Retrieved from http://islamawareness.net/Alcohol/fatwa_alcohol002.html.
- Idris, A.A. The Rakyat Post. (2015, September 18). 'Rally has made national unity council's task more difficult', Retrieved from <http://www.therakyatpost.com/news/2015/09/18/rally-has-made-national-unity-councils-task-more-difficult/>.
- Jamal, A., & Anuar, N. (2012). Undang-Undang Kawalan Penjualan Arak Oleh Pihak Berkuasa Tempatan: Kajian Khusus Di Negeri Selangor Darul Ehsan. *24 Kanun (2) Makalah*, 213-239.
- Rusyd, Ibn. (1997). *Bidayat al-Mujtahid wa Nihayat al-Muqtasid*. Beirut: Dar al-Kutub al-Ilmiyyah.
- Kamali, M.H. (1989). Principles of Islamic Jurisprudence. The World Today: Current Global Issues in Conjunction with 50th Independence Day. Malaysia: Pelanduk Publications.
- Kabbani, H. M. H and Hendricks, S.S. , Jihad: A Misunderstood Concept From Islam. (2015, November 2015). Retrieved from <http://www.islamicsupremecouncil.org/understanding-islam/legal-rulings/5-jihad-a-misunderstood-concept-from-islam.html>.

- Malaysian Country Report Asean Inter – Parliamentary Assembly (AIPA) Fact Finding Committee Meeting on Combating Drugs 2015. (2015, September 26). Retrieved from http://www.aipa36malaysia.gov.my/wp-content/uploads/2015/06/13_Country-Report_Malaysia.pdf.
- Malaymail Online. (2014, January 27) After church attack, Christians urged to turn the other cheek. Malay Mail Online, Retrieved from :<http://www.themalaymailonline.com/malaysia/article/after-church-attack-christians-urged-to-turn-the-other-cheek#sthash.VYnBg0Y1.dpuf>.
- Mohamad, H. (2009). Forward, *Malaysian Journal of Shari‘ahand Law*, Vol.1 2009, vii.
- Mohd Noor, A. (2008, November). Stoning for Adultery Muslim and Christian Interpretations. Paper presented at the International Seminar on Comparative Law (ISCOM 2008), Universiti Sains Islam Malaysia, Malaysia.
- Malaysian Country Report Asean Inter –Parliamentary Assembly (AIPA) Fact Finding Committee Meeting On Combating Drugs 201. (2015, September 26). Retrieved from http://www.aipa36malaysia.gov.my/wp-content/uploads/2015/06/13_Country-Report_Malaysia.pdf.
- What does the Bible say about anal sex? What is sodomy according to the Bible?. (2015, September 26). Retrieved from <http://www.gotquestions.org/Bible-anal-sex-sodomy.html>.
- Zakiyy, N. (2008). *Advocacy on Inhumane Practices* in Azman Ab Rahman et. al (eds.), *The World Today: Current Global Issues in Conjunction with 50th Independence Day*. Kuala Lumpur:Universiti Sains Islam Malaysia.

Act/statutes

- Dangerous Drugs Act 1952.
Drug Dependants (Treatment and Rehabilitation) Act 1983.
Dangerous Drugs (Special Preventive Measures) Act 1985.
Federal Constitution.
Guardianship of Infants Act, 1961.
Law Reform (Marriage and Divorce) Act 1976.
Penal Code (FMS. Chap.45).
Poisons Act 1952.
Road Transport Act 1987 (Act 333).
Selangor Shari‘ahCriminal Enactment No. 9/1995.
Shari‘ahCriminal Offences (Federal Territories) Act 1997 (Act 559).