Overlapping Consensus in Malaysia

A Master’s Thesis in Applied Ethics
Centre for Applied Ethics
Linköping University
2007-05-21

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1. Introduction

The issue of pluralism, and the way of finding a way to accommodate the different groups in a plural society, is increasingly becoming very important in today’s political climate. As globalisation spreads, and people become more “cosmopolitan”, we are closer to each other than ever before. This is also mirrored in many societies, moving from being relatively homogeneous to being heterogeneous.

In the discussion today, it seems as though focus has shifted from looking at the internal politics of nations to international relations. This is especially evident in Rawls’ last work, “The Law of Peoples” which concerns itself solely with relations between peoples. I believe that it is essential to understand the intra-national relations. While it might not be necessary to emphasise liberal values, we need to acknowledge and accept pluralism.

The point ought to be to look at how we can achieve intra-national pluralism rather than accommodating international tolerance, since the long-term goal ought to be to get people to live together, not to establish enclaves where people with different comprehensive doctrines can live out their lives. This, to me, seems to be going towards a stalemate rather than attempting an overlapping consensus.

During 2005, the formation of an Inter-faith Commission (IFC) was suggested by several NGOs in Malaysia. Its stated aims were to get started an official dialogue between the religious and ethnic communities in the country. The idea of the IFC was to act as a forum of dialogue for the different religions and ethnic groups, where discussion could take place on neutral ground and without fear of repercussions. Dialogue alone was not considered enough, there was a perceived need for a form of institutionalised dialogue. Initially welcomed, it soon got criticised by, among others, ACCIN (“The Allied Co-ordinating Committee of Islamic NGOs”) and PAS Youth in Perlis, for threatening and trying to subvert Islam, the official religion of the country.
Prime Minister Badawi, has been talking about finding common ground and basis for tolerance within the notion of *Islam Hadhari* or “Civilizational Islam”. This is not to be understood as a new form of Islam, but rather as a kind of interpretation, more suited to life in the 21st century, a progressive interpretation stressing education, financial stability and tolerance in order to achieve a high level of development in a modern world. While the notion of *Islam Hadhari* has been generally well accepted, there are criticisms and difficulties in convincing citizens of its necessity, as well as finding understanding for the ideas among the non-muslim part of the population.

In a world characterised by increasing pluralism, and in several cases heightened religious and ethnic tensions, understanding the practical dynamics of pluralism would seem to be essential. Also, knowledge and understanding of how a nation can remain relatively stable over the span of 50 years, might serve as a good backdrop to examining more theoretical accounts of political stability.

While it is certainly true that the reasons for Malaysia’s relative stability owe a lot to its historical context, with roots stretching back well over 500 years, an examination of the past 50 years is more within the scope of this thesis. Also, in understanding contemporary theoretical accounts of (applied) social and political ethics, looking at the more recent history should be more beneficial.

### 2. Aim

The aim is twofold. First I will look at how the Malaysian pluralism is understood and described through the perspectives of the Islam Hadhari approach, the Article 11 coalition and the Inter-faith Commission against the backdrop of current Malaysian political and social history. Second I will attempt to interpret these through John Rawls’ Political Liberalism to see if they can provide what he terms stability for the right reasons through an overlapping consensus.

### 3. Method

This thesis is divided into four parts. The first part is an empirical study of Malaysia’s history since independence in 1957, with focus on its multi-ethnicity and pluralism. The

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1 Aliran Monthly, 2005
second part consists of an analysis, primarily of the state of pluralism in Malaysia, of
the concept of Islam Hadhari and of the Article 11 coalition and the Inter-faith
Commission, through the analytic framework of John Rawls’ Political Liberalism. The
third part is a critical view of John Rawls’ theory in light of the analysis of the empirical
material.

I will begin by giving a short background of Malaysia’s political history during the past
50 years, drawing primarily upon material found in articles. Next will be an account of
the ideological approach of Islam Hadhari and the ideas of the Article 11 coalition and
the Inter-faith Commission. This constitutes the empirical part of the thesis.

Following this will be a presentation of John Rawls’ Political Liberalism, to be used as
the theoretical framework. Here I will also address some of the criticisms directed
against Rawls’ theory.

Next will be the analysis of the Islam Hadhari approach and the ideas of the Article 11
coalition and the Inter-faith Commission through the theory of Political Liberalism,
with particular focus on the concept of overlapping consensus.

I will conclude with a general discussion of Rawls’ Political Liberalism and the
possibilities of overlapping consensus in Malaysia, in light of the preceding analysis.
Part I - Empirical Background

1. Malaysia’s history

In order fully to understand the situation in Malaysia today, it is necessary to have some knowledge of the country’s political history, as well as knowledge of the ethnic composition of the country. Since this thesis will be focusing on the dynamics of Malaysia’s multi-ethnicity and on how stability has been achieved and maintained, it is primarily the modern history that is relevant. However, it is also important to note that this region has been multi-ethnic and –religious at least as far back as the 1400’s when Islam made its first appearance in what is today Malaysia. This long history of pluralism no doubt has had an effect on the current relatively peaceful co-existence between the nations different ethnic groups.

Perhaps more important, however, for the current state of affairs is the fact that up until 1957 Malaysia was a British colony. The British established and institutionalised an ethnic division of labour, whereby the Malay aristocracy were granted political control, the general Malay population remained in their traditional role as farmers and the immigrant Chinese got control of much of the capital as well as the tin mining and urban crafts. This was meant to secure British control through the means of divide and rule. However, rather than dividing ethnic groups, this tactic can be seen as having strengthened a “tradition of accommodation”\(^2\), and it would seem that up until today this division of labour along ethnic lines have persisted, and has become a significant feature of Malaysia’s social and political life. It is important to note, however, that this provides a foundation for framing social, political and also economic issues and concerns in terms of ethnicity. We will have reason to come back to this below.

Ever since gaining its independence in 1957, Malaysia has been led by the United Malays National Organisation, or UMNO (later disbanded during a political crisis, and reformed into UMNO (Baru)) in coalition with political parties representing other ethnic groups\(^3\). It might be argued that this political hegemony has also, in some way, contributed to the relatively peaceful co-existence across ethnic lines, or at least that it has contributed to the political stability of the nation, albeit at the expense of “genuine

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\(^2\) Case, 1993, p. 184
\(^3\) Case, 1993, p. 186
democracy”. Former Prime Minister Mahatir often stressed the importance of preserving ethnic peace, and held the position this was more important than democracy\(^4\).

Another important factor in the preservation of ethnic peace is the 1969 riots. There are different accounts as to why these riots took place, but a general agreement seems to be that they were political in nature, fuelled by inter-ethnic tensions. Following the riots, were the implementation of strict and severe security laws, as well as a strengthening of the ruling party’s political power in order to avoid similar incidents in the future\(^5\). Fear of a repeat of these riots seems to be another contributing factor behind the reluctance to stir up inter-ethnic tensions up until today. Along these lines, it might also be plausible to consider Malaysian society (be it social or political) to be under a kind of political stalemate, where groups on all sides recognise that no one would have much to gain from open conflict. This holds true on the one hand for the Chinese community which, while being politically marginalised, still hold considerable financial power. It would also hold true for the ruling Malay elite, who are in many ways dependant upon the Chinese-dominated market.

During the 1970’s, there were arguments being raised, particularly within the Chinese community, that this provided a justification by way of a trade-off between the (Malay dominated) State and the (Chinese dominated) business world. This view has come under increasing criticism, since it seems to grant only a conditional tolerance towards the Chinese community, and is wholly dependent upon the continued Chinese domination of the business world\(^6\). Similarly, around the same time, the issue of corruption was considered an alternative to political power and influence among, particularly, the Chinese community. This is because being non-Malay, one would face difficulties in influencing politics. Again, this view has come under severe criticism, because it fails to address the real problem of ethnic discrimination and implying a conditional acceptance of the Chinese community.

While these perspectives are all interesting, they risk moving us onto sociological, economic or political territory. The focus of this thesis, however, is on applied ethics and specifically on the theories of John Rawls’ held in “Political Liberalism”. Therefore

\(^4\) Case, 1993, pp. 202-203
\(^5\) Hwang, 2002, p. 206
I will instead focus on how ethnic (and religious) pluralism is maintained in Malaysia today. In this regard, especially the concept of *Islam Hadhari* seems interesting, since it offers an account of Islam as the nation’s comprehensive governing principle and attempts, in some way, to accommodate a pluralist state. *Islam Hadhari* may be the only comprehensive attempt at achieving this end, but it is, however, not the only attempt at reconciling ethnic (and religious) differences. In 2004, an attempt at an Inter-faith Commission was initiated, aiming at creating an arena for inter- and intra-religious discussion and dialogue. While initially met with cautious optimism, the initiative has since been abandoned and has received severe criticism.

2. Malaysia’s social and political institutions

2.1 The Constitution

Malaysia is a constitutional federation, consisting of 13 states and the two “Federal Territories” of Kuala Lumpur and Labuan. According to article 4, the “Constitution is the supreme law of the Federation and any law passed after Merdeka Day which is inconsistent with this Constitution shall, to the extent of the inconsistency, be void”.

The Constitution grants certain fundamental liberties, among them equality before the law, as well as “the equal protection of the law” (Article 8). Neither shall any citizen be discriminated against solely on the grounds of “religion, race descent or place of birth” (Article 8 and 12).

The King (or “Yang di-Pertuan Agong”) officially heads the Federation, and is appointed among the nine members of the Conference of Rulers, for a term of 5 years. The King lacks any real political power however, especially since then Prime Minister Mahatir amended the Constitution in 1993 to reduce the King’s political power. The political power lies with the Prime Minister as the head of Parliament.

2.2 The role of Islam and the status of the bumiputra

Islam is, according to article 3 of the constitution, “the religion of the Federation”, although “other religions may be practised in peace and harmony”. What this means in

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6 Interview with professor Lim Hong Hai, April 20th 2007
7 The Malaysian Independence Day.
8 The Conference of Rulers consists of the kings (or sultans) of Johore, Kedah, Kelantan, Negeri Sembilan, Pahang, Perak, Perlis, Selangor and Trengganu. The states of Malacca, Penang, Sabah and Sarawak, as well as the Federal Territories of Kuala Lumpur and Labuan lack a king.
9 Chong, 2005, p. 582
practice is somewhat obscured however. It is a commonly held belief that Malaysia is not an Islamic state (although some Islamic organisations, most notably PAS, have made claims that it ought to be\(^{10}\)), yet Islamic principles informs government policies to a great extent. The typical Western notion of a separation of Church and State is not recognised as such in Malaysia, where Islam is seen as the framework for government policy. On the other hand, as mentioned above, other religions may be practised, so long as they do not threaten the peace and harmony of the Federation.

This is further emphasised in article 11, which states that “(e)very person has the right to profess and practice his religion and, subject to Clause (4), to propagate it”. The provision in Clause (4) states that propagating “any religions doctrine or belief among persons professing the religion of Islam” can be restricted by State law. Essentially, there is freedom of religion, but attempts to convert Muslims are not allowed.

Article 11 also states that “(e)very religious group has the right (...) to manage its own religious affairs (and) to establish and maintain institutions for religious or charitable purposes”. This amounts to something akin to the millet system of the Ottoman Empire, granting internal self-governance to religious communities. It also means that punishment and regulation within a religious community is up to said community, as long as it is not in violation with State law.

Initially this might be seen as putting all religions on the same footing. However, since the Sultan in each state is the head of Islam in that particular state, and the Yang di-Pertuan Agong is the head of Islam for the Federation and as such part of the “political sphere”, there is the possibility of, indirectly at least, state-enforcement of Islamic law.

This means that the enforcing of the teachings and prescriptions of Islam are, as pertaining to the Islamic community, allowed through the Constitution. This is because Malaysia has a dual legal system consisting of a secular law (which is binding for all citizens) and the Muslim Syariah law. The Syariah laws only relate to “personal and family laws of Muslism”\(^{11}\) and they are regulated in the Syariah Courts. While the

\(^{10}\) Interview with professor Lim Hong Hai
\(^{11}\) Endut 2006, p. 39
Syariah Courts have jurisdiction over matters regarding Muslim family law, they are still subordinate to the High Courts according to the Constitution.  

The special status given to the *bumiputra*, who consist of the Malay (which are all Muslim) and the indigenous people, the *orang asli* (who are predominantly found on Borneo, and who are most often animist or Christian) is in some ways related to this. According to official state policy, the *bumiputra* (or “Sons of the soil”), and particularly the Muslim *bumiputra*, are entitled to preferential treatment. This has been the case ever since the NEP (New Economic Plan) was first implemented in the 1970’s, and it has in turn further strengthened the framing of political, social and economic issues in ethnic terms.

A conceivable reason for this is that at the time of independence, the Malay population (making up slightly more than half of all Malaysians) called for complete control over Malaysia. In the spirit of compromise, the Malays were given special treatment and priority over the smaller ethnic groups of particularly Chinese and Indian heritage. As stated in the Constitution, a Malay is “a person who professes the religion of Islam, habitually speaks the Malay language (and) conforms to Malay custom”.

There are a couple of features about Malaysia’s political and social history that bear significant impact on the issues that will be discussed in this thesis. Ever since gaining independence, Malaysia has been governed by one political party, UMNO, dominated by Malays. It is the ideology of UMNO that has shaped Malaysia into what it is today. Malaysia is a plural society, but with one majority group consisting of more than 50% of the population. While formally acknowledging religious freedom, Malaysia has since independence been dominated by Islam, and its government has granted Islam particular status as the “state religion” – it is Islamic principles that has guided Malaysia’s development so far.

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12 Endut, 2006, pp. 48-49
13 This is an allusion to the fact that they are considered the original inhabitants of what is today Malaysia. Whether or not this is historically correct is controversial, but has little bearing on the subject of this thesis.
14 Pepinsky, 2007, pp. 121-122
3. Islam Hadhari

3.1 Background

The idea of *Islam Hadhari* was articulated already in 2001, by then Prime Minister Mahatir. The idea was to counter one of the opposition parties’, PAS (Pan-Malaysian Islamic Party), demands for an Islamic state, in launching a form of “progressive Islam” that was to guide the nation as a whole. It wasn’t until 2004, however, that the new Prime Minister Abdullah Badawi introduced the actual term *Islam Hadhari*.

The inspiration for this approach is primarily the Islamic civilisations of Andalusia and Baghdad, with a particular focus on Andalusia between the 8th and 13th centuries AD and it is a revival of and reminder from these cultures that the Prime Minister sought by introducing this new approach. The Andalusian society during this time was characterised by an advanced (for the time) academic milieu, a high degree of literacy and large collections of books in both public and private libraries. The Andalusian society is seen as one of tolerance, prosperity and peace, a cosmopolitan society where “Muslim, Christian and Jewish scholars freely mingled”. Of course one might question the academic validity of the descriptions of Andalusia, especially considering how they are used to further the Malaysian governments interpretation of Islam. However, the actual facts of the Andalusian society are not really relevant here.

The over-arching aim of the *Islam Hadhari* approach, as stated by the Malaysian government, is to facilitate an integration of Islam into “the development of the ummah (i.e. the people), the civilization of the nation and the integrity of the country”. That is to say, the government wants to strengthen Islam, using it as the foundation upon which to build society.

In the official text regarding *Islam Hadhari*, issued by the Department of Islamic Development Malaysia, is stated that

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15 Chong, 2005, pp. 581-582
16 Razak, 2006
17 Razak, 2006, p 18
18 Department of Islamic Development Malaysia 2005, pp. 1-2
“Islam (…) is a way of life in a very wide context. It is not mere belief, but a comprehensive, advanced and progressive way of life which is capable of resolving the problems of mankind of all times.”

Further Islam Hadhari focuses “on developmental aspects which lead to the building of civilization (focusing on) knowledge mastery, human development and physical development”.

3.2 Theory
The Islam Hadhari approach centres on ten basic principles, and these are:

1. Faith in and piety towards Allah.
2. A just and trustworthy government.
3. Free and liberated people.
4. A rigorous pursuit and mastery of knowledge.
5. Balanced and comprehensive economic development.
6. A good quality of life for the people.
7. Protection of the rights of minority groups and women.
8. Cultural and moral integrity.
9. Safeguarding the environment.
10. Strong defence capabilities.

All of these principles rest on interpretations of Quran verses, and one might assume that they are in turn justified by the first principle, of “faith in and piety towards Allah”, which, for any Muslim, would be a given. This would be were we encounter the first problem of the Islam Hadhari approach. Since the approach is meant to be a comprehensive approach for the entire Malaysian society, and not just its Muslim citizens, there might seem to be a problem of justification here. I will set this issue aside for the moment, however, and return to it in the analysis in Part III below.

For the purposes of this thesis, I will focus on the second, third, fifth, sixth and seventh principles, albeit with only a passing attention given to the fifth principle. This is because those principles most closely relate to the issue at hand – achieving a stable plural society.

19 Department of Islamic Development Malaysia 2005, p. 2
20 Department of Islamic Development Malaysia 2005, p. 12
A “just and trustworthy government” is defined through Islam Hadhari as one that “give(s) people their dues accordingly” while being “blind to race, colour, social status, wealth and religion”\textsuperscript{21} and which performs “all obligations and responsibilities as required”\textsuperscript{22}. This would seem to be a non-controversial idea, expressing at least implicitly the equal worth of individuals. In fact, one might wonder if the inclusion of this principle is not more motivated as an argument for Islam, giving further justification to the use of Islam as the foundation of society. There is nothing really substantial in this principle then, other than an assurance that ethnicity, religion or social status should not have any bearing on justice.

The principle regarding a “free and liberated people” gives substantial definitions about what kind of person is to be fostered. It stresses the importance of being “creative and innovative”\textsuperscript{23} stating that

“Liberated people are able to produce dynamic and positive new ideas which are beneficial to the integrity of individuals, families, society and country”\textsuperscript{24}.

Further, a positive attitude towards change and development when positive, and a rejection of “negative practices (…) delimiting to the individuals and society” is encouraged, as is an adherence to “the rule of law and ethics” which is to be the basis of “a robust and stable society”\textsuperscript{25}. Being free, in this context, seems to imply being “able to select and choose for themselves” and maintaining an “open attitude towards other cultures and traditions which are not against universal values and ethics” as long as these contribute to “the development of civilization”\textsuperscript{26}.

Interesting to note here is the importance given not only to the individual but also to “families, society and country” and it would seem that the individual is not the basic unit, but rather its value is derived from its place in and contribution to a larger conglomerate. This is especially evident where it states that the

\begin{footnotesize}
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\item Department of Islamic Development Malaysia 2005, p. 14
\item Department of Islamic Development Malaysia 2005, p. 15
\item Department of Islamic Development Malaysia 2005, p. 16
\item Department of Islamic Development Malaysia 2005, p. 16
\item Department of Islamic Development Malaysia 2005, p. 17
\item Department of Islamic Development Malaysia 2005, pp. 17-18
\end{enumerate}
\end{footnotesize}
“potential of each community member must be harnessed wisely till it is able to uphold the integrity of self, family, society and the nation’s strength based on a deep feeling of patriotism and undivided loyalty”27.

Another question here is what constitutes “a people”. Since the Islam Hadhari approach specifically aims “to produce individuals and a Muslim society imbued with spiritual, moral, intellectual and material strengths” one might be tempted to interpret “a people” as the ummah. However, this leaves all non-Muslims in a kind of vacuum, unless they are considered as part of the ummah even though they are non-believers. Since the Islam Hadhari approach also aims at being a comprehensive doctrine and guiding principle for the entire society, either non-Muslims must be excluded from this society, or they must somehow be accommodated within the “free and liberated people”.

The sixth principle, regarding “a good quality of life for the people” also sheds some light on this issue. Here it is stressed that

“good quality of life can be achieved if the country (fulfils) the basic needs of life such as preserving religion, improving the status of education of its people, providing a peaceful life, ensuring the right to own property and make providence to the generation of the future”28.

This principle also highlights the importance of the family institution, stating that “if each and every family institution is able to function effectively, social maladies can be minimized”29. This would again imply the importance of family and social community as possibly prior to that of the individual.

The idea of a “balanced and comprehensive economic development” calls for establishing “ethical economic practices effectively in tandem with local and international economic developments”30. While this is mostly an economic issue, there are some ethical concerns involved here as well. The eradication of poverty, achieving of full employment along with sustainable economic development are all thought to help bring about justice and economic stability. Further, the aim of achieving economic

27 Department of Islamic Development Malaysia 2005, p. 17
28 Department of Islamic Development Malaysia 2005, p. 23
29 Department of Islamic Development Malaysia 2005, p. 22
30 Department of Islamic Development Malaysia 2005, p. 20
development is “to build a civilized and progressive society”\textsuperscript{31}. Coupled with the governments strong control over the domestic economy and market, this might imply (and, in the case of the bumiputra certainly does) an active redistribution scheme. It is worth noting that the agricultural sector, traditionally a Malay dominated area, is given special attention when it comes to economic development. However, the explicit justification for this is “(s)ecuring the supply of basic food of the people”, which is called for by Islam\textsuperscript{32}.

The “protection of the rights of minority groups and women” are fundamentally motivated by a respect for the Islamic law, which “encompasses the protection of life, religion, property, dignity and intellect” regardless of if the person is part of a minority group or not. Therefore, “minority groups and women are able to enjoy whatever is enjoyed by the majority groups and men”, which must, I assume, be interpreted as the minority groups having the same rights as the majority groups.

The principle also states that minority groups “have the right to participate in the development of the country and enjoy everything that is enjoyed by other races”\textsuperscript{33}. Again, it is not explicitly stated whether or not this right to participation is substantial or merely formal. Further, the right to freedom of religion is emphasised, yet this only seems to apply to non-Muslims, seeing as how leaving Islam is not allowed. So while this principle might ensure the rights of minority groups, it might be argued that it, perhaps somewhat paradoxically, leaves open the possibility of oppressing the majority.

Common to all of these principles is the fact that they are justified by interpretations of the Quran, and thus they are of a so-called “divine command theory” nature, seemingly depending on accepting Islam as a comprehensive doctrine. While this does not pose a problem to (believing) Muslims, it does pose a problem of justification to non-Muslims. However since the principles are also motivated by reference to achieving a developed and stable society, and it is stated that the “internalization of high moral values will ensure prosperity, harmony and peace in a multiracial society”\textsuperscript{34}, this would be another possible way of reaching justification. This still leaves us with a communitarian theory,

\textsuperscript{31} Department of Islamic Development Malaysia 2005, p. 22
\textsuperscript{32} Department of Islamic Development Malaysia 2005, p. 22
\textsuperscript{33} Department of Islamic Development Malaysia 2005, p. 25
\textsuperscript{34} Department of Islamic Development Malaysia 2005, p. 29
putting the community (or, in this case, the society or even the *ummah*) before the individual.

### 3.3 Criticisms

Some concerns have been raised against the idea of *Islam Hadhari* as being a new form or teaching of Islam. However, it has been pointed out from the government, that *Islam Hadhari* is only to be understood as a new approach, bringing the Muslim community “back to the basics”\(^{35}\).

From the non-Muslim community, criticism have been raised against the idea of the government endorsing any form of Islam, be it Islam Hadhari or otherwise. The reason for this is that, while Islam is recognised as being “religion of the federation” Malaysia is not to be an Islamic state per se. The active endorsement of Islam on the part of the government threatens, the critics say, the secular nature of Malaysia\(^{36}\).

Another issue is that while the Islam Hadhari approach is meant to counter the claims of PAS for further Islamisation of Malaysian society, the endorsement of Islam Hadhari could in fact be seen as a step towards this. In taking this step, it might be argued, the government is (at least indirectly) doing what PAS wants. So while the Islam Hadhari approach might serve to keep Muslim voters from turning to PAS, in practice it actually means implementing PAS’ policy. Seen this way, Islam Hadhari only serves to counter PAS gaining political power, but fails in countering PAS’ actual political goals.

These principles would seem to be coherent with at least the common intuitions of most political scientists, so why is there such a controversy surrounding *Islam Hadhari*? In order to understand this, we must first distinguish two different kinds of objections to Islam Hadhari.

The first comes from other Muslims, who worry that Islam Hadhari would replace “traditional Islam”, or even that it would be a substantially new form of Islam. The second comes from non-Muslims, who worry about an “Islamisation” of Malaysia. From independence onwards, Malaysia has been a multi-ethnic and –religious country,

\(^{35}\) Department of Islamic Development Malaysia 2005, p. 2  
\(^{36}\) Interview with professor Lim Hong Hai
with freedom of religion given a prominent place in its constitution. Even though Islam is the “state religion”, Malaysia as a country is not to be considered a Muslim state. A question one might ask is, “what is the difference between a traditional Islamic view and the Islam Hadhari approach?” – this poses at least one serious problem, that of defining Islam as a singular entity. The best one can achieve is to point to the difference between the traditional Malaysian view and the ideas expressed in Islam Hadhari. Seen in this light, I believe on major significance of Islam Hadhari lies in its bringing Islam, officially, into the political life.

4. Article 11 and the Inter-faith Commission

4.1 Article 11

Article 11 is a coalition comprised of 13 different NGOs, including organisations working for women’s and human rights as well as the Malaysian Bar Association. It was formed in 2004 after a court-ruling in a domestic case regarding religious conversion showed signs of a weakening of the civil High Court “as the protector of the rights of the ordinary citizen”. The name “Article 11” refers to Article 11 of the Malaysian Constitution, which grants freedom of religion to all citizens.

There are nine stated aims of the coalition:

1. To affirm the Federal Constitution as the supreme law of the land.
2. To strive to build national unity.
3. To affirm the right of every person to full and adequate access to justice.
4. To recognise the need for a judiciary that is impartial, independent and an equal arm of the government.
5. To recognise that the Federal Constitution embodies an agreement among the various communities.
6. To respect the Constitutional guarantees of equal protection for every person in a multi-racial, multi-religious Malaysia.
7. To seek to protect fundamental liberties for all.
8. To respect the freedom of thought, conscience, belief and religion of every person.
9. To ensure that Malaysia does not become a theocratic state.

37 For a full list of members, refer to the Article 11 website, http://www.article11.org
38 http://www.article11.org
39 http://www.article11.org
During 2006, Article 11 held four forums with a focus on the constitutionally guaranteed rights of Malaysian citizens. Because of severe protests during the last two forums\(^\text{41}\), the Prime Minister issued a statement warning the coalition not to stir up religious tension, effectively forbidding further forums organised by Article 11\(^\text{42}\). This was in large part due to a confusion between Article 11 and the by then defunct IFC, whereby protesters mistakenly thought that the Article 11 forums were part of a plan to revive the IFC, and perceived a threat to Islam.

However, as is stated in its aims, the Article 11 coalition pose no threat to Islam per se, but rather to an orthodox version of Islam that stresses the importance of turning Malaysia into an Islamic state governed fully under Islamic *syariah* law.

### 4.2 The Inter-faith Commission

Turning to the IFC initiative, it was a proposal formally issued in 2005, which built upon an earlier workshop in 2003, entitled “Towards the formation of an Inter-Religious Council”. The initiators were the so-called “National Council”, which was formed after the workshop in 2003 in order to work out the details of the proposed inter-faith statutory body. Several of the groups in Article 11 were also involved in the (of the Article 11 group independent) “National Council”, which might be one reason for the confusion between Article 11 and the IFC.

The IFC was meant to be an “advisory, consultative and conciliatory body” striving “to promote awareness of the tenets and beliefs of the diverse religions and faiths of the world” and “to resolve any dispute or rectify any act or omission, emanating from or constituting an infringement of religious harmony by means of mediation, negotiation or conciliation”\(^\text{43}\).

The actual commission was meant to be modelled on the Human Rights Commission of Malaysia, SUHAKAM. Important to note is that the IFC would have had no power over

\(^{40}\) This is to be understood as a counter to the calls of the Muslim community to further implement *Syariah* law. Author’s note.

\(^{41}\) Accounts as to the severity of the protests vary however. According to some of the people attending the forum, there were in fact as many (if not more) police officers present as there were protestors. It has been argued that bias on the part of the (Malay dominated) police officers present as there were protestors. It has been argued that bias on the part of the (Malay dominated) police officers present as there were protestors. It has been argued that bias on the part of the (Malay dominated) police officers present as there were protestors.

\(^{42}\) Washington Times, August 4\(^\text{th}\), 2006

\(^{43}\) Aliran Monthly, 2005
religious tenets, and no authority (other than, presumably, consultative) over Syariah courts.

The reason for forming the IFC was the lack of any “formal process for interfaith dialogue” in Malaysia, and also the lack of any mechanism for interfaith policy. The IFC was meant to function as a neutral field where interfaith issues could be brought forth and, in some cases, solved or at least be channelled to the proper authorities, rather than having to bring them to court and risk open and unnecessary confrontation. Ultimately its initiators saw the IFC, as a means towards furthering national unity.

The initiators of the IFC do recognise the existence of interfaith dialogue already present in Malaysian society\(^4\), but this is, according to them, not sufficient. Instead, the IFC initiative calls for a neutral arena for discussion, and an institutionally established forum for dialogue. It is somewhat unclear, in the official documents regarding the IFC, how dialogue itself is to be understood.

4.2.1 Theoretical foundation

The basic underlying idea guiding the original Inter-Religious Council seems to have been the promotion, protection and advancement of the rights of freedom of thought, conscience, religion and belief to the perceived end of “national harmony and unity”. This was also seen as “integral to the happiness, welfare and prosperity of the Malaysian people”.

There is a slight difference in formulation in the corresponding statements of the “National Conference” regarding the IFC. Where the emphasis earlier seems to have been on “harmonious co-existence” and “national unity” as the fundamental values, the “National Conference”, through the IFC, “celebrate Malaysian diversity” and also “support the fundamental rights of freedom of thought, conscience, religion and belief” (emphasis added).

To these aims, there were to be 11 functions of the IFC.

1. To advance, promote and protect every individual’s freedom of thought, conscience and religion.

\(^4\) Aliran Monthly, 2005
2. To identify values and ethical standards universal to all religions, faiths, beliefs and ways of life with a view to promoting the same.

3. To identify and recommend ways in which harmonious interfaith co-existence in larger society can be promoted and achieved with a view to national harmony and unity.

4. To receive, address and make recommendations in respect of complaints or grievances brought by persons, bodies or organizations in connection with the individual’s right to profess and practice his religion or faith of choice.

5. To advance, promote and foster mutual respect, understanding, dialogue and harmonious co-existence within Malaysian society.

6. To manage and resolve peacefully the conflicts generated by religious and ethnic differences and to remove the roots of all violence committed in the name of religion and faith.

7. To promote awareness of and to educate in relation to the religions and faiths professed and practised in Malaysia particularly, and in the world generally.

8. To advise and assist the Government in formulating legislation and administrative directives and procedures and recommend necessary measures to be taken where appropriate.

9. To recommend to the Government with regard to the subscription or accession of treaties and other international instruments in the field of religious harmony.

10. To inquire into complaints regarding infringements of religious harmony.

11. To promote conciliation and resolve tensions between persons or groups of persons who have any difference or dispute affecting or touching on religious harmony.

There would seem to be two dimensions to these aims. One is more descriptive and analytical, concerned with identifying values, making recommendations and giving advise and assistance. The other would seem to be more normative, using terms such as “advance”, “promote” and “foster”, concepts which imply working towards some identified goal.

While it has been stated that the IFC was not to be an adjudicatory body, and thus that it was not to have any power over particular religions and their creeds, the normative component of the IFC would indeed imply some form of “active powers”. That is to say, in order for the IFC to actually advance, promote and foster anything, one might assume that there would be need for more than mere mediating or clarification, a substantive rather than simply a formal component.

Two more features are especially interesting. The sixth function says that “the roots of all violence committed in the name of religion and faith” shall be removed. If the
removal of such “roots” takes primacy over intra-faith integrity it is difficult to see how the IFC could not interfere in intra-faith issues. On the other hand, if it is not the primary concern, then how would it be possible to actually remove said roots?

The second feature is the recurrent theme of “religious harmony”. This would seem to be the core of the IFC. The IFC recognises a plurality of religions present in Malaysia. There is also recognition of the fact that, in some cases, there might be conflict between different religious views. In these cases, the IFC is supposed to mediate between the conflicting parties, coming up with a solution that maintains the religious harmony. The question, then, is how is this achieved without making any actual changes to either party? In order for this to be possible, the IFC must embrace the idea that, deep down at a fundamental level, there is indeed little or no conflict. Because if conflict is supposed to be solved, solely through dialogue, mediation and clarification, there cannot have been any substantial conflict to begin with.

4.3 Criticism

Looking at the criticisms raised against the IFC, a recurrent theme is the worry that it would have undermined the authority of Islam, that it would have fostered disunity and conflict rather than unity and harmony and that there might have been some anti-Islamic ideas behind the initiative as a whole.

It is true that the IFC would probably have undermined the authority of Islam in relation to other religions. This is because the IFC places all religions on the same footing, thereby denying the priority of Islam. The IFC would not, however, have undermined the authority of Islam within the Muslim community itself.

Where the IFC and the government (through the implementation of Islam Hadhari) differed the most was in the perceived future direction of Malaysia. Whereas the IFC wanted to see a strengthening of the Constitution and of the respect of political rights, the government seems headed towards further Islamisation, albeit in a moderate form.

The difference then, was in the view of secularisation and pluralism. The IFC’s view was that all religions should be allowed equal status, and that it would be up to the individual to decide what to believe in. They emphasised the individual rights over those of the community. The government, on the other hand, are pushing for a society
guided, in large, by Islam and Islamic values, yet one which is tolerant towards, and allows, other religions, thus emphasising the community over the individual.
Part II – Theory

1. Rawls’ Political Liberalism

In “Political Liberalism” Rawls gives an account of justice in a plural society. He argues that the basis for a stable society of free and equal persons, is a political conception of justice, that is to say, a conception of justice which can be agreed upon regardless of what (reasonable) comprehensive doctrine a person embraces. Put differently, Rawls tries to show how we\textsuperscript{45} can reach a consensus on principles of justice to regulate society, while still maintaining a reasonable plurality.

As such there would seem to be very useful as an analytical tool or framework in looking at the, in terms of both religion and ethnicity, highly plural Malaysian society. However, in working out his theory of Political Liberalism, Rawls is taking his cue from (an idealised version of) a modern constitutional democracy, one where the fundamental ideas of his theory of “justice as fairness” can be said to be already implied. Whether or not Malaysia is to be classified as a modern constitutional democracy is debatable, and not something which I will go too deeply into.

I will be focusing on the idea of “overlapping consensus”, treating it as a more or less free-standing theoretical tool for achieving “stability for the right reasons” in a plural society. As such, I will attempt to extract it from Rawls’ more comprehensive theory of Political Liberalism.

Following this, I will present some ideas connected to that of “overlapping consensus”, particularly those of “comprehensive doctrines”, “stability (for the right reasons)”, “public reason”, “reasonable pluralism” and “modus vivendi”. I will also give an account of Rawls’ idea of the reasonable, since this is an integral part to his overall argument.

First, however, I will present a general outline of Rawls’ theory as expressed in Political Liberalism.

\textsuperscript{45} Where “we” are “reasonable” citizens of a constitutional democracy.
2. Political Liberalism: an overview

The theory in Political Liberalism attempts to answer the question “how is it possible for there to exist over time a just and stable society of free and equal citizens, who remain profoundly divided by reasonable religious, philosophical, and moral doctrines?” (PL, p 4) Put differently – in a modern democratic society, we inevitably find a range of differing opinions and ideas and without reducing these to a singular doctrine, how can we achieve stability and cooperation?

Rawls answer to this question is twofold, one part is normative the other descriptive. The normative part says that we need a political conception of justice. This conception of justice, which Rawls calls justice as fairness, is meant to answer the question of how “the basic institutions of a constitutional democracy should be arranged if they are to satisfy the fair terms of cooperation between citizens regarded as free and equal”\(^46\). Rawls proposes two principles of justice (familiar from his “Theory of Justice”). First the principle of equality, which states that:

“Each person has an equal claim to a fully adequate scheme of basic rights and liberties, which scheme is compatible with the same scheme for all; and in this scheme the equal political liberties, and only those liberties, are to be guaranteed their fair value.”\(^47\)

And secondly, the difference principle, which states that:

“Social and economic inequalities are to satisfy two conditions: first, they are to be attached to positions and offices open to all under conditions of fair equality of opportunity; and second, they are to be to the greatest benefit of the least advantaged members of society.”\(^48\)

The second part of Rawls answer is the descriptive part, and regards the means by which we can establish and ground this political conception of justice. This is the concept of an overlapping consensus of reasonable comprehensive doctrines, which is meant to justify the political conception of justice. The reason why we need to do this is that in a society characterised by a profound division of comprehensive and “reasonable

\(^46\) Rawls, 2005, p 4
\(^47\) Rawls, 2005, p 5
\(^48\) Rawls, 2005, p 6
religious, philosophical, and moral doctrines” we can never hope to find agreement on a single comprehensive doctrine’s conception of justice.\textsuperscript{49}

In contrast, a political conception of justice is presented as freestanding of those comprehensive doctrines, in the sense that it is not derived from them\textsuperscript{50}. Of course, it can be supported by them provided they are reasonable comprehensive doctrines, and as we shall see, gaining support from those reasonable comprehensive doctrines is essential for achieving stability in the long run\textsuperscript{51}. Another key feature of a political conception regards its subject. It is concerned, solely, with what Rawls terms the “basic structure” of society – the “main political, social, and economic institutions” fitted together “into one unified system of social cooperation from one generation to the next”\textsuperscript{52}.

The idea then is to envisage the individual as incorporating two concepts – that of the private (or possibly social) and that of the political\textsuperscript{53}. When we are dealing with the political aspects of society, we are not to be informed by any comprehensive doctrine we might embrace. Rather, we are to embrace a political conception, which is to be supported in some way or other by our comprehensive doctrine (yet not derived from it). In essence, what we are trying to do is find some common rules, acceptable by all reasonable people, for regulating the political life of a society.

What we want, then, is an agreement (based on reasonability) on political principles of justice. Therefore, the validity and justification of our principles don’t hinge on a potential truth. But what makes this different from a mere modus vivendi, is the fact that we are agreeing upon these political (and moral) principles out of a moral conviction, not out of practical, self- or group-interest centred reasons.

\textsuperscript{49} Rawls, 2005, pp 133-134
\textsuperscript{50} Rawls, 2005, p 12
\textsuperscript{51} Rawls, 2005, p 11, 39
\textsuperscript{52} Rawls, 2005, p 11
\textsuperscript{53} Rawls, 2005, p 38
3. Elements of Political Liberalism

I will now turn to those concepts in Rawls’ theory that are of particular interest to the analysis.

3.1 Decent hierarchical societies

Rawls is primarily concerned with liberal democratic societies, and the theory of Political Liberalism is limited to constitutional democracies, or “well-ordered societies”\(^\text{54}\). While, as I have stated above, I intend to use the idea of overlapping consensus as a, from Political Liberalism, freestanding theoretical tool to examine the possibility of “stability for the right reasons” in Malaysia, it is still necessary to show that “stability for the right reasons” is at all possible in a non-liberal society.

The way of doing this, I believe, is to draw upon the definition of “decent hierarchical societies” offered by Rawls in his “The Law of Peoples”\(^\text{55}\). There, he explicitly states that “Liberal peoples and decent peoples I refer to together as “well-ordered peoples”\(^\text{56}\).

Rawls defines decent hierarchical societies as a) being structured on a comprehensive doctrine (as opposed to the liberal societies that use a political conception), b) respecting human rights (including the right to life, liberty, property and formal equality), c) having an idea of society as a fair system of cooperation and finally d) a “sincere and not unreasonable belief on the part of judges and other officials who administer the legal system that the law is indeed guided by a common good idea of justice”\(^\text{57}\).

3.2 Overlapping consensus

An overlapping consensus is the way Rawls envisions we must take in order to reach what he considers “stability for the right reasons”, the answer to the question of how we “may establish and preserve unity and stability given the reasonable pluralism characteristic (of a plural society)”\(^\text{58}\). An overlapping consensus is reached when two or

\(^{54}\) Rawls, 2005, p xvi
\(^{55}\) While Rawls uses the term “people” in The Law of Peoples in a slightly different manner, I will for sake of simplicity take it to be equivalent with “society” in this thesis.
\(^{56}\) Rawls, 2002, p 63
\(^{57}\) Rawls, 2002, pp 63-66
\(^{58}\) Rawls, 2005, pp 133-134
more groups, coming from different backgrounds and embracing different comprehensive doctrines, can agree to a set of principles (in his case Justice as Fairness) and supporting those principles on moral grounds through their respective comprehensive doctrines. It is important to note that the parties in an overlapping consensus only draw upon their respective (reasonable) comprehensive doctrines in order to justify a given set of principles – they don’t use those doctrines to come up with the principles\textsuperscript{59}. This ensures a stable situation, where changing circumstances would not change the fact that all groups agree to the principles.

3.3 Stability for the right reasons
When the principles of justice are established, at least provisionally, it is possible to move on to forming an overlapping consensus. It is this overlapping consensus which forms the basis for stability for the right reasons. That is to say, a society can be said to be stable for the right reasons when its citizens can agree to some principles of justice out of a moral conviction, being motivated by moral reasons, as opposed to practical or self- or group-centred reasons\textsuperscript{60}. The idea of stability for the right reasons is best understood in contrast with stability for the wrong reasons, or a modus vivendi.

3.4 Modus vivendi
A modus vivendi is essentially a stalemate between two or more groups, who agree to a compromise or some set of rules, since they consider it the best solution available at the time, and because neither group believes they could win over the other(s). In other words, it is a compromise based on self or group interest\textsuperscript{61}. A modus vivendi situation is unstable, since if the power balance shifts, giving one group the edge, it would abandon the compromise in favour of getting their own way completely. While a modus vivendi might provide a respite or temporary truce, it is uneasy and entirely dependent on a remaining status quo.

3.5 Comprehensive doctrines
A comprehensive doctrine is a religious, moral or philosophical conception covering “all recognized values and virtues within one rather precisely articulated system”\textsuperscript{62}. The degree of comprehensiveness might vary somewhat, depending on how many of the

\textsuperscript{59} Rawls, 2005, p 39
\textsuperscript{60} Rawls, 2005, pp 142-143
\textsuperscript{61} Rawls, 2005, p 147
\textsuperscript{62} Rawls, 2005, p. 13
values and virtues that are articulated. For example, Islam is a comprehensive doctrine if it permeates every aspect of a person’s life, including the political values. It would be a partially comprehensive doctrine if it only covers some values, if it, for instance, would not cover the political values.\(^63\)

A comprehensive doctrine thus “cannot be endorsed by citizens generally”, and neither can it “serve as the professed basis for society”\(^64\) according to Rawls, since there are several (conflicting) comprehensive doctrines, all claiming to cover all recognized values and virtues. It is this impossibility of using comprehensive doctrines as the basis for society which leads Rawls to promote the idea of a political conception of justice instead.

3.6 \textit{A political conception of justice}

So what then is a political conception of justice? It is a moral conception, in “that its content is given by certain ideals, principles and standards; and that these norms articulate certain values”\(^65\), regulating the basic structure of society. It is also “expressed in terms of certain fundamental ideas seen as implicit in the public political culture of a democratic society”\(^66\). As such, it is not dependent upon a particular comprehensive doctrine, yet it can be supported by the reasonable comprehensive doctrines present in a plural society. This makes it a freestanding view, what Rawls calls “a module”\(^67\), that can fit into any democratic regime.

The idea of a political conception is not without problems however. While Rawls’ idea of a political conception as freestanding has been criticised as lacking proper justification, Peter J. Steinberger argues that it is not merely inadequate but altogether impossible.\(^68\) According to Steinberger

“Rawls’s attempt to construct a political conception free of metaphysical baggage is an attempt to describe a politics based on reasonable, objective agreement rather than rational, objective truth.”\(^69\)

\(^{63}\) Rawls, 2005, p 175  
\(^{64}\) Rawls, 2005, p. 10  
\(^{65}\) Rawls, 2005, p. 11n  
\(^{66}\) Rawls, 2005, p 13  
\(^{67}\) Rawls, 2005, pp 12, 145  
\(^{68}\) Steinberger, 2000, p 148
Rawls fails in doing this because, again according to Steinberger

“To be reasonable is to invoke appropriate reasons, and to invoke reasons is to have a moral and metaphysical theory about what counts as such.”⁷⁰

Perhaps one way around the critique posed by Steinberger is to differentiate between a political conception and political arguments for a conception. This is an idea proposed by Samuel Scheffler (although, it should be noted, not in reply to Steinberger). In discussing the possibility of a political conception, Scheffler writes

“It might be less confusing and more illuminating to use the adjective ‘political’ to describe arguments for conceptions of justice rather than the conceptions themselves.”⁷¹

(Emphasis added.)

Implicit in Rawls’ idea of a political conception is the fact of political primacy. That is to say, political values always trump other values.

It is political, since it draws upon ideas implicit in the political framework making up society in the first place. Thus it presumes the idea of “society as a fair system of cooperation”.

3.7 Society as a fair system of cooperation

Rawls understands the idea of society as a fair system of cooperation as “implicit in the public culture of a democratic society”⁷². He identifies the idea of cooperation as a voluntary desire on the part of the citizens of a society to act according to common and fair rules agreed to by the citizens, in order to achieve “an idea of each participant’s rational advantage”⁷³.

While Rawls assumes this to be an implicit feature of a democratic society, I believe it is reasonable to assume this is a common idea in any society. Proving this would mean giving an account of why individuals group together to form societies, something which would go beyond the scope of this thesis. I simply suggest that while it might be an

⁶⁹ Steinberger, 2000, p. 164
⁷⁰ Steinberger, 2000, p. 164
⁷¹ Scheffler, 1994, p. 13
⁷² Rawls, 2005, p. 15
⁷³ Rawls, 2005, p. 16
feature of a democratic society, it would not be an uncommon idea in even non-democratic, or at least non-liberal, societies. Perhaps, then, we might argue that what is needed for the possibility of an overlapping consensus is merely the presence of the idea of society as a fair system of cooperation.

3.8 Pluralism

In discussing pluralism, Rawls points out the difference between “reasonable pluralism” and “pluralism as such”\textsuperscript{74}. Pluralism by itself is a fact of human life (people hold different views, be they true or not), and not something which we can do anything about. One of the consequences of living in a democratic society is the emergence of differing opinions, ideas and by extension different comprehensive doctrines. “Reasonable pluralism” signifies a pluralism with a degree of reciprocity, where any beliefs are accepted so long as they are considered reasonable. A belief is reasonable when I can reasonably expect another person to reasonably accept it.

The key issue here is how pluralism is accommodated within the three ideas presented above. A comparison could be made to the millet system of the Ottoman Empire, where Christians and Jews were tolerated, and were, in fact, allowed to govern their own communities internally\textsuperscript{75}. This might be compared to the current government policy in Malaysia, especially with regards to the Muslim community which is in many ways governed by the Syaria laws, unlike the non-Muslim community.

3.9 Reasonable and rational

We now need to give an account of the reasonable and the rational. In Rawls’ theory, they are seen as distinct and separate ideas, neither being more basic than, or derivable from, the other\textsuperscript{76}. They are, however, within the idea of justice as fairness, complementary ideas, working together “to specify the idea of fair terms of cooperation”\textsuperscript{77}.

Being reasonable, Rawls says, means embracing an idea of reciprocity in accepting common standards and rules. Basically, a person is being reasonable when he or she

\textsuperscript{74} Rawls, 2005, p. 36
\textsuperscript{75} Kymlicka, 2002, pp. 230-231
\textsuperscript{76} Rawls, 2005, p. 51
\textsuperscript{77} Rawls, 2005, p. 52
places value in, and respects, a common framework, without giving particular priority to self-interest. It is thus a social, relational, quality. Rawls writes:

“Persons are reasonable in one basic aspect when, among equals say, they are ready to propose principles and standards as fair terms of cooperation and to abide by them willingly, given the assurance that others will likewise do so. Those norms they view as reasonable for everyone to accept and therefore as justifiable to them; and they are ready to discuss the fair terms that others propose.”

And:

“Reasonable persons, we say, are not moved by the general good as such but desire for its own sake a social world in which they, as free and equal, can cooperate with others on terms all can accept. They insist that reciprocity should hold within that world so that each benefits along with others.”

Rationality, on the other hand, is applied “to a single, unified agent” and is related to the accomplishment and realisation of particular interests. Note, however, that Rawls does not say that rationality only refers to “limited means-ends reasoning” or self-interest only.

Put another way, being reasonable is a matter of seeking justification through agreement (a social activity) while being rational is a matter of seeking justification through the finding of “truth”.

Peter J. Steinberger has criticised Rawls for the distinction made between reasonable and rational, claiming that Rawls attempt to separate the two fails. According to Steinberger, the reasonable necessarily includes an account of the rational, in that finding agreement (which would be the “reasonable” thing to do) is impossible without the rational weighing and evaluation of reasons. This would mean that questions of “truth” as well as “agreement” are involved in the construction of “a political conception” and that the, from metaphysical claims, freestanding idea of justice as fairness is not freestanding at all.

78 Rawls, 2005, p 49
79 Rawls, 2005, p. 50
80 Rawls, 2005, p. 50
81 Rawls, 2005, p. 50
82 Steinberger, 2000, p. 163
3.10 Reasonable comprehensive doctrines

We can now give an account of a “reasonable comprehensive doctrine”. Rawls begins by giving a deliberately loose definition, which basically coincided with the idea of a comprehensive doctrine. However, he also defines a reasonable comprehensive doctrine as a doctrine affirmed by a reasonable person. As we have seen above, a reasonable person is characterised, at least in part, as embracing an idea of reciprocity. He also states that since a reasonable person recognise that there are many different reasonable doctrines, and that the “doctrine any reasonable person affirms is but one reasonable doctrine among others” and that therefore it would be “unreasonable for us to use political power (...) to repress comprehensive views that are not unreasonable”. Putting this in a simpler way – a reasonable comprehensive doctrine is one that does not repress another reasonable comprehensive doctrine on the grounds that it holds an objective truth.

A relevant question is to what extent a reasonable comprehensive doctrine differs from a partially comprehensive doctrine, or even from a comprehensive liberal doctrine. Michael G. Barnhart argues that Rawls “distinguishes several cases of overlapping consensus, one where two comprehensive views deductively subscribe to political liberalism and one where “partially comprehensive views” that lack a political dimension or simply do not connect politics to ultimate values adopt political liberalism as straight forwardly reasonable.”

What Barnhart says is basically that Rawls only allows as reasonable comprehensive doctrines, those doctrines that exclude political values from their interpretative reach. This of course raises the question of whether or not a doctrine which does not cover political values, can be said to be comprehensive at all. And if the criteria for allowing a reasonable comprehensive doctrine to cover political values, is that it can “deductively subscribe to political liberalism”, does that not simply mean that it is, in fact, a comprehensive liberal doctrine in the first place?

83 Rawls, 2005, p. 59
84 Rawls, 2005, p. 60
85 Rawls, 2005, p. 61
86 Barnhart, 2004, p. 268
Part III - Analysis

We now turn to the analysis of Islam Hadhari, Article 11 and the Inter-faith Commission. The analysis will lead to a discussion about overlapping consensus in Malaysia, which in turn will serve to highlight certain features of Rawls’ theory.

1. Islam Hadhari

(I will analyse Islam Hadhari through Political Liberalism, and partly The Law of Peoples. Tentatively, I would say the focus is on the Islam Hadhari account of “a people” and of the relation between the (Muslim) ummah, and the non-Muslim population. Would it be reasonable to expect non-Muslims to conform to the Muslim principles of justice as they are expressed in Islam Hadhari? Can those principles theoretically work as a focus for an overlapping consensus? What are the obstacles or major difficulties in establishing “stability for the right reasons” through Islam Hadhari?)

I believe there are (at least) four plausible interpretations of the Islam Hadhari ideology. It might be understood as a way to come to terms with an increasing globalisation; as a way of promoting, or defending, Islam in a post 9-11 world; as a political tool of the current Malaysian government to ensure their continued control over Malaysian politics; and as a way of achieving and maintaining social unity in Malaysia. Of course, these different interpretations are inter-connected, and not mutually exclusive.

1.1 Reconciling globalisation

According to Terence Chong Islam Hadhari can be understood as an attempt to “localise the global” by encouraging the socio-political conditions necessary for global capitalism and modernity through a particular interpretation of Islam in Malaysia. In this sense, Islam Hadhari can be seen as the ideological discourse used in the Vision 2020 project.

Chong identifies three pillars making up the basis for the Malay identity, language, royalty and religion. Of these, religion is least compatible with the notion of

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87 Chong, 2005, p. 581
capitalisation and globalisation, and the Islam Hadhari approach is specifically tailored to allow for a reconciliation and interpretation of capitalist and global values with Islam. Islam Hadhari is described as “a hybrid system of knowledge that is designed to achieve a glocalisation of capitalism”\(^89\). It also functions to interpret Islamic principles, such as syariah, along state interests. Finally, the Islam Hadhari approach is meant to offer a middle-ground between the perceived rootlessness of modernisation on the one hand, and the strict (sometimes fundamentalist) traditional religiosity on the other.

This could quite possibly have implications for the ethnic balance. It is a commonly held belief that globalisation tends to bring about at least some degree of secularisation. If Islam Hadhari is used as the ideological background against which to interpret and understand globalisation, however, it is possible that this secularisation (at least of the Malay) won’t happen. This, in turn, might serve to strengthen the ethnic-religious divide between Malay and non-Malay, instead of bringing about further moderation among the ethnic groups.

1.2 Reclaiming Islam
Another way to understand the idea of Islam Hadhari is by placing it within the context of the post-9-11 world, where Islam has come under increasing pressure, both from without and within. In response to pressures from without, Islam Hadhari can be seen as presenting a more moderate Islam, giving a different interpretation than the one promoted by fundamentalist militants. At the same time, it is a way to “reclaim” Islam from those same fundamentalists within the Islamic tradition, a way to provide that much needed middle ground between secularism and fundamentalism.

1.3 A political tool
The Islam Hadhari approach to governance can be seen as a reply to PAS’s call for an increased Islamisation of Malaysia, and as a way to secure the support of the Muslim part of the population. At the same time, since the Islam Hadhari approach emphasises moderation, it can be seen as an attempt not to alienate the non-Muslim voters. On the other hand, this attempt at making the Islam Hadhari approach acceptable to Muslims and non-Muslims alike, risk turning the ideology into mere posturing and sloganeering, at least in the eyes of many Malaysians.

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\(^{88}\) The Vision 2020 project is the Malaysian government’s plan for reaching the status of a developed nation by 2020.
1.4 As a basis for a plural society

It is, however, the interpretation of Islam Hadhari as a unifying principle for the Malaysian society that is most interesting for the topic of this thesis. As such, it would function as the focus for an overlapping consensus. However, under this interpretation the Islam Hadhari approach becomes problematic, especially in its failure to separate the religious and political. We would need to understand and interpret the principles of Islam Hadhari as in some way freestanding.

The best way of going about this, I believe, would be to interpret the principles in line with the principle of justice as fairness. If this is possible, we can simply substitute the principle of justice as fairness for the Islam Hadhari principles, establishing an overlapping consensus on them. This requires that the Islam Hadhari principles can be shown to be reasonable in Rawls’ sense of the word.

This of course gives a problem with the first principle. The first principle explicitly links the political with the religious, in that it seeks justification of the following nine principles in the authority of Islam and the Quran. It would be unreasonable to expect non-Muslims to accept the comprehensive doctrine of Islam as justifying a conception of justice. However, the first principle is qualified with the statement that “For Muslims, the Islam Hadhari’s approach places faith in and piety towards Allah as its core basis, and the Quran and Sunnah as the references”90. (Emphasis added.)

This seems to imply that for non-Muslims, the “core basis” needn’t be in the authority of Allah. Of course, this might be seen as violating the idea that the conception of justice is to be worked out from common values. But does it really matter if, for Muslims, the conception of justice is worked out from religious rather than political values? At least if both Muslims and non-Muslims alike would be able to support the same conception of justice? Rawls seems to think that it does. The conception of justice used as the focus for an overlapping consensus is to be worked out without reference to any one particular comprehensive doctrine, although it might later be supported by any reasonable comprehensive doctrine.

89 Chong, 2005, p. 583
90 Department of Islamic Development Malaysia, 2005, p. 13
What of the remaining principles? I believe the fourth principle, concerning the “pursuit and mastery of knowledge” might be considered mere rhetoric, a way of showing that Islam is not a reactionary or backwards religion. The tenth principle, regarding “strong defence capabilities” might also be considered apologetic in the same way. The ninth principle, regarding the environment, holds no bearing on the questions in Political Liberalism as far as I can see. The remaining six principles (2, 3, 5 – 8) might, I believe, be interpreted in line with, or as expressions of, Rawls two principles of justice.

The principle of “a just and trustworthy government” simply confirms the impartiality of justice and the reciprocal nature of a reasonable pluralism. There is nothing in this principle which would run counter to anything in Rawls’ theory, and it can be supported by the liberal principle of citizens as free and equal, and it also corresponds with the idea of society as a fair system of cooperation.

The principle of a “free and liberated people” might also be understood in line with the principle of citizens as “free and equal”. That principle also stresses the importance of the rule of law and ethics in the building of a stable society, which corresponds with the idea of an overlapping consensus as providing the basis for stability for the right reasons.

The principle of a “balanced and comprehensive economic development”, stressing the importance of enhanced justice and economic stability might be understood in terms of Rawls’ difference principle, as might the principle of “a good quality of life for the people”.

“Protection of the rights of minority groups and women” goes along with the criterion of citizens as free and equal, and in emphasising rights it certainly lends itself to liberal ideas.

Finally, the principle of “cultural and moral integrity” corresponds with Rawls’ idea that an overlapping consensus needs to be grounded in citizens moral convictions, and also that the political conception of justice is necessarily a moral conception. This principle also emphasises the importance of cultural and religious diversity for the successful development of Malaysia.
Thus, I believe, the principles of Islam Hadhari, with the exception of the first principle, might all be argued for independently of the comprehensive Islamic doctrine, and one might conceivably give “political arguments” for them.

It is important, however, to stress the difference in character between the Islam Hadhari approach and Rawls’ theory of Political Liberalism. The former is an ideology, and should be understood in terms of a comprehensive doctrine, while the latter is a theory of justice in a plural society. I believe that, again with the exception of the first principle, Islam Hadhari is a way of showing how Islam can be understood as a reasonable comprehensive doctrine.

2. Article 11 and the Inter-faith Commission

Both the Inter-faith Commission (IFC) and the Article 11 coalition attempt to secure the pluralistic nature of Malaysian society, albeit in slightly different ways. The Article 11 coalition is mainly concerned with promoting religious freedom, and while they do have stated aims they do not seem to hold a comprehensive view. What they do emphasise, however, is the importance of the Malaysian Federal Constitution and all of the stated aims can be considered to coincide with Rawls’ Political Liberalism.

What they want is a strong independent “referee”, to adjudicate between conflicting interests. Instead of starting from within given (reasonable) comprehensive doctrines, they start with the idea of something akin to Rawls’ “justice as fairness”, in their support of the Constitutional Rights. While they might seem to lack an explicit justificatory basis, we might plausibly use the account of Rawls as presented in Political Liberalism.

We might also look at the Malaysian Constitution, since one of the explicit aims of the Article 11 coalition is to affirm it as “the supreme law of the land”. Interestingly, the form of pluralism we find there is certainly not the “basic” form of pluralism, but rather a “qualified pluralism”, where there is a minimum demand of the beliefs held not to be in conflict with the harmony and stability of Malaysian society.

But is this a “reasonable pluralism”? I am not so sure. It seems to me that the basis for acceptance and tolerance in the Constitution might be interpreted as conformity with
Islam, since it is stated that “Islam is the religion of the Federation (...) but other religions may be practised in peace and harmony” (emphasis added). This makes other beliefs conditional on their compatibility with Islam. On the other hand, article 11 of the Constitution does grant what seems to be an unconditional freedom of religion. Considering the fact that the Article 11 coalition took its name from this part of the Constitution, it is not unreasonable to think that they place greater emphasis on that formulation.

The idea of the IFC was, as mentioned, slightly different. While its aims were similar to those of the Article 11 coalition, it was meant to be a political body, providing a formal forum for interfaith dialogue. The approach of the IFC was to identify common values, and to build unity from there. I believe this would essentially amount to what Rawls terms being “political for the wrong reasons”. It would be the case of starting from within given (reasonable) comprehensive doctrines and finding common ground, in order to strike a compromise between them. True, the IFC would have done this within an institutional framework, but it would still be to construct a common conception from already existing comprehensive doctrines.

Of course, due to the ambiguity in Rawls’ regarding the construction of a common conception (he says, on the one hand, that it is to be constructed without reference to already existing comprehensive doctrines, but on the other hand he says that a common conception is to be supported from the reasonable comprehensive doctrines of a society) it might be thought that the objective of the IFC would have been to identify universal values and ethical standards in order to secure consensus on a political conception of justice.

Following this understanding of the IFC’s commitment to identifying universal values and ethical standards, I believe we can consider the IFC as expressing stability for the right reasons. Their explicit support of fundamental rights, and their call for a neutral arena for discussion, also hinted at a compatibility with Rawls’ idea of a political conception of justice and of society as a fair system of cooperation.
Part IV – Discussion

1. General discussion

This thesis has turned out to be much more complicated than I initially expected. I believe this is partly because of the immense complexity of pluralism in general, and Malaysian society in particular. I have constantly had to remind myself that it is not Malaysian society itself that I am to examine, but rather the ideological approach of Islam Hadhari and the Article 11 coalition and the (now defunct) proposed Inter-faith Commission.

Initially, I wanted to look at the concept of “Semangat Muhibbah”, or “Spirit of good neighbours” (rough translation) as well, but due to the difficulty in finding material on this, I had to give it up. However, this is something I would very much like to pursue in the future, as it seems to me to be an important underlying factor in the relatively successful maintenance of ethnic peace in Malaysia.

When I started working on this thesis I also had an idea of examining whether using ethnic groups rather than comprehensive doctrines as the starting point of working out an overlapping consensus would make any difference in Rawls’ theory. I now believe that this would require too much of an interdisciplinary approach, drawing upon ethnic studies as well. However, considering the case of Malaysia, where ethnicity (at least with regards to the Malays) is so closely tied to a comprehensive doctrine (in this case Islam), I would tentatively say that it doesn’t make for any particular difference. However, this is under the condition that one can, at least to some extent and in some way, influence which ethnic group one belongs to. Another way of looking at this would be to say that in the case of Muslims in Malaysia, there is little or no choice as to what comprehensive doctrine one belongs to.

Another difficulty has been in trying to find the appropriate connection between my theoretical framework and the empirical material. One reason for this difficulty is the lack of actual substantive content in the Islam Hadhari approach. It seems to me, after having worked with this thesis, that perhaps Islam Hadhari is best understood as mostly rhetoric and perhaps as a way of swaying the Islamic community, or at least as being
directed mostly towards the Islamic community in an effort to strengthen the support for government policy.

I also had an idea that the analysis of the empirical material would shed some light on Rawls’ theory. As it turned out I believe there are two main points here. First that there is a problem in the way Rawls envisions the relation between comprehensive doctrines and a political conception. It is difficult to see, I think, what the practical difference is between deriving a conception of justice from a set of reasonable comprehensive doctrines, and in finding support for a conception of justice in a set of reasonable comprehensive doctrines. Perhaps the distinction Samuel Scheffler makes between a political conception of justice and political arguments for a conception of justice is a more viable approach. Because if it is possible to give political arguments for a particular conception of justice, does it really matter that the conception itself is derived from a particular comprehensive doctrine?

The second problem is the, I believe, classical problem of where we are to draw the line for tolerance within liberalism. Can a liberal view accommodate illiberal views? I would say this is the main problem of pluralism. Unfortunately, I have been unable to highlight this important question satisfactorily.

All in all, I do not think that my analysis of the empirical material managed to shed as much light on Rawls’ theory as I had hoped.

That being said, I do believe that the theoretical framework of Political Liberalism has been helpful in sorting out and placing the three subjects of the empirical study in relation to each other somewhat. And together with the general background of Malaysian political and social history, it might be possible to make some qualified conjectures about the possibilities of overlapping consensus in Malaysia.

2. Malaysia’s road to Overlapping Consensus

Today Malaysia can be said to be in the modus vivendi or constitutional consensus stage. The different groups in society avoid clashing outright partly out of self- or group-interest, and partly out of fear of government interference. The judiciary strikes
hard on anyone seen as threatening the (uneasy) peace between ethnic and religious groups, and the board of censors interfere with any open religious provocation.

The problem is that the power balance in Malaysian society is shifting. The demographic development favours the Malay population, increasing their majority and they are also gaining economic power through the NEP and preferential treatment plans. Since there is no clear overlapping consensus present, this may mean that any political conception of justice would be threatened in favour of a comprehensive Islamic doctrine (i.e. Islam Hadhari).

Malaysia would thus seem to be standing at a crossroads. Will the government press for further liberalisation, or will they go for a stronger Islamisation? The Islam Hadhari approach might be understood as way of consolidating these two ideas. However, this requires that the government is sincere in its commitment to the principles of Islam Hadhari understood as a moderate approach to Islamic governance, and also that they are successful in their objective of inculcating the Malaysian population with values of tolerance. It also requires that the Islam Hadhari approach is successful in countering fundamentalist groups, while not alienating the non-Muslim part of the population. Finally, I believe it is necessary for the government to take seriously the calls for some form of interfaith dialogue. Under these conditions I believe that it would be possible to reach an overlapping consensus in Malaysia.
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Interview with Lim Hong Hai, associate professor with the School of Social Sciences at Universiti Sains Malaysia, Penang, April 20th 2007