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

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

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

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

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