



## Research Article

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# Legal Framework on Prevention of Extremism in Malaysia

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### Abstract

*The world is now facing phenomenon of violent extremism that threatens universal safety and security. The United Nations (UN) is against violent extremism and urges Member States to prevent violent extremism in their respective countries. In this context, Malaysia as one of the Member States under the UN is also required to take an initiative towards preventing violent extremism in the country. The pertinent question is, what is meant by violent extremism? Does violent extremism only focus on Islam? These questions need to be answered first before the government begins its initiative in preventing violent extremism in the country. Without a clear interpretation of the law, extremism cannot be effectively prevented and miscarriage of justice may occur. Therefore, this article intends to address the available legal framework on prevention of extremism in Malaysia. Before venturing into the Malaysia's legal framework on prevention of extremism, this article will give an overview of the international framework on prevention of extremism. In achieving the objective of this article, the authors used qualitative approach with content analysis method. The article found that Malaysia has many legislations which act as preventive laws, but none of legislations define extremism.*

**Keywords:** *extremism; violent extremism; Malaysia; legal framework*

### 1. Introduction

The threat of violent extremism has become alarming in recent years and this poses a significant risk to the security of countries around the world (United Nations Educational, Scientific and Cultural

Organization, 2017). A country's security and stability are very important in ensuring the well-being of its people. Therefore, all governments in the world are constantly striving to maintain the security and stability of their respective countries. Various initiatives including the drafting of policies and laws have been taken to create a clear framework for ensuring peace. Likewise, the Malaysian government also strives to ensure the safety of its people and country. Therefore, several key policies, in particular the National Security Policy (NSP), the Internal Security Policy (ISP) and the National Defence Policy (NDP) have been introduced. The NDP serves as the parent or umbrella policy of all national policies in Malaysia (Majlis Keselamatan Negara, 2017).

In the quest for national security and stability, threats to national security come in many forms including extremism (Ahmad Zahid, 2016). Extremism is not a new issue in the world. This issue is hotly debated not only at the national level but also globally.

## 2. Literature review

Violent extremism is also used to refer to ideologies that disagree with social principles and values and to justify the use of violence to promote particular interests, whether racial, religious or political interests (Neumann, 2011). These extreme views and behaviours by individuals or groups of extremists have certain motives and often cause a negative impact on society (Kartini et al., 2019). Violent extremism transcends cultures and geographical boundaries. Among of the factors that lead to violent extremism are inequalities, unemployment or poverty perceptions of injustice, human-rights violations, social-political exclusion and widespread corruption (United Nations Development Programme, 2016). Violent attacks by individuals and groups labelled 'extremist' have taken place in most countries, and violent extremism is now widely seen as a major threat to global peace (Thiessen, 2019). Many countries have faced challenges related to individuals and groups engaged in terrorist activity and other forms of violent extremism. Among the most popular examples are the increase of right-wing extremism in the West and the rise of ISIS in the Middle East (IEP, 2018). An example of extremism that occurred in Malaysia could be traced back to ethnic riots which broke out in 1969 due to the long-standing differences between ethnic Malay and Chinese (Kua Kia Soong, 2008). This showed that ethnic conflict could form the basis for extremism in Malaysia (Kartini et al., 2019).

The United Nations has reacted accordingly with the 2016 Action Plan for Preventing Violent Extremism by the then UN Secretary-General, Ban Ki-moon, who acknowledges the scope of the global threat and provides the foundation for preventing violent extremism through the UN system (Ucko, 2018). The action plan was designed to *"take a more comprehensive approach which encompasses not only ongoing, essential security-based counter-terrorism measures, but also systematic preventive measures which directly address the drivers of violent extremism."* In July 2016, the General Assembly passed resolution 70/291, which invited Member States and regional organizations to consider the development of their own plans consistent with the United Nations Plan of Action to prevent violent extremism (United Nations Office of Counter-Terrorism, n.d).

In general, there is no universally agreed definition of the term 'violent extremism' (Nicholson, 2019). However, there are a number of definitions that have been developed at the national and international levels. Among them is the definition given by Federal Bureau of Investigation which means the *"encouraging, condoning, justifying, or supporting the commission of a violent act to achieve political, ideological, religious, social, or economic goals"* (Federal Bureau of Investigation, n.d). Besides, Norway describes violent extremism as to constitute *"activities of persons and groups that are willing to use violence in order to achieve political, ideological or religious goal"* (Norwegian Ministry of Justice and Public Security, 2014). On the other hand, United Nations Educational, Scientific and Cultural Organization (UNESCO) defines it as *"the beliefs and actions of people who support or use violence to achieve ideological, religious or political goals"* (United Nations Development Programme, 2016). Looking at the meanings, it can be inferred that violent extremism means not only views but also acts of violence (Nasser-Eddine et al., 2011) which may include any behaviours that support such violent act in order to achieve religious and political ends. Likewise, in Malaysia, while the word 'extremism' is

commonly used, there is no legislation explicitly describing it (Zaiton, & Saslina, 2019). This has led to various definitions given to the terms by various institutions and scholars which may result in uncertainty.

### 3. Research Methodology

The main objective of this article is to analyse the legal framework on prevention of extremism in Malaysia. In order to achieve this objective, this article used pure legal approach by analysing relevant laws in Malaysia. Method of library research is used in gathering materials and data pertaining to the laws on prevention of extremism in Malaysia. The data then was analysed by using content analysis and critical analysis methodologies (Ramalinggam Rajamanickam et al., 2015; Ahmad Azam Mohd Shariff et al., 2019; Ramalinggam Rajamanickam et al., 2019).

### 4. Extremism and International Framework

At the international level, as one of the Member States of the United Nations (UN), Malaysia has shown its commitment in combating extremism limited to terrorism. In 2007, Malaysia took a global step in the fight against terrorism financing by joining the United Nations International Convention for the Suppression of the Financing of Terrorism (1999) (Ahmad Zahid, 2016).

In addition, there are also 13 international conventions and protocols on combating terrorism that represent a set of international laws that have been agreed to address international terrorism (Ahmad Zahid, 2016). Currently, Malaysia is a Party of nine (9) out of 13 international conventions and protocols on combating terrorism (Ahmad Zahid, 2016):

- i. 1963 Convention on Offences and Certain Other Acts Committed on Board Aircraft (Tokyo Convention);
- ii. 1970 Convention for the Suppression of Unlawful Seizure of Aircraft (Hague Convention);
- iii. 1971 Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Montreal Convention);
- iv. 1973 Convention on the Prevention and Punishment of Crime against Internationally Protected Persons, including Diplomatic Agents;
- v. 1997 International Convention for the Suppression of Terrorist Bombings;
- vi. 1988 Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Montreal Convention;
- vii. 1979 International Convention against the Taking of Hostages;
- viii. 1999 International Convention for the Suppression of the Financing of Terrorism; and
- ix. 1991 Convention on the Marking of Plastic Explosives for the Purpose of Detection.

The Malaysian government has also agreed to participate in or ratify the remaining Conventions and Protocols, subject to specific legislative and administrative measures (Ahmad Zahid, 2016). The Convention and Protocol are:

- i. 1979 Convention on the Physical Protection of Nuclear Material;
- ii. 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation;
- iii. 1988 Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platform Located on the Continental Shelf; and
- iv. 2005 International Convention for the Suppression of Acts of Nuclear Terrorism.

In combating terrorism internationally, the UN has also developed The United Nations Global Counter-Terrorism Strategy. The UN General Assembly adopted the Global Counter-Terrorism Strategy on September 8, 2006. The strategy is a unique global instrument for enhancing national, regional and international efforts in the fight against terrorism (United Nations, n.d). In this regard, all Member States have agreed to fight terrorism either individually or collectively.

The UN Security Council is increasingly emphasizing the need for a comprehensive approach to

combat the spread of terrorism and violent extremism. One aspect of such an approach is known as countering violent extremism (CVE). On September 24, 2014, the UN General Assembly passed UN Resolution 2178 (2014) or Resolution 2178 to combat terrorism. In line with this resolution, all Member States need to develop their own action plan to combat violent extremism (UN, 2014). In addition, in Secretary-General's Plan of Action to Prevent Violent Extremism (A/RES/70/254) which was adopted by consensus on February 12, 2016, Member States including Malaysia welcomed the initiative of the Secretary-General and stressing that it is important to address the threats posed by violent extremism. The resolution calls on all Member States including Malaysia to develop a Plan of Action to Prevent Violent Extremism (PVE) to combat extremism in their respective countries. Violent extremism cannot and should not be associated with any religion, nationality, civilization or ethnic group (United Nations, n.d).

The UN stance clearly shows that preventable extremism is violent extremism and not all forms of extremism. Malaysia as a Member State also needs to develop an action plan to combat violent extremism in Malaysia. However, as to date, the Malaysian government has not developed a national extremism response strategy in line with the UN Plan of Action to Prevent Violent Extremism (PVE).

Indeed, it is high time for Malaysia to take proactive steps in analysing the issue of extremism in Malaysia and evaluate the effectiveness of existing preventive laws before drafting the Plan of Action to Prevent Violent Extremism (PVE). Without comprehensive research based on relevant philosophy and framework, it is difficult for Malaysia to combat violent extremism effectively.

## 5. Extremism and Malaysian Laws

In Malaysia, there are various types of laws relevant to addressing the issue of extremism. Among the legislations are:

i. Prevention of Terrorism Act 2015 (Act 769)

Due the spread of elements of terrorism and threatening national security, the government has introduced the Prevention of Terrorism Act 2015 (POTA). POTA was formed in 2015 and aims to prevent Malaysians from engaging in any kind of terrorist activity. POTA is a law that prevents the acts or support for acts of terrorism involving terrorist organizations from any foreign country and for the control of persons involved in such acts. In addition, the POTA also ensures that no person is spared from any legal action if they are involved in a terrorist act. The POTA also ensures that the people and national security are not interrupted by those involved in militant activities. Through POTA, violence can be prevented using control mechanisms such as electronic surveillance devices and the police can arrest anyone if they have justification for investigating the person without using a warrant of arrest.

ii. Special Measures against Terrorism in Foreign Countries 2015 (Act 770)

As explained in the preamble of the Special Measures against Terrorism in Foreign Countries 2015 (SMATA), the purpose of the Act is "to provide for special measures to deal with persons who engage in the commission or support of terrorist acts involving listed terrorist organizations in a foreign country or any part of a foreign country and for related matters." Thus, SMATA seeks to provide specific measures for dealing with terrorist suspects, terrorist organizations or groups that support terrorists in foreign countries. Terrorism can be controlled through the suspension of travel documents as provided in this Act.

In this context, SMATA authorizes the Director General of Immigration by order to suspend or revoke all travel documents of a Malaysian citizen involved in a foreign-listed terrorist organization. The Minister is also authorized to issue an order demanding the surrender of foreign travel documents owned by a non-Malaysian citizen involved with a terrorist organization in a foreign country and is handed over to the police for a 14-day detention for the purpose of investigation.

iii. Security Offences (Special Measures) Act 2012 (Act 747)

The Security Offences (Special Measures) Act 2012 (SOSMA) was passed by the House of

Representatives on April 17, 2012, assented by the Royal on June 18, 2012, and gazetted on June 22, 2012. SOSMA is an Act enacted to replace the Internal Security Act (ISA) and aims to curb the activities of individuals or groups seeking to harm or weaken the country. Among the aims of SOSMA are to regulate actions that harm public order including organized violence against people or property, or cause most citizens to fear such violence. Therefore, SOSMA is enacted to provide for special measures relating to security offences for the purpose of maintaining public order and security and for connected matters.

iv. Prevention of Crime Act 1959 (Act 27)

The Prevention of Crime Act 1959 (POCA) is a long-standing law in the country since it was enacted in 1959. POCA was enacted to prevent and combat criminal activities for the purpose of national safety and security. This is eloquently mentioned in the preamble of the POCA where it states to provide for the more effectual prevention of crime throughout Malaysia and for the control of criminals, members of secret societies, terrorists and other undesirable persons, and for matters incidental thereto.

Originally, the POCA aimed to prevent crime in Peninsular Malaysia, especially to control criminals, members of secret societies group, individuals who threaten national security and related matters. However, under the Crime Prevention (Amendment and Extension) Act 2014, POCA 1959 has been empowered to combat crime in particular organized crime and syndicate crimes that use violence while committing crimes.

The Crime Prevention (Amendment and Extension) Act 2014 has been amended to improve existing laws to prevent and control gangsterism, serious crime and organized crime more effectively and in accordance with current developments. Among the focus of the amendments was the establishment of the Crime Prevention Board to safeguard the rights of the accused and the establishment of the board directly reduced the Minister's absolute power. In addition, the amendment also allows the use of Electronic Monitoring Device (EMD) on under-supervised persons to reduce the cost of detention in prison. Most importantly, the 2014 amendment expanded POCA to Sabah and Sarawak.

v. Penal Code (Act 574)

The Penal Code is an Act relating to criminal offences that includes definitions of offences, punishments, and exceptions to a sentence. The Act aims to regulate crimes committed and to punish offenders. In line with the enactment of SOSMA, the Penal Code was amended by introducing new provisions on organized crime as security offences.

vi. Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001(Act 613)

Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 (AMLA) was enacted on January 15, 2002 which aims to regulate money laundering activities and financing terrorism. A reading of the preamble of the AMLA indicates that the Act is for the offence of money laundering, the measures to be taken for the prevention of money laundering and terrorism financing offences and to provide for the forfeiture of property involved in or derived from money laundering and terrorism financing offences, as well as terrorist property, proceeds of an unlawful activity and instrumentalities of an offence, and for matters incidental thereto and connected therewith.

The AMLA provides for two types of offences, namely money laundering and terrorist financing. The AMLA is important as terrorism becomes more prevalent when it receives sufficient financial funding specifically to plan and carry out its terrorist activities. In addition, the AMLA also provides for the forfeiture of property involved in or proceeds of money laundering and terrorism financing.

vii. Societies Act 1966 (Act 335)

The Societies Act 1966 was enacted on September 1, 1966 and is an Act relating to the registration of societies in Malaysia. This Act seeks to regulate all societies conducting activities in Malaysia. Therefore, any societies that is not registered under the Societies Act

1966 is an illegal society. In addition, the Minister of Home Affairs has been empowered by section 5 of the Societies Act 1966 to declare any societies or groups as illegal. In this context, the Minister of Home Affairs has declared secret societies and groups with elements of violence, gangsterism, anti-religion and others as illegal societies.

viii. Registration of Criminals and Undesirable Persons Act 1969 (Act 7)

Registration of Criminals and Undesirable Persons Act 1969 was enacted on May 2, 1969. The enactment of the Act aims at regulating the registration of certain criminals, banishees, expelees, deportees and restrictees and for other purposes connected with it. Under this Act, offenders may be registered and such records may be used for monitoring.

## 6. Defining “Extremism” in the Malaysian Context

The term extremism is not a new term in Malaysia. This term is commonly used by society to describe the actions or thoughts of a person who is considered to be extreme especially extreme from the perspective of religion. In addition, the Government also uses the term extremism in religious and social contexts (Ahmad Zahid, 2017).

In fact, there are many terms used in national security issues in Malaysia such as extremism, radicalism, terrorism, militants and so on. This is evident when national leaders also use these terms. For example, in a press release, the previous Deputy Prime Minister, Datuk Seri Dr. Ahmad Zahid Hamidi stated that the people and the government are aware of the importance of resisting all forms of extremism, radicalism, and violence so that daily activities can be carried out without fear (Ahmad Zahid, 2016).

Although the term extremism is commonly used in this country, there is no law that specifically defines it. However, in this context, guidelines issued by the Institute For Youth Research Malaysia (IYRES), the Ministry of Youth and Sports Malaysia (KBS) can serve as an important reference as they define the term extremism (IYRES, 2017). Guidelines for Preventing Extremism and Radicalism in Youth and Society released by this institute quoted the definition of extremism as given by the Department of Islamic Development Malaysia or known as Jabatan Kemajuan Islam Malaysia (JAKIM) in 2014 which confined the definition of extremism to the religion of Islam only.

According to the above definition, KBS only focuses on religious extremism and is restricted to Islam. This definition is very specific and narrow. These guidelines have been approved by the Ministry of Home Affairs (KDN). Therefore, indirectly, the KDN acknowledges that in this country, extremism refers to the Islamic religion only. This definition does not refer to social extremism.

The KBS Guidelines use the definitions of JAKIM as the basis to the definitions of extremism. The question is to what extent this can be a very good authority to define the term extremism? Furthermore, not all parties define extremism from the standpoint of Islam. This indicates inconsistency in the use of the term in this country as several key parties in the country including the Department of National Unity and National Integration (JPNN) has used the term social extremism as one aspect of extremism. Meanwhile, KBS uses the term radicalism to describe political and social extremism (Azmi, 2014).

In the Malaysian context, it is found that extremism is strongly associated with religion and is restricted to Islam only (IYRES, 2017). Malaysia views Islamic extremism as a threat to the country and a radical act. In Islamic religion, Ibn Taimiyyah held that extremism means to transcend it by adding to something either praising or pursuing more than it deserves and so on. Ibn Hajar defines it as exaggerating something and tightening it by passing it. On the whole, extremism means something beyond the bounds of legalization and concoction (PKPIM UNISEL, 2009).

However, the misunderstanding of the concept of extremism has also been addressed by scholars in the field of security due to the difficulty in relating the terms to law enforcement (Borum, 2011). The most commonly used term is violence extremism depending on the perpetrator, his time and context. When there is no consensus in defining extremism between governments and researchers or between policies and operations, it is not surprising that there are many blurred views in explaining the concept of extremism itself (Hopkins & Kahani-Hopkins, 2009). Therefore, in-depth studies need to be carried

out by the Malaysian Government in defining the purpose of extremism so that the enactment of relevant laws will be more effective in the future.

## 7. Conclusion

Indeed, Malaysia has various preventive laws aimed at ensuring national safety, harmony and security. Existing laws play a significant role in the regulating and preventing of any activities that could interfere with the national landscape that has been developed over time. The UN is also taking steps towards ensuring world security through its own resolutions. One of the important resolutions in the context of world peace is Resolution 2178 which requires all Member States to develop a plan of action against combating violent extremism. In this regard, Malaysia should also develop its action plan in the fight against violent extremism in the country. For this purpose, the definition of extremism based on the Malaysian model should be used in developing a relevant, appropriate and comprehensive action plan. However, there is no Malaysian law that defines the term “extremism.” The absence of legal interpretation give rise to different various interpretations and thus creates difficulty in defining the scope of extremism in the Malaysian context.

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### Legislation

- Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001(Act 613)
- Penal Code (Act 574)
- Prevention of Crime Act 1959 (Act 27)
- Prevention of Terrorism Act 2015 (Act 769)
- Registration of Criminals and Undesirable Persons Act 1969 (Act 7)
- Security Offences (Special Measures) Act 2012 (Act 747)
- Societies Act 1966 (Act 335)
- Special Measures against Terrorism in Foreign Countries 2015 (Act 770)