

Beer and Lashes: Undermining Malaysia's Moderate Islamic Country Image

Cyndy Au Sook Sum, Joanne Wu Shunfeng and Suwichit (Sean) Chaidaroon*

Abstract

On 20 July 2009, Kartika Sari Dewi Shukarno, a Malaysian Muslim model, became the first woman to be sentenced for caning under the Malaysian Islamic Syariah law (or the Shariah High Courts as it's known internationally). She was caught drinking beer at a nightclub in the state of Pahang and the Syariah court subsequently ordered that she be sentenced to a fine (which she paid) and 6 strokes of the cane. Against precedents and against expectations, Kartika refused to appeal her caning sentence, becoming the first woman in Malaysia slated to be caned.

The government which is led by the conservative Islamic party is heavily influenced by the teachings of Islam, leading to the formation of a very unique dual judicial system in the Kingdom of Malaysia: The Civil laws and the Syariah laws. The government places great pride and confidence particularly in the constitution of the Syariah laws to uphold the values of Islam, one of which is the incontestable prohibition of alcohol consumption by practicing Muslims residing in Malaysia.

A much less severe form of caning can be ordered by Syariah courts. Unlike judicial caning, Syariah caning may be ordered for women as well as men, but only for Muslims, including non-Malaysians. In Kartika's case, she was deemed to have violated the Islamic law of alcohol abstinence, hence as a deterrent and a warning message to other practicing Muslims,

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the courts decided that she would be rightfully punished but what they did not expect was the overwhelming furore that erupted from the international communities and human rights watchdogs.

This case, therefore, aims to achieve three main objectives. First, it demonstrates communication challenges faced by the Malaysian government as the country attempt to brand and promote itself as a self-respecting Muslim nation while maintaining its effort to be a modern cosmopolitan hub for diverse populations. Second, it illustrates the Malaysian government's dilemma as they faced criticism from conservative Islamic parties, opposition groups, the general public and the international advocacy groups through the case of caning as a punishment for drinking in public. Finally, readers will be asked to propose effective communication strategies that the government should or could deploy to restore its battered image and reinstate its reputation as a country of free opportunities and fair treatment.

Keywords: International Public Relations, Strategic Communication, Public Diplomacy

ดีมเปียร์แล้วถูกโบย: กรณีการดีมแอลกอฮอล์ที่นำไปสู่การถูกเตียงระดับนานาชาติอันส่งผลต่อภาพลักษณ์ของประเทศไทย

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บทคัดย่อ

เมื่อวันที่ 20 กรกฎาคม 2552 การ์ติกา สาเร ติว ชูการ์โน นางแบบมุสลิมชาวมาเลเซีย
กล้ายเป็นผู้หญิงคนแรกที่ถูกกลงโทษโดยการโบยตามกฎหมายศาลอิสลาม หรือกฎหมายศาลชาเรีย¹
เนื่องจากเธอถูกพบเห็น ขณะกำลังดื่มแอลกอฮอล์ในสถานเริงรมย์แห่งหนึ่งในรัฐป่าergus ทางภาค
ชาเรียจึงได้ตัดสินให้เธอรับโทษโดยการจ่ายค่าปรับ และถูกโบยจำนวน 6 ครั้งเพื่อเป็นแบบอย่าง
ซึ่งการ์ติกาถูกยื่นรับโดยดี

การที่รัฐบาลมาเลเซียนั้นถูกนำโดยกลุ่มอนุรักษ์นิยมอิสลาม ส่งผลให้มีการออกกฎหมายนำไปสู่การพิจารณาคดีที่เคร่งครัด ทั้งกฎหมายแพ่ง และกฎหมายอาเรีย โดยรัฐบาลได้ให้ความสำคัญกับการจัดตั้งกฎหมายฉบับนี้เป็นอย่างมาก เพื่อปราบปรามความเป็นชาวมุสลิม ซึ่งหนึ่งในกฎหมายดังกล่าว คือ การห้ามชาวมุสลิมดื่มแอลกอฮอล์ในเขตประเทศไทย

กฎหมายที่มีบลลงโทษโดยการโบยนั้น สามารถลงโทษผู้กระทำผิด หรือผู้ฝ่าฝืนได้ทั้งผู้หญิง และผู้ชายที่นับถือศาสนาอิสลาม แม้ว่าจะเป็นข้าวมาเลเชียหรือไม่ก็ตาม ดังนั้น กรณีของกรรมติดกาก็ถือเป็นการฝ่าฝืนกฎหมายการท้ามตีมและออกของอิสลาม และเพื่อเป็นการยับยั้ง รวมทั้งเป็นการส่งสัญญาณเตือนแก่ชาวมุสลิมอื่น ๆ ศาลงึงตัดสินให้การติดกากได้รับโทษโดยการโบย อย่างไรก็ตาม รัฐบาลมาเลเซียอาจไม่คิดคิดว่า กรณีดังกล่าวได้ก่อให้เกิดกระแสวิจารณ์จากสมาคมต่างชาติ และกลุ่มสิทธิมนุษยชน

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กรณีศึกษาชี้นี้มีวัตถุประสงค์หลักสามประการ ประการแรกกรณีชี้ให้เห็นถึงความยากลำบากในการสื่อสาร ที่รัฐบาลมาเลเซียต้องเผชิญในฐานะที่เป็นประเทศมุสลิมแต่ก็ต้องรักษาภาพลักษณ์ของมหานครอันทันสมัยที่มีประชากรหลากหลายความเชื่อ ประการที่สองกรณีศึกษาชี้นี้ชี้ให้เห็นถึงปัญหาที่รัฐบาลมาเลเซียประสบจากการต่อต้านของกลุ่มต่าง ๆ อาทิ กลุ่มอิสลามอนุรักษ์นิยม บรรดานักวิชาการ นักวิจัย และกลุ่มเรียกร้องสิทธิมนุษยชนจากนานาชาติ ประการสุดท้ายกรณีศึกษาชี้นี้จะกระตุ้นให้ผู้อ่านหานหานทางให้รัฐบาลมาเลเซียสร้างกลยุทธ์การสื่อสารเพื่อรักษาภาพลักษณ์ และทำให้ประชาคมนานาชาติเห็นว่า มาเลเซียนั้นให้อิสรภาพแก่ประชาชนอย่างเต็มที่

คำสำคัญ: การประชาสัมพันธ์นานาชาติ การสื่อสารเชิงกลยุทธ์ การทุตสาหารณะ

With salt-and-pepper hair and donning an immaculate suit, the gentleman with aristocrat appearance gazed into the lush greenery from the window of his office in the avant garde administrative capital of Putrajaya, on 30 August 2009, the eve of National Day celebrations. It was a break that his eyes, and more so, his drained mind, so badly needed. On 11 July 2009, he has just passed his first 100 days in office with a slew of economic problems in the country and conspiracy shrouding his image (Tay, 2009). Nine days later, his country was already making news worldwide – and he wished it was for the right reasons, under his leadership as Dato' Seri Najib Tun Razak, the sixth Prime Minister of Malaysia (“Najib sworn in as Malaysia’s sixth Prime Minister,” 2009).

On 20 July 2009, Kartika Sari Dewi Shukarno, a Muslim model, became the first woman to be sentenced for caning under the Islamic Syariah (or the Shariah High Courts as it is known internationally) law Malaysia. Caning for drinking is only imposed in 3 states: Pahang, Kelantan and Perlis. The other ten states impose a fine. The Malaysian model was caught drinking beer at the Legend Hotel lounge in Cherating, Pahang, a tourist destination. A Syariah court in Pahang subsequently sentenced her to a fine of RM5,000 (USD1730), which she paid, and six strokes of the cane (Habib, 2009; Looi, 2009; The Advertiser, 2009). The case received international lashings and cast a blinding spotlight on the country and her cultural and religious values, as well as political and religious parallel laws. The case gained attention across continents and received coverage in the mainstream media in Southeast Asia, Media East, Australia, United States, United Kingdom, France, and many more. Main media players like CNN and BBC featured the news, and a search on the keywords of “Malaysian Woman Caning” yields 754,000 hits on the Google search engine. It also had the Malaysian Ministry of Women and Community Development, non-governmental organizations, people from all walks of life and even the Sultan (state ruler) giving their diverse view and judgment on the issue.

In reaction to these world-wide reports, on 25 August 2009, PM Najib finally broke the government’s silence and urged Kartika to appeal the sentence and not be “so willing” to accept her fate (“Malaysian PM urges beer-drinking model to appeal,” 2009). Against precedents and expectations, Kartika refused to appeal her caning sentence and challenged the authorities to cane her in public. She was set to become the first woman

in Malaysia to be caned ("Kartika caning – don't leave me in limbo," 2009). This throws PM Najib into a further dilemma as the turn of events continue to unfold on the world stage, tainting Malaysia's image as a moderate Muslim country.

Background and Malaysian History

Early Settlers

The course of Malaysian history has been determined by its strategic position at one of the world's major crossroads, its tropical climate, the surrounding environment and the regime of the north-east and south-west monsoons. Its position and other geographical circumstances made the country a natural meeting place for traders from the East and the West. The earliest of the present-day inhabitants of Malaysia are the *orang asli* of the Peninsula and people such as the Penan of Sarawak and the Rungus of Sabah, many of whom still pursue a largely nomadic way of life. Their presence in the country probably dates back to over 5000 years. These early settlers were probably the pioneers of the movement of peoples southwards from China and Tibet through Mainland Southeast Asia and the Malay Peninsula to the Indonesian Archipelago and beyond. The next arrivals to the country, the Malays, represented the second and third wave of this movement ("Malaysian History," 2006).

Influences and Islamisation

Although Chinese contacts started as early as, if not predating those of India, it was the Hindu and Buddhist elements of Indian culture which made a major impact on the region. Over a period of a thousand years these influences gradually made themselves to be felt, and have left their marks in the native language, literature and social custom. During this Hindu-Buddhist period which was marked by a tremendous growth in the East-West trade, the shadowy outlines of the first political units emerged in the Malayan Peninsula and Borneo ("Hindu-Buddhist influences," 2006).

The Hindu-Buddhist period of Malaysian history ended with the penetration of Islam into the area. Brought primarily by Indian and Arab traders, there is evidence of the presence of the new religion in the region as early as the thirteenth century. After 1400, Islam became a major influence with the conversion of the Malay-Hindu rulers of Melaka. From Melaka,

Islam spread to other parts of the Malay Peninsula and to the Malay states in Sumatra and along the trade routes throughout the Indonesian archipelago. Once established as the religion of the Malays, Islam profoundly affected Malay society and the Malay way of life. After the collapse of Melaka, the sultanate of Brunei in Kalimantan rose to become the principal agent for the propagation of Islam in that area ("Islamisation and the Melaka Sultanate," 2006).

Colonialism, Independence and Economy

Drawn by Malaya's rich trade, a Portuguese fleet conquered Malacca in 1511, marking the beginning of European expansion in Southeast Asia. The Dutch ousted the Portuguese from Malacca in 1641. British colonialism took place at the end of the eighteenth century, which brought the resources and organization of the industrial revolution. During their rule the British developed large-scale rubber and tin production and established a system of public administration. British control was interrupted by World War II and the Japanese occupation from 1941 to 1945. Since it became independent from British in 1957; Malaysia's economic record has been one of Asia's best. Real gross domestic product (GDP) grew by an average of 6.5% per year from 1957 to 2005. Performance peaked in the early 1980s through the mid-1990s, as the economy experienced sustained rapid growth averaging almost 8% annually. High levels of foreign and domestic private investment played a significant role as the economy diversified and modernized. Once heavily dependent on primary products such as rubber and tin, Malaysia today is a middle-income country with a multi-sector economy based on services and manufacturing. Malaysia is one of the world's largest exporters of semiconductor devices, electrical goods, solar panels, and information and communication technology products (Bureau of East Asian and Pacific Affairs, 2011).

Malaysia struggled economically during the 1997-1998 Asian financial crisis and applied several valuable lessons to its economic management strategies that contributed to the economy's resilience to the 2008-2009 global financial crisis. GDP contracted 1.7% in 2009 compared to 4.6% growth in 2008, but rebounded, and was expected to be around 7% in 2010. Shortly after taking office, PM Najib planned a New Economic Model reform program that aims to create a business environment more

conducive to long-term sustained economic growth, development, and investment, with the goal of Malaysia becoming a high-income, developed nation by 2020 (Bureau of East Asian and Pacific Affairs, 2011). The Malaysian Industrial Development Authority was set up to attract investment and positioned Malaysia as a politically stable country with a well-developed legal system as an attractive incentive for investors (Malaysian Industrial Development Authority, 2011).

Multicultural Society

Malaysia, a country of 28.3 million, is a multicultural society (Department of Statistics Malaysia, 2010). Malays form the largest ethnic group (50.4%), followed by Chinese (23.7%), indigenous (11%), Indian (7.1%) and others (7.8%). There are many religions practised, with Muslim being predominant (60.4%), followed by Buddhist (19.2%), Christian (9.1%), Hindu (6.3%), Confucianism, Taoism and other traditional Chinese religions (2.6%), as well as others and unknown (2.4%) (The World Factbook, 2011). Multiculturalism has made Malaysia a gastronomical paradise and home to many festivals. This seeps into the culture of its people, as Malaysians are very laid back, warm, friendly and enjoy celebrating occasions and socialising. Geographically, Malaysia is as diverse as its culture. Malaysia is divided into 13 states and 3 Federal Territories, separated by the South China Sea with 11 states and 2 federal territories i.e. Kuala Lumpur and Putrajaya in Peninsular Malaysia, and two states and one federal territory, Labuan in East Malaysia ("About Malaysia," 2011).

Legal System: The Parallel Courts

Malaysia's legal system comprises laws which have emerged from three significant periods in Malaysian history as described above. This dates from the Malacca Sultanate, to the spread of Islam to Southeast Asia, and thereafter the absorption into the indigenous culture of British colonial rule which introduced a constitutional government and the common law (Kerk, 2010). Today, Malaysia has a dual-track legal system, with civil courts running in parallel with Islamic Syariah Court (Appendix I). Judicial power in the civil courts is vested in the Superior Courts (comprising the Federal Court, the Special Court, the Court of Appeal, the High Court of Malaya and the High Court of Sabah and

Sarawak); and Subordinate Courts (comprising the Sessions Court, the Magistrates' Court, the Syariah Court, the Juvenile Court, the Penghulu Court and Native Court) as provided for by the Federal Law (Malaysian Court, 2004; myGovernment, 2011). The Syariah Court refers to Islamic religious law and deals with exclusively Islamic laws, having jurisdiction upon every Muslim in Malaysia.

The provisions of the Syariah Civil Procedure, the Syariah Criminal Procedure and the Syariah Evidence Enactments are adopted from the respective laws in use in the civil courts, with necessary modifications. In short, the two systems had become closer to each other than never before. However, conflicts of jurisdictions between the two courts had also become more apparent (Abdul Hamid, 2000). The State legislature has jurisdiction and is permitted to make (Islamic) laws pertaining to persons professing the religion of Islam, and administering them (Kerk, 2010). Essentially, this means that the Syariah law in one state may differ to that of another state. As Malaysia has multi-states as described earlier, therefore, there are 13 state Syariah laws and one Syariah law department for the Federal Territories. All these result in different jurisdiction approaches to a same or similar issue. Consequently, the public, media and international community weigh in and condemn judgments that seem to betray logic and encroach human right, all in the name of legality.

Caning under the Syariah Law

The Syariah court can mete out caning sentences, although it is rarely implemented. This caning is quite different from, and much less severe than, judicial caning under Malaysian criminal law (Appendix II). It is intended to be shaming rather than particularly painful. The cane used is smaller and the recipient keeps his or her clothes on. It is administered with a "limp wrist" and without raising the arm (Damis, 2005). There are several grey areas in the conflict between Syariah and civil laws. While Kartika can be caned under Islamic rules, Malaysia's penal code prohibits caning of women. Muddying the issue further, only three states in Malaysia i.e. Pahang, Perlis and Kelantan impose caning for drinking alcohol. In the other 10 states it is punishable by a fine ("Moderate Malaysia's image bruised over beer caning," 2010). Under the Syariah, drinking for Muslims is classified as a criminal offence. Kartika was sentenced by the Pahang Syariah Court (Habib, 2009).

Reactions and Media Coverage

Prime Minister's aide

Datuk Abdullah Mohd Zain, adviser on Islamic issues to PM Najib, had brushed aside criticisms that an Islamic court ruling to cane a woman for drinking beer is harsh, saying she had broken the law. Mr Abdullah told The Straits Times that Muslim women leaders who criticised the court's decision did not know that Syariah caning is "not as brutal as the civil court's corporal punishment. Criticisms are normal, but it is not fair for non-Muslims to criticise the syariah law. The Muslims criticise it because they do not know how the caning is done." He defended that the officer will use a smooth branch or *rotan* (cane) that is slightly thinner than those used to whip men in a civil court punishment. The officer must not raise his hand higher than his shoulder to ensure that the caning is moderate. However, women leaders including Islamic law experts, social activists and politicians condemned the punishment, the first time that a woman would face judicial caning (Looi, 2009).

Women Politicians

Women, Family and Community Development Minister Datuk Seri Shahrizat Abdul Jalil and PAS' Dr Lo Lo Mohd Ghazali spoke up against the sentence, saying they were shocked by it. This promptly drew flak from some groups for criticising the Syariah judge's decision. While Shahrizat stood firmly by her words, Dr Lo Lo retracted and declared instead that she now agreed with Kartika being whipped as under Islamic's *hudud* law the punishment for drinking alcohol is 40 to 80 lashes of the *rotan* so Kartika's sentence was close to the *hudud* law, and congratulated the judge for being bold in meting out the sentence. She omitted the fact that the punishment for drinking alcohol is not mentioned at all in the Quran (Habib, 2010).

Islamic lawyers and scholars

There were mixed reactions. Mohamad Sahfri, chairman of the Pahang Religious Affairs Committee, said all relevant regulations had been observed in sentencing Kartika ("Kartika's sentence put on hold due to doubtful implementation," 2009). Parti Islam SeMalaysia (PAS), the Malaysian's opposition Islamic party's spiritual leader Datuk Nik Aziz

Nik Mat, proclaimed that “punishment like caning and stoning have existed in Islam but we will not see it being carried out in Malaysia as long as the country is governed by secularists” (Looi, 2009). Malaysia Syariah Lawyers Association president Mohamad Isa Abdul Ralip agreed with the sentencing and stresses that the rationale is to educate so that people will stay away from alcohol. He stressed that jail sentences, fines and whipping are all part and parcel of Syariah law and it is up to the judge to choose and asked the public to respect the decision (Habib, 2009).

On the surface, it appears that Syariah laws in Malaysia are constitutional and comprehensive. Yet, Syariah laws as formulated and applied in Malaysia have been criticised by their own Islamic scholars. Professor Mohammad Hashim Kamali has criticised the Syariah Criminal Offences Act, saying that it is not for the state to legalize punishments for personal sins such as drinking alcohol. Syariah lawyer Saadiah Din, while agreeing that Islam provides for a comprehensive ways of life for its followers, the main point is that the Quran, the religious text of Islam, is not the Penal Code. Therefore, there are situations when authorities need to make decisions as to what is implementable or not. She also noted that if a specific law is applied only selectively, then it should not be applied at all. This is called “selective prosecution”, exemplified by Kartika’s case where she was caught and sentenced for caning in Pahang, and may not receive the caning sentence if she was caught in other states in Malaysia. Even in classical Islamic laws that censure individuals for immoral conduct, there are safeguards to ensure that the individual’s dignity and rights are not violated. Therefore, if the laws are used selectively and to humiliate certain individuals, this will cast Islam in a bad light. In addition, in classical Islamic jurisprudence, this is also a ground for not legislating on personal morality. Thus, it is permissible and healthy for certain Islamic laws to be challenged if they cause problems or injustice (Shah, 2009).

Non Governmental Organizations

The Joint Action Group for Gender Equality (JAG), a coalition of five women’s rights NGOs including the All Women’s Action Society (AWAM), Women’s Aid Organization (WAO), Sisters in Islam (SIS), Women’s Centre for Change (WCC), and Empower, issued a joint press statement on 24 August 2009 stating that the case illustrates how

Muslim women are discriminated against in the country (International Religious Freedom Report, 2010). WAO's Executive Director Ivy Josiah emphasized that the organization "is mortified that a court would even consider imposing caning on a woman, especially when women are exempted from caning under the penal code". SIS Executive Director Dr. Hamidah Marican described the sentence as a violation of human rights principles and the right to be "free from cruel, inhuman, degrading treatment or punishment", adding that the whipping is not proportional to the gravity of the offence and that research has shown it is not an effective deterrent (Habib, 2010). Dr. Marican also spoke out against her country's government in an International Women Rights convention in Australia against caning, maintaining that they do not have a right to do moral policing and a personal sin should not be turned into a crime against the state.

Dr. Chandra Muzaffar, president of the International Movement for a Just World, revealed a poignant point when he said the Quran does not state a punishment for consuming alcohol. He agreed that consuming alcohol is wrong but the authorities should try some other approach like counselling the person, as counselling is emphasized in the Quran. Dr. Muzaffar said he felt sorry for Kartika and her acceptance of the court's decision "blindly with an uncritical attitude," and that he regretted that her decision not to appeal against the caning sentence was being commended by some religious individuals like Datuk Nik Aziz Nik Mat. Dr. Muzaffar attributed Kartika's "blind acceptance" of the court decision to a number of factors, among them a lack of knowledge of the Quran, lack of understanding of the religion and what she has been taught by those around her. He also argued that there should not be too much emphasis on the type of cane or manner of whipping as it distracts from the real issue, that is, which is the type of punishment being meted out instead of advice and counselling (Habib, 2010).

Marina Mahathir, a well-known activist and the daughter of Malaysia's former Prime Minister Dr. Mahathir Mohamad, claimed that women in Malaysia are subjected to "gender apartheid" due to the dual-track legal system. She argued that having one law for non-Muslim women and another for Muslims meant the latter had to submit to draconian, outdated rules that did not apply to others (Haussegger, 2010). Marina stated that Kartika's case is an embarrassment to Malaysia.

Noting that many Muslim women do drink in Malaysia, she said, “It is really between men and God. That’s how it should be. The Quran is clear that alcohol is prohibited but it does not impose a punishment.” Echoing this, Maria Chin Abdullah, the Executive Director of woman’s group Empower, says much of the legal confusion is because of the government’s reluctance to make it clear that federal civil laws carry more weight than Shariah laws for fear of offending Muslim voters (“Moderate Malaysia’s image bruised over beer caning,” 2010).

International Response

Human rights group, Amnesty International urged Malaysia not to carry out the sentence and to abolish what it called “a cruel and degrading punishment” (“Malaysian PM urges beer-drinking model to appeal,” 2009). Despite being criticised by the Malaysian Immigration Department for not understanding the rationale behind Syariah passed caning, Amnesty International continued slamming the punishment, arguing that “caning is a form of cruel, inhuman and degrading punishment and is prohibited under international human rights law” (Malaysia delays caning of Muslim model for drinking beer until after Ramadan,” 2009). The Australian print also reacted vociferously to the punishment, condemning the act as a reprehensible violation of human rights and was in no way in reflective of a forgiving and peace loving religion, stating that “given so much of the foul treatment meted out to Muslim women is argued as justifiable according to the Quran, one can only wonder which of the myriad scholarly interpretations Allah himself might rely on” (Haussegger, 2010). The US also urged the Malaysian government to conduct a review of severe forms of punishments which violate human rights principles and where evidence has shown that they fail to deter or to reform the offenders (International Religious Freedom Report, 2010).

Branding Malaysia as Moderate Islamic Country with Vision 2020

PM Najib was fresh from inheriting a moderate Islamic country image with a vision to achieve a developed country status by the year 2020, cultivated for almost six years by his predecessor Tun Abdullah Ahmad Badawi, when the Kartika case catapulted Malaysia into a blinding spotlight on the very foundation of which this image was built.

Upon coming into power as prime minister in 2003, Badawi advocated an interpretation of Islam known as Islam Hadhari. According to Badawi, Islam Hadhari, or civilizational and comprehensive Islam, is not an inclusive concept as it also emphasizes the importance of progress – with an Islamic perspective – in the economic, social, and political fields. Islam Hadhari emphasizes the need for balanced development, which covers both physical and spiritual development. Hence, Badawi proposes a holistic development approach for Malaysia which emphasizes developing a thinking society, social harmony, and economic progress. Badawi explained that Islam Hadhari is merely an approach to foster an Islamic civilization built upon the noble values and ideals of Islam, is practical and pragmatic (Bashir, 2005). In an era where Islam is so often partnered with extremism and autocratic governance, Malaysia was held up at the World Islamic Economic Forum in Kuala Lumpur in May 2007 as a model of a moderate Muslim nation committed to safeguarding the rights of its population (Beech, 2007).

Competitiveness

In the Global Competitiveness Report 2009-2010 which covers 133 countries through its 12 pillars of competitiveness involving 110 indicators released in May 2009, Malaysia slipped downwards by three positions from the previous year. The drop in Malaysia's international competitiveness was the result of a much poorer assessment of its institutional framework – with every indicator in this area exhibiting a downward trend since 2007, causing Malaysia to tumble from 17th to 43rd position in this dimension in just two years. The institutional environment is determined by the legal and administrative framework within which individuals, firms and governments interact to generate income and wealth in the economy (World Economic Forum, 2009).

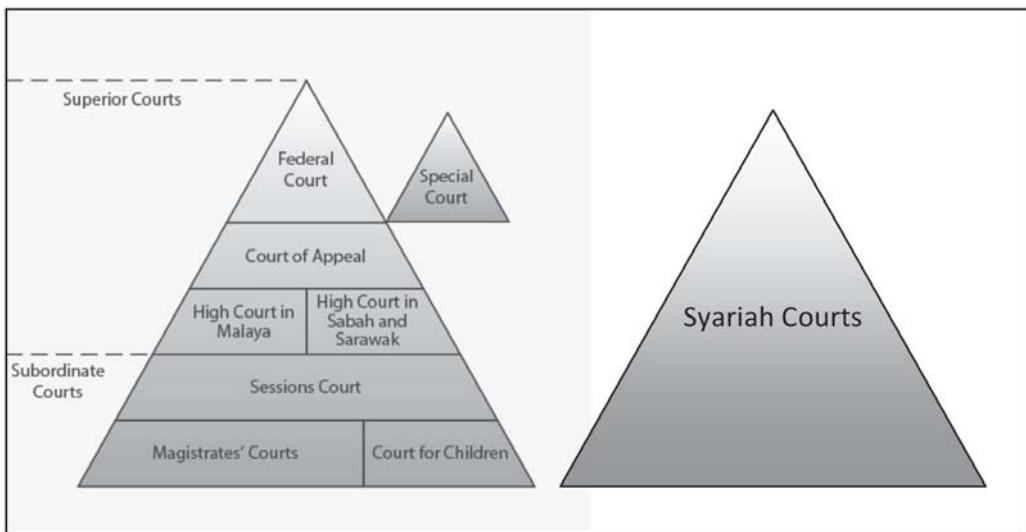
Prime Minister's Dilemma

As he pondered on the widespread negative coverage of Malaysia generated by Kartika's case, PM Najib questioned what action he should take to protect Malaysia's battered moderate Islamic country image. Not too long ago, Malaysia was recognized as one of the world's most moderate and stable Muslim-majority countries. With his first National Day as a Prime Minister barely 24 hours away, he wondered if the

celebrations will just drown the noise arising from this case, and fade away before long, as Malaysians do not harp on an issue for long.

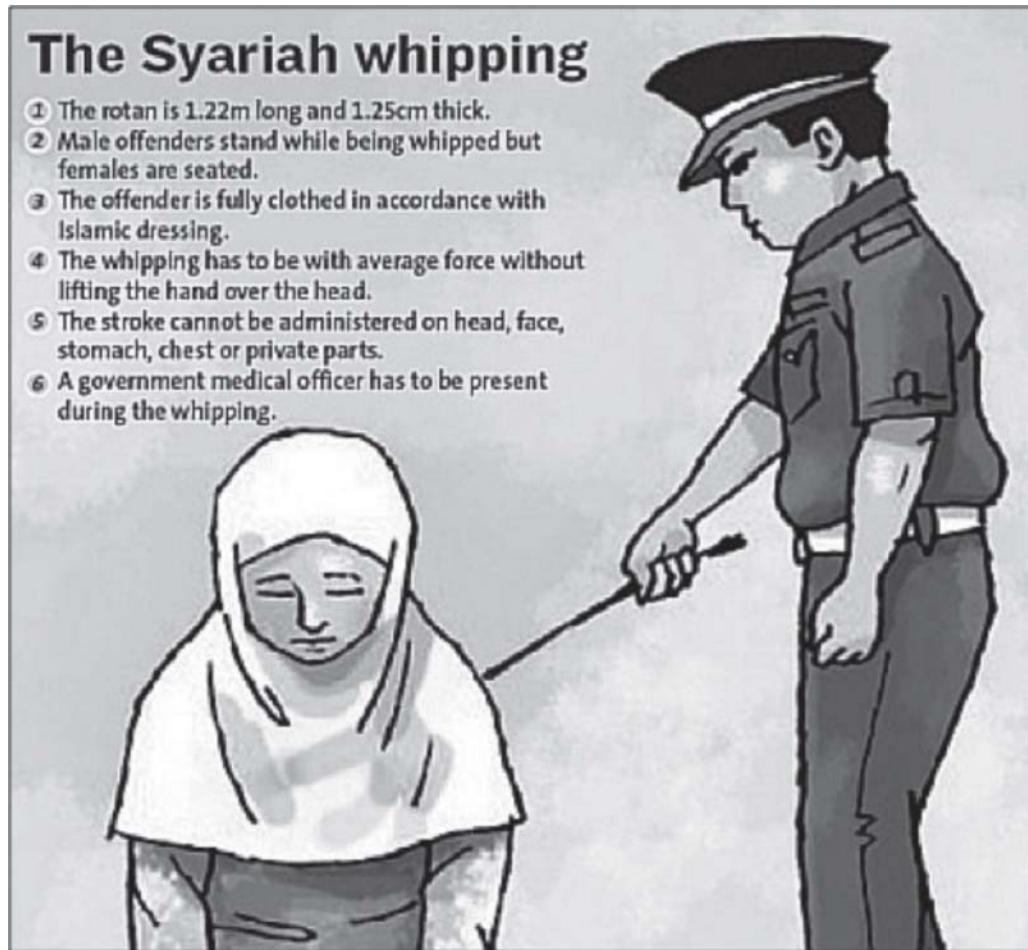
Then again, he recognized that this has caused an international outcry and he has remained largely silent on the furore. He wondered if this could be an opportunity for him to comment on the issue at hand with a clear answer on his view on taking Malaysia to new heights under his new leadership to strengthen the branding of his country to attract talents and foreign investments to realize the vision of making Malaysia a developed nation in 2020, a mere decade away. He acknowledges that Malaysia has a problem. In recent years, analysts has warned that an accelerating brain drain of home-grown talents and this not being replaced by larger inflow of skilled talents due to the perceived Islamisation of the country, is hampering Malaysia's goal of becoming a high-income economy. The negative press of Kartika's case meant that the potential damage to his country's reputation was even greater. Therefore, a feeble attempt to resolve this will be a major setback to Malaysia's slow but respectable progress on image building in the last six years and may cause a further decline to Malaysia's competitiveness in an already slower economy growth landscape.

Appendix I: Malaysian Dual Track Legal System



Source: Image adapted from Malaysian Court (2004)

Appendix II: Caning in accordance to Syariah law



Source: Image derived from Habib (2005)

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