Freedom of Religion and Religious Practices in School
The Judicial Approach in Malaysia

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INTRODUCTION

Countries take into account national interests, socio-cultural, and
considerations when determining the extent to which freedom of
religion is allowed. In the case of the United Kingdom and France, legisla-
tion clearly established the right of public schools to prohibit the wear-
ning of religious attire, in particular, the headgear or the hijab. In France, the
approach was based on the historical policy of “laïcité” based on the histor-
ical policy of “laïcité”. Conversely, Canada and the United States seem
more neutral accommodative path. In Malaysia, the process of
modernization and the continuous political debate of advocating a pro-
state represent a country that has confronted the issue of the right
students to wear religiously symbolic attire to school.

Malaysian courts have sought to interpret and balance the fundamen-
tal right to freedom of religion against the concepts of pub-
lic and interest. The struggle by the judiciary to accommodate and
affirm freedom of religious expression in the context of public schools is
complex as the courts seek to maintain the fragile social fabric of unity in
some populace, a complicated juggle between affirming the secularity
of the state.¹

Generally, the forces of modernization, globalization, and the advent
of the internet have affected cultural identities and practices related to the
belief and observance of one’s religious beliefs. Many countries have
revised their laws and policies to accommodate these developments. Some
individuals, and nations, faced tremendous pressure to cope with issues
surrounding freedom of religion that can eventually turn out to be emo-
tional, divisive, and even destructive in nature. In some jurisdictions, the
approach towards a constitutional challenge to religious freedom
may contrast sharply with a long tradition of adherence to religious
norms. At times, national policies of neutrality and secularity clash with
the traditions and customs. Countries like Canada, France, Turkey,
Malaysia are some of the examples. On the other hand, Canada and