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DEFAMATION: A COMPARATIVE STUDY BETWEEN THE MALAYSIAN LAWSAND THE ISLAMIC LEGAL PRINCIPLES

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Abstract - As part of the most concerned country on human rights, Malaysia has provided clear written statutes in promoting and protecting the freedom of speech. Article 10(2)(a) of the Federal Constitution provides the clearest indication to the general public that the legal system of Malaysia do give the protection of the freedom of speech. The objective of this paper is to focus on the provisions of the freedom of speech (especially defamation) on the scope, wisdoms, findings of the research and provide the possible recommendations or suggestions for the process of harmonization; in the area of the implementation of the Malaysian laws and the Islamic legal principles in the Malaysian legal system; for the purpose of protecting, enhancing and promoting the freedom of speech in Malaysia according to the rule of law. The legal research method will be applied in obtaining the relevant data and information. The writer is of the opinion that the Malaysian legal system should be transformed and harmonized between these two legal foundations, i.e., the Malaysian laws and the Islamic legal principles, in respecting the spirit of Article 3 of the Federal Constitution, which provides that Islam as a religion of the Federation. There should be a clear guidelines and information about the concept of defamation in order to lay down the clear statutes and provisions on it that can contribute to the betterment of the society.

Keywords: Freedom of speech, defamation, harmonization, Malaysian laws, Islamic legal principles.

I. SCOPE AND CONCEPT OF THE DEFAMATION

A. The Concept and Scope of Defamation in the Malaysian Laws' Perspectives

The act of defamation refers to any act of making untrue statements about another which damages his or her reputation. There are other two categories of defamation, i.e. libel (written) and slander (oral).

The awards or damages imposed by the courts can reach to millions of Ringgit. Various suggestions have been made before the courts, including any material which:

i. To discredit any person's characters or goodwill;
ii. To degrade any person's honour or characters or goodwill intentionally in the eyes of the society;
iii. To cause any person to be avoided or shunned or even rejected by the society; and
iv. To cause any person to be exposed to hatred, mockery, ridicule, derision or contempt.

In determining the damaging effects to the claimant's reputation, the judge will examine two matters:

i. It must determine what the words mean in their natural and ordinary sense.
ii. The judge must decide whether that meaning of the words is defamatory or *vice-versa*.

When deciding what the meaning of the words, the intention and knowledge of the person who published the words are irrelevant. The law of defamation recognizes two types of meanings:

1. The natural and ordinary meaning of the words; and
2. The innuendo meaning[1]:
   - False Innuendo;
   - True Innuendo;
   - Publication; and
   - Identification.

Authors, Price and Duodu[2], emphasized that in assessing compensation or damages awarded by the court, the effect towards the reputation and feeling of the victims or plaintiff or claimant, several areas should observe by the judges, i.e.:

i. The significance or seriousness or gravity or severity of the allegation that has been put forward against the victim or plaintiff or complainant;
ii. The size of the circulation and its influence that alleged to give the effect to the victim or plaintiff or complaint;
iii. The effect of the publication against the victim's or plaintiff's or complainant's reputation;
iv. The extent and nature of the victim's or plaintiff's or claimant's reputation;
v. The behaviour or conduct of the defendant; and
vi. The behaviour or conduct of the victim or plaintiff or claimant.

Currently, awards or damages granted to the party involved in the defamation suits are very high involving more than thousands or even millions in monetary terms. This trend would give a bad impact on freedom of speech in Malaysia because there is no assurance that the law will protect the person who wanted to reveal the truth. The worst scenario is the said person may be facing a legal action and suffering damages awarded by the court. This situation will indirectly give the unhealthy impacts towards the development of freedom of speech in Malaysia.

[1] Columbia University Press. (2007). *Libel and Slander; The Columbia Encyclopedia (6th Ed.)* [Online]. Available: www.yourrights.org.uk: http://www.yourrights.org.uk/yourrights/right-of-free-expression/defamation/defamation-elements-of-a-claim.html. [2014, January 12].

[2] Duodu, D. P. (2003). *Defamation: Law, Practice and Procedure (3rd Ed.).* UK: Sweet and Maxwell Ltd. p 208.

B. The Concept and Scope of Defamation: Islamic Legal Principles' Perspectives

The discussions of this chapter are focused with respect the concept and scope of defamation where the word, 'defamation', has been interpreted according to various scholars. The word 'defamation' according to simple language means 'throw' or 'mislead'[3]. According to Muslim scholars, the word 'defamation' or '*qazaf*' (Arabic word) means throw or the act of accusing someone for committing adultery that intended to discredit her ('*ta'yir*')[4]. Other Muslim scholars included another type of crime, i.e. '*liwat*' as part of '*zina*'[5].

The word 'defamation' according to the other Muslim scholars' opinions, in this context is '*tashhir*' which means, any act or conduct of any person that intended to embarrass or discredit the dignity or honour of any person in the eyes of the public[6].

However, there are a few more concepts stated in Al-Quran Al-Kareem that falls within the meaning of the word '*Al-Fitnah'* (**الفتنة**)[7], including:

i. *As-Shirk* (polytheism) [Surah Al Baqarah (2): 191, Surah Al Baqarah (2): 193 and Surah Al Baqarah (2): 217[8], Surah An-Nisaa (4): 91[9]];
ii. the act of deviating someone from the true path of Islam [Surah Aali-'Imraan (3): 7[10]];
iii. the trial or punishment [Surah Al-Maaidah (5): 71][11];
iv. the act of sowing or plotting sedition or trial as Allah (*subhanahu wata'ala*) says Surah At-Tawbah (9): 47-49[12];
v. the act of of tumult or oppression [Surah Al-Anfaal (8): 25][13];
vi. the test, conjecture or tribulation of life [Surah Tooha (20): 40 and Surah Al-Ankabut (29): 3];
vii. the act of torture [Surah Al-Ankabut (29): 10, Surah Adz-Dzariyaat (51): 14 and Surah An-Nahl (16): 110];
viii. the act of sins, trial or temptation [Surah At-Tawbah (9): 49];
ix. the act of desiring dissension or sedition [Surah At-Tawbah (9): 48];
x. the disbelieve [Surah An-Nisaa' (4): 101];
xi. the defiant disobedience or the act of temptation [Surah Al-Maaidah (5): 49];
xii. the deviation [Surah Al-Maaidah (5): 41 and Surah As-Soffat (37): 162];
xiii. an excuse [Surah Al-An'aam (6):23];
xiv. *Al-Qazaf* (spreading the scandalous news) [Surah An-Nuur (24): 4, 5, 11-19, 20, 23 and 24]; and
xv. the act of backbiting and degrading other people [Surah Al-Humazah (104): 1-9].According to Ibnu Kathir, the word "*Al-Hammaaz*" is backbiting orally, while the word "*Al-Lammaaz*" is the act of backbiting through documentation. Ibn 'Abbas (*Radiyallahu 'Anhuma*) said that "*Humazah*" and "*Lumazah*" meant to insult and blame others. Mujahid said that "*Al-Humazah*" was denounced by hand while "*Al-Lumazah*" is backbiting tongue[14].

According to the opinion of 'Abdul Qadir Awdah (*Rahimallahu 'Anhu*), the word 'defamation' can be divided into two categories based on the penalties that may be imposed on the accused, who was convicted of such criminal acts, *viz*:

i. The offences of defamation which are considered as '*qazaf*' (under the *hadd* punishment); and
ii. The offences of defamation which are considered as not achieving the level of *hadd* punishments (*ta'azir* punishments).

As such, it is clear that Islamic legal principles is ahead in classifying defamation actions; both verbally and in writing or documentation, as per mentioned by *Al-Quran Al-Kareem*. Islam is concerned more about the act itself rather that its type or classification. This is particularly because the effects of such act are very serious that can lead to disharmony among the society.

According to Professor Dr. Salih Al-Fawzan[15], the words of slander or '*fitnah*' can be divided into two types, i.e.:

i. Plain words; and
ii. Allusive words.

The writer is of the opinion that, the Islamic legal principles do not differentiate between the categories of defamation as per state under the Malaysian laws; which have two categories, i.e. libel and slander. The only different from the Islamic legal principles in determining the scope and concept of defamation is about the category of punishment; whether under *hudud* or *ta'azir* punishment.

I. The elements of defamation in the Islamic Legal Principles

In order to determine whether such act is considered as the act of defamation or otherwise, there are certain criteria that should be fulfilled, i.e:

i. The alleged defamatory words or statements that uttered by the defendant should be clearly understood as defaming the plaintiff or claimant and should give the negative impacts or effects to the victim or plaintiff's or claimant's reputation in general[16].
ii. The alleged defamatory words or statements that uttered by the defendant should be understood as referring to the plaintiff or claimant by examining through the ordinary or reasonable man test[17];
iii. The said statements are circulated to the general public[18]; and
iv. There should be the element of criminal intention on the defendant's part when uttering such defamatory words[19].

[3] Mohammad, Abdul Basir, & Ramli, Wan Mahizatul Azura. (2009). *Fitnah Dalam Undang-undang Tort Islam dan Undang-undang Tort Malaysia*. Kuala Lumpur: Dewan bahasa dan Pustaka. p. 22.
[4] *Ibid*.
[5] *Ibid*. pp. 22-23.
[6] Mohamad, Abdul Basir. (2009). *Undang-undang Tort Islam*. Kuala Lumpur: Dewan Bahasa dan Pustaka. pp. 383-384.
[7] *Ibid*. p. 232.
[8] Syaikh Shafiyyurrahman Al-Mubarakfuri. (2012). Shahih Tafsir Ibnu Katsir (Jilid 1). Jakarta: Pustaka Ibnu Katsir. p. 619.
[9] *Ibid.* p. 613 (Jilid 2).
[10] *Ibid.* p. 113 (Jilid 2).
[11] *Ibid.*
[12] *Ibid.* p. 223 (Jilid 4).
[13] *Ibid.* pp. 48-49.
[14] Syaikh Safiyyurrahman Al-Mubarakfuri. (2012). Shahih Tafsir Ibnu Katsir (Jilid 9). Pustaka Ibnu Katsir: Jakarta. pp. 704-705.
[15] Salih Al-Fawzan, Prof. Dr. (2005). *Al-Mulakhkhas Al-Fiqhi* (Volume 2). Riyadh, Saudi Arabia: Al-Maiman Publishing House. p. 605.
[16] *Ibid.* p. 408.
[17] *Ibid*. p. 408.
[18] *Ibid.* p. 409.
[19] *Ibid.* pp. 411-414.

The plaintiff or claimant should prove that there is the element of the defamation from the said alleged defamatory statements before the court of law. The principle of this procedure is taken from a maxim:

الاء صل بء راءة الذمة

Which means, originally, all people are free from any responsibility, as such, the plaintiff or claimant is under the burden to prove that such alleged defamatory words are intended to tarnish the plaintiff's or claimant's reputation and it has fulfilled the elements of defamation as prescribed in the Islamic legal principles (that has been discussed above)[20].

II. WISDOMS OF THE FREEDOM OF SPEECH

Among the wisdoms that can be extracted from the formation of defamation laws are as follows:

i. Mankind is not advisable to discuss or utter words that do not benefit either to himself or others as the Prophet (*Sallallahu 'Alaihi Wasallam*) said: "The good thing about this Muslim man, is to leave what is not needed."[21]
ii. This defamation action sprinkled a lot of bad things that will lead the individual and society overall to a fragmented society. Allah (*Subhanahu Wata'ala*) says in Surah An-Nisaa' (4): 114.
iii. Hadith of the Prophet Muhammad (*Sallallahu 'Alaihi Wasallam*) also stated that every word spoken by a man will be noted by the Angels. He also will be held accountable for what he had done in this world at the Hereafter without the slightest missed of the entry[22].
iv. There will be strife and quarrels that can lead to fights and the collapse of the community structure. The Prophet Muhammad (*Sallallahu 'Alaihi Wasallam*) prohibited Muslims from their own caught in such acts because of the danger that will occur from these actions being spread in the community. Allah (*Subhanahu Wata'ala*) is also stated that the perfection of faith of a person can never be achieved if it does not leave strife or contention although it was in the right[23].
v. The existence of hostility among the people and the Prophet Muhammad (*Sallallahu 'Alaihi Wasallam*) states that the most condemned man by Allah (*Subhanahu Wata'ala*) are those who are hostile[24].
vi. Symbolize the character or moral of the said person. Prophet Muhammad (*Sallallahu 'Alaihi Wasallam*) had stressed that the believer is not someone who likes to condemn others[25]. So, it is the act of hurting or ridiculing others[26] as mentioned in Surah Al-Hujurat (49): 11.
vii. The act of spreading the secrets of others is an act that is forbidden in Islam. Prophet Muhammad (*Sallallahu 'Alaihi Wasallam*) stated that every trial or discussions between the two parties is a trust that must be preserved from disseminated to the people who have no connection with it. Al-Hasan Al-Basri (*Radiyallahu 'Anhu*) stated that when a person is talking about a secret of his or her friend, then it is included as an act of treachery, false or disloyalty[27].
viii. One of the objectives of the Islamic legal principles is to protect the dignity and honour of a person, so, the act of defaming others will lead to the act or tarnishing others' reputation or goodwill, and if this situation happened, the dignity or honour of a person had been tampered with and no longer being protected. Islam looks into this matter as a serious issue that should not be comprised by the law and should be stopped immediately from being spread in the society. The strict law should be imposed to any person who has been proved before the court of law for committing such defamation act.
ix. Freedom of speech should be practiced for the sake of justice. Islam promotes understanding and tolerance among the society and as such, the defamation actions will only extend the hatred among the society. That is the main objective that Islam seriously provides the harsh punishments for this unethical act.
x. Freedom of speech can be lifted if the situation became worse for the public at large such as causing discomfort among the society that lead to the unhealthy relationship among them. Preventing it from being worse is also justified by the Islamic legal principles as Allah (*Subhanahu Wata'ala*) says:"...and spy not on each other (behind their backs)..."[28]
xi. In the last sermon of the Prophet Muhammad (*Sallallahu 'Alaihi Wasallam*) during the last pilgrimage, he (*Sallallahu 'Alaihi Wasallam*) strongly emphasised that others' honour is very important and cannot simply be tempered with. All Muslims must observe the obligation to protect the dignity and honour of others because Allah (*Subhanahu Wata'ala*) has mentioned it in Surah Al-Hujuraat (49): 11.
xii. The government is under the obligation to protect the citizens' honour and dignity as an example where when Saidina 'Umar Al-Khattab *(Radiyallahu 'Anhu*) was a caliph, he had ordered that a woman was not guilty of committing murder of a man from Bani Huzayl because she had caused such act in protecting herself from being rape by the said man[29].

III. FINDINGS OF THE RESEARCH

A. Malaysian Statutes on Defamation

There are a number of statutes that dealt with defamation, namely:

i. Federal Constitution,
ii. Defamation Act 1957,
iii. Computer crime Act 1997,
iv. Indecent Advertisement Act 1953,
v. Printing Presses and Publication Act 1984,
vi. Sedition Act 1948,
vii. Official Secret Act 1972,
viii. Penal Code (Act 574),
ix. Trade Description Act 1972,
x. Copyright Act 1987,

[20] *Ibid.* pp. 404-405.
[21] Narrated by At-Tirmidzi and Ibnu Majah from Abu Hurairah (r.a). Prof. Tk. H. Ismail Yakub. (1992). Ihya 'Ulumiddin (Imam Al-Ghazali). Pustaka Nasional Pte Ltd: Singapura. pp. 17-18
[22] Prof. Tk. H. Ismail Yakub. (1992). Ihya 'Ulumiddin (Imam Al-Ghazali). Pustaka Nasional Pte Ltd: Singapura. P. 22.
[23] *Ibid* at pp. 26-27.
[24] *Ibid* at pp. 32.
[25] *Ibid* at pp. 41
[26] *Ibid* at pp. 41-48.
[27] *Ibid* at p. 61.
[28] Surah Al-Hujuraat (49): 12.
[29] Abdul Basir Mohamad & Wan Mahizatul Azura Ramli. (2009). Fitnah Dalam Undang-undang Tort Islam dan Undang-undang Tort Malaysia. Kuala Lumpur: Dewan Bahasa dan Pustaka. p. 19.

xi. Computer Crimes Act 1997,
xii. Defamation Act 1957,
xiii. Censorship Act 1952,
xiv. Judicial Proceedings (Regulation of Reports) Act 1962, and
xv. Medicine (Advertisement and Sale) Act 1956.

The writer is of the opinion that, the trend of making huge awards was thus checked, leading to a reversal by the Court of Appeal of a number of exorbitant awards made by the High Court. In *Mahadevi Nadchatiram v Thiruchelvasegaram Manickavasegar*[30], the Court of Appeal reduced the award from RM3 millions to RM500, 000. In *Joceline Tan Poh Choo & Ors v V Muthusamy*[31], the Court of Appeal reduced the award of RM300, 000 to RM100, 000. In *Chin Choon @ Chin Tee Fut v Chua Jui Meng*[32], the Court of Appeal reduced the award of RM1.5 million to RM200, 000. In *Utusan Melayu (M) Bhd & Ors v Tjanting Handicraft Sdn Bhd & Anor*[33], the Court of Appeal reduced the award of RM1.3 million to RM250, 000. It seems the amount of compensation is quite high in awarding the respected parties. Secondly, the parties involved seemed needed to have a good will or a good post in the political arena. Thirdly is the consideration of the nature of the issues itself. The huge amount of compensation is not a good trend to promote fundamental rights because the people will feel reluctant to report a true story about certain issues in order to protect their own interests. The court should take a good step in reducing the amount awarded to the plaintiff or claimant. This step is vital in avoiding or preventing the trend that the defamation actions can be 'a source of income' to the plaintiff or claimant. There should be no selective actions against any counterpart. There should be no hindrance in promoting justice. The court should be allowed to make their own judgment without any interference from any party. The test to be applied when considering whether a statement is defamatory of a plaintiff is well settled in that it is an objective one in which it must be given a meaning a reasonable man would understand. There should be the reading of the whole part of the statement when the plaintiff or claimant wanted to support his or her contention in defamation actions[34].

According to the writer's opinion, the government is still imposing selective actions, especially against the opposition or pro-opposition related bodies. The position of the person in the government related bodies or parties and the relation with the government can be considered as the strongest ingredients in obtaining the judgments.

The writer is in the opinion that, the ingredients or elements of defamation as per state by the statutes, and the relevant opinions of the practitioners and academicians or experts in this field should be taken into consideration, and the court should be more strict in examining these elements before giving the judgment because failure to consider and examine these elements justly will give a bad and even worst impacts to the society.

IV. HARMONIZATION BETWEEN THE MALAYSIAN LAWS AND THE ISLAMIC LEGAL PRINCIPLES

According to Tun Abdul Hamid Mohamed, the concept of harmonization is the absorption of common law into Islamic legal principles or otherwise[35]. He further stated that, the process of harmonization should involve the following matters:

i. Identifying the non-compliant laws or legal issues involving Islamic legal principles and Malaysian laws;
ii. Producing the Islamic legal principles' compliant provisions; and
iii. Having a specific department that oversees all the harmonization processes[36].

Islam provides a very wide platform to the people in dealing with their daily life. The acceptance of *adat* (custom) as one of the elements of accepted laws shows the concept of openness in Islam. The secondary sources of Islamic Laws such as *ijtihad, istihsan, masalih mursalah, istishab, saddu zara'ie, urf, istislah* and *istidlal* clearly open the door of harmonization between Islamic legal principles and other laws as practised by the people in such countries provided that the said principle of laws is in line with the Islamic legal principles itself, i.e., to protect the *Maqasid As-Shari'ah*.

In the Malaysian context, the harmonization of laws should be examined, analysed and implemented in such a manner because Article 3(1) of the Federal Constitution clearly states that Islam is the religion of the Federation, as such, the government should take more practical measures in implementing Islamic legal principles as one of the main sources of laws in the country. The Malaysian laws should be reflected by this Article in promoting and upholding the supremacy of the Constitution as mentioned in Article 4 of the Federal Constitution itself.

A. Purpose and Scope of Harmonization

The purpose and scope of harmonization of Malaysian laws can be illustrated as follows:

i. To fill the gaps between Islamic legal principles and Malaysian laws;
ii. To enhance, improve, reform, uniform and adapt the current situations or trends with the legal environment;
iii. To encourage the participation of the relevant parties; government, statutory bodies, private bodies and others in the process of enhancing the new legal provisions;
iv. To formulate the legal provisions based on the needs of the current lifestyle;
v. To renew the outdated, malfunctions and inefficient legal provisions through the concepts of accountability and transparent processes;
vi. To provide the efficient administration in the legal aspects;
vii. To provide more professional and expeditious settlements of the relevant laws; and
viii. To bring the legal provisions into 'life' and realistic practical approach that can promote justice through

[30][2001] 3 CLJ 161.
[31][2003] 4 MLJ 494.
[32][2005] 3 MLJ 494.
[33][2005] 2 MLJ 397.
[34]Rogers, M. (2004).*Gatley on Libel and Slander*. London: Sweet and Maxwell Ltd. p. 108-110 /
Keluarga Communication v NormalaSamsudin [2006] 2 MLJ 700.

[35] Mohamed, Abdul Hamid, Tun. (2012). 2nd International Seminar on Shari'ah and Common Law 2012. Universiti Sains Islam Malaysia. 6 March 2012. Harmonisation of Shari'ah and Common Law in Malaysia: The Way Forward. Available at: http://www.tunabdulhamid.my
[36] *Ibid.*

harmonizing between Islamic legal principles and Malaysian laws.

B. Areas and Aspects of Harmonization

Among the areas and aspects of defamation actions that can be considered to be harmonized are as follows:

1) The meaning of defamation actions - it should cover:
   i. The scope of defamation should be maintained, i.e., slander (*Al-Hammaaz*) and libel (*Al-Lammaaz*);
   ii. Defamation as regards to adultery (*zina*) and sodomy (*liwat*) or known as '*Al-Qazaf*'; and
   iii. Defamation as regards to protect the honour or dignity (*Hifzu Al-Nasl)* which does not fall under the category (ii) or known as '*Ta'zir*'.

These steps can be done by harmonizing between the Malaysian laws (Defamation Act 1957 and other related statutes), the Islamic legal principles (the scope of *Al-Qazaf* or *Al-Fitnah*), and the documents from the International Covenant on Economic, Social and Cultural Rights (ICESCR) and International Covenant on Civil and Political Rights (ICCPR).

2) The elements of defamation actions - those elements that should be taken included are:
   i. The accuser or defendant;
   ii. Intention (*mens rea* or *niat*);
   iii. Action (*actus reus*);
   iv. The victim or plaintiff or claimant.
   v. The alleged defamatory words; and
   vi. The effects to the victim or plaintiff or claimant.
3) The classifications of defamation actions - there should be three categories, i.e., criminal (under *hadd* punishments), *ta'zir* punishments (harmonize with both laws), and torts.
4) The punishments or remedies for defamation actions – there should be three categories:
   i. Criminal (under *hadd* punishments), the harmonization with the Islamic legal principles should be taken into consideration (which provide the *hadd* punishments, i.e., 80 lashes and do not qualified to be the witness until the convicted person repent).
   ii. *Ta'zir* punishments (harmonize with both laws), the convicted person should be punished with lashes (no to the extent of the *hadd* punishment) and/or imprisonment and/or fine and/or other relevant punishments.
   iii. Torts category, the punishments should be in the term of damages only.
5) The burden of proof for defamation actions - three levels of burden of proof:
   i. Beyond the shadow of doubt [the criminal (under *hadd* punishments)];
   ii. Beyond reasonable doubt (the *ta'zir* punishments); and
   iii. Balance of probabilities (torts).

6) Other Relevant Recommendations

i. The government also should work collectively for more inclusive political processes, allowing genuine participation by all citizens in all countries.
ii. The government should ensure the freedom of the media and public access to information.
iii. The statutes on defamation should be reviewed to ascertain where efficiency improvements can be made.
iv. There is a need to introduce 'right of reply' legislative overseen by a Media Complaints Commission or Media Ombudsman, which have the power and authority to order a retraction in the media.
v. The administrators of justice should ensure that freedom of speech is not threatened by civil action for defamation by maintaining a proper balance between freedom of speech and a public figure's right (goodwill) to this reputation.
vi. The establishment of Suruhanjaya Hak Asasi Manusia Malaysia (Suhakam) is the best turning point for the government to enshrine the human rights principles. Suhakam should be given more power and weight in law in respect of their recommendations.
vii. The government should establish the Institution of Ombudsman or a separate ministry for human rights in Malaysia.
viii. The government should provide proper ways for the people to express their views or opinions without any interference, such as by providing a special slot in the national media, i.e. television, radio and other mass media, for them to deliver their speeches or gathering the people's opinions on certain issues.
ix. To educate the people through the educational institutions, media and other relevant medium.

REFERENCES

[1] Duodu, D. P. (2003). *Defamation: Law, Practice and Procedure (3rd Ed.).* UK: Sweet and Maxwell Ltd.
[2] Faruqi, S.S. (2008). *Document of Destiny:The Constitution of the Federation of Malaysia*. Kuala Lumpur: STAR Publications (Malaysia) Berhad.
[3] http://shr.aaas.org/thesaurus/instrument.php?insid=79
[4] http://www.cljlaw.com/index.html
[5] http://www.lexisnexis.com.my
[6] http://www.suhakam.org.my
[7] http://www.un.org/en/documents/udhr/index.shtml#a19
[8] http://www.un.org/en/documents/udhr/index.shtml#a29
[9] http://www.un.org/rights/50/dpi1937.htm
[10] Mohamad, Abdul Basir. (2009). *Undang-undang Tort Islam*. Kuala Lumpur: Dewan Bahasa dan Pustaka.
[11] Mohamed, Abdul Hamid, Tun. (2012). 2nd International Seminar on Shari'ah and Common Law 2012. Universiti Sains Islam Malaysia. 6 March 2012. *Harmonisation of Shari'ah and Common Law in Malaysia: The Way Forward.* Available at: http://www.tunabdulhamid.my
[12] Mohammad, Abdul Basir, & Ramli, Wan Mahizatul Azura. (2009). *Fitnah Dalam Undang-undang Tort Islam dan Undang-undang Tort Malaysia*. Kuala Lumpur: Dewan bahasa dan Pustaka. p. 22.
[13] Prof. Tk. H. Ismail Yakub. (1992). *Ihya 'Ulumiddin* (Imam Al-Ghazali). Pustaka Nasional Pte Ltd: Singapura.
[14] Rogers, M. (2004).*Gatley on Libel and Slander*. London: Sweet and Maxwell Ltd.
[15] Salih Al-Fawzan, Prof. Dr. (2005). *Al-Mulakhkhas Al-Fiqhi* (Volume 2). Riyadh, Saudi Arabia: Al-Maiman Publishing House.
[16] Stone, Richard (2000). *Civil Liberties and Human Rights* (3rd Ed.). London: Blackstone Press.
[17] Syaikh Shafiyyurrahman Al-Mubarakfuri. (2012). *Shahih Tafsir Ibnu Katsir* (Jilid 1). Jakarta: Pustaka Ibnu Katsir.
[18] www.yourrights.org.uk: http://www.yourrights.org.uk/yourrights/right-of-free-expression/defamation/defamation-elements-of-a-claim.html