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FACULTY OF BUSINESS AND MANAGEMENTBDAU 2103ELEMENTS OF LAWMATRICULATION NO : IDENTITY CARD NO. : TELEPHONE NO. : E-MAIL : LEARNING CENTRE : Sample of good assignmentContentNo Topic Page1 Introduction 12 Explanation on differences between public law andprivate law. 2-53 Discussion on constitutional law. 6-124 Evaluation on roles of Malaysian FederalConstitution in promoting peace and harmony13-165 Conclusion 17-196 References 20Sample of good assignmentQuestion 1It is not easy to give a simple one sentence definition of law-however; legal theoristshave tried to provide such a definition. John Austin, writing in the early nineteenth century, defined law as being command issued from a superior (the State) to an inferior (the individual)and enforced by sanctions. This definition, however, does not truly apply to regulatory law suchas that setting out how a will should be made: or does it cover the concept of judicial review, where individuals may challenge the „ command‟ made by a Minister of State. Austin was writingat a time when the law was much less developed than it is today, so it not surprising that hisdefinition does not cover all types of law today. Sir John Salmond defined law as being „ the body of principles recognized and applied bythe state in the administration of justice‟. This is a much broader definition than Austin‟s and isprobably the nearest that one can get a workable „ one sentence‟ definition. Law could also bedescribed as a formal mechanism of social control. It is formal because the rules set down in thelaw can be enforced through the courts and legal system, while in a broad sense all law could besaid to be involved in some area of social control. Private law regulates relationships between people, organizations, and companies. Examples include contract, tort, land, company, and employment law. Public law, on the otherhand, regulates t he relationships between individuals (and organizations) with the state and itsorgans. Examples include criminal and immigration law and human rights-related matters. Broadly speaking, private law is an umbrella term for all areas of law that are essentiallyhorizontal in nature, whereas public law is the term that covers all areas of law that bring us intocontact with state power and its application. Sample of good assignmentQuestion 2Within national law, there is usually a clear distinction between public and private law. Publiclaw involves the State or government in some way, while private law is concerned with disputesbetween private individuals or businesses. Both public and private law can be sub-divided intodifferent categories. Public lawThere are three main types of law in this category. These are: 1. Constitutional lawThis controls the method of government and any disputes which arise over such mattersas who is entitled to vote in an election, or who is allowed to become a Member ofParliament, or whether an election was carried out by the correct procedure. 2. Administrative lawThis controls how Ministers of State or other public bodies such local councils shouldoperate. An important part of this is the right to judicial review of certain decisions. Judicial review allows judges to consider whether a decision (or a refusal to make adecision) is reasonable. If it is not, then the decision is re-considered. 3. Criminal lawThis sets out the types of behavior which are forbidden at risk of punishment. A personwho commits a crime is said to have offended against the State, and so the State has theright to prosecute them. This is so even though there is often an individual victim of acrime as well. For example, if a defendant commits the crime of burglary by breakinginto a house and stealing, the State prosecutes the defendant for that burglary, although itis possible for the victim to bring a private prosecution if the State does not takeproceedings. However, if there is a private prosecution, the State still has the right tointervene and take over the matter. At the end of the case, if the defendant found guilty, the court will punish the defendant for the offence, because he or she has broken thecriminal law set down by the State. The victims will not necessarily be given any Sample of good assignmentcompensation, since the case is not viewed as a dispute between the burglar and thehouseholder. However, the criminal courts have the power to order that the offender paysthe victim compensation and can make such an order, as well as punishing the offender. Private lawThis is usually called civil law and has many different branches. The main ones are contract, tort, family law, law of succession, company law and employment law. A family complain that their package holiday did not match what was promised by thetour operator and that they were put into a lower grade hotel than the one they had paidforA woman has brought a new car and discovers the engines is faultyA man who bought a new car on hire purchase has failed to pay the installments due tothe hire purchase company. All these situations come under the law of contract. There are, of course, many other situations inwhich contracts can be involved. Now look at the next list of situations; they are also civilmatters, but of a different type. A child passenger in a car is injured in a collision (the tort of negligence)A family complain that their health is being affected by the noise and dust from a factorywhich has just been built near their house (the tort of nuisance)A woman is injured by faulty machinery at work ( the tort of negligence, but my alsoinvolve occupiers‟ liability and/or employer‟s duty under health and safety regulations)A man has complain that a newspaper has written an untrue article about him, which hasaffected his reputation ( the tort of defamation)All these cases come under the law of tort. A tort occurs where the civil law holds that, eventhough there is no contract between them, one person owes a legal responsibility of some kind toanother person, and there has been breach of that responsibility. There are many different typesof tort, and the above example demonstrates only some of them. Many cases arise from road Sample of good assignmenttraffic crashes, since drivers owe a duty of care to anyone who might be injured by theirnegligent driving. Other divisions of private (civil) law concentrate on particular topics. Family law covers suchmatters as whether a marriage is valid, what the rules are for divorce and who should have theday to day of any children of the family. The law of succession is concerned both with regulatingwho inherits property when a person dies without making a will, and also what the rules are formaking a valid will. Company law is very important in the business world: it regulates how acompany should be formed, sets out formal rules for running companies, and deals with therights and duties of shareholders and directors. Employment law covers all aspects ofemployment, from the original formation of a contract of employment to situations ofredundancy or unfair dismissal. As well as these areas of private law, there are also laws relatingto land, to copyright and patents, to marine law and many other topics, so it can be seen that civillaw covers a wide variety of situations. Sample of good assignmentLawPublic lawConstitutionalAdministrativeCriminalPrivate lawContractTortFamilyCompanyand othersNational lawInternationallaw Sample of good assignmentQuestion 3HistoryThe basis of the Federal Constitution of Malaysia is the Constitution of the Federation ofMalaya. Following the Alliance‟s landslide victory in the first Federal Election in 1955, TunkuAbdul Rahman Putra was appointed Chief Minister. The drafting of the Constitution of theFederation of Malaya was the first step toward the formation of a new government after Britainagreed to concede independence to Malaya in 1956. For the task of drafting the Constitution, theBritish Government formed a Working Committee comprising representatives from their side, advisors from the Conference of Rulers and Malayan political leaders . In January 1956 theTunku headed a delegation to London to discuss the Federal Constitution and negotiate the datefor independence of Malaya. In March 1956 a Commission chaired by Lord Reid was set up toformulate a draft and refine the Constitution of the Federation of Malaya. The Commission sought the views of political parties, non-political organisations andindividuals on the form of government and racial structure appropriate for this country. In theconsultation process, a memorandum from the Alliance had gained precedence. Thememorandum, an inter-communal conciliation aimed at mutual interests and strengthening thenation's democratic system of government, took into account five main factors namely theposition of the Malay Rulers, Islam as the official religion of the Federation, position of theMalay language, the special rights of the Malays and equal citizenship. The draft drawn up bythe Reid Commission was authorised by the Working Committee as the Constitution of theFederation of Malaya commencing on the date of the nation‟s independence on August 31, 1957. When Sabah and Sarawak joined Malaya in 1963, several provisions in the Constitutionwere amended and the country‟s name was changed to Malaysia. Main features: Key elements of the Malaysian Constitution Sample of good assignmentArticle 4(1) state that the constitution is the supreme law of the federation and any lawpassed after Merdeka Day which is inconsistent with this constitution shall, to the maximumextent of inconsistency, be void. The Constitution is divided into 14 parts and 13 Schedules. Each part and schedule contains relevant articles. There are 181articles in the 14 parts, includingthose which have been repealed. PartsPart I - The States, Religion and Law of the FederationPart II - Fundamental LibertiesPart III – CitizenshipPart IV - The FederationPart V - The StatesPart VI - Relations between the Federation and the StatesPart VII - Financial ProvisionsPart VIII – ElectionsPart IX - The JudiciaryPart X – Public ServicesThe Constitution is the Supreme Law ofMalaysiaMalaysia is a Constitutional MonarchyThere are 3 branches of Government : Legislation, Executive and JudiciarySample of good assignmentPart XI - Special Powers against Subversion, Organised Violence, and Acts and CrimesPrejudicial to the Public and Emergency PowersPart XII - General and MiscellaneousPart XIIA - Additional Protections for States of Sabah and SarawakPart XIII - Temporary and Transitional ProvisionsPart XIV - Saving for Rulers' Sovereignty, Etc. SchedulesFirst Schedule - Oath of Applications for Registration of NaturalisationSecond Schedule - Citizenship of persons born before, on and after Malaysia DayThird Schedule - Election and removal of the Yang Di Pertuan Agong and his deputyFourth Schedule - Oaths of Office of Yang di-Pertuan Agong and his deputyFifth Schedule - The Conference of RulersSixth Schedule - Forms of Oaths and AffirmationsSeventh Schedule - Election and Retirement of SenatorsEighth Schedule - Provisions to be inserted in State ConstitutionNinth Schedule - Legislative Lists (The responsibilities and rights of theFederal and Stategovernment)Tenth Schedule - Grants and Source of Revenue Assigned to StatesEleventh Schedule - Provisions of the Interpretation and General Clauses Ordinance, 1948(Malayan Union Ordinance no. 7 of 1948), Applied for Interpretation of the ConstitutionTwelfth Schedule - (Repealed)Thirteenth Schedule - Provisions Relating to Delimitation of ConstituenciesArticle 5Article 5 by clause (1) provides that no person may be deprived of his life or personal libertysave in accordance with law. Thus you cannot kill or imprison a man unless authorised by law. Clause 3 is in two parts. First, it provides that if a person is arrested, he must be informed as soonas possible of the grounds of his arrest. Second, it provides that he must be allowed to consultand be defended by a legal practitioner of his choice. There is an exception to Clause 3 and that Sample of good assignmentis the Internal Security Act which allows detention without trial at the pleasure of the PrimeMinister or the minister-in-charge in the name of national security. Article 11Though Islam is the religion of the Federation, Article 11 provides that every person has theright to profess and practice his own religion. Every person has the right to propagate hisreligion, but state law and, in respect of the Federal Territory, federal law may control or restrictthe propagation of any religion, doctrine or belief among persons professing the Muslim religion. There is, however, freedom to carry on missionary work among non-Muslims. Article 13Article 13 provides that no person may be deprived of property save in accordance with law. Nolaw may provide for the compulsory acquisition or use of property without adequatecompensation. Article 121In 2006 a judge ruled that Article 121 limited the federal courts from ruling on matters ruledon by the Syariah court (Islamic court). Article 150This article permits the Yang Di Pertuan Agong to issue a Proclamation of Emergency and togovern by issuing ordinances that are not subject to judicial review if the Yang di-Pertuan Agongis satisfied that a grave emergency exists whereby the security, or the economic life, or publicorder in the Federation or any part thereof is threatened. Article 152Article 152 states that the national language is the Malay language. However, the Constitutionguarantees the freedom of learning and using of other languages, except on official purposes. Official purposes here means any purpose of the Government, whether Federal or State, andincludes any purpose of a public authority. To this effect, all court proceedings andparliamentary documents and meetings are conducted in Malay. The official script for the Malay Sample of good assignmentlanguage is also stated in Article 152 as rumi or the Latin script. However, use of Jawi is notprohibited. Article 153Article 153 grants the Yang Di Pertuan Agong or King of Malaysia, responsibility forsafeguarding the rights and privileges of the Malay and other indigenous peoples of Malaysia , collectively referred to as Bumiputra . The article specifies how the federal government mayprotect the interest of these groups by establishing quotas for entry into the civil service, publicscholarships and public education. It is often considered to be part of the social contract. According to constitutional scholar Prof. Shad Saleem Faruqi , the Constitution has beenamended 42 times over the 48 years since independence as of 2005. However, as severalamendments were made each time, he estimates the true number of individual amendments isaround 650. He has stated that " there is no doubt" that" the spirit of the original document hasbeen diluted". In July 2007, the Court of Appeal held that the doctrine of separation of powers was an integralpart of the Constitution; under the Westminster System Malaysia inherited form the British, separation of powers was originally only loosely provided for. Article 181Article 181 guarantees the sovereignty, rights, powers and jurisdictions of each Malay Rulerwithin their respective states. They also cannot be charged in a court of law in their officialcapacities as a Ruler. The Malay Rulers can be charged on any personal wrong doing, outside oftheir role and duties as a Ruler. However, the charges cannot be carried out in a normal court oflaw, but in a Special Tribunal under the purview of the Council of Rulers. Article 74Article 74 of Federal Constitution states that parliament may make law with referring to mattersprovided in the federal list and state legislatives may make law with referring to matter provided Sample of good assignmentin the state list. Concurrent list is in the scope of enactment by both parliament and statelegislatives. State list, federal list and the concurrent list are contained in the Ninth Schedule ofFederal Constitution. If there are any contradictions between federal and state laws, the federallaw shall prevail and state law is void to the scope of inconsistency. This was provided by Article75 of Federal Constitution. Legislations are the laws that are established by the Parliaments at federal level and by the StateLegislative Assemblies at the state level. In Malaysia, the legislative gets its authority from theFederal Constitution. It mentions the scope of the Parliament and the State Assembly. If theParliament (or any State Assembly) makes a law which is not in its scope of authority orcontradicts with the constitution, the courts can declare that as null and void. Article 160Article 160 of the Constitution of Malaysia defines various terms used in the Constitution. It has animportant impact on Islam in Malaysia and the Malay people due to its definition of a Malayperson under clause 2. The article defines Malay as a Malaysian citizen born to a Malaysian citizen who professes to bea Muslim, habitually speaks the Malay language, adheres to Malay customs, and is domiciled inMalaysia or Singapore. As a result, Malay citizens who convert out of Islam are no longerconsidered Malay under the law. Parliament may pass the power to legislate any subsidiary legislation during emergency, even ifthere are any contradictions with the Federal Constitutions involved, due to some exception inArticle 150 of Federal Constitution. The related case is Eng Keock Cheng v. Public Prosecutor. In this case, Eng Keock Cheng who was convicted committed 2 offences during emergencyperiod and was ordered to put to death. He appealed on the ground that there were neither apreliminary enquiry nor a jury adopted by High Court which were required under CriminalProcedure Act and claimed that the procedures set out in Emergency (Criminal Trial)Regulations 1964 was invalid as it contradicts with Article 8 of Federal Constitution. It was heldthat Parliament may pass the power to legislate any subsidiary legislation during emergency, Sample of good assignmenteven if there are any contradictions with the Federal Constitutions involved, due to someexception in Article 150 of Federal Constitution. The appeal was dismissed. In the case Karpal Singh v. Public Prosecutor, it was held that the criminal offences inMalaysia were provided by Criminal Procedure Code of Malaysia and therefore, there is noallowance for English law to apply. Islamic law, which is only applicable to Muslims, is enacted under the Federal Constitution. Thestate legislatures have the power and are permitted to make Islamic laws pertaining to personsprofessing the Islam religion. Such laws are administered by separate court system, Syariah Courts. State legislature also has the jurisdiction over the constitution, organizationand procedures of Syariah Courts. Now, Islamic laws are increasingly applied in banking andland laws other than applied to family matters and estate matters. The YDPA is the head of Islamin his home state, Penang, Malacca, Sabah, Sarawak and Federal Territories. The head of Islamof other States is Sultan. Sample of good assignmentQuestion 4" The Federal Constitution of Malaysia is the highest constitution and law incomparison with other constitutions and laws in Malaysia. Other constitutions and laws inMalaysia refer to the state constitutions and laws since Malaysia is a Federation of13 states and 3 Federal Territories", after the establishment of the FederalTerritories of Kuala Lumpur, Labuan and Putrajaya consecutively . (Ibrahim2003a: 21). Chronologically, the Federal Territory of Kuala Lumpur was the first createdand then followed by Federal Territory of Labuan in Sabah, and then the Federal Territory ofPutrajaya in 2001 during the premiership of Dr. Mahathir Mohamad. The Putrajaya has becomethe federal administrative capital of Malaysia. The three federal territories have neither a Malayruler nor a Yang Di Pertuan Negeri as their Malay religious and Malay custom heads. In otherstates in Malaysia, they have either a Malay ruler or sultan or a Malay leadercalled Yang DiPertua Negeri. The states headed by Yang DiPertua Negeri in each state are Penang, Malacca, Sabah and Sarawak. The states headed by the Malay ruler in each state are Perlis, Kedah, Perak, Negeri Sembilan, Johor, Selangor, Pahang, Terengganu andKelantan. The Malay ruler or sultan is also the Islamic religious head in his state. Meanwhile the states of Penang, Malacca, Sabah, Sarawak and the three federalterritories, their Islamic religious head is called Yang Di Pertuan Agong or the Kingof Malaysia. He is selected among the Malay rulers for a period of five years in his leadershipas the King of Malaysia. The Federal Constitution of Malaysia has granted the power and jurisdiction onto theMalay rulers and Yang Di Pertuan Agong and their respective states for Islamicreligious affairs or matters. Muslim or Islamic courts are under the state jurisdictionand power to bring Muslim offenders to justice in the Islamic religious matters. Muslimcourts are for Muslims only. Non-Muslims are not subject to Muslim courtsaccording to the Federal Constitution of Malaysia and the states constitutions inMalaysia. The Federal Constitution of Malaysia clearly states the status of Islam and the rightsof other religions to be practiced in peace and harmony in any part of Malaysia. TheSample of good assignmentArticle 3 (1) in that constitution states, " Islam is the religion of the Federal; but otherreligions may be practiced in peace and harmony in any part of the Federation." (Ibrahim2003a: 22). Based on this constitutional article, all religions and their adherents are ableto practice their religious teachings and practices in harmony and peace in any locality inMalaysia. In M al a ys i a , r el i gio n is n ot a b a sis o r c ri t er io n f or em plo ym e n tex c e pt th e employment connected to or related with the affairs of any religion orany r e l i gi ou s in stitu ti o n o r bo d y m a n ag e d b y a p a r ti cu l ar r e li gi ousgr o u p. Fo r ex am pl e, a Mu sli m i s r e quir e d to be c om e a n im am o r l e ad e r ina mo sq u e, and a Christian in a church and a Buddhist in a Buddhist temple anda Hindu in a Hindu temple. The Federal Article 8 (2), states", Expect as expresslyauthorized by this Constitution, there is hall be no discrimination against citizenson the ground only of religion, race, descent or place of birth in any law or in theappointment to any office or employment under public authority. (Ibrahim 2003a": 23). The Federal Constitution of Malaysia differentiates between practicing andpropagating a religion in Malaysia. Everyone is allowed to practice his or her ownreligion but not everyone is allowed to spread or propagate his or her religion toother persons. Some restrictions are imposed for spreading or propagating religiousteaching members of other religions. T h e s e restrictions are made in the state constitution and law. For example, many s t a t e s i n M al ays i a d o not all o w no n -M usl ims t o sp r ea d o r p r op a ga tet h ei r r el i gi on s to M us lim s i n th e i r res p e c ti v e st a t es . Mus lim s t h emse lv e sa r e r eq ui r ed t o ap pl y f o r t h e pe r mis sio ns f rom t h ei r r es pe c ti v e st at er e li gi ous authorities if they want to spread Islamic teachings to other Muslimsoutside t h e i r f ami l y m em b e rs . Th e st at e r el i gio us a ut ho ri ti e s d em a ndM us lim s t o apply for the permissions because they do want to see some Muslims spreadmisleading or deviating teachings on the name of Islam to other Muslims. The differentiationmade by the Federal Constitution of Malaysia between practicing and propagating a religion isclear from t h e Ar ti cl e 1 1 (1 ) th a t states, " Every person has the right to profess andpractice his religion and subject to Clause (4), to propagate it."(Ibrahim 2003a: 23). Sample of good assignmentThe Federal Constitution of Malaysia also does compel Malaysians to pay the religioustaxes. The Article 11 (2) states, " No person shall be compelled to pay any tax theproceeds of which are specially allocated in whole or in part for the purposes of areligion other than his own."(Ibrahim 2003a: 23) The religious taxes for the religiouspurposes are imposed by the religious groups u p o n t h ei r r el i gi ou s me m b er s. Fo rex a mpl e , th e Mu slim s i n M al a ys i a c a n im po se t ax e s up on Mu sli ms o nl y. T h e y a r e n o t a l l o w e d t o i m p o s e t h e r e l i g i o u s t a x e s u p o n n o n -M u s l i m s . The non-Muslims in Malaysia a l so c a nn ot im po s e th ei r re li gio ust ax es u po n t h e Mu sl ims . H en c e , e a ch religious community in Malaysia ispermitted to impose any tax or fee upon its members only. The U. S. Department ofState on Malaysia on International Religious Freedom R ep o rts o f 2 00 2 a n d 20 06r e l e as e d b y t h e Bu re a u o f D e mo c r ac y, H u ma n Ri ght s, an d La b o r , cl e a rl ya c k no wl e d ge s t h e im po rt a nt r ol e pl a ye d b y t h e Fed e r al Co ns tit uti on o fM a la ys i a on th e q ue s tio n o f r eli gi ou s f r e e do m a nd r i ghts . T h e 20 0 2 R e po rt sta t es , " Th e C on stit ut io n pr ov id e s fo r f re e d omo f r eli gio n; h ow e v er , t he Go v er nm e nt p l a ce s so me r est ri ct io ns o n t hi sr i ght . Is l a m is t he o f fi c ia l r el i gi on ; ho w e v er , th e p r a cti ce o f Is l a mi cb e li e fs ot h e r than Sunni Islam is restricted. There was no change in the status ofrespect for religious freedom during the report covered by thisreport."(U. S. Deparment of State 2002). The report 2006 states," The constitution provides for freedom of religion; h o we v e r, th e Go ve r nme nt pl a c e ss om e r e st ri ct io ns on t hi s ri ght . Is l a m is r e co gniz e d i n th e c on sti tut io n a s`t h e r eli gi on o f th e Fe d e r ati on ,‟ b ut t he practice of non-Sunni Islamic beliefswas significantly restricted, and those deviating from accepted Sunni beliefs couldbe subjected to `rehabilitation‟. Non-Muslims were free to practice their religious beliefs with few restrictions. There wasno material change in the status of respect for religious freedom during the period covered bythis report."(U. S. Department of State 2006). Both reports from the Bureau of Democracy, Human Rights, and Labor of the U. S. Department of State admit the existence of religiousfreedom in Malaysia since her constitution has provided for the religiousSample of good assignmentfreedom. Both reports acknowledge that the tolerant or amicable relationship hasexisted among Malaysian religious groups. The 2002 Reports states, " The generally amicable r e l ati on sh ip amo n g b eli e v e rsi n v ar io us re li gio ns in s o ci et y c o nt ri but e d t o r el i gio usf r e e dom. " M e an w hil e th e 2 00 6 Re po r t s t at es , " Th e gen e r al l y t o l er a ntr e l ati on sh ip amo n g r el i gio us gr o up s in s o c i e t y c o n t r i b u t e d t o religiousfreedom." As regard the population of Muslims and non-Muslims in Malaysia, the2002 report states, " According to government census figures, in 2000 approximately60. 4 percent of the population were Muslims; 19. 2 percent practiced Buddhism; 9. 1percent Christianity; 6. 3 percent Hinduism; and 2. 6percent Confucianism, Taoism, and other traditional Chinese religions." The total Malaysian population in 2002 issaid " just over 23 million" ( U . S . D ep a rt me n t of St a te 2 00 2 ). T h e 20 0 6R e po rt st a te s, " Ac co r di n g to 2 00 0 census figures, approximately 60 percent ofthe population practiced Islam; 1 9 p e rc e nt Bu dd his m; 9 pe r c en t C h ri sti an it y; 6p e r c en t Hi nd ui sm; a n d 3 percent Confucianism, Taoism, and other traditionalChinese religions." The t o t al p op ul at io n o f M al a ys i a i n 20 06 w as " e sti ma t eda t 2 5. 6 m ill io n " ( U. S. Department of State 2006). Sample of good assignmentConclusionOn the existing provisions of the Constitution, Malaysia is not a theocratic, Islamic state. Ifit is theintention of the Government to convert Malaysia into a full‐fledged Islamic state, the following provisions of the Constitution need re‐examination. Article4(1): This Article declares the supremacy of the Constitution. It must be re‐worded asfollows: " The shariah shall be the supreme law of the Federation and any law passedafter the coming into force of this amendment which is inconsistent withthe shariah shall, to the extent of the inconsistency, be void". Alternatively, Article4(1) could be amended to provide: " Except in relationto matters covered by Schedule 9, List II, Item 1, this Constitution is the supreme lawof the Federation and any law passed after Merdeka Day which is inconsistentwith this Constitution shall, to the extent of the inconsistency, be void". Article 3(4): The provision that " Nothing in this Article derogates fromany other provision of this Constitution" should be deleted. Article160(2): In the Constitution‟s definitional clause, the term " law" should be re‐defined to include the " shariah" as part of the definition of law. Article 11(1): This Article on freedom of religion should be amended asfollows: " Except as to persons subject to the shariah, every person has the rightto profess and practice his religion and, subject to Clause (4), to propagate it". Schedule 9, List II, Item 1: In this paragraph, Muslim apostasy should bementioned explicitly as a criminal offence. Schedule 9, List II, Item I: Instead of specifying the topics on which the States can passlaw, the States should be given general power to pass laws on" all matters covered by the shariah." The implications of the above changes will be that legislation andadministrative decisions inconsistent with the shariah will be open to judicial review. Allissues involving Muslims – whether criminal, civil, constitutional or commercial – will be heardSample of good assignmentby the shariah courts. The federal executive and legislature will have no jurisdiction overIslamic matters. Islam will be the sole prerogative of the States. 54Ordinary courts willhandle cases involving non‐Muslims only. There will be two legal systems – one for theMuslim majority based totally on the shariah andthe other for the non‐Muslim minority based on secular provisions. . How many Muslims support such a fundamental change is open to debate. No independent public opinion poll has been conducted. Needless to say that notall Muslims are in support of moving away from the moderate, eclectic andall‐embracing policies of the past. On the issue of anIslamic versus a secular state, it can be stated categorically that the Malaysian legal system isneither fully is neither secular nor fully theocratic. It is hybrid. It permits legal pluralism. Itavoids the extremes of American style secularism or Saudi, Iranian and Taliban type ofreligion control over all aspects of life. It mirrors the rich diversity and pluralism of itspopulation. It prefers pragmatism over ideological purity; moderation over extremism. It walks themiddle path. It promotes piety but does not insist on ideological purity. Muslims are governed by divinelyordained laws in a number of chosen fields. In other fields their life is regulatedby Malay adat (custom) and by non‐ecclesiastical provisions enacted by democraticallyelected legislatures. Non‐Muslims, in turn, are entirely regulated by secular laws. This milieu ofincreasing Islamisation arouses great antipathy among the non-Muslim communities. Butmany Muslim scholars see the resurgence of Islam as the correction of an imbalance; as acounter to the hegemonic influence of the dominant. Western civilisation with its massively successful appeal to hedonism, consumerism andcapitalism. It is not wrong to suggest that the rise of Islamic influences has added to andnotsubtracted from the pluralism of Malaysian society. For whatever it is worth, Islam offers an alternative world‐view of economics, politics and culture. Sample of good assignmentThis world‐view has to be tested in the fires of scrutiny. It has tocompete with a whole range of powerful and deeply entrenched forces from the past andthe present. At the worldstage Islam has just emerged from the shadows of the last few centuries to claim a right to compete for a place in our hearts and minds. In Malaysia the future is likely to see action and reaction, pull and push and a symbiosis among the many factors and forces that have shaped and areshaping the political, social and moral landscape in Malaysia. Given the multi-racial, multi‐cultural and multi‐religious compositionof Malaysian society, the imperatives of coalition politics, the demands of a federalpolity, the power of the non-Malay electrote, the 54‐year old political tradition of compromise and consensus, the increasingdemocratisation of life, the greater sensitivity to human rights, the emergence of manypowerful NGOs including those espousing women's issues, the juggernaut of globalisation, the pulls of secularism and modernism, the glitter of a capitalistic, hedonistic andconsumer‐based economy, the power of the international media to shape our values, andthe overwhelming control that Western institutions wield over our economic, cultural andeducationallife, it is unlikely that Islam will have a " walk‐over" in Malaysia and will sweep away everythingin its path. Malaysian society is, and is likely to remain, a cultural mosaic. Islam in Malaysiawill continue to co‐exist with modernity, with Malay adat (custom) and with thedominant American and European culture that shapes our world-view, our thinkingprocesses and our framework assumptions. Sample of good assignment