CHAPTER FOUR

CURRENT APPLICATION OF TRADITIONAL RULES OF HERESY

4.1. RELATED LEGISLATION

Article 23 of the Iranian Constitution states: “The investigation of individuals’ beliefs is forbidden, and no one may be molested or taken to task simply for holding a certain belief.”254 Yet, as will be discussed further, Article 6 of the Press Code of Iran has an opposite tendency.

Article 24 of the Iranian Constitution is quoted at the heading of the Iranian Press Code: “Publications and the press have freedom of expression except when it is detrimental to mabaani-ye Islami (the fundamental principles of Islam) or the rights of the public. The details of this exception will be specified by law.”255

Based on this article of the Constitution, Article 6 of the Press Code had to specify fundamental Islamic principles. Instead, as mentioned in section 3.1 of this book, it has extended the scope of the limitation of Article 24 of the Constitution to include a wide scope from atheistic articles to publications prejudicial to ahkaam-e Islam (Islamic code) which is equivalent to Muslim legal traditions. Part of Article 6 reads as follows:

The print media are permitted to publish news items except in cases when they violate Islamic principles and codes and public rights as outlined in this chapter:

1. Publishing atheistic articles or issues which are prejudicial to Islamic codes, or promoting subjects which might damage the foundation of the Islamic Republic;

2. Propagating obscene and religiously forbidden acts…;

7. Insulting Islam and its sacred things, or offending the Leader of the Revolution and recognized religious authorities (senior Muslim jurists);

255 Press Code of Iran, supra note 114.
9. Committing plagiarism or quoting articles from the deviant press, parties and groups which oppose Islam (inside and outside the country) in such a manner as to propagate such ideas (the limits of such offences shall be defined by the executive by-law).\textsuperscript{256}

Using such terms as “atheistic articles”, “issues prejudicial to Islamic codes”, “promoting subjects which might damage the foundation of the Islamic Republic”, “propagating obscene and religiously forbidden acts”, “committing plagiarism or quoting articles from the deviant press”, in itself makes the law even more ambiguous and subject to a broader interpretation based on heresy. With regard to the terms “Islamic principles” and “Islamic code”, Aakhundi states, “while ‘Islamic principles’ is not more than three issues: unity of God (\textit{tawhid}), prophet-hood (\textit{nabovvat}) and the day after (\textit{ma’ad}), the press law has added another term, ‘Islamic code’ (\textit{ahkaam-e Islam}), a broad area that can include whatever we are doing.”\textsuperscript{257}

The UN Special Rapporteur on Freedom of Expression considered that many of the limitations provided for in the Press Code of Iran do not confirm to the permissible restrictions under Article 19(3) of the ICCPR, because, “in most cases the grounds for these limitations lack any objective criteria and clear definition, and are therefore open to subjective and arbitrary interpretation by the judges implementing them.”\textsuperscript{258}

The Malaysian states also have legislation on insulting Islam. Yet, similar to the Iranian Press Code, the scope of prohibitions have at times been extended to issues relating to ‘\textit{Syariah law}’ [\textit{Shariah law}], which is another name for ‘Islamic code’, referred to in the legislation of Iran.\textsuperscript{259}

In Malaysia, Sunni Islam is the official branch of Islam; propagating other branches of Islam or any criticism against the prevailing interpretation of

\textsuperscript{256} Ibid.


\textsuperscript{258} Special Rapporteur on Freedom of Expression, Visit to Iran, \textit{supra} note 252, para. 95.

\textsuperscript{259} See Section 22, Crimes (\textit{Syariah}) (Perak) Enactment 1992; Section 169 Administration of Muslim Law (Selangor) Enactment 1952; Section 128, Administration of Muslim Law (Perlis) Enactment 1964, quoted in Saeed, \textit{supra} note 25, p. 140.