

A distant dream
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A MALAYSIA for all Malaysians – nice to the ears but will always remain a distant dream. And the reason for this we quite know why.

Malaysia once proudly known for its multi-racial diversity is today besieged with problems faced by those very people from the different races.

To make matters worse, the country's laws are of no help in easing the tensions faced by people of different faiths. The imbroglio arising from the case of the late S Rayappan, S Shamala and M Moorthy has only gone to show that racial disparity and biasness has taken firm root in this country once standing tall on its composition of multi-racial.

The most recent case of involved R Subashini, a Hindu who was asked by the Court of Appeal to seek recourse through the Syariah Appeal Court. The Court of Appeal had dismissed Subashini's appeal to stop her Muslim-convert husband Muhammad Shafi Saravanan Abdullah from going to the syariah court to dissolve their civil marriage and to convert their young children to Islam.

This latest development by the civil court seen to be discriminatory towards non-Muslims in issues involving Islam has led to much dissatisfaction among the non-Muslims who now believe gone are the days when Malaysia truly was a 'muhibbah' nation.

Racial cracks a long time occurrence

The message that Syariah law is the supreme law of the nation has left the non-Muslims fuming with anger. So much so that Minister in the Prime Minister's Department Bernard Dompok made a statement that it was unreasonable for non-Muslims who married under non-Islamic laws to submit themselves to Syariah Court jurisdiction.

Dompok admitted it was a worrying trend that the civil courts were unwilling to take up disputable cases like that of R Subashini's. The cabinet minister was firm when he said that it was not logical to expect Subashini to seek recourse in the Syariah Court.

"She could be Buddhist, Catholic, Sikh or profess any other religion. The principle is that she was married under non-Muslim rituals," he was quoted in the Sun March 29, 07.

Dompok hit the nail on the head when he said that some judges had allowed their "personal sentiment" to cloud their judgement, as was the impression people now had.

Dompok was one of the 10 ministers who submitted a memorandum to the prime minister early last year, asking for a review of laws and the Constitution so they would not infringe on the rights of minorities.

Except for Dompok, the others later withdrew the memorandum. This action in itself tells the public that apart from individuals like Dompok, the rest of the ministers who pulled back could not care less in fighting for the rights of the people. Malaysia Boleh? For the wrong reasons, always!

A lone battle for non-Muslims

Veteran lawyer Karpal Singh had during the recent Dewan Raykat proceedings urged the government and Parliament to take up and solve issues that involved the overlapping of civil and syariah court jurisdiction.

Karpal said he was perplexed with the Court of Appeal's move to ask the plaintiff S.Subashini, a Hindu, to seek recourse in the syariah court.

"Does this mean there is an extension of syariah laws to non-Muslims?" he queried in his debate on Motion of Thanks for the Royal Address.

Karpal asked Parliament to take up the issue, irrespective of how sensitive it was and to resolve it objectively. He said this was essential as other similar cases like that involving the late S Rayappan had been on the increase of late.

While it serves as a relief for the humble public to note the concerns raised by Dompok and Karpal, they however know that the battle to fight for their rights is going to be a lone one. The government has little interest in championing the rights of the non-Muslims, if S Subashini's case is any indication.

Karpal had also called on the Chief Justice to look seriously into the case of Lina Joy who converted from Islam to Christianity and is now seeking to restate her religious status in her identity card.

Bukit Mertajam MP Chong Eng and 11 other DAP MPs planned to send a letter to Prime Minister Abdullah Ahmad Badawi to look into the case of Siti Fatimah, 29, who had been separated from her 15-month-old baby.

Siti was an Indian Muslim who was brought up as a Hindu by her grandmother and had never practised the teachings of Islam. After she married a Hindu man and gave birth to a baby girl, the Malacca Islamic Department ordered Siti to surrender her baby to the department. The baby was with the department while Siti had been sent to the Religious Rehabilitation Centre in Ulu Yam, Selangor by the Syariah Court for 100 days until April 18.

Then there was another case of 81-year-old Tang Siew Ying in Johor, which was highlighted by Opposition Leader Lim Kit Siang. Tang died on April 2, 2007 but her family was not allowed to take her body from the Segamat Hospital in Johor as the hospital claimed Tang's identity card showed that she had a Muslim name which was Tang Siew Ying@Azizah Abdullah.

Don't alienate non-Muslims

The Malaysian Consultative Council of Buddhism, Christianity, Hinduism, Sikhism and Taoism said the legitimate expectations and existing rights of Malaysians must be safeguarded and the Federal Constitution upheld by the civil courts.

Council president Chee Peck Kiat was quoted in theSun recently as saying they objected to any requirement for non-Muslims to go to the syariah court for relief as these courts applied Islamic theological law.

"Religious laws cannot be applied to people who do not profess that religion," Chee had said.

He added the council also objected to any other interpretation of the consultation or other laws that deny a person's fundamental liberties and remove a non-Muslim's access to justice in civil courts.

Chee said previous cases such as S Shamala and M Moorthy where non-converted family members also failed to get relief from the High Court had led to growing discomfort among non-Muslims. Many of the non-Muslims he added felt that the judiciary was failing in its constitutional duty to ensure equal protection under the law for all Malaysians.

He said the council was concerned that in Subashini's case, Judge Suriyadi Halim Omar had quoted Quranic verse an appeared to elevate the role of Islamic law in Malaysia.

However, it seems that all efforts are in place to slowly but surely alienate non-Muslims from efforts to seek fairness from the civil courts on matters relating to Islam. The remarks by the Terengganu and Perlis muftis that non-Muslims should not be prejudiced against the Syariah Court because it is capable of justice serve as no consolation.

Likewise the insensitive comment made by the Syariah Lawyers Association that non-Muslims must learn to accept syariah law as the civil court had already given its verdict on the Subashini case.

Just as callous was the remark made by Women, Family and Community Development Minister Shahrizat Abdul Jalil that the civil court's decision in the Subashini case must stand. She said it did not matter which court such cases were heard in so long as justice was served.

Leaders must be sincere and sensitive

Hopefully Shahrizat and the two muftis concerned will take the trouble to ponder over the statement made by Women's Aid Organisation.

"Irrespective of the syariah court's capability to dispense justice, the Federal Constitution explicitly stipulates that syariah courts can only exercise jurisdiction over persons who profess Islam and the judiciary must continue to uphold this guarantee," WAO had said.

It added that within Malaysia's constitutional framework, there was no option for non-Muslims to seek legal remedy in the syariah court, even if they wished to do so.

"It is all the more alarming when the civil courts oblige them to do so as the sole means of obtaining legal redress for their grievances," said WAO.

Until then, the racial divide will continue to widen and Malaysia will stray away from its goal of being a home for one and all.