

Non-Muslim Syariah lawyers: Perlis mufti says 'aye'
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Perlis mufti Juanda Jaya said that not all members of the National Fatwa Council agreed with its stated position that non-Muslims not be allowed to practise in Syariah Courts.

dr juanda jaya perlis mufti candidate 081106In a statement today, the religious scholar said that the council's claim that it had arrived at a unanimous decision are not true.

"What did occur was that some of the members of the council, including myself, wanted this issue to be clarified further and deeper according to the Quran and the Sunnah (Prophet's sayings and practices). It (the council's ruling) was a premature decision," said Juanda.

Juanda was responding to the council's recent ruling against accepting the appointment of non-Muslims as Syariah lawyers.

The decision received the support of Minister in the Prime Minister's Department Jamil Khir Baharom who said that it was apt and should be accepted.

Juanda, however, said today that he had, at the council's recent meeting, called for the research paper that had been presented on the matter to be improved upon.

He said it was inadequate in showing the grounds from the Quran and Sunnah for the ruling.

"The evidences forwarded were also not relevant to the issue at hand," he added.

Main weaknesses

Among its main weaknesses, said Juanda, was the confusion with the Islamic concepts of walah (leadership) and wakalah (commissioning, delegating).

multiple religious religion icons 181207If the interpretation of walah as adopted by the drafters of the paper were applied, "chaos would occur in the administration of national affairs".

"This extremist thinking 'a la Taliban' should not be occurring in Malaysia. The question would arise, would it be wrong to appoint non-Muslim ministers to help in administering the affairs of Muslims? Would it be valid for the chief secretaries of ministries and directors-general of departments and government agencies to be appointed from among non-Muslims?

"Chaos would certainly ensue. This chaos starts when small matters such as the question of appointing non-Muslims as lawyers for Muslims are raised."

Citing the works of scholars of the Shafii school of jurisprudence that serve as the reference works for ulama in Malaysia, Juanda said it was allowed for Muslims to delegate or appoint non-Muslims to manage their worldly affairs.

NONThe same holds true for the other schools of thought as well as the esteemed Al-Azhar University in Egypt, said Juanda, adding: "It is only the Syiah school that does not allow it".

Juanda also pointed out that non-Muslims had previously filed their grievances with Syariah Courts to claim, for example, the remains of their loved ones who had been classified as Muslims upon death.

"At that time, we breathed a sigh of relief that there had been some opening to allow non-Muslims to seek justice at the Syariah Courts. Such developments should be expanded," he said.

Juanda also pointed out that history has recorded many incidents where Syariah Courts settled disputes between Muslims and non-Muslims.

"Did not the Prophet Muhammad transact with Jews over his chain- mail armour? Did not (The Prophet's son-in-law) Ali Abu Talib dispute in court with another Jew?

"The Jew was allowed to defend himself at the Islamic court, which eventually decided against Ali. Was that not a form of advocacy, to seek justice and demand the satisfaction of the rights of all parties?"

The mufti said there are no clear and authentic texts disallowing non-Muslims from becoming Syarie lawyers to represent Muslims and non-Muslims in Islamic courts of law.

Any presumptions and assumptions arguing otherwise would lead to prejudice and the oppression of Muslims, he said.

The possibility that non-Muslims who commit contempt against a Syariah Court would not be subject to action is a technical issue that can be tackled with legal amendments or be addressed in the conditions placed upon the licensing of non-Muslims as Syarie lawyers, Juanda added

"If the system can deny justice to any persons, real Islam offers justice to all. It is not Islam that is in the wrong. It is the interpretation of those human beings who do not want to understand and do not want to share the mercy of justice that Allah has accorded to all."

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