

Bar on non-Muslim syariah lawyers a majority decision
Malaysiakini.com
Disember 23, 2010

Perak mufti Harussani Zakaria admitted today that the National Fatwa Council decision barring non-Muslim syariah lawyers from appearing in Syariah courts was not unanimous but a majority decision.

"The decision to bar non-Muslims from becoming Syariah lawyers was arrived at during a muzakarah council that was held earlier," he said.

On Monday, Perlis mufti Dr Juanda Jaya had come forward to deny that all council members had concurred that non-Muslim lawyers cannot practise in Syariah courts.

In fact, Juanda (left) said some members wanted the matter to be discussed in detail as the paper presented by the Islamic Advancement Department Malaysia (JAKIM) was not thorough and had no concrete support based on the Quran and Sunnah (practised by the prophet)

Juanda, who is a visiting fellow at Oxford University, thinks the basis to bar non-Muslims was based on several phrases on walayah (leadership) whereas it should be based on wakalah (representation).

Before a lawyer represents his client in a Syariah court, he or she must read out a wakalah (representation) clause before the judge to affirm that the person is truly representing the client.

Contacted by Malaysiakini today, Harussani (right) said to would not be a problem if any other state mufti, such as the Perlis mufti, did not agree with the dictum.

"It is their right," said the Perak mufti, who is regarded as a senior council member in the National Fatwa Council, as the council could not force states to abide by its decision as each state had its own sultan as the head of the Islamic religion.

"The 92nd National Fatwa muzakarah held in Malacca recently had met for purposes of congruence," he said.

Asked for his personal opinion on the matter, Harussani questioned how non-Muslims (as lawyers) could articulate their views in the absence of a deep understanding of the Quran.

"Prior to this there were problems. This matter (of non-Muslim Syariah lawyers) need not be discussed. If there is anyone who argues (against the dictum), it is as though he does not believe in the Quran," he said.

