

**Kelantan no jurisdiction to enact hudud law, says Bar  
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Penal laws come under federal jurisdiction rather than the state, and therefore hudud laws cannot be implemented by individual states, said the Bar Council.

NONE“The law, as it stands, does not allow implementation of hudud by the states,” said Bar president Lim Chee Wee in a statement today referring to Kelantan’s claims that it had the people’s mandate to implement the Syariah Criminal Enactment II (1993).

Lim (right) explained that laws enacted by the state “cannot include matters within the legislative powers of the federal government”.

The state, he said, could only enact laws related to “offences by persons professing the religion of Islam, against the precepts of Islam, and the respective punishments for such offences”.

These offences, he said, excluded those already provided for under federal legislation and that there cannot be any replication with federal law, with different degrees of punishment for Muslims.

“Further, these laws, if enacted, must themselves be consistent with fundamental liberties guaranteed to all citizens, including Muslims, under Part II of the federal constitution.” said Lim.

“Hudud, being essentially penal laws, comes under the jurisdiction of the federal parliament,” said Lim.

Separate laws for Muslims 'unconstitutional'

Lim cited the case of *Che Omar Bin Che Soh v Public Prosecutor* [1988] where the then-Supreme Court had ruled that Malaysian laws do not have to conform to Islamic principles, and thus “confirmed that Malaysia is a secular state”.

islam religion muslim 1“Taking this principle, if hudud were brought into the criminal justice system, it would result in the importation of Islamic penal laws into laws that are secular, which is wrong in law.”

He added that its implementation would also result in divergent laws for Muslims and non-Muslims and run counter to Article 8 of the federal constitution, that provided for equality for all citizens.

“A Muslim person would also be exposed to two separate prosecutions or convictions: one under hudud and one under the penal code, contrary to the prohibition against repeated trials in Article 7(2) of the federal constitution,” he said.

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