

Evangelicals: Was the sultan not properly informed?
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The Christian community has waited with anticipation for the Sultan of Selangor, Sultan Sharafuddin Idris Shah, to come out with a statement that will help resolve the inter-religious crisis sparked off by the Selangor Islamic Affairs Department's (Jais) raid on the Damansara Utama Methodist Church (DUMC) on Aug 3, 2011.

We welcome the sultan's wish that religious harmony should continue in the state and his decree that there be no prosecution against any of the parties involved.

However, the sultan's statement does raise a few issues of serious concern for the non-Muslim community as there are views expressed therein that suggest that the sultan may not have been properly informed by his advisers.

First, the statement "the actions of Jais were correct and did not breach any laws enforceable in Selangor," as they "are in line with the jurisdiction provided under Syariah Criminal Procedure (State of Selangor) Enactment (2003), Syariah Criminal (State of Selangor) Enactment, 1995 and the Selangor Non-Islamic Religions (Control of Propagation Amongst Muslims) Enactment of 1988" (herein referred to as the "Selangor Enactment").

With all due respect, I beg to differ from this interpretation of the state enactments.

In the first place, the jurisdiction granted by Article 11(4) of the federal constitution was to permit the state to control or restrict the propagation of religion among people professing to be Muslims.

This must be read in the context of the Article itself which fundamentally provides for every person the freedom to profess, practice and propagate his religion. Such power to control or restrict propagation cannot be understood as absolutely prohibiting any conduct or activity on the excuse of some unspecified complaint that they are for the purposes of propagation of religion.

Such power cannot be taken as licence for officials to intrude or trespass into a function conducted within the premises of what is clearly a non-Muslim religious institution (in the present case, a Christian institution) without legal authority. There is no legal provision under the Propagation Enactment that allows Jais officials to intrude into the premises of DUMC, much less carry out a raid.

From my reading of the Selangor Enactment (1988), the closest possible justification that can be offered by Jais are sections 12 and 13 which specify that "an authorised officer may investigate the commission of any offence under this Enactment and may arrest without warrant any person suspected of having committed any such offence." He may also apply for warrants of arrest from a magistrate to require the attendance of witnesses.

Not applicable to non-Muslims

There is however, simply no unilateral power to carry out an entry and search under the Propagation Enactment or, for that matter, even to apply for a search warrant. If the officer responsible for the raid intends to conduct an entry and search, he must base his power from some legal source.

Jais officers appear to have acted under the Syariah Enactment which, however does NOT apply to non-Muslims and cannot be imported into the Propagation Enactment.

While superficially this provision seems to grant disturbing power to this “authorised officer”, the enforcement must be consistent with the more fundamental provisions under Part II of the federal constitution relating to fundamental liberties and the provisions of the Criminal Procedure Code (Act 593) relating to search and arrest, which presumes that a search warrant should have been sought as a matter of course, and that the warrant is granted only upon reasonable suspicion that a seizable offence has been committed at the DUMC premises.

The requirement of a search warrant is a fundamental recognition of the right to privacy within one’s own domain and space.

More importantly, given the sensitivity of inter-religious relations and the sanctity of religious places of worship, such a warrant should be granted only by a magistrate or judge from the civil court and only upon firm and clear grounds.

The fact remains that Jais carried out the raid with disregard for established provisions and procedure of law – the leader of the Jais party failed to:

- * present relevant identity documents to confirm he was indeed “an authorised officer”,

- * specify the offence(s) or suspected offence(s) relating to propagation under the Selangor Enactment that was alleged to have been committed and

- * show that he had obtained a search warrant from a Magistrate or the High Court, especially when a church was the target of the raid.

For these reasons, it may be argued contrary, to the sultan’s statement, that prima facie, Jais had not acted lawfully within the bounds of law when it raided DUMC.

Unfair, misleading accusation

Second, it should be noted that the statement claims “there were attempts to subvert the faith and belief of Muslims but that the evidence obtained would be insufficient for further legal actions to be taken.”

The plural word “attempts” suggests Christians at DUMC were guilty of subverting Islam not only on 3 August 2011, but that they were repeatedly committing the alleged offence.

This is a most unfair and misleading accusation that imputes guilt to DUMC without offering any evidence that could be verified or refuted.

It may be noted that the English version of the sultan’s statement uses stronger words than the official Bahasa version – it translates the words “memesongkan (distort, deviate) fahaman dan kepercayaan fahaman orang Islam” into the words “subvert the faith and belief of Muslims”.

NONEThe statement unwittingly exposes the feeble foundations of its accusations when it concedes that there was insufficient evidence obtained for further legal action.

In simple terms, this must mean that Jais had failed to make a prima facie case against DUMC.

I may add that despite the attempt to hide behind the legal term of “insufficient evidence”, the reality is that there was simply no evidence of subversion of the Islamic faith. Beating a hasty retreat from the threat of prosecuting DUMC was the best option left for Jais.

Third, it is alarming that the statement describes the activities of DUMC as “subversion” of the Islamic faith. This charge is injurious to the integrity of Christians with regard to their profession and practice of faith.

Regarding integrity of profession of the Christian faith: Christians at DUMC have never pretended to be teaching any religion other than Christianity.

DUMC is, after all, a church. Christians have every right to uphold their beliefs and practise their faith and, while doing so, should not be judged as subverting or deviating, or memesongkan fahaman Islamic beliefs on account of the doctrinal differences between the two religions.

Following the logic of Jais, Christians could equally have charged Muslims for subverting the Christian faith when Muslims preach a faith different from Christians.

Regarding practice of faith: Christians are well-known for their social work that flows from their belief in the love of God for the poor and needy.

Misconstrued by mischievous parties

As the Bible says, "Religion that is pure and undefiled before God the Father, is this: to visit orphans and widows in their affliction and to keep oneself unstained from the world" (James 1:27).

Hence, the press statement from DUMC says, "DUMC conducts all its activities to serve the community and for the welfare of all Malaysians regardless of creed, race or religion."

It is therefore alarming when Jais casts aspersions against the charity work done by Christians and claims that Christians are subverting Islamic beliefs on account of their good works. It may well be the case that some needy Muslims have availed themselves to the good services offered by DUMC. DUMC obviously cannot turn them away simply because they happen to be Muslims.

DUMC may well be charged for promoting religious disharmony if it makes religion a factor before anyone can receive welfare.

On the other hand, Christians may well be advised to stop their work, if that may incline a Muslim to view the Christian faith favourably, since this would incur the wrath of Jais officials.

At best, the sultan's statement can be misconstrued by mischievous parties and exploited to misrepresent the altruistic intention of Christians. At worst, it maligns the welfare work of Christians.

Therefore, we welcome the announcement made by the Menteri Besar of Selangor, Abdul Khalid Ibrahim, that the Selangor government will set up a special committee to fine-tune the standard operating procedure (SOP) followed by Jais in handling attempts to proselytise Muslims.

We hope the committee will come up with recommendations that will ensure:

1) Jais fully understands and observes the bounds of its authority, that is, that it has no jurisdiction over non-Muslims, and

2) any investigation of non-Muslims leading to intervention by the Islamic authorities should follow a proper procedure and law, including obtaining a search warrant granted by senior judicial officials from a religiously neutral institution, such as a magistrate or a high court judge.

Otherwise, the government ends up surreptitiously investing illegitimate and excessive authority to Islamic officials over non-Muslims. The consequences will be abuse of power, and insensitive and provocative actions against non-Muslim believers as seen in the case of the Jais raid of DUMC.

We do well to listen respectfully and sympathetically to the appeal from the victim of religious abuse, in this case DUMC, when it says in its media statement, "We sincerely ask that all religious communities and places of worship be treated with utmost respect and not be intruded upon."

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