

Don: Palace may have overstepped boundaries
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The Selangor Sultan may have overstepped his powers by commanding state assemblypersons to pass a Bill back in July, said Universiti Islam Antarabangsa (UIA) law professor Abdul Aziz Bari.

He said this when asked to comment on a decree signed by Sultan Sharafudin Idris Shah, ordering them to pass a slew of amendments to expand the powers of both the sultan and Selangor Islamic Religious Council (Mais) over Islamic affairs in the state.

The decree, dated July 11, a copy of which was given to Malaysiakini (right), was attached with a letter signed by the sultan's private secretary, Mohamed Munir Bani.

"As the head of Islam of this state, I am responsible to ensure the administration of Islam in this state runs smoothly and effectively.

"Hence, I command all assemblypersons to agree to all proposed amendments presented and then approve the said Bill so that all the proposed amendments can be implemented immediately," reads the decree.

To avoid another confrontation with the palace, Pakatan Rakyat lawmakers compromised and passed the amendments to the Administration of the Religion of Islam (State of Selangor) Enactment 2003, although they saw it as a form of royal intervention with the state legislature.

Since taking over the state government in March 2008, Pakatan has been at loggerheads with the palace over several issues.

'Constitution does not specify royal intervention'

Aziz, an expert in constitutional matters and have written extensively on the role of the monarch, said the constitution may not provide the sultan such powers.

He pointed out that although the Federal Constitution - Article 3(2) and Section 1(2)(d) of the Eighth Schedule - clearly states that the sultan can act without or against the government on matters pertaining to Islam and Malay customs, it was silent on the part of the legislature.

"While on Islamic matters the sultan may ignore the government advice, the same may not be applicable when it comes to the legislature... We are now dealing with the legislative power over which the government cannot control. In fact the government is subservient - or answerable - to it.

"The sultan is only free from government, but that does not mean that he is also free from the House," Aziz said when contacted today.

Nonetheless interference in such petty matters, Aziz pointed out, could make the monarchy, which ought to be aloof and symbolic, embroiled or entangled in mundane and routine matters, thus putting its integrity at stake.

"It is just too much and would jeopardise the integrity of the palace; especially after what happened in Perak and Selangor after 2008.

"The fear is the powers may be exercised by some other parties. For one thing the sultan may be too busy and this may lead to a situation where certain parties step in under his name.

"Given that, what will happen to his role and position as the father figure of the state?" Aziz queried.

Some of the amendments that give Mais the power to collect and distribute zakat as well as fitrah and free the council's account from being audited by the Auditor-General, he said, were simply taking a reverse direction against calls for greater accountability.

'Legislative consent needed'

"Perhaps we can look at one example - the state awards. Although the constitution acknowledges the power of the sultan, it also makes it compulsory to get the consent of the legislative assembly should this have a financial implication.

"It (the amendment) can exempt the bodies concerned from scrutiny and this is bad from the constitutional point of view," Aziz explained.

Another controversy that has arisen from the amendments, according to Aziz, is giving Mais the authority to administer mosques and suraus, including the power to appoint mosque officials and to direct the duties of mosque committees.

"There are quite many mosques and suraus that have been built by the people themselves; not from the public purse. The new provision could be used against these privately-funded mosques and this is not good.

"This is where the position and power of the sultan needs to be seen in the light of Islamic ideals that actually stand at the very heart of the provision concerned," he said.

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