

Hudud, Islamic State and Malaysia's future
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COMMENT Come June 2014, some 56 years after independence, Malaysian parliamentarians will decide whether we are going to evolve into an Islamic State as a private members bill allowing the implementation of Hudud Laws in Kelantan is put to them.

For those committed to secularism like this writer, the mind boggles with questions of how we came to this cross-roads after half a century of urbanization and industrialization?

Did Globalization pass us by and left us more conservative or did we take a peek at the world and have decided to reject it.

Confucius said that one has to walk in the shoes of others to understand their perspective. To some Malaysians, the journey from independence through nation building is only meaningful if we recover our full integrity by returning this land to its original state prior to Western colonialism.

To them, Malaya continues to be defined not by its multiculturalism but by its Islamic heritage. Society can only fully recover if Muslims live by the laws of their religion.

Parti Islam Se-Malaysia (PAS) remains committed to its aim of establishing a full-fledged Islamic State with Hudud as only one of its defining features.

Undoubtedly, some of these defining features are positive including equality and respect for human dignity. This, they believe, should extend to all citizens including non-Muslims. This was the basis of their cooperation with Pakatan Rakyat partners DAP and PKR.

However, their solution to the ills that affect Malaysia is a simple one: a return to Islamic principles. A complete and perfect system, Islam is the key to good governance.

There is really little point in continuing with the inherited Western-inspired governance system. Just look at the West today, some will say, and the state of the world. It is clear that a godless system, a system of governance without god at its centre, will never work.

Behind the scene plot

To them, there is really little reason for the alarmist response from non-Muslims on the issue of Hudud. Firstly, the laws apply only to Muslims, so why should it concern the non-Muslims?

It is an internal matter, a sure way to secure en-block Muslim unity and cooperation. Surely, a united Muslim community makes for a stronger Malaysia.

Those of us who decided to support Pakatan Rakyat cannot now say that we did it without the full knowledge of PAS's ultimate goal.

That would be naive and politically expedient.

In short, all of Malaysia's political parties are fighting for different Malaysias and only a fool will continue to believe that they will set aside these goals for the common good. Grow up, wake up and get real.

How will PAS achieve its aim through the implementation of Hudud in Kelantan? It will call out to Muslim parliamentarians across all political lines to put religion ahead of nationalism, race and economic interests. By doing so, it will out-flank the disunited Umno, with a much-reduced Dr Mahathir Mohamad finally put out to pasture.

By successfully securing a simple majority in parliament this June, PAS will be able to amend the Constitution not only to transfer the rights of judicial powers from the federal to the state governments, it would have started on the first move to re-work the Constitution to eventually impose Shariah Laws on all Malaysian citizens.

Nature of the Charter

As Constitutional expert Shad Faruqi said in his recent column (due to the gravity of the subject, I am quoting Professor Shad extensively):

Article 8 forbids differentiation between persons on the ground of religion "except as expressly authorised by this Constitution". There is an exception in Article 8(5) in relation to personal law. "This Article does not invalidate or prohibit any provision regulating personal law".

Matters of theft, robbery, rape, incest and homosexuality are by no stretch of imagination matters of personal law. This means that it is arguable that our Constitution does not permit two thieves, similarly situated, to be treated differently for purposes of the law relating to punishment.

Alternatively, the Kelantan hudud law could apply to both Muslims and non-Muslims alike. In such a case, constitutional objections will arise that our Constitution does not permit the syariah to be imposed on non-Muslims.

It would be different, of course, if Malaysia were a full-fledged Islamic state. Then the hudud or any other uniform criminal law would apply to all.

Which leads one to the perennial polemic about whether Malaysia is an Islamic or secular state? The issue is immensely complicated and cannot be covered here in detail save to say that we have a supreme Constitution. The syariah applies in only a limited (though

expanding) field and only to Muslims.

Any change to this arrangement will necessitate radical amendments to many provisions of the Constitution, require special two-third majorities in both Houses, consent of the Conference of Rulers and consent of the Governors of Sabah and Sarawak.

It is clear that the PAS attempt to secure the enforcement of its 1993 Islamic criminal law is part of its broader aspiration of an Islamic state. There are many slippery slopes and constitutional conundrums.”

It is very clear that the matter that will come up before parliament in June is of utmost importance. For those of us who have decided not to emigrate, the Hudud issue facing us is of great concern.

Keeping true to founding fathers

Whilst I wish to believe that our politicians have our best interests at heart, I cannot trust them to ensure that Malaysia remains a secular state as intended by our founding fathers.

It is only with secularism, which is now a bad word in this country that we can co-exist in relative peace and harmony.

PAS and those supporting Hudud will argue that they do not have such intentions and that Hudud will only be applied to Muslims.

The reality is that to be able to meet the main objective of Hudud, which is justice, we cannot have two sets of laws and punishments for the same act. It will be grossly unfair and may end up tarnishing Islam as much as it upholds its laws.

So, going forward, right thinking Malaysians have but 30 days to make our case to the sitting prime minister, who must make the right decision either to enforce the whip and uphold the consensual politics of BN or release his parliamentarians to vote according to their conscience. Whatever his decision, we will know what direction Malaysia takes in July 2014.

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