

Key changes in Kelantan syariah enactment

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The Bill to amend the Kelantan Syariah Criminal Code II 1993 is a re-submission of the entire enactment with five key changes.

Similar to the original enactment, offences that fall under hudud in the new Bill forms only one part.

The enactment also includes other offences under the syariah penal code, such as qisas and ta'zir.

The six offences punishable under hudud law are: sariqah (theft), hirabah (robbery), zina (unlawful carnal intercourse), qazaf (accusation of zina which cannot be proven without four witnesses), syurb (consuming liquor or intoxicants), and irtadad or riddad (apostasy).

The first key difference between the new Bill and the original enactment involves the repeal of a clause which provided non-Muslims an option to be tried according to the syariah law or civil law.

The second difference is the changes to the provision for exemption from punishment under hudud law.

This includes provisions not to amputate the hand of a thief whose other hand is disabled and if the offender had obtained legal rights to the previously stolen property before the judgment was made.

These exemptions are similar with what PAS had introduced in the Terengganu Syariah Criminal Offence (Hudud and Qisas) Enactment 2003 after it had become the state government in 1999.

Necrophilia and bestiality exempted

The third major change is in the burden of proof for those reporting adultery and sodomy cases.

Under the existing enactment, those who make accusations of adultery or sodomy without the required four witnesses can be punished for qazaf.

The new Bill will allow the accuser to testify via syahadah (eyewitness testimony) or bayyinah (clear evidence), and be immune from punishment if it is later established that there is not enough evidence to prove wrongdoing.

The fourth major change is the introduction of a provision which criminalises sodomy between husband and wife.

The fifth is the repeal of provisions which criminalises sexual acts between females, necrophilia and bestiality.

However, the Bill retains some form of punishments which may be deemed archaic or inhumane, such as death by stoning, impalement and crucifixion.

Royal backing for hudud

DAP legal bureau chief Gobind Singh Deo has accused Kelantan PAS of attempting to introduce a new law through the enactment and thus the party was against it.

However, Kelantan PAS argued that the enactment was established long before the formation of Pakatan Rakyat and PAS' partners should not interfere.

Kelantan's special sitting on the amendments was yesterday officiated by Sultan Muhammad V (left), who expressed support for the implementation of hudud.

Kelantan PAS plans to table a Private Member's Bill at the Dewan Rakyat to pave the way to implement hudud in the state, once the new amendment Bill is passed at the state level.

"I understand that the Kelantan government plans to table a Private Members' Bill to amend the 355 Act under Article 76A1 of the Federal Constitution, to ensure Kelantan can implement the Syariah Penal Code in Kelantan.

"May the Bill succeed with support from all parties, God willing," the sultan was quoted by Sinar Harian Online as saying.