

## **DAP Fears Resisting PAS On State Enactment In Kedah**

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**By Chew Lee Giok**

The Bar Council's view that the insertion of Section 22A to the Mufti and Fatwa (Kedah Darul Aman) Enactment 2008 which was passed by the Kedah state legislative assembly on 17 April 2012 is unconstitutional must be supported. DAP's failure to comment on the matter indicates the Rocket is avoiding the issue, hoping that it will gradually fade away.

While the Bar Council's response to this change in the state Enactment maybe somewhat delayed, but at least, it reflects the ground's objection against this unconstitutional regulation and is anytime better than the muted response by Rocket leaders who dare not utter a sound. This shows DAP does not attach importance to the Federal Constitution, and dares not resist or question any moves by PAS.

The Rocket always claims to fight for the rights of the people, but does not do so. When it comes to non-Muslim rights, the people wonder if Kedah DAP state representatives had consented to the adoption of the Mufti and Fatwa (Kedah Darul Aman) Enactment 2008 and are sad that the only response DAP gave was that it was too late for them to oppose.

The insertion to this Enactment provides that a fatwa decided by a mufti or a fatwa committee, "whether gazetted or not, cannot be challenged, appealed, reviewed, denied or questions" in any civil or Syariah court despite any written law or rule to the contrary, is unfair against everybody.

Not living up to sworn oath

Kedah state assemblymen had sworn an oath to uphold the Constitution as it is the supreme law in Malaysia. This amendment cannot be considered a legislation for Kedah because it violates the oath. However, the Pakatan state legislators allowed this Clause to be inserted – contrary to the trust and support that the electorates placed in them.

Court jurisdiction & Separation of powers ousted

The amendment is unconstitutional as it removes the jurisdiction of the Courts. Article 121 of the Federal Constitution does not empower any state legislative assembly the legislative power to enact laws that exclude the jurisdiction of the Courts.

I also support the Bar Council's stand on the separation of powers in a democratic framework which is the *raison d'être* to establish a system of checks and balances between the three branches of Government i.e. the Legislature, Executive and the Judiciary which each has its own role to avoid power abuse.

The ruling by the state legislature by Pakatan partners and religion-based regulations in Kedah have erroneously taken on a supreme authority and violates the doctrine of separation of powers which should be applied to all laws, Parliament Acts of state Enactments.

DAP leaders are not brave to disagree with PAS nor fight for the rights of all Malaysians. Such non-actions rendering everyone to be subjected to PAS is not conducive.

CHEW LEE GIOK is Wanita MCA Secretary General

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