

Kedah's law on fatwas un-Islamic, says Perlis mufti
The Malaysian Insider
April 19, 2012
By Clara Chooi

KUALA LUMPUR, April 19 — Kedah's new legislative provision which bans the challenge of religious edicts (fatwa) in the courts goes against Islamic principles, Perlis Mufti Dr Juanda Jaya has said.

The religious scholar asked if Kedah PAS-led administration wanted to become a theocratic government instead of forming Pakatan Rakyat's (PR) often-promoted progressive, welfare state.

"The new fatwa enactment shows they are actually heading towards theocracy and intend on imposing beliefs (on others)," he told The Malaysian Insider yesterday.

"This is against Islam," he said.

Juanda (picture) noted that Islam accepts and respects differing views from those of other faiths.

He was responding to a report in English daily The Star yesterday on the Kedah legislative assembly's amendment to the Mufti and Fatwa (Kedah Darul Aman) Enactment 2008 during its sitting on Wednesday.

According to the report, the amendment, which was passed unanimously by the House, stipulates that "any fatwa decided by the state mufti or Fatwa Committee, whether gazetted or not, cannot be challenged, appealed, reviewed, denied or questioned in any civil or syariah court".

The DAP and PKR have yet to react to the move by their partner which leads the Kedah government under the PR umbrella.

Bar Council Constitutional Law Committee chairman Syahredzan Johan told The Malaysian Insider that the enactment was unconstitutional as it went against the basic principles of a functioning democracy, which underlines the separate of powers between the legislative, executive and judiciary arms of government.

"You have one making the law, one that executes it, one that interprets it. As a general principle, anything that ousts the jurisdiction of the civil and syariah courts goes against this and the principle of rule of law," he said when contacted yesterday.

Syahredzan added that the state assembly does not possess such powers to usurp the jurisdiction of the courts as enshrined under Article 121 of the Federal Constitution.

"The Constitution now says that the civil court has jurisdiction over matters as provided for by federal law.

"Meaning, only federal law (and not state) can oust the jurisdiction of the civil courts...

meaning, only Parliament can do so," he said.

Article 121 of the Constitution, which governs the judicial powers of the Federation, states that "the High Courts and inferior courts shall have such jurisdiction and powers as may be conferred by or under federal law".

The controversial Article was amended in 1988 during the Mahathir administration to state the above, which critics have long complained had limited the powers of the judiciary and made it subservient to the executive.

The Malaysian Insider

Copyright © 2012 The Malaysian Insider

Source: <http://www.themalaysianinsider.com/malaysia/article/kedahs-law-on-fatwas-un-islamic-says-perlis-mufti/>