

Secular or Islamic?

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IS MALAYSIA a secular or an Islamic state? Some political leaders and legal experts share their views on this, following comments by Parliamentary Secretary in the Prime Minister's Department Datuk Dr Mashitah Ibrahim that the opinions of former premiers Tunku Abdul Rahman and Tun Hussein Onn that Malaysia is a secular state were their personal views and not the government's.

During a question and answer session in Parliament last Wednesday, **Karpal Singh (DAP-Bukit Gelugor)** had asked: "It is a well known fact that Tunku and Tun Hussein Onn did not categorise Malaysia as an Islamic nation. Does the present government consider Malaysia an Islamic country or a secular one?"

Mashitah had replied that this was not an issue as it is stated more than 20 times in the Federal Constitution that Islam is the official religion of the country.

"The opinions of the former prime ministers that Malaysia is a secular nation were purely personal," she said.

What do politicians and legal experts say?

Gerakan secretary-general Datuk Seri Chia Kwang Chye

I doubt it is the official view of the present government to regard the definitions of the past prime ministers as wrong.

Whether this nation is secular or not is a complex issue and we need to go back and look into the Reid Commission where it was discussed.

It is far more complex than most people think.

I do not want to go into the details but I think it is important to recognise Malaysia as a multi-ethnic and multi-religious country and find the

best way to manage society – not through definitions, but through mutual respect for and understanding of each other's religion.

It is important to go back to the Reid Commission and single out the important sections so that we will have a better understanding of it.

Historian Prof Datuk Khoo Kay Kim

At the time the constitution was drawn up, there was no confusion about Malaysia being an Islamic or secular state. Until recently, the term "secular state" was not used to describe Malaysia and neither was the term "Islamic state".

However, over the years, new issues have come up causing debate over the status of the nation.

Malaysia is not officially or legally an Islamic state although Islam is the accepted official religion. To say that the country is secular is not really acceptable either. This is because in Islam, there is no division between religious and secular.

On the other hand, where Christianity is concerned there is such division.

However, Islam is given priority as compared to other religions in this country.

Constitutional expert Prof Dr Shad Saleem Faruqi

The views of past prime ministers, although they historically carry great weight, are not legally binding as judicial precedents.

The constitution has undergone changes, as have the evolving political, social, economic and legal systems of the country. Islamisation and Islam is much more in vogue today than during the former prime ministers' time.

However, despite that fact, to describe Malaysia as an Islamic state would be a little legally unreal because of what is contained in the constitution, which is the supreme law of the federation as stated in Article 4 (1) of the document.

This is further strengthened by the judgment of the Supreme Court in the Che Omar Che Soh case in 1988. In that judgment, Tun Salleh Abas ruled that the syariah law was not the basic law of the land and that the constitution was the supreme law.

I have always referred to Malaysia as a hybrid state where ideological purity was never sought.

We have always chosen to take the middle path. Even where Islam in this country is concerned, it is infused with the Malay *adat* (custom).

This nation cannot be a secular state when Muslims are compelled to follow religious laws, but at the same time for non-Muslims, it is secular. It is a complex situation and Malaysia is a Muslim country as much as Britain is a Christian country. (See Extra page 2 tomorrow)

MCA vice-president Datuk Ong Tee Keat

I'm not sure if the reply that Mashitah gave in reply to a supplementary question from Karpal was solely her personal view or that of the government. That's all I have to say now.

Keadilan vice-president R. Sivarasa

Basically, the statement does not give due respect to the political experience of the past prime ministers, who were also lawyers by training. In other words, their understanding of the nation was that it is a secular state.

This is further confirmed by a supreme court decision in 1988 pertaining to Che Omar Che Soh by five senior supreme court judges, who spelt out in no uncertain terms that Malaysia is a secular and not an Islamic state.

DAP national chairman Karpal Singh

The interpretation of the nation as a secular state by the two consecutive prime ministers is based on their knowledge of the Federal Constitution and as prime ministers of the country – not just two ordinary people.

Both said it one after the other, and both being lawyers knew what they were saying. Mashitah's response states the stand of the government and therefore it reflects the government's opinion.