

COMMENT In an unprecedented move last Thursday, the government had tabled a motion to suspend its business in the Dewan Rakyat in order to fast-track a Private Member's Bill brought forth by PAS president Abdul Hadi Awang (MP for Marang).

The motion to prioritise the Syariah Courts (Criminal Jurisdiction) (Amendment) Bill 2016 ('Hadi's Bill') was moved by the Minister in the Prime Minister's Department, Azalina Othman.

The prime minister in a press statement had **denied** that Hadi's Bill was meant to implement Islamic criminal laws, that is to say, hudud. He was reported to have said:

"I would like to clarify to our friends in BN that there was a misunderstanding...I would like to state that it is not for the implementation of hudud. It is just to give Syariah Courts enhanced punishments. From six-strokes of the cane, to more depending on the offences."

We, members of G25, are not convinced by Najib's assertion in his press interview on Friday that the Syariah Courts (Criminal Jurisdiction) (Amendment) Bill 2016, is not about implementing hudud.

Whilst we appreciate that the Bill specifically states that the imposition of the death penalty by the Syariah Court is not permitted, the Bill, however, significantly and in a general manner, permits the imposition of other forms of punishment.

Thus, it is open to the contention that, by implication, the Bill permits the state legislatures to empower the Syariah Court to impose any form of hudud punishment other than the death penalty (for example, 100 lashes of whipping for an unmarried person guilty of adultery; or the amputation of hands for theft).

In order to understand its underlying purpose, Hadi's Bill cannot be looked at in isolation. It is a known fact that PAS and the state of Kelantan are keen to implement hudud and, indeed, the state Legislative Assembly of Kelantan had in 2015 passed the Syariah Criminal Code II (1993) Bill 2015.

This state of Kelantan Bill of 2015 prescribes hudud punishments for offences like adultery, theft, robbery, sodomy, consumption of liquor and apostasy.

However, the Syariah Courts (Criminal Jurisdiction) Act 1995, does not permit the Syariah Court to impose hudud punishments; and, hence, this federal law has been an impediment to the state of Kelantan in making the Kelantan Hudud Bill of 2015 a valid state enactment.

Therefore, there is the need for the state of Kelantan to seek Parliament to amend the Syariah Courts (Criminal Jurisdiction) Act 1995. And, so, here comes Hadi's Bill.

A giveaway

It is a giveaway when Deputy Prime Minister Ahmad Zahid Hamidi, said that Hadi's Bill was not to make new laws but to confer on the Syariah Court the powers to implement hudud in Kelantan.

Our belief that Hadi's Bill has everything to do with the Kelantan Hudud Bill of 2015 is further reinforced by the news report that the Kelantan Menteri Besar, Ahmad Yakob, had urged all Muslims MPs to support Hadi's Bill should it be debated in the next parliamentary meeting (Hadi had successfully requested Parliament to defer the debate on his Motion to October 2016).

We, in G25, categorically oppose Hadi's Bill and the Kelantan Hudud Bill of 2015. Although Article 3 of the Federal Constitution declares that Islam is the religion of the federation, still, constitutionally, Malaysia is a secular state, as our forefathers and the framers of the Federal Constitution had intended.

Further, our nation is a multi-religious, multi-racial and multi-cultural. As such, hudud is inappropriate and unacceptable to the vast majority of the Malaysian society.

Moreover, a law such as the Kelantan Hudud Bill of 2015 is unconstitutional by reason of Article 8 (the equality before the law) of the Federal Constitution; as Muslims in Kelantan will be subjected to two sets of laws: the hudud and the Penal Code.

Far-reaching implications

There is also the fear that if Hadi's Bill were to be passed by Parliament, it will open the door to all other states to introduce hudud and the more severe forms of punishments. The Bill, therefore, has long-term and far-reaching implications.

We urge the state government of Kelantan to focus on improving the lives of the people of Kelantan, the poorest state in peninsula Malaysia with the highest incidence of social ills, rather than being obsessed with hudud.

Surely, the state government of Kelantan needs no reminding that the Holy Prophet Muhammad (SAW) and the pious caliphs who succeeded him had always emphasised the people's welfare instead of a punitive approach to governing.

We, in G25, take the view that the government has a fiducial and moral duty towards the citizens to build a happy and prosperous Malaysia.

What is more important to the life of the people and their happiness is how well the country is governed to create an environment of peace and stability, with all citizens feeling secure about the future.

Good governance, honest and responsible leadership, and a caring attitude by social and political leaders for the problems of the poor and the disadvantaged should be given high priority as they are essential for the economic and social progress of the country.

Our leaders should focus their attention on these responsibilities in governing the country, instead of playing dangerous politics with hudud.

We, therefore, urge all Malaysians to reject this Bill so that racial and religious harmony can be maintained and the country can progress to achieve our vision for a united, moderate and happy Malaysia.

G25 is a group of retired Malay top senior civil servants.