

## Islam In A Constitutional Democracy

Written by Tengku Razaleigh Hamzah  
Saturday, 05 December 2015 12:26 -

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I am singularly honoured to have been invited by the G 25 to deliver the opening remarks of this forum on Islam in a Constitutional Democracy. At the same time I am thankful to be the guest of a group of distinguished personalities that has come together to address various issues relating to the administration and application of temporal and religious laws while maintaining the peace, stability and harmony of our multiracial and multi-religious country. I would, therefore, like to record my sincere appreciation for their having considered me to do the honours.

2. Please allow me to congratulate the G 25 for having taken the initiative to organise this forum. It could not have come sooner, given the intense interest, of late, in things Islam and Islamic, particularly in the social media. I have no doubt that this forum will not only be useful to those who are not informed about the religion but also to everyone else. That it is organised by a group comprising former senior civil servants, academics and professionals will undoubtedly generate sustained public interest in what develops at this forum, today and tomorrow.

3. Given that the group is moderate in its views, no doubt G 25 has the interest of the public at heart whenever it draws the public's attention to any matter. This seemed to be the reaction on social media when the group published an open letter to the Prime Minister to express concern regarding issues of conflict on the position and application of Islamic laws in the country.

4. The group has been principled in taking a public position that calls for an informed and rational discourse on the ways that Islam is used as a source of public law and policy in Malaysia. They have taken the right stance in urging moderate Malays and Muslims to speak out against extreme, immoderate and intolerant views in defending the position of Islam. This is, as it should be; for it is consistent with Malaysia's position as a moderate, tolerant and multi-racial country. Such a position will also go a long way in maintaining the peace, stability and harmony that we have been enjoying thus far.

5. The group's call for an informed and rational dialogue on the ways Islam is used as a source of public law and policy is timely. By the same token, more moderate Malaysians should speak up and contribute to a better informed and rational public discussion on the place of Islam within a constitutional democracy. In effect, there is an urgent need to address the breakdown of federal-state division of powers. This is clearly illustrated by the presence of what could be regarded as the Islamic Affairs portfolio within the Federal Cabinet, Islam having been decided as a state matter by the federal constitution notwithstanding. At the same time, we need to find solutions to the heart-wrenching stories of damaged lives and relationships due to the inability by concerned parties to accept conversions of faiths.

6. More importantly, we need a firm and clear understanding of Article 3(1) on the Religion of the Federation, which states that “Islam is the religion of the Federation; but other religions may be practised in peace and harmony in any part of the Federation.” This has to be read in conjunction with Article 11(1) on Freedom of religion and that is, “Every person has the right to profess and practise his religion and, subject to Clause (4), to propagate it.” If the two Clauses are well understood in the context of what our founding fathers had in mind, I am certain that the sparks and the cracklings regarding Islam and, in particular, its position relative to other religions, would not have arisen in the first instance.

7. In order that we may have a proper perspective regarding the inclusion of Article 3(1) in the Constitution, I should like to point out that a particular member of the Reid Commission that was drafting the Merdeka Constitution was adamant about its inclusion much to the chagrin of the Malay Rulers. Their Royal Highnesses were opposed to it as they felt that such an inclusion amounted to the usurpation of their power as the head of Islam of their respective states. This important subject was discussed and settled when the 1948 Federation of Malaya Agreement was signed.

8. In the years since 1957 and in our struggle to build a multi-ethnic nation, we seemed to have ignored these provisions and taken, as it were, the line of least resistance by putting the position of Islam not quite in the context of what the constitution perceives it to be. In the process a less than ideal situation has set in, in the administration of the religion.

9. One such development is the unbridled mushrooming of unsanctioned fatwas, the authoritative rulings on points of Islamic laws, which are spread out by self-proclaimed ulama. But we do have a mechanism in place, in the form of the National Fatwa Council with representation from all Malaysian states. It bears reasserting that the administration of Islamic affairs is the prerogative of the Malay Rulers, and the Yang di-Pertuan Agong, for those states, without sultans.

10. What is worse is that many among the ordinary people are uncomfortable by the pronouncements of these self-proclaimed experts on Islam. It saddens many among us to note that those recognised as ulama are more often silent rather than clarifying the situation when the need arises. Oftentimes they are not above giving contrary views on an issue; this has the effect of confusing matters further. But yet there are official channels to address and resolve matters pertaining to the issuance of a fatwa, that passes the test of religious rigour.

11. In the same breath it is worthwhile mentioning that the savvier among the public on constitutional matters have been known to observe that JAKIM, the Department of Islamic Development, is not above being hot under the collar when viewpoints the department is uncomfortable with are aired in the open. The practice of the time-honoured, academic discourses where discussions are held disinterestedly do not seem to be the department's cup of tea. This is sad, tragic even, as an exercise of this nature will create much interest, especially among the younger set such as the Gen Y, in their getting beyond the superficial to know Islam more deeply. Sadder still is the ostensibly perceived notion where people feel and say that there seems to be a self-appointed moral police of sorts marauding around and interfering into the private lives of the people.

12. It is often observed that there are members of the public who become touchy and sensitive when questions arise about the position of Islam in Malaysia. However, we need to be mindful of the sensitivities of the various belief being practised in Malaysia. We most certainly need to be careful not to trample on these sensitivities. To this end, it is perhaps sensible to take a spiritual and constitutional interpretation of Article 3(1) in the context of the totality of our constitution in order for us to continue to preserve national unity. But, in as far as the governance of Muslims is concerned, and being the good Muslims that we are, we follow the fundamentals of Islam.

13. Distinguished guests, ladies and gentlemen, perhaps it is time we took another look at how the Malay states administered Islamic religious affairs in the years prior to 1957 and for several years after that date. Or perhaps we should reflect upon the time when the British colonial power made light of the Malay Rulers' traditional function as the de facto political and religious heads of nine of the states. For this purpose, it is worth revisiting that part of our history and remind ourselves that the colonial power had wanted to take over the Sultans' political and administrative power and reduce their role to mere heads of Islam of their respective states as was manifested in the disastrous Malayan Union.

14. Prior to the Malayan independence, there was a dedicated authority for the administration of Islamic religious affairs which was under the purview of the Sultan and styled as Majlis Agama Islam (Islamic Religious Council). This helped to put in place a somewhat systematic administration of Islam which eliminated such inefficiencies as duplicity in religious announcements and contradictory decisions on specific issues. Be that as it may, this Council was eventually usurped by the State Executive Council which, more or less, took over its role and function. This amounted to the wresting of the Sultan's power and function as the religious head of the state.

15. The reality of this situation notwithstanding, the founding fathers, in their wisdom, gave due weightage to the importance of Islam to the major racial group and thus its recognition by the constitution as the religion of the Federation. It necessarily follows that in giving importance to Islam, its administration must be professionally undertaken by religious experts who are well trained in management and administration. That is to say, all Islamic bodies and authorities must be run this way. At the same time, the fact that the Sultans are the heads of Islam in their states must be seen as such; and therefore, the consent of Their Royal Highnesses must be sought before the adoption of a fatwa or a policy pertaining to the administration of the faith.

16. In trying to establish an efficient and professional administration to manage the affairs of Islam, we must not fall into the trap of creating a religious bureaucracy which is what another faith of the Book has got itself into. Such a development would be against the teaching of Islam. In any event a religious bureaucracy would be no more than the mere appropriation of power by vested interests through the application of Islamic laws. In any event, a Muslim prostrates directly to the Almighty without the service of intermediaries which is what a religious bureaucracy would create in the end. We must not fall into this trap for a bureaucracy has the nasty tendency to develop excessively complicated administrative procedures, mindful of the fact that we are multiracial and multi-religious.

17. We also need to stop the mere paying of lip service that the Sultan is the head of Islam. We must stop treating the Sultan as the nominal head of the religion. More importantly, the Sultan must be seen to be the ultimate decision maker in the administration of Islam. For this to function in a professional manner, the Sultan must have such wherewithal as adequate funding to provide for the operating expenditure and advisory manpower such as an especially dedicated legal adviser with expertise in, for instance, Islamic jurisprudence who is independent of the state or Federal governments. This will help towards the strengthening of the respective Islamic Religious Council while at the same time allowing for the establishment of a proper and professional administration of Islam.

18. Returning the dignity of the head of Islam to the proper personality and ensuring that the administration of the faith is professional will surely win Islam the respect that it deserves in the first place. This will help to negate the bad name that Islam has been suffering from, especially in the West, due to the actions of extreme elements who are not properly informed of the teachings of the Quran and the Sunnah of the Holy Prophet Muhammad, Peace Be Upon Him. And not least in the resurrection of the just and benevolent administration of Islam overseen by the Ruler is the opportunity to benefit from the collective wisdom of the Conference of Rulers which, for instance, could be applied in expending the riches awarded by The Almighty through, say, the proper collection of zakat for the benefit of the masses.

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19. The plural nature of our society means that Islam must be administered in a manner to ensure justice to Muslims and non-Muslims alike. This is crucial for peace and stability to be sustained in our country. In this regard, the G 25, being a civil society organisation, could play a constructive role as the voice of moderation and tolerance on religion. At the same time we must propound the true Islam that is committed to compassionate, forgiving and merciful justice for all as propagated by the Holy Prophet Muhammad, Peace Be Upon Him.

20. Given its breadth, much could be said about the position of Islam in a constitutional democracy. I would rather like to briefly dwell on a subject which has, once too often, been quite ticklish with us Malaysians. Please allow me to draw your attention to our plural legal system that has the tendency to spark off conflicts between civil and shariah laws. It should also be noted that public awareness is lacking in regard to the legal jurisdiction and the substantive limits of the powers of the religious authorities and the administration of Islamic laws. But we must, of course, be aware of the need to administer the shariah laws in tandem with the Federal Constitution.

21. But emphasis should and must be given to the shariah principles of economic and social justice, consonant with the notion that Islam is a religion of compassion for the poor, the sick and the aged while, at the same time, encouraging Muslims to practise gender equality. On their part, the authorities must work towards reemphasising Malaysia as a country that practises Islam which enjoins its followers to exercise moderation in living their lives. In pushing Islam to the fore, the government must provide assistance so that those responsible could carry out reforms of the religious administration as well as the overall system of governance spoken of earlier.

22. Distinguished guests, ladies and gentlemen, in the last several minutes I had tried to share with you my thoughts on, and at the same time put into context, the position of Islam in a constitutional democracy. In so doing, I am mindful of the need for Islam to continue to enjoy the prominence that it has always had in our society, without jeopardising the positions of other beliefs. I hope that I have been of use as you focus on the issue at hand. I take this opportunity to wish you a successful forum.

23. Before taking my seat, I would like to offer my congratulations to the G 25 for having published a book entitled "Breaking the Silence: Voices of Moderation" which I have been given the honour to launch. I am particularly impressed by the range of subjects covered by the 21 essays in relation to the position of Islam in a constitutional democracy. I am equally impressed

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by the diverse backgrounds of the authors. Well done and congratulations again.

It is now with much pleasure that I declare open this forum on Islam in a Constitutional Democracy. Thank you and good morning.

OPENING ADDRESS AND BOOK LAUNCH BY

Y.B.M. TENGKU RAZALEIGH HAMZAH

AT THE PUBLIC FORUM ORGANISED BY G25 MALAYSIA ON SATURDAY, 5.12.15 AT 11.00  
A.M.

AT PERSATUAN ALUMNI UNIVERSITI MALAYA (PAUM) CLUB HOUSE, KUALA LUMPUR