

Malaysia is exemplary Islamic state constitutionally

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Kuala Lumpur: The whole world recognizes Malaysia as an exemplary Muslim state and the Article 3(1) of the Federal Constitution which states that Islam in the religion of the Federation is not a provision in vain. This was said by the former Chief Justice of Malaysia, Tun Abdul Hamid Mohamad.

He said that with this provision in the constitution, Malaysia is known to the world as an Islamic country.

Abdul Hamid said, "To the world, Malaysia is not only seen as an Islamic country but an exemplary Islamic country. Malaysia is also regarded as an example of a developed Islamic country of this era."

He passed these comments while tabling his working paper titled "Islam and Interpretation of the Constitution by Courts in Malaysia" at a discourse organized by the Institute of Islamic Understanding Malaysia (IKIM) in the Malaysian capital.

He said that the Malaysian government has spent millions of ringgit for the development of Islamic banking, Islamic finance and takaful so much so the country becomes a leader in these fields.

Abdul Hamid mentioned that the people can also carry out Islamic activities such as building universities, colleges, mosques and schools in Malaysia.

“Imagine if Article 3(1) of the Federal Constitution is not there, could all this be done?” he said.

On secularism, Abdul Hamid, referring to the judgment of the Supreme Court in the case of Che Omar Che Soh against the Public Prosecutor in 1988, said that in the judgment the word secular was mentioned three times.

He said, “The first, secular institution was mentioned when quoting a book by M.B.Hooker. Two other instances, secular law was used when referring to laws effective on the day of independence.”

Abdul Hamid clarified that the word secular was used in the judgment not to describe the country, but to describe the institutions and laws.

“In my opinion, its use is not accurate and the word was used unnecessarily. Because of group and political interests, it was quoted out of context to say that Malaysia is a secular country although the Federal Constitution never once used the word,” he said.

Also referring to the case judgment which was heard by five judges and written by former chief justice Tun Salleh Abas, he said that they also agreed with the judgment that Article 3(1) itself does not make all laws contradicting with the Shariah not valid and void.

Abdul Hamid said that civil lawyers often do not know that existing laws are compliant and similar to the Shariah, while shariah members do not know that Shariah principles were made into laws.

“I believe that if it was declared that Malaysia will fully implement Islamic law, more than 90 percent of the existing laws would not change,” he said.

During a question and answer session on the delegation of authority between the Civil Court and Shariah Court, Abdul Hamid suggested that should there be a shariah issue in the Civil Court whereby a Shariah Court judge should be present to sit with the Civil Court judge.

He also said that the two courts can be combined and placed under the jurisdiction of the Federal Court.

However, the former chief justice said that this would not happen because it required amendments to the Federal Constitution and jurisdiction from the Shariah Court be transferred to the Federal government.

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