

Press Release

Democracy Grants Man, Including Non-Muslims, the Power to Define and Determine Our Beliefs and Sects!

The recent proposal of the Mufti (Federal Territories) Bill 2024 has sparked intense debate across Malaysia. Since its first reading was approved in July, the Bill has moved forward, approaching its second and third readings before full parliamentary endorsement. The genesis of this Bill is rooted in the ongoing discourse around Ilm al-Kalam (Islamic Scholasticism), which has recently surged in Malaysia. It is concerning that, as Palestine faces dire hostilities from the Jews (La'natuLlah alaihum), some religious authorities and factions within Malaysia are engrossed in theological debates while lawmakers are in the process of approving related legislation.

The Mufti (Federal Territories) Bill 2024 carries significant weight, particularly as it seeks to legally define "Ahl As-Sunnah wa Al-Jamaah" and restrict its interpretation to specific theological frameworks. Specifically, it restricts the term to those who adhere to the Ash'ari and Maturidi schools in creed (Aqeedah), the Shafie School in jurisprudence (or, in limited cases, the Hanafi, Maliki, or Hanbali schools, or, what is determined by the Fatwa Committee), and Imam Junaid al-Baghdadi and Imam al-Ghazali in Sufism (Section 3). This provision suggests that those who differ from these specified doctrines could be deemed outside "Ahl As-Sunnah wa Al-Jamaah"—effectively classifying them as deviant.

The legal narrowing of "Ahl As-Sunnah wa Al-Jamaah" poses a serious threat to Muslim unity. It seems that the Religious Authority, being architects of this legislation, have overlooked lessons from past schisms, such as those fuelled by Ilm al-Kalam, as well as the controversial action of Caliph Al-Ma'mun, who imprisoned and persecuted Imam Ahmad for opposing the state-mandated theological doctrine. Such coercive measures only serve to entrench "authoritarianism" within religious governance.

This Bill's underlying agenda appears to suppress any dissenting theological views. By codifying this matter, those in power have not only forced the people to hold a specific belief and sect, but also implicitly threatens to "penalize" those who diverge from it. Additionally, the Bill provides immunity from any legal action to the Mufti, Deputy Mufti, Faith Consultant, and related Committees (Section 32), thereby positioning them beyond the reach of legal accountability for what they have done within the scope of the Bill. Are they trying to position themselves as an elite group that is above the law, evading themselves from accountability of their misdeeds? This exceptionalism seems at odds with the principles of transparency and accountability, as indicated by the Prophet (saw) in a Hadith cautioning us against unequal implementation of justice between the inferior and superior.

Another concern is the arbitrary nature of some provisions, particularly those related to issuing Fatwas. While procedures exist for issuance of Fatwa (Section 10), but if the Fatwa Committee deems an individual or group to be outside "Ahl As-Sunnah wa Al-Jamaah" or classifies them as deviant, there is no requirement to get explanation or clarification (Tabayyun)

with the affected parties. This unilateral authority to define and determine orthodoxy without listening to the parties concerned, will lead to undermining fairness and due process.

Furthermore, the issuance of Fatwas on Ahkam Ash-Shariah (divine rules) is constrained by (a provision of) adhering only to the Shafie School (Section 16). Exception is only given in a case where it contradicts the public interest, then other Schools can be referred to. Whereas, the very nature of Fatwa or Ahkam ash-Shariah demands that they be taken based on the strength of Daleel (evidence), rather than adherence to a single School. Scholars themselves have encouraged adherence to the strongest opinion, not confinement to one doctrine. Are architects of the Bill ignorant about these fundamental principles? Why do they seek to restrict Islam when Allah (swt) Himself made it expansive?

The broader and more concerning implication, however, lies within the democratic system itself, a system that allows humans—irrespective of faith or religion—to dictate religious doctrine or sect, upon us!! Through this system, the members of parliament, including non-Muslims, are effectively empowered, to influence and legislate what kind of stream of creed and sect that this Ummah must follow!! This is a fundamental flaw of democratic system in the eyes of Islam, where sovereignty rests with human beings, enabling them to legislate even on issues of creed and Shariah. Under this system, the members of parliament, regardless of religion, religious knowledge, the ignorant, or even the atheist one, hold the equal authority and right to vote, thus have the authority and right in shaping the beliefs and practices of every Muslim!!

Hizb ut Tahrir / Malaysia wishes to assert that the state should not enforce a specific theological framework or school upon its citizens. Belief and theological stance should be determined by Muslims themselves based on the strength of authoritative sources. Codifying specific doctrines as state policy risks limiting the religion of Islam itself. We would like to emphasize that the word creed (Aqeedah) attributed to certain Imams such as the “Ash’ari creed”, the “Maturidi creed”, the “Salafi creed”, the “Tahawi creed”, the “Wasatiyya creed” and so on, are in fact not accurate and misplaced, and there is confusion and division among Muslims. This is because the position of the Schools on issues related to creedal study is not the creed itself, but rather, the creed is the “Islamic creed” (“Al-Aqeedah Al-Islamiyyah”) established in the Shariah with definite evidences, and it is prohibited to have differences in it.

In cases where a group or individual is deemed deviant from Islamic belief, this must be substantiated with clear evidence from the Quran and Sunnah in a court of law. If proven to have apostatized, they must be asked and given the opportunity to repent; if they refuse, they would face the prescribed punishment in Islam - death.

The current democratic framework has repeatedly shown itself to be harmful to the faith, especially as it allows for religious doctrines to be voted upon, even by non-believers. Matters of Aqeedah and Shariah are fundamental; they should be upheld and implemented by Muslims and by state, according to the Quran and Sunnah, not subject to parliamentary approval. It is clear that the Ummah urgently needs a Khilafah (Caliphate) as a legitimate solution—a governance structure that implements the Quran and Sunnah on its people, preventing the divisions fostered by theological disagreements and debates opened by the Mutakallimin ever since.

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