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Testing the political waters: PAS's *hudud* proposal and its impact

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ON 19 MARCH 2015, the Kelantan Legislative Assembly amended the Syariah Criminal Code. This move was unanimously supported by both the state's ruling party, PAS (Islamic Party of Malaysia), and opposition UMNO (United Malays National Organization). This was yet another attempt by the PAS Kelantan government to implement *hudud* laws in the state, something it has sought to accomplish since 1990. However, one more hurdle stands in its way before the laws can be implemented, namely, amendment to the Syariah Courts Act in the Federal Constitution. With this last obstacle comes another challenge for PAS. The secular DAP (Democratic Action Party) and non-Muslim parties (from East Malaysia) in the federal parliament would definitely oppose the move. PAS faces an arduous task to convince its partners to support *hudud*.

Knowing how difficult it would be to garner the required federal parliament support, what then is PAS's agenda in bringing up the *hudud* issue again? There are two plausible reasons. First, PAS is testing the leaders of the ruling BN (National Front) and opposition PR (People's Coalition) to see if they are sincere in their support for PAS's brand of *shariah*. Second, the ulama (religious scholars) faction in PAS seeks to strengthen its grip in the party. During the recently concluded 61 PAS Muktamar (Congress), the ulama secured key leadership posts of the party.

History of PAS *hudud*

PAS was registered as a political party in 1951. In the first three decades of its formation, *hudud* was not its primary agenda; it was mainly an Islamist-nationalist anti-colonial party.¹ In fact, in 1974, it joined the ruling BN coalition. Due to political differences with UMNO and internal fragmentation, PAS left BN in 1978. In the 1980s, the party struggled to regain voters' support and performed abysmally in the two elections held in that decade.² In 1990, PAS took Malaysian politics to a new level and regained control of Kelantan. But unlike in previous elections, the party, then controlled by the ulama faction, ran on an Islamist agenda. It made Islamic state and *hudud* its primary agenda.

In 1993, the Kelantan Legislative Assembly passed the Kelantan Syariah Criminal Code Bill to allow for *hudud* to be implemented. *Hudud* offences include theft, robbery, unlawful sexual intercourse, liquor intoxication, and apostasy. Punishments to these offences include stoning, whipping, and mutilation of hands and feet. Commenting on the need to implement *hudud*, Kelantan Chief Minister and PAS Spiritual Guide, the late Nik Aziz, said, "PAS has only existed for 51 years. *Hudud* laws have been in the Quran for more than 1400 years. PAS did not create it!"³ The legislation, however, was not implemented in the state because the federal government deemed the move unconstitutional.

Despite the failure to implement *hudud* in Kelantan, the PAS government in Terengganu, which took control of the state after the 1999 elections, later pushed the same agenda. In 2002, it passed the Terengganu Syariah Criminal Offences Bill. This move was again unsuccessful because they were rejected by the federal government. After these failures, PAS changed its tactics and sought to socialize the masses with its *hudud* agenda. In 2003, PAS issued *Dokumen Negara Islam* (Islamic State document), which indicates that it is obligatory for *hudud* laws to be implemented because the Quran says, "As to the thief, male or female, cut off his or her hands: punishment by way of example, from Allah. For their crime: and Allah is exalted in power, full of wisdom."⁴

In the run up to the 2008 elections, PAS softened its push for *hudud*, calling for *Negara Kebajikan* (Benevolent State). This led to the party forming the PR with the DAP and PKR (People's Justice Party) after the elections. This co-operation remained intact, and PR secured an improved performance in the 2013 elections, where BN lost popular votes.⁵ In 2014, to the surprise of its PR partners, PAS proposed an amendment to the constitution to allow *hudud* to be implemented in Kelantan. The proposal was not carried out, but it resurfaced in 2015.

Hudud timing and its impact

Arguably, there is no correlation between *hudud* and PAS's electoral performances. For instance, PAS introduced the 1993 Kelantan Criminal Code and 2002 Terengganu Syariah Criminal Offences Bill after the party showed strong performance during elections. Yet, the current introduction of *hudud* bill occurred when PAS was at its weakest. PAS suffered huge losses in the 2013 elections even though PR recorded its best victory. PAS lost Kedah to BN, failed to regain Terengganu, and performed poorly in its Kelantan stronghold. There is a strong evidence to suggest that PAS championed *hudud* for religious reasons. The ulama faction has been consistent about *hudud*. Even at the time when PR was speaking about *Negara Kebajikan*, PAS ulama reiterated that it was committed to *hudud* and Islamic state. In 2013, Ustaz Haron Din, who recently took over as PAS Spiritual Guide, published *Hukum Hudud: Dalam Perundangan Islam (Hudud Laws According to Islam)*.⁶

I contend that this is the best time for PAS to raise the *hudud* debate because of the fragmentation in BN and PR. PAS timed the *hudud* issue to test the loyalty of its members, its coalition partners, and UMNO's commitment to Islam. PAS leaders know that any amendments to the constitution are unlikely. Even if PAS received the support of all Muslim members in parliament, it would still be short of an absolute majority. It is unlikely that BN politicians from Sabah and Sarawak would support the amendment to the constitution.

In light of its response, PR coalition has failed the *hudud* test. It confirms the coalition is a marriage of convenience. The PR's

slogan – 'agree to disagree' – has reached its threshold and it is not realistic to abide by such a slogan if the coalition wants to form government. To its credit, the DAP has made clear that it is against *hudud*. DAP leaders have severed ties with Abdul Hadi over his move to amend the Kelantan legislation, and also plans to send a private member's bill in parliament.⁷ DAP is adamant that Malaysia remain a secular state. The Malaysian public now knows that DAP's secularism and PAS's Islamism is a complete mismatch. PKR, on the other hand, has been flip-flopping over the issue. It was reported that PKR has privately apologized to PAS for not supporting the *hudud* agenda earlier.⁸ If the report is true, PKR wanted PAS's help in its *Permatang Pauh* by-elections campaign (held on 7 May 2015).

The *hudud* debate is a huge test for Prime Minister Najib's BN coalition, which is already facing internal problems. The Prime Minister has so far demurred from taking a stand on the issue, and it is uncertain if he eventually will. If Najib supports the *hudud* move, he would be seen as betraying BN's partners in Malaysian Chinese Association (MCA) and Malaysian Indian Congress (MIC). He would also depart from his predecessors who maintained that Malaysia should always remain secular. Furthermore, he would be seen as a weak leader who succumbed to pressure from the Islamists, and contradicted his campaign to build a 'One Malaysia' and Islam *Wasatiyyah* (Moderate Islam) when he became Prime Minister in 2009. On the other hand, his rejection of the *hudud* discourse would signal that his talk of a Malay unity government with PAS is empty. Ultimately, the timing of PAS *hudud* proposal is a test of sincerity for both PR and BN in implementing *shariah* in Malaysia. It could make or break existing coalitions.

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- Fractions within PR are also seen in the so-called *kajang* move. In 2014, PR moved to remove the Selangor Chief Minister Khalid Ibrahim and replace him with Anwar Ibrahim. Anwar was later disqualified to run for the seat. DAP, PKR and PAS could not agree on who should replace Khalid as Chief Minister.
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