

Language, religion and education the sticky issues



The Malaysian Parliament in session.

Mary Chin and James Sarda

DE: Some of the Commonwealth countries have made many amendments to their respective constitutions, in one African case up to 60 times to reflect the changing situation since independence. To the best of your knowledge, how many times has the Malaysian Constitution been amended and what have been some of the most significant ones?

Pandikar: I am not familiar because change of constitution can happen. If it is very fundamental then you need two-thirds majority. If it is not, just a simple majority. Not sure, got to check.

DE: What the provisions in the Malaysian Constitution you think need a review given today's situation?

Pandikar: Again, I will have to check. When you talk about fundamental rights, I think Article 53 about the rights of the Bumiputeras, the issue that is heavily debated now is whether that particular provision ought to be amended because we said it is not democratic enough.

But of course there are people who are saying why not because you must remember when our forefathers drafted the Constitution, the Constitution actually was already based on democracy then because those days when you talked about democracy must involve separation of powers. You know, the Judiciary must be independent from the Legislature and the Executive. That we have.

It was also in line with our Constitution that we specifically spell out what are the rights of particular groups. That Islam is the official religion of the country but some other races can practise their own religion freely and in harmony.

That one is spelt out but what this new school of thought is saying is that when you talk about democracy, it is not only separation of powers, they emphasise on human rights. Human rights meaning now with this also heavily debated issue that you are free to choose your partner. Man and man can get married, woman and woman can get married. This is where the sticky issue is because the Constitution of any given country when originally drafted, it must be based on the value system of that society, must be based on the religion of the society.

I think when our Constitution was drafted, it took into consideration all those. Now, in Islam, it's a non-issue to debate whether you have the rights of man and man can get married, woman and woman can get married. That is a non-issue because it is not possible in Islam, it is haram. And that one is of course put in our CPC (Criminal Procedure Code).

So there must be an understanding if assuming the democracy of the West, the so-called matured democracy of the West, were to be followed strictly in a given country which has its own idiosyncrasies, it will not work. That particular democracy will not grow, it will not thrive. It will not grow richly and it's an example of recent times when the West tried to impose democracy in areas like Iraq, now in Syria.

DE: It didn't work.

Pandikar: I think the West must also realise that democracy is only a means to administer but it must not apply across the board. What is applicable for instance in America or England, it must not be adapted in total in some other places. I think this must be the one that ought to be understood by the leaders and by the people but the leaders must understand it first. Because there would be confusion, for instance, if I were to take Anwar as an example and some PKR leaders who are Muslims.

At one time when Nurul Izzah (Anwar's daughter) was interviewed in one Majlis and the issue at that time was if the Muslim can convert somebody who is not Islam into Islam and why not other

Malaysia in a changing Commonwealth

THE work of parliament does not end with the passing of legislation and many Commonwealth parliaments have introduced reforms to ensure that the institution stays relevant to the changing demands of an increasingly savvy electorate.

Speaker Tan Sri Pandikar Amin shares with Special Writer Mary Chin and Chief Editor James Sarda some of the changes he would like to see in the Malaysian parliament such as having his decisions questioned and for special time to be set aside for the Prime Minister to answer questions directly on any issue in the final of a four-part series.

religion also cannot convert a Muslim guy to a particular religion. Her answer then was, "Why not?" You know because in democracy, you are free.

In our Constitution, you are free to choose your religion. In that particular situation, if those people, particularly the youngsters and those who are not religious savvy, will not understand because they are being confused by Muslim leaders who make statements like that.

DE: They will be seen as condoning it, you mean?

Pandikar: Exactly. That's where the division will start. I think that is the danger that we are facing now in Malaysia. To me, back to your original question, of course there are certain provisions or articles in the Constitution that ought to be amended but before that is done, it must be really studied first what would it bring about in terms of consequences.

DE: Can you be specific?

Pandikar: Consequences like what happened to ISA (Internal Security Act). When we abolished ISA, Singapore is still having it and what happens is a fact. The moment it was abolished, those people who were in jail were released. If I am not mistaken at that time, the Deputy Minister of Home Affairs told me 2,600. And I asked him is that why we are always having shooting incidents and he said 'yes'. You must remember also, when human rights lawyers make statements, they said it must be a practice, a must in law that due process must be followed. Meaning, if you don't have any evidence against somebody you suspect has committed a crime, then you must not detain that person. But what happen if you know for a fact that he has committed the crime but you don't have any witness, evidence in order for the person to be prosecuted. There is a loophole in the law.

This was what the ISA was trying to address. There are also human rights people who said that, human rights or things like this, it is better to let go so many criminals than to convict or to detain one innocent person. To me, I don't think our society is matured enough. You give this to them, and for instance even in South Africa, they don't have any jury system.

It must be understood by leaders whether they are in the Government, all those NGOs, all those in the Opposition. I think we ought to think of the interests of the nation first, above the interests of groups of people, individuals or political parties for that matter. Otherwise we will be in trouble.

DE: Some have a very simplistic view of things.

Pandikar: It is not easy stuff.

DE: So, what are some of the things that may need a review from your point of view? Recently there was renewed debate



on whether Malaysia is an Islamic or secular State.

Pandikar: Yes, they are only the sticky points - language, religion and education. When you talk about language, then of course education will go in there. Those who believe that unity should be from a system of one language and start quoting examples like Indonesia, Singapore and those who are defending the system now, the vernacular school system, are saying well, you can't touch that because that is already enshrined in the Constitution.

The moment they say that, then those people who are protecting this Article 53, they will say, well, the rights of the Bumiputera, the rights of a particular group of people also are already enshrined in the Constitution. Why do you touch on that? That's the reason I said all leaders must understand what they are talking about before they make any statement.

Actually the sticky issues are within these three because of human rights. Otherwise, I don't see anything that ought to be changed there apart from the claim of Sabahans that the 20 Points has not been implemented, Sabah for Sabahans and that also ought to be really looked into because some are saying that not necessarily that we want to be independent or we want to withdraw from Malaysia.

What we are requesting is only to revisit or for that matter, we must have a second, like a marriage, we must have a second vow, you know.

Deep in me, there must be maturity from all these people who are in power, these people are concerned about this. If you have an open discussion, of course, the discussion must be aimed at uniting the people, make people aware of what is happening and what not. But most of the things done now and invariably is only attended by one group.

I read the advertisement in the press two, three days ago, I think, that you want to have a forum, talk here at the Dewan Hakka... Speakers like Tan Sri Sipaun and Dr Jeffrey Kitingan. When you discuss and one group only goes, then of course the perception is negative.

DE: They only want to promote their view.

Pandikar: Exactly. It must be across the board. You don't talk about it because of that. I think people like academicians must start talking about it before it is debated and recently also here become an issue when Masidi talked about Malay.

DE: Rumpun Melayu (Malay stock).

Pandikar: Depends on how you look at it because I remember when I was in Manila years ago and when I went to see Imelda Marcos in her house. We spent four hours talking and she said, "Mr Speaker, I tell you, I am proud (she said) to be a Malay."

DE: She supposedly also was proud of her Spanish ancestry.

Pandikar: According to her, Malay stock within this region. Meaning, you

So I used that interpretation whereby whatever the Malaysian Government does now, somehow it must be connected with Islam. So I said from there, my interpretation is, where Parliament is concerned, this is an Islamic country.

- Pandikar giving his opinion on the debate

must look at the definition of Malay also from two views - from the macro point of view and micro point of view. Otherwise, when Masidi made the statement and all the people from Facebook, when I read their statements, of course the people who were ignorant about it said, "How can the Dusun or Kadazan be a Malay?"

DE: But an aside to their argument was that if you say I am Malay, then why can't I call myself a 'Christian Malay'?

Pandikar: Our community is not matured enough to make a decision on certain things that they don't really understand.

We have got to take it step by step. As time goes by, then of course, the elderly people will die, and those youngsters now that are thinking differently for the sake of just trying something new, they will become matured. Maybe two or three generations from now. The youths now will become, maybe they are already, when they become older, then they will think, start differently.

When we were children also like that. To me, maybe another 25 years, 50 years. So in other words, we are talking about Malaysia 100 years, then you will have a society that will be able to articulate and accept things. When I look at what is happening now, the only thing that comes across in my head is that I pity the leaders that are trying their utmost best because to me this is a crossroad. This is a beginning, if (Prime Minister Datuk Seri) Najib were to make a transformation in his Administration. This is a beginning of maybe one or 2,000 steps in front towards democracy. I don't know what kind of democracy that would be.

Definitely it would not be a democracy like what is happening in the West because of religion, culture and what not. Maybe some of your culture you can throw away but you cannot throw away religion and that is a very sticky issue. But when you look at it also, at our east kind of traditions, even China now is modernising but still they keep to their traditions. Japan also is very advanced, still they keep to their traditions. So even if Malaysia were to become modern that would be a modernity in the Malaysia kind of mould. It cannot be like an American democracy or British democracy or whatever.

DE: Straightforward also cannot.

Pandikar: Cannot.

DE: But recently when you spoke in parliament on whether Malaysia is a secular or an Islamic State and mentioned the latter, some said how come Tan Sri said so because Tunku (first Premier), Tun Razak, Hussein Onn, etc, all viewed Malaysia as secular but with Islam as official religion. Hence, not an Islamic state but a Muslim country. But Tan Sri has a different view.

Pandikar: You see what happened was. The Minister of Religion (Datuk Jamil Khir) when he was answering questions in the Dewan Rakyat and I think he made a statement outside.

He specifically said that Malaysia is not a secular State. Malaysia is a Muslim coun-

try. He was walloped by those who said Malaysia is a secular State. They wanted to refer him to the Privileges Committee that he made a wrong statement. They gave reasons. They said these are the reasons - judgements from cases before concerning God.

I read the answer from the Minister. I read all those reasons given by those people accusing him of lying. I looked up the dictionary what is the meaning of secular. In countries like Egypt, I think, if I am not mistaken, like Pakistan, there are few countries which specifically stated in their Constitution that this particular country is secular, that kind of thing. So meaning you got to put in the Constitution. But in Malaysia, it did not say specifically that Malaysia is a Muslim country.

What the Constitution says is that the official religion of Malaysia is Islam. When I read the definition, secular means in the Oxford dictionary that it is nothing, it is completely separated, the State Administration and Religion. Whereas in our Constitution it is not a complete separation of Religion and Administration. There is somehow a link in the connection, so I took that view because I said, 'Look, when you look at what we are doing now, for instance, you go to a function, then you recite the doa, every religion accepts it. Not like in Indonesia when you have a Majlis, the Pengacara will say, 'Kita baca doa sekarang mengikut agama masing-masing.' So I used that interpretation whereby whatever the Malaysian Government does now, somehow it must be connected with Islam. So I said from there, my interpretation is, where Parliament is concerned, this is an Islamic country.

But I said my opinion cannot be used outside because it is not my authority. I am not a judge. Whereas, there is now a standing judgement which says that.

They accepted that as far as Parliament is concerned. Even that also I advised them. I said, "Those who are still in doubt, it is open for you to go to court and ask for a declaration. Now they can because there are so many prominent lawyers. Once and for all, find out what this is all about. Nobody is picking it up, but they debate on it. Why can't we be matured enough to do that?"

DE: Each time there is debate, there will be a counter argument.

Pandikar: Yes, so when I say that, then they have to accept it. I said, "Well as far as this Parliament is concerned, my definition is Malaysia somehow is not a secular State but it is not also in the Constitution. Therefore, this Minister should not be referred to that Committee within Parliament.

DE: Very smart (laughter). What parts of the Constitution are not clearly defined? I think you have talked about this and resulted in this dispute today.

DE: Do you think for that matter the Malaysian Parliament needs an Ombudsman?

Pandikar: You look at other countries like in England. For sure, I know that there is another separate body they call ombudsman to do check and balance. In Malaysia, we don't have that. What we have are committees

DE: Like Parliamentary Action Committee and such oversight bodies.

Pandikar: But that one is a system also when you look at some other countries like even smaller ones like Papua New Guinea they have so many committees. The objectives of committees actually are to scrutinise, to debate when an issue comes to Parliament. If it is a raw issue, the committee must debate it first. The members are from political parties from the Government and the Opposition. Then when they reach their conclusion, the committee will report to Parliament. That is the whole House. In Malaysia, we have only thus far five (committees).