Syariah court must first expand its jurisdiction

UPGRADE: If not, 3 levels would be fine, say experts

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THE religious authorities should look into expanding the jurisdiction of syariah courts if it were to upgrade the system from three to five levels.

Malaysian Syariah Lawyers Association deputy president Musa Awang said the upgrade would not serve any purpose if the courts’ jurisdiction were unchanged.

He added that the religious authorities should also look into giving more bite to crime under syariah law.

“For syariah criminal offences, the syariah courts can only pass sentences of not more than three years imprisonment, a fine of up to RM5,000, and or up to six strokes of the cane.

“If we’re going to increase the hierarchy of the courts, we must improve on this as well. There’s been no change for more than 10 years,” he said when contacted yesterday.

However, Musa said upgrading the syariah legal system to more levels would also help to increase the number of judges and lawyers within the syariah legal profession.

Universiti Malaya Academy of Islamic Studies’ syariah and law department head Dr Siti Zubaidah Ismail said the current three-tier system in the syariah courts, which covered family, civil and criminal matters, could also be expanded to cover other matters such as Islamic finance or banking disputes.

“If the jurisdiction were to remain the same, then increasing the number of levels isn’t necessary as what we have right now is compatible with the three-level composition of our syariah courts.”

Syariah lawyer Muhammad Burok said he was all for the proposal to upgrade the syariah legal system but said there had to be further explanation on what the fourth and fifth levels would encompass.

“The syariah courts is a three-level system consisting of the lower court, high court and the appeal court.

“The syariah legal system is a matter of state law, with every state having its own act on the administration of Islamic laws.

“If we want something similar to the federal court in the civil legal system, amendments must be made to streamline the state syariah laws before cases can be brought to a higher level.”

On Thursday, Minister in the Prime Minister’s Department Datuk Seri Jamil Khir Baharom had said “a study is being conducted to upgrade the Syariah legal system” to be on par with the civil court system — by increasing it from three to five levels.

The Islamic Development Department has been tasked with the responsibility of examining and reviewing the proposal.

In addition, Jamil Khir said his ministry would be coordinating the gazetting of fatwa rulings in all states to enable syariah law to be enforced effectively efficiently and consistently to avoid disputes.