



Malaysian Court of Appeal Decision in Islamic Renaissance Front Case: A Win for Religious Freedom

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On February 13, 2020, the Court of Appeal of Malaysia (the second highest court in the land) [quashed](#) the government's ban on three books published by the Muslim reformist organisation, Islamic Renaissance Front (IRF). The books are *Islam Tanpa Keekstreman: Berhujab Untuk Kebebasan*, a translation of Turkish academic Mustafa Akyol's *Islam without Extremes: A Muslim Case for Liberty*, as well as, two volumes of IRF's *Wacana Pemikiran Reformis* series, which are discourses on Islamic reformist thought. These books were published in 2012, 2014, and 2016, respectively.

The appeal arose from a High Court [decision](#) given on April 22, 2019, which upheld the previous government's ban on the three books. The decision stated that the previous Home Affairs Minister's order, which was announced on Sept 6, 2017 under the Printing, Presses and Publications (PPP) Regulation, was valid. Among other provisions, this regulation allows the authorities to prohibit the printing, circulation, and possession of printed materials. High Court judge, the Honourable Justice Nordin Hassan went on to say the contents of the book are likely to be prejudicial to public order and the national interest and would likely incite negative public opinion. These books departed from Sunni Islam, Justice Hassan argued, and could cause confusion among Muslims in Malaysia. The Court of Appeal, however, disagreed with this opinion. In a unanimous decision, the three appeal judges, upon hearing the appeal brought by IRF, decided to lift the ban on the books. They opined that the High Court decision was based on the judge's *own* opinion after taking into account the opinions of experts. Their finding suggests that the lower court ruling in this case was an act of judicial overreach.

Let's then pause and examine some of the rationale for the ban and how it would have undermined the right to freedom of religion and belief.

The court held that the three books would be prejudicial to public order and interest and would likely incite negative public opinion. But we need to ask, how can a judge find that a book by an established author, which has been published elsewhere in another language, is prejudicial to public order and national interest? Mustafa Akyol's *Islam without Extremes: A Muslim Case for Liberty* is a publication in English that was not banned or deemed prejudicial to any public order where it was first published. What evidence was adduced to show that this book would be harmful to Malaysian society other than that it contains Islamic ideas at odds with those of Malaysian authorities? The two volumes of IRF's *Wacana Pemikiran Reformis* (Discourses on Islamic Reformist Thought) series were gleaned and translated from works of Muslim reformist scholars originally written in

Arabic. Again, the same question applies as with the case of Mustafa Akyol's *Islam without Extremes*. No evidence was adduced to show a threat to public order and national security.

The more likely explanation for the ban on these books is the challenge they posed to Malaysia's religious bureaucracy. The Islamic religious authorities found them to be in violation of their interpretation of Sunni Islam and were offended that a Muslim reformist organization published them. From their point of view, the publication and dissemination of these books represented a challenge to their authority and interpretation of true religion. This sentiment is reflected in the words of IRF founder and director, Dr. Farouk Musa, when he said, "It seems to me the Minister of Home Affairs has the absolute discretion in banning books that do not conform to the version of Islamic authorities like JAKIM." JAKIM is the department for the promotion of Islamic Understanding, a federal agency that oversees Islamic affairs.

Had Court of Appeal upheld the High Court decision, the consequences would have been grave for religious freedom. Thankfully, the Court of Appeal reversed the lower court decision and bolstered religious freedom.

In doing so, the Court of Appeal affirmed the cardinal principle of limited government and the proper role of the state. The state does not have the rightful authority to impose its own religious views or interpretation on the citizenry. Indeed, the state must never be the final arbiter on matters of religious interpretation and dogma. That must be left to the wisdom of the religious communities themselves. In the case of Malaysia, to allow JAKIM as a government agency to dictate what Sunni Islam is or is not is tantamount to allowing the state to pontificate on Islam. In a modern society like Malaysia, any right thinking Muslims or other religious groups will reject this form of government overreach. Second, the Court of Appeal decision also militates against the abuse of power. By reviewing the decision by the Home Affairs minister to ban the three books, the court was sending a clear message that executive power must not be used to politicize religion in support of a political agenda. Executive power is appropriate for national interests, not personal ones. Religious authorities should not be subject to political masters in matters of religious belief and practice and this decision serves to uphold critical checks and balances in this regard.

Third, in a developing democracy like Malaysia, this decision by the Court of Appeal naturally facilitates the expansion of intra-religious relations. It creates space for diversity within Islamic thought, opening dialogue on religious beliefs once thought of as unquestionable. The competition of ideas found in this social space fosters a greater capacity for critical thinking so essential for democratic participation and national development.

Fourth, the decision augurs well for the right to freedom of expression. In arriving at its decision, the Court of Appeal affirmed the principle that religious expression, even if it is contrary to the views of the state, must be protected. This is important given that expression is so essential for human flourishing. Communication with the other is essential to a just public order and civil society as we search for what is true, what is lovely, and what is good. By allowing the three books to be read by the general public, the minds and souls of those in search of truth and enlightenment will surely be expanded.

Lastly, protecting the right of Muslims to engage one another, critically and peaceably, as members of the majority religion of Malaysia, has the potential also to promote vibrant and harmonious inter-

faith relations. The acceptance of these norms and practices among Malaysia's Muslims will definitely encourage parallel developments between religious communities. As Muslims in the country are exposed to wider Islamic thought and encounter the realities of living without coercive interference in the multi-cultural and multi-religious life in Malaysia, relations between Muslim and non-Muslim religious communities will gradually improve. This should be the desire of every Malaysian who takes religion seriously. It is in a sense a reformation towards an "enlarged mentality" that seeks to value mutual respect, inclusivity, and thriving for all Malaysians, not because they all agree on matters of ultimate truth but because they are fellow citizens of a single political community.

Those who cherish religious freedom should celebrate the Court of Appeal decision in the IRF case. But for those of us in Malaysia, there remains a guarded optimism as we are mindful of the many impediments to full religious freedom that remain. Still, this one hurdle crossed is a victory for religious freedom in Malaysia and part of the foundation laid for additional reforms to come. With a new government in place following a political turmoil, it is our desire that the new government will not appeal the decision. We pray and hope that the new government will see that in order for national unity and the closing of ranks between opposing factions to become a reality, it must champion openness, value diversity of thought, and restrain itself from imposing its will and dictates on religious communities. This is the cardinal principle of religious freedom, without which democracy is unsustainable and the value of truth and belief is undermined.

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