

God and Allah in Malaysia

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A justice's ruling goes against the government

The decision by Malaysian High Court Justice Lau Bee Lan giving the Catholic Herald newspaper the right to use the word Allah to represent God in its Malay-language edition has been met with jubilation among the country's 850,000-odd Catholics and outrage on the part of Muslims. As many as 10,000 protesters had signed onto a Facebook group page objecting to the Dec. 31 judgment.

A flock of United Malay National Organization politicians have got into the act as well, including former Prime Minister Mahathir Mohamd and his son Mukhriz as well as former Selangor Chief Minister Mohamad Khir Toyo and others. Moderates including Opposition Leader Anwar Ibrahim are being called traitors to Islam for agreeing with the decision, which is all but certain to be appealed to a higher court by the government as soon as possible and, if past practice is any gauge, a stay of execution will probably be granted.

The decision by Justice Lau, however, focuses attention on another matter entirely, and that is the growing independence of Malaysia's lower courts to issue decisions contrary to the government after nearly three decades. Her decision against the government followed another major one in May 2008 when High Court Judge Abdul Aziz Abdul Rahim ruled that Mohammad Nizar Jamaluddin, who headed the opposition in the state, was wrongly removed as the chief minister of the northern state of Perak. Najib Tun Razak, then the deputy prime minister, engineered the defection of three lawmakers from the national opposition coalition Pakatan Rakyat, bringing the government to a halt in a 28-28 tie.

In that case, Judge Abdul Aziz ruled that Perak Sultan Raja Azlan Shah did not have the power to order Nizar to vacate his position as chief minister and instead to install Zambry Abdul Kadir, a longtime Umno stalwart, in his place. An appellate court almost immediately stayed the decision. It is still being fought out in court.

In another notable case, High Court Justice Syed Ahmad Helmy Syed Ahmad in November of 2008 freed Raja Petra Kamaruddin, the editor of the internet publication Malaysia Today after the editor was ordered jailed on a series of charges, mainly in connection with a series of scathing editorials and articles that sought to link Najib to the 2006 execution murder of Mongolian translator Altantuya Shaariibuu, then 28, the jilted lover of Najib's best friend, Abdul Razak Baginda. Two of Najib's bodyguards have been convicted of the murder.

In general, according to a think-tank source in Kuala Lumpur, "Judges in High Court have been giving very independent judgments that have been overturned by the Court of Appeal. So let's wait and see whether this will happen again."

The judges, according to another source, were appointed during the six years when Abdullah Ahmad Badawi was prime minister. Badawi in 2003 succeeded Mahathir Mohamad, who had ruled as premier for 22 years and whose reign was notable for his emasculation of the country's judiciary. Lau Bee Lan was one of Badawi's appointees, in December of 2004, as was Abdul Aziz Abdul Rahim.

Syed Ahmad Helmy was appointed by Mahathir at the end of his reign, however.

Although Badawi was roundly criticized for appointing Zaki Azmi, a former UMNO lawyer, as chief justice, Zaki has evolved into an effective jurist, a Kuala Lumpur source said, making strides to clean up a backlog of cases and engineering the appointment of independent judges.

"It was one of the few things [Badawi] did do right," said a Malay businessman in Kuala Lumpur. "For once - after two decades - even the Bar Council is becoming optimistic about the judiciary. But there's still a lot of rot left over from Mahathir to clean up. It's a daunting task."

Mahathir's subjugation of the judiciary began in 1988 amid an intraparty revolt against Mahathir's leadership of the United Malays National Organisation, when a Malaysian high court ruled that UMNO was illegal. With the case going to the Supreme Court, now known as the Federal Court which had issued other adverse rulings against the government, Mahathir in effect fired Salleh Abbas, the Lord President, along with three other Supreme Court justices. From that time forward, there were few if any decisions that went against the government.

That ultimately blew up in late 2007 with an enormous scandal with the publication of a videotape that purported to show VK Lingam, an influential lawyer friend of Mahathir's, in conversation with Ahmad Fairuz Sheikh Abdul Halim, then the country's third-ranking judge who was in charge of most senior judges. The conversation seemed to indicate that Mahathir was closely involved in the appointment of malleable judges favorable to the then-prime minister's closest cronies, particularly gaming tycoon Vincent Tan. Syed Hamid, the Shah Alam High Court judge who ordered Raja Petra freed, was appointed to his position during the reign of one notorious Supreme Court head, Eusoff Chin, who himself was accused of a host of judicial irregularities. The Attorney General in December said Lingam was probably only bragging and declined to prosecute him.

The current case began in January of 2008 when the Malaysian cabinet reinstituted the cancellation of the Roman Catholic newspaper's publishing license for using the word "Allah" interchangeably with "God" in its Malay language section. The Herald, which prints in English, Bahasa Malaysia, Tamil and Chinese, was first notified that it would no longer be allowed to use the word "Allah" on October 18 and November 1, 2007. But after informing the publication of the decision, a representative from the Internal Security Ministry later delivered a letter with the permit to print without restrictions, the publication's editor, Father Lawrence Andrew, told the media at the time.

The permit was withdrawn, however, a week later, when the ministry approved the paper's publication permit only on condition that the word "Allah" be prohibited and that the paper only be circulated to Christians. The church responded that the Malay-language edition of the paper is mostly read by tribes who converted to Catholicism or other Christian faiths, the preponderance of them in the East Malaysia states of Sabah and Sarawak, and that no other word would suffice to describe the deity.

Numerous religious scholars have pointed out that since Christians, Muslims and Jews worship the same god, calling the deity "God" in English means exactly the same thing as calling him "Allah" or "Yahweh" in other languages.

The issue has become intensely political, however, with Malaysia's increasingly assertive fundamentalist Muslims concerned that the Christians are proselytizing Malays in an effort to lure them away from Islam.

In her decision, Justice Lau, however, said the federal constitution allows the church to use "Allah" in the Herald as an exercise of its right to practice religions other than Islam. The constitution, she

ruled in an oral opinion, gives the church “the right to use the word ‘Allah’ in the Herald in the exercise of his right to freedom of speech and expression.”

Critics have charged that Justice Lau is a Christian, which influenced her decision. One website stated that she takes at least 15 days per year to teach Bible studies throughout the country. Others have pointed out that if the case had been passed to a Muslim judge, the chance for influence was as great if not greater.

P.S.

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