

Allah judgment flawed, can jeopardise Najib's job, say jurists
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The Appeal Court decision on the Allah issue is "flawed" and "lacked common sense", say two constitutional lawyers while a retired judge warned that Datuk Seri Najib Razak's position as prime minister has now become vulnerable.

In an immediate reaction to the Court of Appeal ruling that the word Allah cannot be used by the Catholic weekly, the Herald, and was exclusive to Muslims in this country, a former Federal Court judge told The Malaysian Insider the verdict had far-reaching implications to Christians in Sabah and Sarawak.

The retired judge, who spoke on the condition of anonymity, also pointed out that Muslim fundamentalists in the peninsula are pushing Putrajaya to also ban the use of the word in the Borneo states and that it was dangerous for Najib.

Both Sabah and Sarawak are considered a Barisan Nasional (BN) safe deposit as 47 of the 133 parliamentary seats won in the recent general election came from the Borneo states.

"Najib has to make a stand now. He cannot be silent anymore. By keeping silent it would mean he is supportive of this Muslim group and this could be dangerous to his position," the former judge said yesterday.

He pointed out that freedom of religion was one of the conditions agreed upon when Sabah, Sarawak, Singapore and the then Federation of Malaya formed Malaysia 50 years ago.

"The principle derived from the three judgments from the Court of Appeal bench was that Christians cannot use the word Allah and this contradicts the rights of Sabahans and Sarawakians who practice the faith," he said.

Christians in Sabah and Sarawak generally use the Al-Kitab, which is in Bahasa Malaysia and native languages, which also contain the word Allah.

The former judge said the chief ministers and BN lawmakers from both states should be concerned about the court decision as they would have deal with the 2.8 million Christian voters, most of them from both the Borneo states.

"With this political equation and rising public debate over the issue, there will be a lot of backdoor political discussions in the coming weeks."

He said there had always been talk that these states should disengage from Malaysia but Borneo politicians would use their political numbers to arm twist Putrajaya more so when their interests were at stake.

He said the myopic approach of the three judges had failed to take into account the prosperity, security and welfare of the nation.

"Religion alone does not fill the belly of the people," he said.

Lawyer Malik Imtiaz Sarwar said the judgment was flawed as the court did not consider whether there was basis to Putrajaya's argument that there would be public disorder if the Herald was allowed to use that word.

"Although the home minister has the discretion to ban the word, he should have exercised his powers reasonably," Malik said.

The constitutional lawyer pointed out that there were no breaches of peace at the time the condition was imposed by the home minister nor was there an imminent threat of public disorder.

He also felt that the court should not have taken upon itself to determine whether the word Allah was an integral part of the Christian faith.

"They should have relied on what the Catholic Church had presented in its submissions during appeal."

Malik said the judgment also gave the impression that Muslims were easily led astray and wondered whether Putrajaya allowed itself to be influenced by the views of "a small number of conservative Muslim groups".

"This matter should not have gone to court because it will now lead to divisions in society," he said, adding that an independent consultative mechanism should be set up to mediate sensitive religious matters.

Another constitutional lawyer, Fahri Azzat, said the verdict lacked common sense because the court ruled on the ban "to protect Muslims from being confused" and to "avoid public disorder".

This, he said, would make it look like Muslims were easily provoked, and needed protection and guidance.

"For many enlightened Muslims, the court ruling enforced the belief that the feudal mentality was still strong," he said.

Fahri added that the court ruling on the word "Allah" should not be seen as a "triumph by Muslims over Christians". – October 16, 2013

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