

The CEDAW Committee recommended that Malaysia undertake a process of law reform to remove inconsistencies between civil law and *Syariah* law and ensure that any conflict of law regarding women's rights to equality and non-discrimination is resolved in full compliance with its Constitution, CEDAW, and particularly General Recommendation 21 on equality in marriage and family relations.

'Sisters in Islam' book is not 'Prejudicial to Public Order'³⁹

On 31 July 2008, *Muslim Women and the Challenge of Islamic Extremism*, a publication released by Sisters in Islam in Malaysia, was banned on the basis that the book was "prejudicial to public order." Under the Printing Presses and Publications Act (1984) the Home Minister is vested with absolute discretion to prohibit either absolutely or in part or subject to conditions, a publication if he is satisfied that any part of it is "in any manner prejudicial to or likely to be prejudicial to public order, morality, security." According to the Minister, the contents of the publication tarnished the purity of Islam and caused suspicion and public anxiety. (Dato' Seri Syed Hamin Bin et. al v. Sisters in Islam (2012))

On 15 December 2008, Sisters in Islam filed for judicial review before the High Court to lift the Prohibition Order banning the book. The High Court quashed the Home Ministry's order. An application by the Home Affairs' Ministry to reinstate the ban was rejected by the Court of Appeal on 27 July 2012 upholding the High Court's decision. The Appeal Court said:

The then Home Minister, Datuk Seri Syed Hamid Albar, had taken an "over simplistic" position when he equated the banning of the book by the Islamic Development Department of Malaysia (JAKIM) as being a threat to public order. To be satisfied that the book was prejudicial to public order in the face of the fact there was no prejudice to public order in the two years the book was in circulation, is in such outrageous defiance of logic that it falls squarely within the meaning of *Wednesbury* unreasonableness, and of irrationality.

The Court in the case did not discuss any questions pertaining to either the exercise of the freedom of religion or the freedom of expression that might underpin the controversy regarding the banning of the book. While according to JAKIM, the publication was prohibited because of its tendency to confuse Muslims, particularly Muslim women or "those with shallow knowledge of the religion," the Court stressed that these concerns do not relate directly to any claim that the release of the book is prejudicial to public order. The fact that no public uproar or disruption occurred during the time the book was in circulation for two years was sufficient grounds to nullify the Prohibition Order issued by the Home Minister.

39. Based on the Presentation of Ratna Osman, Director, Sisters in Islam, Malaysia, 4 September 2013