

PERSPECTIVE

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Mohd Na'im Mokhtar: Business as Usual in JAKIM?

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EXECUTIVE SUMMARY

- Mohd Na'im Mokhtar was appointed by Anwar Ibrahim to be Minister in the Prime Minister's Department in charge of Religious Affairs, although he is not an elected politician nor a member of any political party.
- Unknown to many, Na'im had previously served as Chief Judge of the Shariah Court, and was also Director-General of the Shariah Judiciary Department (Jabatan Kehakiman Syariah Malaysia, JKSM) during Pakatan Harapan's administration from 2018 to 2020.
- According to regulations stipulated by the National Islamic Religious Affairs Council (Majlis Keagamaan Islam, MKI) in 2022, any Prime Minister's choice for the role of Minister of Religious Affairs requires special consent from the Council of Rulers. This has therefore given rise to some speculation that Na'im's appointment might not have been due to Anwar's sole discretion.
- Although credited for various reforms within the Shariah legal system, Na'im also faces criticisms from conservative circles. Furthermore, growing public criticism of the Department of Islamic Development Malaysia (Jabatan Kemajuan Islam Malaysia, JAKIM) makes his leadership of the institution all the more challenging.
- This paper argues that, judging from his track record in handling various episodes, Na'im is likely to navigate a delicate balance between the conservatives and the progressive advocates in the country. With the legacy of revivalist ideals moderated with pragmatism by previous administrations within Malaysia's multi-racial context, Na'im can be expected to proceed very cautiously on reforms while keeping at bay the extremist voices on both ends of the conservative-liberal spectrum.

INTRODUCTION

On 2 December 2022, Malaysian Prime Minister Anwar Ibrahim unveiled a 28-member Cabinet for his unity government. Of the 28 members, four of them were not Members of Parliament (MP), and had instead been made Senators in order to be appointable as ministers. One of these four was Mohd Na'im Mokhtar, a figure unknown to most; he was chosen by Anwar to be Minister in the Prime Minister's Department in charge of Religious Affairs.¹ What made his appointment intriguing is that he is the sole Cabinet member who is not with a political party. While he may be unknown to many political enthusiasts, law practitioners—those working in Shariah law—know him very well.

During Pakatan Harapan's (PH) administration in 2018, Na'im served as Chief Judge of the Shariah Court, as well as Director-General of the Shariah Judiciary Department (Jabatan Kehakiman Syariah Malaysia, JKSM). Given his experience in dealing with Islamic affairs, it was unsurprising that immediately after the announcement of Na'im's ministerial appointment, Mujahid Yusof Rawa—the individual who previously held Na'im's position during PH's administration and who was in charge of the Department of Islamic Development Malaysia (Jabatan Kemajuan Islam Malaysia, JAKIM), praised Anwar's choice.²

Na'im is not the first non-political figure to hold the portfolio. The former Federal Territories Mufti, Dr Zulkilfi al-Bakri, held the same portfolio from March 2020 to August 2021 under Muhyiddin Yassin's administration. However, what makes Na'im's position unique is that according to the new regulations stipulated by the National Islamic Religious Affairs Council (Majlis Keagamaan Islam, MKI) in 2022, a prime minister's choice for this particular position requires special consent from the Council of Rulers.³ JAKIM, which is headed by the minister in question, reports to the MKI which is chaired by the Selangor Ruler, Sultan Sharafuddin Idris Shah.⁴ Consequently, the perception arose among political activists that Na'im's appointment was a privileged decision which was not necessarily made by Anwar himself.

Na'im's parachuting into the Cabinet therefore calls for an examination of his professional background and its relevance to his portfolio. As the man who has been given a lavish allocation of Malaysia's 2024 Budget amounting to RM 1.9 billion,⁵ it is crucial to analyse how he may perform as minister. While conservative Muslims such as those in Parti Islam SeMalaysia (PAS), right-wing Non-Governmental Organisations (NGOs) and even professionals and netizens who are close to the party have claimed he is weak, those in progressive circles are paying careful attention to how he plans to deal with extremist groups and ideas. This paper will look at Na'im's background, his approach to various issues, and perceptions of his performance thus far. In doing so, I will refer to some of the remarks he has made, and also include findings from my engagements with ten Shariah law practitioners from Klang Valley, Negeri Sembilan, and Kelantan. These engagements—which occurred between October and November 2023—reveal observers' predictions and perceptions of his current and future performance as minister, and whether or not he will undo old religious trends, or even set a new one. Overall, it is believed to be unlikely that Na'im will spark new religious trends or undo old ones, and changes are high that he will maintain the status quo.

GETTING TO KNOW MOHD NA'IM MOKHTAR

Right after being elected as Minister of Religious Affairs, Na'im said that he had an enormous task ahead of him, especially since he did not have a deputy minister to assist him. He was also quick to assure people that he would lead JAKIM as a neutral civil servant, and that any decisions made would be free from political interference.⁶ This could be interpreted as his commitment to not entertaining political tantrums in a post-GE15 Malaysia which saw the rise of conservatism and non-violent extremism among segments of the Muslim community. His intended neutrality as a civil servant also implies that he would be answerable to the King (Agong) who is the Head of the Religion, and not necessarily to the government of the day. His neutrality was evident in his handling of various issues including the management of the hajj pilgrimage in 2023, calling out a government agency for not acting quickly enough in taking down dangerous social media content, reprimanding Perikatan Nasional's (PN) leader Muhyiddin Yassin, and various affairs related to Shariah law, including standardising it as instructed by the Council of Rulers.⁷ Na'im also gave strict warnings to the opposition not to use and exploit mosques and prayer halls (*surau*) to propagate their political agenda.⁸

Born on 25 November 1967, Mohd Na'im Mokhtar graduated with a Bachelor's degree from the International Islamic University of Malaysia (IIUM), after which he obtained a Masters in Laws from the University of London, and subsequently a PhD in Shariah Law from the National University of Malaysia (Universiti Kebangsaan Malaysia, UKM). Prior to his entry into the civil service, Na'im started his career as law lecturer at IIUM from 1990 to 1997, after which he practised as a Shariah lawyer in Negeri Sembilan, Melaka and the Federal Territories from 1997 to 1998. Later in 1998, Na'im was elected as a Shariah judge in Petaling Jaya, Selangor, and also sat on the advisory board of several Islamic banks such as CIMB Islamic Bank, Salihin Trustee Bhd, Sun Life Insurance and the American and British Investment Bank Mauritius.⁹ On 1 July 2017, Na'im was promoted to be a judge in the Shariah Court of Appeal. Other notable achievements include his receipt of a Chevening Scholarship from the University of Oxford from 2008 to 2009, and a Visiting Fellowship at Harvard Law School from 2012 to 2013.¹⁰ In 2016, Na'im gave a speech on Shariah law in Selangor at an official dinner hosted by the Trial Court of the Commonwealth of Massachusetts, United States.¹¹ This positioned him at the centre of attention and earned him praise from many Shariah practitioners.

BALANCING MINISTERIAL DUTIES AND POLITICAL COMPETITION

As Na'im's previous appointment was as Director-General of the Shariah Judiciary Department (Jabatan Kehakiman Syariah Malaysia, JKSM) during the time Mujahid was minister, it was soon perceived that Na'im was either friendly towards Parti Amanah Negara (Amanah) and PH, or that his policies would be similar to that of Mujahid's. Mujahid praised Na'im for a few reasons. First, during Mujahid's leadership of JAKIM from 2018 to 2020, it was Na'im who played an important role in introducing *Gagasan Negara Rahmah* (A Vision of a Merciful Country) and *Dasar Rahmatan Lil Alamin* (Mercy to All Policy). Second, Mujahid observed that Na'im was instrumental in implementing reform within the Shariah legal system by standardising Shariah laws, establishing the *Mahkamah Hadhanah* (Custody Court), ensuring the strict enforcement of Shariah court decisions regarding alimony for divorcees, and improving the quality of Shariah judges and the Syarie Legal Profession Act (Akta Profesion Guaman Syarie).¹²

Prior to the Cabinet reshuffle on 12 December 2023, there were rumours that Na'im's position might be affected. Nevertheless, he was quick to master the political game, and given the above-mentioned achievements, he stated that he will continue to carry on his responsibility to the best of his capabilities.¹³ Ministers often tend not to make such statements when a Cabinet reshuffle is due, as it is understood that one's position in the Cabinet is entirely the prime minister's choice. After the reshuffle, Na'im's position was safe and he was even given a deputy minister in the form of Dr Zulkifli Hasan, a Malaysian Islamic Youth Movement (Angkatan Belia Islam, ABIM) strongman to assist him. Similar to Na'im, Zulkifli was made a Senator before his ministerial appointment.

However, despite his success in keeping himself in Cabinet, many political activists have claimed that he has failed to stifle PAS' attacks against the Madani administration, especially during the intense campaign period before the 2023 state elections.¹⁴ Thus, in recent months, Na'im has been trying to gain political credit by actively signalling to Islamic authorities to investigate and quell the allegations surrounding Anwar's past sodomy charges. Since a recent row in Parliament between Anwar and Bersatu MP Radzi Jidin, PH supporters have taken to the Internet to argue that Anwar has been a victim of *qazaf* (false accusations), which is considered a crime punishable by Shariah and Hudud law, which is in turn enforced by the relevant state government.¹⁵

Na'im has also been trying hard to respond to Abdul Hadi Awang's claims that the government has been helpless in countering the challenges posed by those who are against Islamic law.¹⁶ In responding to these claims and countering the challenges listed below, and to assist JAKIM with the implementation of the vision for Malaysia Madani, Na'im has sought help from four Muslim NGOs namely, Persatuan Wadah Pencerdasan Umat Malaysia (Malaysian Association of Enlightenment Platforms, Wadah), Pertubuhan Ikram (Ikram), ABIM, and Pertubuhan Himpunan Lulusan Institusi Pendidikan Malaysia (Organization of Graduates of Educational Institutions Malaysia, Haluan).¹⁷ However, this move is arguably ambiguous. While Ikram and ABIM are often cited as relatively progressive groups (Hew 2018), Wadah and Haluan tend to be more right-wing. For example, the latter two are intolerant of religious minorities such as the Shi'as.¹⁸ Thus, his working relationship with right-wing groups proves that Na'im is simply continuing what previous administrations always did. In fact, if one were to focus on his close circle as minister, one might notice that his special officer is Dr Mohd Razak Idris, who was formerly the president of ABIM from 2009 to 2011.¹⁹ This is in addition to the newly elected Deputy Minister Dr Zulkifli Hasan.²⁰ This strongly indicates that ABIM-like policies on Islamic issues could come to be imposed.

Thus, it is safe to say that in terms of administering Islamic affairs, Na'im has been maintaining the status quo. For instance, he has not stopped JAKIM from overstepping boundaries in advising art practitioners about what they can or cannot do. Na'im is behind the banning of a film entitled *Mentega Terbang*, alleging that it promotes pluralism. He was also critical of the television drama *Surat Dari Tuhan* which allegedly featured the actors uttering words of vulgarity.²¹ To further maintain his authority, Na'im reproached Ipoh Timur's Democratic Action Party (DAP) MP Howard Lee for quoting Qur'anic verses on his social media platform.²²

In terms of dealing with LGBT issues, Na'im has maintained the position that JAKIM will not recognise their rights as a community, but that their rights as citizens will not be violated.²³ He also stated that JAKIM will be stern towards Muslims involved in LGBT activities.²⁴ Even outside of the LGBT community, Muslims are subject to state regulation and scrutiny. For example, JAKIM has been mulling over the idea to send some of its staff to the Malaysian Communications and Multimedia Commission to assist in monitoring "deviant postings" on social media. There has also been great scrutiny on Muslims visiting graveyards.²⁵

As for non-Muslims, there have been doubts among them with regard to Na'im's plan to form an out-of-court mediation centre to resolve disputes involving Muslims and non-Muslims, especially in custody cases.²⁶ In fact, Na'im's call to harmonise Shariah and civil law has been met with scepticism, especially given his intention to "dignify syariah law to its rightful sovereign position", thus evoking doubt amongst proponents of the Federal Constitution and Malaysia's civil laws.²⁷

RESPONSES FROM SHARIAH PRACTITIONERS

My interactions with Shariah practitioners show that there are mixed feelings about Na'im. While many have positive sentiments about his legacy and the work that he has done for the legal system, there are those who doubt that he can implement the reforms which they feel are most needed for the country. By reform, these Shariah lawyers refer to the need to ensure that the Shariah court is more powerful than the civil court. In other words, these lawyers would like to see the decisions made by the Shariah court surmount the decisions made by civil judges, especially in cases relating to custody and inheritance.

In terms of politics, most of the Shariah practitioners think Na'im should not bow down to the "liberals". For example, Yuslan Yusoph, a Shariah lawyer, is critical of Na'im for being too idealistic and believes that the standardisation of Shariah law is not a great achievement. To him, it would be a greater feat to ensure that Shariah law emerges victorious in its potential clashes with civil law. Another lawyer, Mohd Solahuddin, said that Na'im should be "courageous enough to dignify the Islamic agenda and not be too cautious".²⁸ While there are those who hope that Na'im will be more aligned with progressive ideas, they are in the minority. For example, Raja Mohamad Haziq expressed his hopes that Na'im will "control religious teachers who have extremist ideas and prevent them from teaching in mosques".²⁹ In saying so, he expressed his concerns about the links between PAS and the growing spread of extremist ideas.

The main grievance which many Shariah lawyers share have to do with the challenge brought up by Kelantan-born lawyer Nik Elin Abdul Rashid and her daughter Tengku Yasmin Natasha Tengku Abdul Rahman, who have argued that as many as 20 provisions under the Kelantan Syariah Criminal Code (I) Enactment 2019 are unconstitutional. Some of these provisions address false claims (Section 5), destroying places of worship (Section 11), giving away a Muslim child to a non-Muslim or a morally corrupt Muslim (Section 13), sodomy (Section 14), necrophiliac sexual intercourse (Section 16), bestiality (Section 17), words that break the peace (Section 30), and sexual harassment (Section 31). The Shariah lawyers feel that Na'im has not done enough to address this challenge. Similarly, PAS has also expressed that Na'im is not taking the matter seriously and is putting the primacy of Shariah law at risk. They have also

blamed the unity government for not intervening, and have threatened to hold rallies to defend the Shariah, as was done in 2017.³⁰

It can be argued that the above doubts about Na'im are without basis. Firstly, Na'im himself is of the view that Shariah law is "the law of the land", just as the British had stated when Malaya was a British colony.³¹ It is therefore unfair to assume that he does not take seriously the challenges confronting the position of Shariah law in the country. Secondly, the concern that Shariah law at the state level is at risk as a result of challenges from "liberal entities" is a politically motivated accusation, as this concern was first expressed on 25 May 2022 while PAS and PN were in power, and nothing was then done to counter their move.³²

Furthermore, it would be inaccurate to say that Na'im's silence on the issue means that he is undermining the position of Islam, when the issue has nothing to do with Islam. In fact, Chief Justice Tengku Maimun Tuan Man who headed the nine-person Federal Court bench hearing the legal challenge from Nik Elin and Tengku Yasmin has dissuaded the notion that the case is about Islam. In her opinion, "the matter is unrelated to Islamic doctrines and was solely based on interpretations of the wording in the Federal Constitution, the nation's supreme law". Tengku Maimun further stressed that the question of the family wishing to undermine the position of Islam in Malaysia is irrelevant.³³

In other words, it is inaccurate to say that Shariah law is under threat or that Na'im is not doing enough to ensure its primacy. Na'im's commitment is evident from the fact that he has announced his plans to study and close the loopholes in the Shariah legal system so as to ensure that it is not manipulated by irresponsible parties. He has also proposed to form a cadre of legal advisers at the Federal Territory Islamic Religious Department (Jabatan Agama Islam Wilayah Persekutuan, JAWI), thus illustrating that this government is dedicating resources to religious authorities.³⁴

Na'im is also committed to dealing with growing extremism, and has previously warned certain quarters not to manipulate religious and racial sentiments.³⁵ In order to counter the threat of extremism, JAKIM under Na'im's leadership organized the Madani Honorary Lecture Series with Anwar's blessings and with the help of ABIM at Seri Perdana.³⁶ There is also the Majlis Ilmu Madani which consists of lectures organized "in line with efforts to give the people an understanding of the meaning of the Madani nation introduced by the government". These lectures are aligned with "the basic values of the formation of a Madani state, which were strong beliefs, good morals and the development of true Islamic character".³⁷ However, while such lectures are important, there is uncertainty as to whether they are accessible to the Muslim masses or only to a select group of Muslims.

Hence, the real challenge for Na'im is to balance demands from both ends of the spectrum. While he needs to ensure that religious policy aligns with the progressive voices within the unity government, he also has to placate conservative Muslim groups who expect a greater implementation of Islam in social, religious and political affairs.

Na'im is thus walking on eggshells trying to placate both sides, and this could mean that the overall reform promised by Anwar may not be implemented as quickly as hoped. He is likely

to be highly selective in executing certain reforms, and will have to balance that with the work of civil servants within JAKIM.

CONCLUSION

Based on his performance so far, it is unlikely that Na'im will set a new trend or change the sphere of Islamic administration. It is more likely that he will maintain the status quo, especially since JAKIM has been allocated more funding in Budget 2024. While some fellow Shariah practitioners have praised the past reforms he introduced to the Shariah legal system, there are also those who are doubtful of his capabilities.

When he was elected Director-General of the Shariah Judiciary Department during PH's administration, Na'im laid out his plan to reform the administration of Islamic affairs with three visions for guidance. These include Rahmatan lil Alamin, Maqasid Syariah (Higher Objectives of Shariah), and Fiqh Model Malaysia (local Islamic jurisprudence).³⁸ It seems that he is adopting a similar approach as Minister of Religious Affairs. It is therefore safe to say that the idea of Malaysia Madani according to Na'im is simply a continuance of Malaysia's historical obsession with institutionalised Islam.

While it all started with the introduction of Dasar Penerapan Nilai-Nilai Islam (Policy on Inculcating Islamic Values) during Mahathir Mohamad's premiership in the 1980s, it is arguable that there is a thread linking succeeding visions of Islam. These include Abdullah Badawi's Islam Hadhari (Civilisational Islam) *as a brand of progressive, democratic, and tolerant approach towards Islam*, Najib Razak's Islam Wasatiah (Moderate Islam), PH's Rahmatan lil Alamin in 2018, and now, Anwar's Madani. A closer look at each of these policies reveals that there is a tendency towards the revivalist ideals of the 1980s, which were championed by Anwar and ABIM even then. Thus, it is expected that Na'im will continue to administer Islam according to revivalist ideals.

ENDNOTES

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