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Malaysia

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

July-December, 2010 International Religious Freedom Report

Report

September 13, 2011

The constitution protects freedom of religion; however, portions of the constitution as well as other laws and policies placed some restrictions on religious freedom. The constitution gives the federal and state governments the power to "control or restrict the propagation of any religious doctrine or belief among persons professing the religion of Islam." The constitution also defines ethnic Malays as Muslim. Civil courts generally ceded authority to Sharia (Islamic law) courts on cases concerning conversion from Islam, and Sharia courts remained reluctant to allow for such conversions.

There was no change in the status of respect for religious freedom by the government during the reporting period. Muslims generally may not legally convert to another religion, although members of other religions may convert to Islam. Officials at the federal and state government levels oversee Islamic religious activities, and sometimes influence the content of sermons, use mosques to convey political messages, and prevent certain imams from speaking at mosques. The government maintains a dual legal system, whereby Sharia courts rule on religious and family issues involving Muslims and secular courts rule on other issues pertaining to both Muslims and the broader population. Government policies promoted Islam above other religions. Minority religious groups remained generally free to practice their beliefs; however, over the past several years, many have expressed concern that the civil court system has gradually ceded jurisdictional control to Sharia courts, particularly in areas of family law involving disputes between Muslims and non-Muslims. Religious minorities continued to face limitations on religious expression, including restrictions on the use of real property. The government restricts distribution of Malay-language Christian materials and forbids the proselytizing of Muslims by non-Muslims.

There were several reports of societal abuses or discrimination based on religious affiliation, belief, or practice.

The U.S. government discusses religious freedom with the government as part of its overall policy to promote human rights. Embassy representatives maintained an active dialogue with leaders and representatives of various religious groups, including those not officially recognized by the government.

Section I. Religious Demography

The country has an area of 127,000 square miles and a population of 28.3 million. According to 2000 census figures, 60 percent of the population practices Islam; 19 percent Buddhism; 9 percent Christianity; 6 percent Hinduism; and 3 percent Confucianism, Taoism, and other traditional Chinese religions. Other minority religious groups include animists, Sikhs, and Bahais. Ethnic Malay Muslims account for approximately 55 percent of the population. Three of the five most prominent political parties are organized along ethnic and/or religious lines. The majority of Christians reside in the eastern states of Sabah and Sarawak.

Section II. Status of Government Respect for Religious Freedom

Legal/Policy Framework

Please refer to Appendix C in the Country Reports on Human Rights Practices for the status of the government's acceptance of international legal standards <http://www.state.gov/g/drl/rls/hrrpt/2010/appendices/index.htm>.

The constitution protects freedom of religion; however, portions of the constitution as well as other laws and policies placed some restrictions on religious freedom. Article 11 states that "every person has the right to profess and practice his religion," but it also gives state and federal governments the power to "control or restrict the propagation of any religious doctrine or belief among persons professing the religion of Islam." The law allows for citizens and organizations to sue the government for constitutional violations of religious freedom. The constitution provides that federal law has precedence over state law. It also states that issues of Islamic law are state, rather than federal, matters. The constitution establishes the power of the federal judiciary under Section 121(1) by creating two high courts of equal and independent authority-- one in Peninsular Malaysia and one in Eastern Malaysia. However, in June 1988 parliament amended the constitution, adding section 121(1A), which provides, "the Courts referred to in Clause (1) shall have no jurisdiction in respect to any matter within the jurisdiction of the [Sharia] courts." This amendment introduced ambiguity about Sharia versus civil law that has not been resolved clearly. Civil courts generally decided in favor of the government in matters concerning Islam. Article 3 of the constitution states that "Islam is the religion of the Federation" and "Parliament may by law make provisions for regulating Islamic religious affairs." Article 160 of the constitution defines ethnic Malays as Muslim. Civil courts generally ceded authority to Sharia courts in cases concerning conversion from Islam, and the latter remained reluctant to allow such conversions. The constitution identifies the traditional rulers, also known as sultans, as the "Heads of Islam" within their respective states.

The government maintains an official list of 56 sects of Islam it considers "deviant" and a threat to national security. The government may detain Muslims who deviate from accepted Sunni principles and subject them to mandatory "rehabilitation" in centers that teach and enforce government-approved Islamic practices.

Regulations concerning mosques are administered at the state level rather than by the federal government. Religious authorities at the state level appoint imams to mosques and provide guidance on the content of sermons.

Authorities at the state level administer Sharia laws through Islamic courts and have jurisdiction over all Muslims. Sharia laws and the degree of their enforcement vary by state. State governments impose Islamic law on Muslims in some cultural and social matters but generally do not interfere with the religious practices of non-Muslim communities; however, debates continued regarding incorporating elements of Sharia law, such as khalwat (restricting close physical proximity with the opposite sex), into civil law. Although specific punishments for violation of khalwat vary from state to state, it is typically punishable with two years' imprisonment, a fine of RM 3,000 (\$940), or both.

State Islamic religious enforcement officers have the authority to accompany police on raids of private premises as well as public establishments to enforce Sharia law, including violations such as indecent dress, alcohol consumption, or Muslims in close proximity to members of the opposite sex. The state Islamic authorities did not provide information on the number of raids religious enforcement officers initiated.

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Sharia courts do not give equal weight to the testimony of women. Several nongovernmental organizations (NGOs) dedicated to the advancement of women's rights complained that women did not receive fair treatment from Sharia courts, primarily in matters of divorce and child custody. The government does not recognize marriages between Muslims and non-Muslims.

In September 2009 opposition Islamic Party of Malaysia (PAS) Youth Deputy Chief, Azman Shapawi, announced the party's plan to ban the sale of alcohol in Muslim majority areas in opposition coalition-held states. The opposition-held states failed to approve any such bans during the reporting period; however, there were reports that many convenience stores located in predominantly Malay neighborhoods voluntarily stopped selling alcohol.

The National Fatwa Council, whose membership is comprised of state muftis and other Islamic scholars, issued a directive to ban Muslims from practicing yoga, claiming that elements of Hinduism in yoga could corrupt their minds and beliefs. The council also has issued a fatwa (religious edict) prohibiting girls from acting and dressing like boys, alleging it encouraged homosexuality and violated Islam. Under the "tomboy" fatwa, girls cannot have short hair or dress, walk, or act like boys. A fatwa is legally binding for Muslims, although enforcement depends on the Islamic authorities of each state. Because Islam is a state matter, the decision to comply with edicts of the National Fatwa Council rests with the state religious authorities. There were no reports of enforcement actions taken under either of the fatwas.

Amending the penal code is the exclusive prerogative of the federal government. Despite contradicting federal law, the state governments of Kelantan and Terengganu passed laws in 1993 and 2002, respectively, making apostasy a capital offense. Apostasy is defined as the conversion from Islam to another faith. No one has been convicted under these laws and, according to a 1993 statement by the attorney general, the laws cannot be enforced absent a constitutional amendment. Nationally, Muslims who seek to convert to another religion must first obtain approval from a Sharia court to declare themselves "apostates." This effectively prohibits the conversion of Muslims, since Sharia courts seldom grant such requests and can impose penalties on apostates.

State-level Sharia courts have authority to order individuals who request to convert from Islam or who profess belief in a "deviant" Islamic sect to enter religious rehabilitation centers. The government forbids individuals to leave such centers until they complete the program. The government did not release statistics on the number of persons sentenced to religious rehabilitation centers during the reporting period.

The government provides financial support to Islamic religious institutions and more limited funding to non-Islamic communities.

The government prohibits publications and public debates that it alleges might incite racial or religious disharmony and strictly prohibits religious groups from proselytizing Muslims, although proselytizing non-Muslims is allowed.

The Registrar of Societies, under the home ministry, determines whether a religious organization may be registered and thereby qualify for government grants and other benefits. The registrar has no consistent policy on registering religious organizations or transparent criteria to use as guidelines in making its determination. In cases where the government refused to recognize certain religious organizations, which is required in order to operate legally, these groups sometimes registered under the Companies Act. Examples include Jehovah's Witnesses and The Church of Jesus Christ of Latter-

day Saints (Mormons). Registration under the Companies Act confers protections of religious freedom to the extent they are enjoyed by the country's other religious groups but precludes government funding.

The federal and state budgets fund Muslim places of worship because Islam is considered the religion of the federation. Funding for non-Muslim places of worship comes from a special allocation within the prime minister's department or state governments. State governments, however, have exclusive authority over allocation of land and the construction of all places of worship and land allocation for all cemeteries. Minority religious groups asserted that non-Muslim places of worship were poorly funded and that the government made funding decisions on an arbitrary basis. Both federal and state governments often substantially delayed permission to build or renovate non-Islamic places of worship, although they granted approvals to build mosques relatively quickly, according to local NGOs.

The government continued to require all Muslim civil servants to attend approved religion classes, and several government agencies pressured non-Muslim women to wear headscarves while attending official functions. However, this practice was not strictly enforced.

Public schools generally offered Islamic religious instruction, which is compulsory for Muslim children; non-Muslim students are required to take nonreligious morals and ethics courses. At primary and secondary public schools, student assemblies frequently commence with recitation of a Muslim prayer by a teacher or school leader. Private schools are free to offer a non-Islamic religious curriculum as an option for non-Muslims. There are no restrictions on homeschooling. The government offered grants only to private Islamic schools that agreed to allow government supervision and adopted a government-approved curriculum.

National identity cards identify Muslims as such on the card's surface, but for members of other recognized religions, their religious affiliation is encrypted in a smart chip within the identity cards and not printed. Muslims must also carry a special photo identification of themselves and their spouses as proof of marriage. The government uses these cards to determine which citizens are subject to Sharia law.

The government observes the following religious holidays as national holidays: Muslim Hari Raya Puasa, Hari Raya Qurban, the Birth of the Prophet Muhammad, Awal Muharram, and Wesak Day; Hindu Deepavali and Thaipusam; and Christmas. Good Friday is officially observed in East Malaysia.

Restrictions on Religious Freedom

The government selectively enforced existing legal restrictions on religious freedom. There was no change in the status of respect for religious freedom by the government during the reporting period. The government banned 56 of what it considered "deviant" interpretations of Islam, maintaining that deviant views endangered national security and could divide the Muslim community. Banned groups included Ahmadiyah, Islamailiah, Shi'a, and Bahai, among others. The Department of Islamic Development Malaysia (JAKIM) within the prime minister's department established federal guidelines concerning what constitutes "deviationist" behavior or belief, and state religious authorities generally followed these guidelines. With the consent of a Sharia court, the government may arrest and detain members of "deviationist" groups for "rehabilitation" to the "true path of Islam." The government continued to monitor the activities of the small Shi'a minority.

The government occasionally suppresses public discussions of controversial religious issues such as religious freedom, conversion of minors, and interfaith dialogue.

In November 2008 the government announced it was monitoring the Qadiani sect, a branch of the Ahmadiyah movement, which has been active in the country for the last five years. The Selangor Islamic Religious Department (JAIS) declared the group deviant for having Islamic doctrine differing from the official interpretation. Among other differences, the Qadiani believe followers should perform the Hajj in India. The government warned the group's followers it would take stern action

against them; however, no action was taken during the reporting period. In August 2009, local media reported that the teaching was spreading in Selangor state. The government reportedly continued to monitor the movement.

The strict enforcement of Sharia law has placed additional restrictions on the Muslim population that has been marked by Sharia courts handing down caning sentences for actions such as alcohol consumption and khalwat. Although caning under Malaysian criminal law is carried out with a half-inch-thick wooden cane that could cause welts and scarring, caning under Sharia law is reportedly less severe. Under Sharia law, a smaller cane is used, and the caning official cannot lift the cane above his shoulder, thus reducing the impact. Additionally, the subject is fully covered with a robe so that the cane will not touch any part of the flesh. Local Islamic officials claimed that the idea is not to injure but to make offenders ashamed of their sin so that they will repent and not repeat the offense.

In September 2009, the Pahang State Sharia Court sentenced the Muslim waitress who served alcohol to Kartika Sari Dewi Shukanro to six strokes of the cane and a fine. The Sultan of Pahang ultimately commuted Kartika's caning sentence and ordered her to perform 20 days community service for consuming alcohol. The waitress appealed her sentence and the case is pending.

On December 29, local news outlets reported that JAKIM was planning to "take action" against a Muslim male who confessed on YouTube that he is gay. On December 31, JAKIM director general Wan Mohamad Sheikh Abdul Aziz said that the department did not have power to take legal action but suggested that it fell under the purview of the state-level religious authorities.

On December 25, Bernama reported that the Sabah Islamic Affairs Department (JHEAINS) would enforce the apostasy law once its faith rehabilitation center in Kinarut, Sabah is ready in 2011. JHEAINS director, Datuk Amri A. Suratman, said enforcement of the law is part of his department's five-year strategic plan. On December 26, Catholic Archbishop Murphy Pakiam called on the federal government to intervene, saying that the apostasy law "will create fear."

On December 6, United Malays National Organization (UMNO) Supreme Council member and Tanjong Tualang assemblyman Dr. Shahidan Kassim called for blocking Facebook after allegations surfaced that a Malaysian Facebook account holder had used the social media site to insult Islam and Malaysian leaders. "If the website content poses a threat to national security and insults Islam, then it is unnecessary to have Facebook," he told reporters after accompanying committee members of the reported Perlis Facebook Association to lodge a report at the Kangar police station. Shahidan said a report would also be lodged at the State Islamic Religious Department. He also called on the Malaysian Communications and Multimedia Commission, the Malaysian Islamic Development Department, and the National Fatwa Council to act against the Facebook user. The Malaysian government had taken no action on this issue as of the end of the reporting period.

On December 4, 14-year-old bride Siti Maryam Mahmood married 23-year-old Abdul Manan Othman at a mosque in Kuala Lumpur as part of a 250 couple mass wedding. The couple reportedly first married in July 2010 after being given permission by a Sharia court. On December 6, Women's Minister Shahrizat Abdul Jalil stated the government's stance was clear that it does not condone child marriages and she vowed to look into the matter. However, on December 8, Law Minister Nazri Aziz said that the government had no plan to ban child marriages or review the laws for underage marriages because Islam permits the practice. Speaking on the same event, Minister in Charge of Islamic Affairs Jamil Khir Baharom reportedly welcomed the marriage.

On August 4, the Melaka state Islamic council Chairman Mohd Ali Rustam declared that the state Council had agreed to allow males below the age of 18 and females below the age of 16 to wed so long as they had obtained permission from a state Sharia court. Rustam added that the decision was made to reduce the number of cases of adultery and number of babies born out of wedlock.

On August 31, 22 unmarried Muslim couples were arrested for khalwat in an operation carried out by JAIS in conjunction with the Merdeka celebration (Independence Day). The couples, who were reportedly caught at hotels, were taken to JAIS headquarters to record statements and were subsequently released. No further developments occurred during the reporting period.

On August 22, female opposition member of parliament Teo Nie Ching, entered a mosque without a proper head covering. UMNO and conservative Islamic groups reacted strongly with one such group, Perkasa, calling for the creation of Sharia laws barring non-Muslims from entering Muslim places of worship. The Selangor Islamic Affairs Council (MAIS) issued her a warning to not enter mosques or suraus (Islamic prayer centers) without its permission. Teo Nie Ching subsequently issued a public apology to the Sultan of Selangor. Previously, on March 1, the National Fatwa Council ruled that non-Muslims could enter mosques as long as they were properly attired and do not violate the sanctity of the mosque. On September 2, MAIS issued a written directive banning all non-Muslims from entering the mosques and suraus in Selangor without MAIS permission.

On July 20, the Johor state religious council and Mufti of Perak, Harussani Zakaria, called on Muslims to stop wearing Manchester United football (soccer) jerseys, as they depict crosses, liquor brands, and devils and are therefore an insult to Allah. There were no reported incidents of enforcement of this policy during the reporting period.

According to religious groups and local NGOs, approval processes for building permits for non-Muslim places of worship were sometimes extremely slow. Minority religious groups also reported that state governments sometimes used restrictive zoning and construction codes to block construction or renovation of non-Muslim places of worship.

In January 2010 the Temerloh High Court in Pahang State ruled that the Temerloh Land and District Office correctly refused to supply water and electricity to an Orang Asli ("indigenous peoples") church in Kampung Pasu on the grounds that the building was illegally erected as a place of worship on state land without the approval of the Land Office. A case was brought by two indigenous Christians living in Kampung Pasu seeking judicial review of the office's decision to reject the church's application for water and electric services. The church is reportedly the only building in the settlement without water or electricity. The applicants have appealed the High Court's decision and the case was pending at the end of the reporting period.

According to the Malaysian Consultative Council of Buddhists, Christians, Hindus, Sikhs, and Taoists (MCCBCHST), the government restricted visas for foreign Muslim and non-Muslim clergy under the age of 40 as a means of preventing "militant clergy" from entering the country. While representatives of non-Muslim groups did not sit on the immigration committee that approved visa requests, the MCCBCHST was asked for its recommendations in the majority of cases.

Sharia courts have rarely recognized the conversion of ethnic Malays from Islam to another religion. Generally, the only conversions recognized were for non-ethnic Malay men and women who had previously converted to Islam for marriage but were seeking to reconvert to their previous religious affiliation after their marriages dissolved.

The government did not consider extending protection to individuals seeking to convert from Islam. Non-Muslim family members, including spouses and children, continued to lose all rights to inheritances in such cases. Courts reviewed on a case-by-case basis the religious status of minors in cases where one parent converts to Islam and the other does not, although courts tended to rule in favor of the converting Muslim parent, and minor children were generally determined to be Muslims in such cases.

The government banned and confiscated religious materials it found deviant. The Publications and Quranic Text Control Division at the Ministry of Home Affairs supervises the publication of religious texts. The government did not ban any religious books during the reporting period. The use of words Allah (God), Baitullah (House of God), Kaabah (location

towards which Muslims pray) and Solat (prayer) are restricted for use by Muslim groups by the Publications and Quranic Text Control Division as the government claimed these words are the sole jurisdiction of the Muslim community.

While practices vary from state to state, both the government and the opposition coalition People's Alliance (composed of PAS, the People's Justice Party, and Democratic Action Party) allegedly attempted to use mosques in the states they control to deliver politically oriented messages. Several states controlled by the National Front governing coalition (BN) banned opposition-affiliated imams from speaking at mosques, vigorously enforced existing restrictions on the content of sermons, replaced mosque leaders and governing committees thought to be sympathetic to the opposition, and threatened to close unauthorized mosques with ties to the opposition. Similarly, the opposition-controlled state governments of Kelantan, Kedah, Selangor, and Penang reportedly restricted imams affiliated with BN parties from speaking in mosques throughout the reporting period.

Only ethnic Malays, all of whom are considered Muslims by law, and certain non-Muslims in Sabah could be members of the dominant United Malays National Organization within the ruling coalition.

The government restricted the distribution of Malay-language translations of the Bible and other printed materials, as well as Christian audio and video materials. Since 2005, then Prime Minister Abdullah initiated a policy that requires Malay-language Bibles to have the words "Not for Muslims" printed on the cover and may be distributed only in churches and Christian bookshops.

On April 30 a high court set June 24 to hear the request of the Evangelical Church of Borneo (SIB) for judicial review of the government's ban on use of the word "Allah" after an attempted out-of-court settlement failed. SIB had filed the requests in December 2007 to contest the seizure by the Customs Department of six boxes of Christian educational publications shipped from Indonesia for use in children's Sunday school classes. Although the confiscated books were returned to the church in January 2008, SIB argued that it had the constitutional right to use the word "Allah" in all of its religious publications and practices, and not just within the church, and challenged the government's authority to prohibit the right of non-Islamic religions to import books containing the word "Allah." The case was still pending at the end of the reporting period.

Controversy over an attempted ban on non-Muslim use of the word "Allah" continued during the reporting period. The controversy arose in early 2008 when the internal security ministry (which merged with the home ministry later in 2008) attempted to ban non-Muslim use of the word "Allah" in Malay-language Bibles and other Christian publications. The Catholic Church filed a lawsuit against the ban in February 2008. With the case pending, the home ministry renewed the Catholic Church's permit to publish the Catholic Herald (published in Malaysian, Tamil and English) with three conditions: cease publishing its Malay-language section (the national language); restrict sales to Catholic Church property; and print a disclaimer on the front page saying the paper is meant only for Christians. Despite these conditions the Catholic Herald continued to publish its Malay-language version using "Allah," arguing that the Catholic Church had used the word in the country for more than 400 years.

On December 31, 2009, the High Court of Kuala Lumpur held that the government's prohibition on the Catholic Herald's use of the word "Allah" was unconstitutional, ruling in the Catholic Church's favor. The decision fueled opposition among the Malay majority, resulting in attacks on several places of worship. The government immediately filed an appeal and a stay of the court's decision, and on January 4 the trial court issued the requested stay pending a review of the decision by the Court of Appeals. The Catholic Herald did not oppose the issuance of the stay, and the case was pending at the end of the reporting period.

In April 2009 the government announced plans to relocate 29 Hindu temples in and around Kuala Lumpur to other locations. The government issued a 30-day notice to temple caretakers to move to the new locations or face demolition.

Many of these structures had been constructed on private property prior to the country's independence. However, there were no reports that the government relocated or demolished any temples during the reporting period.

Abuses of Religious Freedom

There were reports of abuse of religious freedoms in the country.

On December 16, JAIS raided a Shiite congregation in Gombak, Selangor and arrested 128 followers including an Iranian who was giving a sermon. The 128 followers were released on bail by the Gombak Islamic Sharia Court pending an investigation of potential violations of Section 12 (c) of the Selangor Sharia Offenses Act for insulting, questioning, violating, and disobeying a religious decree issued by the state Mufti. Two of the individuals also will face charges under Section 7(1) of the same act for unlawful "teaching, 'clarification,' or performance of any rites or actions relating to Islam," as well as Section 13 for "relating, propagating, or spreading views on any issue, teaching or [Sharia] judgment that goes against fatwas already in force in Selangor." This sweep, against the Lovers of the Prophet's Household, reportedly was the strongest Malaysian government action taken against Shiites since the sect was banned in 1996. The group was reportedly celebrating the Day of Ashura that commemorates the martyrdom of the Prophet Muhammad's grandson, Husain Ibn Ali, in 680 AD.

On October 21, 2009, a Sharia court sentenced a Muslim sect leader to the maximum penalty of 10 years in prison and six strokes of the cane for claiming to be God's prophet. Abdul Kahar Ahmad pled guilty to charges of spreading false doctrine, blasphemy, and violating religious precepts. The court directed that Kahar serve the last six months of his jail term at a faith rehabilitation center in Selangor. Kahar's followers filed an appeal on his behalf.

On November 1, 2009, JAIS arrested former Perlis mufti Mohd Asri Zainul Abidin, a progressive Muslim leader, for giving a religious talk without proper accreditation issued by JAIS. On November 18, Asri was charged under section 119 (1) of the Selangor Islamic Religious Administration Enactment of 2003, which provides for a fine of not more than \$940 (RM 3,000), a maximum jail term of two years, or both upon conviction. He pled not guilty. On January 7, 2010, the lower Selangor Sharia court held that it did not have jurisdiction over the case because the charge of preaching without certification is not a precept of Islam. On April 28, the case was transferred to the Shah Alam Sharia High Court. Asri appealed the transfer as it denied him one level of appeal. On July 29, the High Court postponed the hearing of Asri's case pending his appeal. The case was still pending at the end of the reporting period.

In October 2008 the government banned the Hindu Rights Action Force (HINDRAF), an unregistered umbrella organization for NGOs focused on ethnic Indian concerns. Although not a religious organization, HINDRAF appealed for redress of perceived government marginalization of ethnic Indians, including the demolition of some Hindu temples. Five HINDRAF members who were arrested under the Internal Security Act in 2007 were released in April and May 2009. Despite the ban, HINDRAF remained an active organization that raised issues of discrimination against the Indian and Hindu communities.

There were reports of minors converted to Islam in cases where one parent voluntarily converted to Islam and converted the children without the consent of the non-Muslim parent. Sharia courts usually upheld the conversions of minors despite the opposition of one parent, and the government in most cases did not act to prevent such conversions.

In April 2009 M. Indira Gandhi reported that in the previous month her estranged husband, K. Patmanathan, had converted to Islam, changed his name to Mohd Ridzuan Abdullah, and had forcefully converted her three children, ages one to 12 years old, to Islam without her knowledge by presenting their birth certificates to the state religious department in Ipoh, Perak. Gandhi learned of the conversions only after the Sharia court in Ipoh notified her of its decision to recognize the conversions and granted her husband custody of the children. She appealed the decision in civil court.

Following intense public criticism, the federal government announced in April 2009 that if a spouse converts to Islam, the children would follow the faith that both parents agreed to at the time of marriage. The government also stated civil courts were the proper locations for dissolving marriages in the event of a spouse converting to Islam. The Attorney General's Office was directed to review and propose changes to the existing law to prevent future complications when a spouse converts to Islam. The Malaysian Sharia Lawyers Association and other Islamic groups criticized the government's action, describing it as "an interference of legislative matters" that "threatens the freedom of the courts." In June 2009 the Conference of Rulers, a senior constitutional body, solicited the views of state religious councils before rendering its decision on proposed amendments to laws on conversion. On March 11, 2010, the High Court rejected Patmanathan's application and granted Gandhi custody of her children. Patmanathan appealed the decision and has retained custody of their youngest child, despite a court order to surrender the child to Gandhi. On July 28, 2010, the High Court allowed Gandhi's application for judicial review to nullify the children's conversion to Islam. At the time of this report, no hearing date has been set. The case was pending at the end of the reporting period.

A similar case was under review in federal court. Shamala Sathiyaseelan married her husband Dr. Jeyaganesh C. Mogarajah in a Hindu ceremony in 1998. In 2002, Jeyaganesh secretly converted to Islam and changed his name to Dr. Muhammad Ridzwan and then officially recorded conversion of their children to Islam without consulting his wife. A Sharia court gave Jeyaganesh custody of the children. Shamala filed her case with the civil court, arguing that she, as a non-Muslim, was not bound by rulings of a Sharia court and that her children's conversion was void. Shamala fled the country with her children after the civil court granted her custody of them. Jeyaganesh's attorneys reportedly argued that the case was moot since Shamala has fled the country; Shamala's attorneys argued that the court needs to issue a final determination to establish legal precedent. On November 12, a five-member panel of the Federal Court rejected Shamala's referral application stating that because Shamala is believed to be overseas with her two sons and had avoided the contempt proceedings brought by her husband, the court was reluctant to give her further opportunity to hear constitutional issues regarding the validity of the children's conversion. The court also accepted a preliminary objection from her husband that Shamala must face the contempt proceedings before she had the right to be heard.

On August 20, the federal Court of Appeal upheld a Kuala Lumpur High Court decision that the civil courts had no jurisdiction to rule on the religious status of a person who had embraced Islam, ruling that the matter was under the purview of the Sharia court. In doing so, the Court dismissed the appeal of S. Kalammal, a Hindu, to reclaim the body of her deceased husband M. Moothy from the Islamic religious authorities. Moothy died in 2005 and was buried at the Muslim cemetery instead of having Hindu religious rites performed because a Sharia court had ruled that he had embraced Islam prior to his death.

Religious leaders have urged the government to move forward with a proposal to get Muslim converts to publicly announce their religious status. Under the proposal, upon a conversion, JAKIM and the National Registration Department (NRD) would automatically document the conversion so that the information would be made available to interested parties in an effort to avoid disputes over the status of Muslim converts upon their death. On October 18, online news portal Malaysiakini quoted Minister Mohamed Nazri Abdul Aziz of the prime minister's department as saying that the proposal could not yet go forward because the Rulers' Council (Sultans) had not yet consented to the proposed changes.

Improvements and Positive Developments in Respect for Religious Freedom

On September 27, in a speech delivered to the UN General Assembly, Prime Minister Najib called for a "Global Movement of the Moderates" from all faiths who are committed to work together to combat and marginalize extremists who have held the world hostage with their bigotry and bias." On December 3, during his keynote address at the 6th General Assembly of the International Conference of Asian Political Parties, Najib urged the leaders to adopt a moderate path and reiterated the points made in his speech before the UN General Assembly.

On September 23, a Johor high-court judge awarded damages to members of the Orang Asli Christian Congregation of Kuala Masai for the unlawful destruction of their chapel by government authorities in 2005. The judge ruled that the government trespassed onto Orang Asli Laut land and had no right to tear down the chapel. The amount of damages awarded is yet to be determined.

On April 6, 2010, the cabinet announced the formation of a Committee to Promote Inter-Religious Understanding and Harmony to promote better religious understanding and harmony between Muslims and persons of other faiths. At a committee luncheon including over 100 leaders from different faiths held on September 22, the prime minister acknowledged the religious tension in Malaysia and vowed to resolve the differences. Stressing the need for religious understanding, he called on religious leaders to promote the understanding of different faiths. On December 1 and 2, the council held a two-day workshop to devise a two-year strategy for improving multicultural relations in the country. Representatives from MCCBCHST, the Allied Coordinating Committee of Islamic NGOs, Institute of Islamic Understanding Malaysia, and JAKIM were in attendance. The committee set up four working sub-committees focusing on: (1) understanding; (2) joint activities; (3) mediation; and (4) joint-action committee between government and community leaders. Each committee will be jointly chaired by a Muslim and a non-Muslim. Among its plans for 2011 is a celebration to mark World Interfaith Harmony Week.

A group of seven indigenous Orang Asli converts to Christianity sued the Kelantan state government after state authorities in January 2008 demolished a church located on land occupied by the indigenous people. In October 2009 the Kelantan High Court ruled in favor of the indigenous group, deciding that they have the right to use the land to hold church services. The Kelantan state government appealed the High Court's decision.

On March 22, the Malaysian Assembly of Mosque Youth (MAMY), a conservative Islamic NGO, filed a civil claim in the Kuala Lumpur High Court against SIS to prohibit the organization from using "Sisters In Islam" as the name and identity of the organization. In its affidavit MAMY alleged that a check with the Companies Commission of Malaysia (SSM) revealed that SIS was registered under the name of "SIS Forum (Malaysia)" and not "Sisters in Islam." The NGO also claimed the "Memorandum of Association" of SIS did not state that the purpose of the setting up of the organization was for Muslim women but as a secular-feminist movement supporting equal rights between men and women. MAMY also claimed that the word "Islam" was controlled and limited by the Registrar of Companies and could only be used after getting permission from the SSM and related government agencies, adding that SIS often issued statements that contradicted the teachings of Islam. On October 29, the court struck MAMY's application and ruled in SIS's favor stating that such a determination was controlled and limited by the Registrar of Companies.

Section III. Status of Societal Respect for Religious Freedom

There were some reports of societal abuses or discrimination based on religious affiliation, belief, or practice.

Religious converts, particularly those converting from Islam, may face severe stigmatization. In many cases converts concealed their newly adopted beliefs and practices from their former coreligionists, including friends and relatives.

On November 20, the conservative Islamic group Perkasa filed a police report against the Sun for an article entitled, Sore need for plurality in law, published on November 18, claiming the article was in contempt of court for questioning a court's rationale in the Shamala case. The article stated, among other points, that "Time and time again, we have seen our courts hide from their responsibility to uphold the Constitution whenever cases involving Islam appear." No further updates occurred during the reporting period.

In October 2010, Iskandar bin Fadeli, a senior assistant at St. Thomas Primary School in Sarawak State caned 10-year-old Basil Anak Baginda 10 times on the palm for bringing fried rice and pork sausages to school for lunch. On November

9, Iskandar publically apologized to the child's mother, Angela Jubing, in front of education ministry officials, the school board, and the school's headmistress. Basil's father Baginda Minda claimed he converted to Islam in 1999 and that his son, who was born in 2000, had been raised a Christian. Minister in the PM's Department Mohamed Nazri Abdul Aziz said the government had asked JAKIM to investigate the status of Basil's religion. No further developments occurred during the reporting period.

In August 2010, Sunita Klinck, a Muslim parent in Labuan, complained that St. Anne school authorities had harassed her daughter for not wearing a tudung (a scarf covering a Muslim women's head) to school during Ramadan. On August 26, the local daily, the Sun reported that the school issued Klinck's daughter with a "summons" and threatened her with caning for not adhering to the schools "ruling." According to Klinck, "Two male discipline teachers even held her captive in an office with the doors shut for about 20 minutes, while brandishing a cane to threaten her into complying with the rule." Education Ministry Director General Alimuddin Mohd Dom said that he would investigate the matter. On August 23, Deputy Prime Minister Muhyiddin Yassin voiced the government's position, "If families feel their children need not wear the tudung, that's up to them. This is an individual choice." No further developments occurred during the reporting period.

On April 18 approximately 50 representatives from Islamic NGOs filed a complaint with police against former Perlis mufti Mohd Asri Zainul Abidin and online newsportal Malaysiakini, alleging that an article written by the former mufti and published by Malaysiakini on April 4 was seditious. The article titled, "The challenge of the reformist movement," allegedly insulted Islam and the Malay rulers (referring to the sultans of nine states, who serve as kings on a rotational basis) as an institution to govern Islamic matters in the country. The case was pending at the end of the reporting period.

In August 2009, 50 Muslim residents in Selangor protested the relocation of a Hindu temple to their residential area by placing a severed cow's head at the front gate of the Selangor State government office. The protesters took turns stepping on the cow's head and threatened bloodshed if the government relocated the temple to their neighborhood. In September 2009 a sessions court (trial-level court) charged 12 persons for illegal assembly and also charged six of those 12 for sedition as well as damage to the Hindu religion because they had desecrated an animal sacred to Hindus. All 12 pleaded not guilty and were released on bail. They then appeared in a magistrate's court on additional charges under the Police Act of participating in an illegal assembly. They again pleaded not guilty and were released on bail. On July 27, 2010 the sessions court sentenced two of the protesters to pay a 3000RM (\$967 USD) fine or face three months imprisonment after pleading guilty to sedition. One of the two men was also sentenced to an additional week in jail. The court granted a discharge not amounting to an acquittal to the four others charged with sedition. All 12 of the charged protestors had previously pleaded guilty to the charge of participating in an illegal assembly with the intention of causing public unrest and were ordered to pay a 1000RM (\$322 USD) fine or face a month in jail.

Section IV. U.S. Government Policy

The U.S. government discusses religious freedom with the government as part of its overall policy to promote human rights.

Embassy representatives maintained an active dialogue with leaders and representatives of various religious groups, including those not officially recognized by the government. Embassy programs included visits to the United States for Islamic educators and lecture tours around Malaysia by American Muslim community leaders. The U.S. government also funded civil society grants and exchange grants for representatives of NGOs working to promote greater religious tolerance, respect for diversity, human rights, and openness in the country.

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