



Malaysia

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

International Religious Freedom Report 2009

October 26, 2009

The Constitution provides for freedom of religion. Article 11 states, "Every person has the right to profess and practice his religion," but 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." Article 3 of the Constitution states, "Islam is the religion of the Federation" and that "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 Shari'a courts on cases concerning conversion from Islam, and the latter remained reluctant to allow for such conversions. Other laws and policies placed some 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 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. 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 they 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 Shari'a courts rule on religious and family issues involving Muslims, and secular courts rule on other issues pertaining to 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 Shari'a courts, particularly in areas of family law involving disputes between Muslims and non-Muslims. Religious minorities continued to face limitations on religious expression and alleged violations of property rights. The Government restricts distribution of Malay-language Christian materials in peninsular Malaysia and forbids the proselytizing of Muslims by non-Muslims.

There were few 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 27.7 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 Baha'is. Ethnic Malay Muslims account for approximately 55 percent of the population. Three of the five most prominent political parties are organized along ethnic and 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

The Constitution provides for freedom of religion. Article 11 states that "every person has the right to profess and practice his religion," but 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. However, civil courts generally decided in favor of the government in matters concerning Islam. Article 3 states that "Islam is the religion of the Federation" and that "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 Shari'a courts in cases concerning conversion from Islam, and the latter remained reluctant to allow for such conversions. The Constitution identifies the traditional rulers as the "Heads of Islam" within their respective states. Other laws and policies placed some restrictions on religious freedom.

Mosques are administered at the state level rather than by the Federal Government. State religious authorities appoint imams to mosques and provide guidance on the content of sermons.

The Government does not recognize marriages between Muslims and non-Muslims.

State authorities administer Shari'a laws through Islamic courts and have jurisdiction over all Muslims. Shari'a 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 Shari'a law, such as khalwat (close physical proximity with the opposite sex), into the civil law. Religious police have the authority to raid private premises as well as public establishments. The Government did not provide information on the number of raids carried out by religious police. Shari'a 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 Shari'a courts in matters of divorce and child custody.

Amending the Penal Code is the exclusive prerogative of the Federal Government. Despite contradicting federal law, the state governments of Kelantan and Terengganu made apostasy, defined as the conversion from Islam to another faith, a capital offense. No one has been convicted or executed under these laws, as the laws cannot be enforced. Nationally, Muslims who seek to convert to another religion must first obtain approval from a Shari'a court to declare themselves "apostates." This effectively prohibits the conversion of Muslims, since Shari'a courts seldom grant such requests and can impose penalties on apostates.

In April 2009 a minister in the Prime Minister's Department announced he was seeking to implement unified Islamic laws to replace the individualized state Islamic laws.

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

In January 2009 the Selangor state government, under the ruling People's Alliance coalition, allocated \$1.7 million (six million Malaysian ringgit) for non-Muslim places of worship. The federal government, allocated \$125.9 (RM428 million) to build Islamic places of worship, and \$2.4 million (RM8.1 million) to build Christian, Buddhist, Hindu, and other places of worship for minority religious groups between 2005 and 2008.

The Government observes Hari Raya Puasa, Hari Raya Qurban, the Birth of the Prophet Muhammad, Awal

Muharram, Wesak Day, Deepavali, Thaipusam, and Christmas as national holidays. Good Friday is officially observed in East Malaysia.

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.

During the reporting period, the state government in Kelantan, led by the Pan-Malaysian Islamic Party (PAS), maintained its ban on traditional Malay dance theaters, prohibition on advertisements with provocatively dressed women, and enforcement of headscarves for Muslim women, and it imposed fines on violators. Kelantan's dress code requires Muslim women to wear clothes exposing only their faces and hands. The law also stipulates that non-Muslim women should avoid dressing "sexily or indecently." Violators of the dress code face fines up to \$146 (RM500). Women's rights leaders and the Minister of Women, Family, and Community Development criticized such regulations as overly restrictive. Authorities also required men and women to form separate lines at supermarkets and imposed fines on couples that sat too closely in public areas, such as park benches. In late June 2008, in Kota Bharu, the state's capital, city authorities began issuing pamphlets and public statements encouraging Muslim women not to wear high heels, bright lipstick, or transparent headscarves, in order to "preserve their dignity and avoid rape."

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 make their determination. The Government refuses to recognize various religious organizations, and in order to operate legally, these groups sometimes registered themselves 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 groups but precludes government funding.

State governments have authority over the construction of non-Islamic places of worship and land allocation for non-Muslim cemeteries. The Government, at both the federal and state level, often substantially delays permission to build or renovate non-Islamic places of worship while granting permission 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.

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 home schooling. 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 with visible print 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 visibly 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 Shari'a precepts, particularly khalwat. Khalwat is a criminal offence under Shari'a and is punishable with two years' imprisonment, a fine of \$940 (RM 3,000), or both. Religious police can conduct raids at hotels and bars in order to catch Muslims dressed indecently, consuming alcohol, or in close proximity to members of the opposite sex and charge them under Shari'a.

In August 2008 Selangor Islamic Religious Department (JAIS) issued 100 summonses to Muslim patrons and workers for consuming alcohol when it raided a pub at a hotel in Selangor. The offenders were also ordered to appear at the JAIS office for counseling. Members of the tourism industry criticized the raid for inciting fear.

Restrictions on Religious Freedom

The Government enforced existing legal restrictions on religious freedom selectively.

The Government banned 56 of what it considered "deviant" interpretations of Islam, maintaining that "deviant" views endanger national security and could divide the Muslim community. Banned groups include Ahmadiyya, Islamailiah, Shi'a, and Baha'i, among others. The Department of Islamic Development Malaysia established federal guidelines concerning what constitutes "deviationist" behavior or belief. State religious authorities generally followed these guidelines when determining these matters. With the consent of a Shari'a court, the Government may arrest and detain members of "deviationist" groups for "rehabilitation" to the "true path of Islam."

In November 2008 the Government announced it was monitoring the Qadiani sect, a branch of Ahmadiyah movement, which has been active for the last four years. 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.

According to religious groups and local NGOs, approval processes for building permits for 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.

Local authorities sometimes demolished non-Muslim places of worship, some more than 100 years old, located on government land or plantations converted for development. However, in some cases state governments allocated land elsewhere and covered the cost to construct new places of worship.

A group of seven indigenous 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. The case remained 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.

Shari'a courts have never recognized the conversion of ethnic Malays from Islam to another religion. The only conversions recognized during the reporting period were for women who had previously converted to Islam for marriage but were seeking to reconvert to their previous religious affiliation after their marriages dissolved. On March 19, 2009, the Shari'a Appellate Court upheld a decision of the Penang State Shari'a Court permitting Tan Ean Huang to return to Buddhism, which the state Islamic council opposed. Tan applied for conversion in 2006 after her Iranian Muslim husband abandoned her.

There was no discussion about protecting individuals wishing to convert from Islam. Non-Muslim family members, including spouses and children, continued to lose all rights to inheritances in such cases. Courts review 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 they tended to rule in favor of the Muslim parent.

The Government bans and confiscates religious materials it finds deviant or offensive. During the reporting period, the Government banned 57 books with religious themes, including *Muslim Women and the Challenge of Islamic Extremism*, by Norani Othman, co-founder of the Sisters In Islam (SIS), a local NGO promoting Islamic women's rights. Customs authorities seized six titles of Christian children's books for containing words deemed exclusive to Islam. The usage of words "Allah" (God), "Baitullah" (House of God), and "Solat" (prayer) are restricted for use by Muslim groups by the Publications and Al-Quran Texts Control Department under the Home Ministry as the Government claimed these words are the sole jurisdiction of the Muslim community.

In November 2008 the National Fatwa Council issued a directive to ban Muslims from practicing yoga, claiming that elements of Hinduism in yoga could corrupt their minds and beliefs.

In October 2008 the National Fatwa Council issued a fatwa banning "tomboys," or girls who act and dress like boys, as a violation of the tenets of Islam that encourages homosexuality. Under the fatwa, girls cannot have short hair or dress, walk, and act like boys. The fatwa is legally binding, although enforcement depends on the Islamic authorities of each state.

While practices vary from state to state, both the Government and the opposition PAS attempted to use mosques in the states they control to deliver politically oriented messages. In recent years several states controlled by the Barisan Nasional party (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 down unauthorized mosques with ties to the opposition. In like manner, the opposition-controlled state government of Kelantan 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 continued to monitor the activities of the small Shi'a minority.

The Government restricts the distribution in peninsular Malaysia of Malay-language translations of the Bible and other printed materials, as well as Christian tapes. Since 2005 a policy initiated by the Prime Minister requires that Malay-language Bibles must have the words "Not for Muslims" printed on the cover and may be distributed only in churches and Christian bookshops. The distribution of Malay-language Christian materials faced fewer restrictions in East Malaysia.

In April 2009 JAIS lodged a police report against a Youtube video that allegedly offends Islam. The video content showed a man prostrating before a Quranic verse and made fun of the azan, the Islamic call to prayer.

In March 2009 the Government reissued a ban on use of the word "Allah" in Bibles and other Christian publications. Responding to the ongoing legal battle between the Government and the Catholic Church, ten states issued a fatwa prohibiting non-Islamic uses of the word "Allah."

In December 2008 the Home Ministry renewed the annual printing permit for the *Catholic Herald*, the Catholic Church's Malaysian weekly newspaper, 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. The Government later rescinded the newspaper's license following criticism from the country's Islamic Councils for allowing the Catholic Church to continue using the word "Allah." The *Herald*

continued to use Allah to denote God, as the Catholic Church has done in the country for more than 400 years. The Catholic Church first filed a lawsuit against the Government in February 2008, after the Internal Security Ministry initially tried banning the Catholic Church from referring to Allah. The Government claimed reference to Allah by Christians and in Christian literature could confuse the country's Muslims and draw them to Christianity. Court proceeding continued at the end of the reporting period.

Abuses of Religious Freedom

In October 2008 the Government banned the Hindu Rights Action Force (HINDRAF), an unregistered umbrella organization for various 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. Waytha Moorthy, HINDRAF director, remained abroad citing a fear of arrest if he returned to the country. The Government utilized the Internal Security Act (ISA) to arrest five HINDRAF leaders in December 2007, claiming that their involvement in organizing protests during the previous month served to upset interracial harmony and thus threatened national security. The Government released two of the men in April 2009 with restrictive conditions, including not participating in press conferences, not leaving their area of residence without police permission, and regularly reporting to the police. The other three HINDRAF prisoners who initially refused to accept the conditions and remained detained under the ISA were subsequently released in May 2009.

In April 2009 the Government announced plans to relocate 29 Hindu temples in and around Kuala Lumpur to alternative locations. The Government issued a 30- day notice to temple caretakers to move to the new locations before the existing temples were destroyed. Many of these structures had been constructed on private plantations prior to the country's independence.

State-level Shari'a courts can order individuals who request to convert from Islam or who profess belief in a "deviant" Islamic sect to enter religious rehabilitation centers. The Government denies individuals the freedom 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.

At the end of the reporting period, religious authorities continued to search for Ayah Pin and one of his four wives, the leading members of the Sky Kingdom, a banned nonviolent religious group in Terengganu. In December 2008 media reports indicated that Ayah Pin had returned to Malaysia, but the Government disagreed and stated he remained in Thailand. In June 2008 JAIS arrested a man who claimed to be a "messenger from the sky" that had lived for "more than 3,000 years." The man had used his home as a gathering place for his followers.

There were no reports of religious detainees or prisoners in the country.

Forced Religious Conversion

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. Shari'a Courts usually upheld the conversions of minors despite the opposition of one parent. The Government usually did not act to prevent such conversions.

In April 2009 M. Indira Ghandi reported that her estranged husband, K. Patmanathan, forcefully converted her three children, ages one to 12 years old, to Islam without her knowledge in March by presenting their birth certificates to the state religious department in Ipoh, Perak. Ghandi became aware of the conversions only after the Shari'a court in Ipoh notified her of its decision to allow the conversions and grant her husband custody of the children. She appealed the decision in civil court. Following a public outcry, 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 tasked to review and propose changes to the existing law to prevent future complications when a spouse converts to Islam. The Malaysian Shari'a 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, decided to solicit the views of state religious councils before making a decision on proposed amendments to laws on conversion.

There were no reports of forced religious conversion of minor U.S. citizens who had been abducted or illegally removed from the United States, or the refusal to allow such citizens to be returned to the United States.

Section III. Status of Societal Respect for Religious Freedom

There were a few 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 conceal their newly adopted beliefs and practices from their former coreligionists, including friends and relatives.

Anti-Semitic texts, including books such as *The Protocols of the Elders of Zion*, were readily available at street vendors and bookstores throughout the country.

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

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 to Malaysia for 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.