



Malaysia

International Religious Freedom Report 2007

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The Constitution provides for freedom of religion; however, the Government places some restrictions on this right. Islam is recognized in the Constitution as "the religion of the Federation," but the practice of non-Sunni Islamic beliefs was significantly restricted, and those deviating from accepted Sunni beliefs could be subjected to "rehabilitation." Non-Muslims were free to practice their religious beliefs with few restrictions.

There was no change in the status of respect for religious freedom by the Government during the period covered by this report. The Government provides financial support to an Islamic religious establishment and provides more limited funds to non-Islamic religious communities. State authorities impose Islamic religious laws administered through Islamic courts on all ethnic Malays (and other Muslims) in family law and other civil matters. The Government restricts distribution of Malay-language Christian materials in Peninsular Malaysia and forbids the proselytizing of Muslims by non-Muslims. Muslims may generally not convert to another religion. Over the past several years, the country's civil court system has gradually ceded jurisdictional control to Shari'a courts in limited areas of family law involving disputes between Muslims and non-Muslims.

Pursuant to Shari'a family laws in force throughout the country, non-Muslims must convert to Islam upon marrying a Muslim. In several cases during the reporting period, state religious authorities detained and attempted to religiously "rehabilitate" Muslim spouses who attempted to renounce Islam, or who married non-Muslims in churches or temples. Such marriages were not recognized by Muslim religious authorities. Children resulting from these unions were sometimes removed by Islamic religious authorities from parental custody, pending religious "rehabilitation" of the detained Muslim parent. Several leading lawyers and human rights advocates spoke out against these practices, and several related court cases remained under review at the Federal Court (the country's highest court).

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

Section I. Religious Demography

The country has an area of 127 thousand square miles and a population of 26.6 million. According to 2000 census figures, approximately 60 percent of the population practiced Islam; 19 percent Buddhism; 9 percent Christianity; 6 percent Hinduism; and 3 percent Confucianism, Taoism, and other traditional Chinese religions. The remainder was accounted for by other faiths, including animism, Sikhism, and the Baha'i Faith. Ethnic Malay Muslims account for approximately 55 percent of the population. Longstanding Government policies provide material economic and educational preferences to the country's majority population of ethnic Malays, all of whom are legally categorized as Muslims at birth. Political parties are largely organized along ethnic and religious lines. An unknown number of foreign missionaries of various faiths operate in the country.

Section II. Status of Religious Freedom

Legal/Policy Framework

The Constitution provides for freedom of religion; however, the Government placed some restrictions on this right. The Government provides financial support to an Islamic religious establishment composed of a variety of governmental, quasi-governmental, and other institutions, and it indirectly provides more limited funds to non-Islamic communities. State governments impose Islamic religious law on Muslims in some cultural and social matters but generally do not interfere with the religious practices of non-Muslim communities. Prime Minister Abdullah developed the concept of "Islam Hadhari" (literally "civilizational Islam"), which he described as an "approach" that reminds Muslims "that Islam in reality is a religion which is tolerant, progressive and peace-loving," and is intended to foster interreligious tolerance and moderation in a multiethnic and multireligious society. The Government promoted the 10 tenets of "Islam Hadhari" in schools by

including it in the federally mandated curriculum, through religious lectures in the civil service, through dialogues and forums, and through the electronic and print media.

Although article 11 of the Federal Constitution guarantees religious freedom, the country's highest court ruled during the reporting period that Muslims wanting to convert to another religion must first obtain approval from a Shari'a court. The court's decision effectively precludes the conversion of Muslims, since the Shari'a courts have granted only a handful of requests to convert to another religion in recent years.

Shari'a laws are administered by state authorities through Islamic courts and bind all Muslims, most of whom are ethnic Malays. Shari'a laws and the degree of their enforcement varied from state to state. Shari'a courts do not give equal weight to the testimony of women. Several nongovernmental organizations (NGOs) dedicated to advancement of women's rights complained that women did not receive fair treatment from Shari'a courts in matters of divorce and child custody. In December 2005 Parliament passed the Islamic Family Law Act (IFLA) in an effort to harmonize Shari'a laws throughout the country. The IFLA would have weakened a Muslim wife's ability to control her private property during marriage, as well as enhanced the ability of Muslim men to divorce, take multiple wives, and claim an existing wife's property upon taking a new wife. Following protests from women's rights advocates about these and other provisions of the IFLA, the attorney general commenced a review of the law. As of June 30, 2007, the law had not been gazetted; the attorney general's chamber continued to review proposed amendments to the IFLA.

The Registrar of Societies, under the Ministry of Home Affairs, determines whether a religious organization may be registered and thereby qualify for government grants and other benefits. The Government refused to recognize various religious organizations, and in order to operate legally, these groups sometimes registered themselves under the Companies Act. In one prominent example, the Government alleged that the Ruffaq Corporation, established in 1997 and recognized by the country's Registrar of Companies, was a deviant religious group trying to revive the teachings of the banned Al-Arqam movement. Although several state governments have declared the Ruffaq Corporation to be a deviant religious group and have confiscated religious materials and removed portraits of the Al Arqam founder Ustaz Ashaari from their business premises, the authorities have not stopped their businesses from operating.

The law allows the state to demolish unregistered religious statues and houses of worship. Several NGOs complained about the demolition of unregistered Hindu temples and shrines located on state and local lands. These structures were often constructed on privately owned plantations prior to the country's independence in 1957. Around that time, plantation lands containing many Hindu shrines and temples were transferred to government ownership.

Control of mosques is exercised 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.

State governments have authority over the building of non-Muslim places of worship and the allocation of land for non-Muslim cemeteries.

The Government restricts the distribution in peninsular Malaysia of Malay-language translations of the Bible, Christian tapes, and other printed materials. In April 2005 the Prime Minister declared that copies of the Malay-language Bible must have the words "Not for Muslims" printed on the front and could be distributed only in churches and Christian bookshops. The distribution of Malay-language Christian materials face few restrictions in East Malaysia.

The Government prohibits publications and public debates that it alleges might incite racial or religious disharmony. In 2006 the Government banned at least 18 books with religious themes, including *The Battle for God*, by Karen Armstrong. Two previous books by Armstrong, *A History of God* and *Muhammad: A Biography of the Prophet*, were banned in 2005.

The Government continued to require all Muslim civil servants to attend Government-approved religion classes

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

Government-controlled bodies exerted pressure upon non-Muslim women to wear headscarves while attending official functions. In December 2006 the Kelantan government enacted a law against "indecent dressing" by Muslim women working in retail outlets and restaurants. The dress code requires headscarves and allows only faces and hands to be exposed. The law also stipulates that non-Muslim women should avoid dressing "sexily or indecently." Women who violate

the dress code can be fined up to \$146 (500 ringgit). Women's rights leaders and the Minister of Women, Family, and Community Development criticized the new law as overly restrictive.

The PAS-led state government in Kelantan continued its ban on traditional Malay dance theaters, prohibited advertisements depicting women not fully covered by clothing, enforced wearing of headscarves by Muslim women, and imposed fines for violators during the reporting period. However, state authorities reversed several previously enacted Islamic law-related prohibitions and allowed operation of gender-segregated cinemas and concert venues, fashion shows limited to female attendees, and billiard/snooker centers for men only.

Proselytizing of Muslims by members of other religious groups is strictly prohibited, although proselytizing of non-Muslims faces no similar obstacles.

Several holy days are recognized as official holidays, including Hari Raya Puasa (Muslim), Hari Raya Qurban (Muslim), the Birth of the Prophet Muhammad (Muslim), Wesak Day (Buddhist), Deepavali (Hindu), Christmas (Christian), and, in East Malaysia, Good Friday (Christian).

Restrictions on Religious Freedom

In practice Muslims are not permitted to convert to another religion. In several rulings during the reporting period, secular courts ceded jurisdiction to Shari'a courts in matters involving conversion to or from Islam, and in family law cases involving Muslims versus non-Muslims. Some of these cases remained under appeal at the Federal Court.

On May 30, 2007, the Federal Court ruled that Muslim individuals must obtain an order from the Shari'a Court stating that they have become an "apostate" (they have renounced Islam) before they can change their national identity card. As apostasy grants (grants of permission to convert to another religion) by the Shari'a court are extremely rare, the court's decision effectively precludes any legal right of Muslims to convert to another religion. The 2007 ruling was in response to an appeal in a 2005 case in which the country's second-highest court, the Court of Appeal, denied the request of Lina Joy, a Muslim who had converted to Christianity, to change the religion designated on her national identity card. The Court of Appeal had ruled that a Shari'a court must first approve a request by a Muslim citizen to convert to another religion. Because the designated religion on Lina's national identity card would remain "Islam," and because the Civil Marriage Provision of the 1976 Law Reform Act prohibits Muslims from solemnizing a marriage under civil law, Lina will not be legally allowed to marry her Catholic fiancée. Citing the case as "a matter of general public interest," the Federal Court (the country's highest court) had agreed to hear Lina's appeal and address the degree to which Shari'a courts have jurisdiction over determinations of Muslim apostasy.

By the end of the reporting period a decision has still not been reached in the appeal of a case involving the disposition of the remains of a Hindu man who was alleged to have converted to Islam before his death. The man's Hindu wife, claimed that there was no clear evidence that he had converted to Islam and struggled with Islamic authorities over which religion's rites should govern his burial. The wife was appealing a secular High Court ruling that it had no jurisdiction to hear the case because it involved a Muslim, despite her being non-Muslim. A Shari'a court had earlier ruled that the Hindu man was a Muslim and Islamic authorities buried the man according to Muslim rites

On March 13, the Court of Appeal upheld a High Court ruling that would allow a Muslim convert to initiate divorce proceedings in a Shari'a court, obtain custody of under-aged children from a non-Muslim spouse, and unilaterally convert the children to Islam. Following condemnation of the secular courts' rulings by non-Muslim religious leaders and the Bar Council, the Court of Appeal agreed to stay execution of its ruling until the non-Muslim spouse exhausts her appeal process before the Federal Court. That process continued as of June 30, 2007.

Other child custody cases arose during the reporting period that reflect the turbulent jurisdictional interface between the Shari'a and secular courts on family law matters pitting Muslims versus non-Muslims. One such case involved 29-year-old Revathi Masoosai who was raised as a Hindu by her grandmother, although she was born to Muslim parents and registered at birth as a Muslim. Revathi filed a statutory declaration in 2001 that identified herself as a Hindu. After she married a Hindu man in 2004, worshipped as a Hindu, and gave birth in December 2005, the Malacca Islamic Religious Department (MAIM) accused Revathi of deviating from Islam and demanded custody of her newborn daughter. Revathi refused. On January 8, 2007, Revathi was taken into custody under a Shari'a court order. Despite the objections of Revathi and her husband, MAIM placed the couple's daughter in the care of Revathi's Muslim mother. Revathi's initial 100 days of "rehabilitation" detention was extended on April 18, 2007, for an additional 80 days, reportedly due to her refusal to cooperate with Muslim religious authorities while in detention. Her husband filed a habeas corpus application in the High Court on May 14, in an effort to secure Revathi's release. He claimed the religious rehabilitation center in which she was held had not been gazetted as a detention center. As of June 30, 2007, Revathi remained in detention, and the High Court had not heard her husband's habeas corpus application.

On April 28, 2007, officers from the Selangor Islamic Affairs Department (JAIS) raided the home of a Muslim woman and Hindu man who were married in July 2006 in a Hindu temple. According to the husband's police report and petition filed in the High Court, JAIS officials told the couple that their Hindu marriage was deemed void. JAIS stated it removed the woman from the couple's home on suspicion that she committed "khalwat" (i.e., being in close physical proximity to a man other than her husband). She remained in detention and was undergoing religious "rehabilitation" at the end of the reporting period. The husband's lawsuit remained pending.

While practices vary from state to state, both the Government and the opposition Islamic Party of Malaysia (PAS) have attempted to use mosques in the states they control to deliver politically oriented messages. In recent years several states controlled by the Barisan Nasional (BN, the governing coalition) 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. Similarly, the state government of Kelantan, controlled by PAS, reportedly restricted imams affiliated with BN parties from speaking in mosques.

The Government opposed what it considered "deviant" interpretations of Islam, maintaining that allegedly deviant groups' views endanger national security. According to the Government's Islamic Development Department (JAKIM) website, 56 deviant teachings had been identified and prohibited to Muslims as of June 30, 2007. They included Shi'a, transcendental meditation, and Baha'i teachings, among others. The Government asserted that "deviationist" teachings could cause divisions among Muslims. JAKIM established written guidelines concerning what constitutes "deviationist" behavior or belief. State religious authorities, in making their determinations on these matters, generally followed the federal guidelines. Members of groups deemed "deviationist" may be arrested and detained, with the consent of a Shari'a court, in order to be "rehabilitated" and returned to the "true path of Islam." In June 2005 the Religious Affairs Minister told parliament that 22 "deviant" religious groups with an estimated 2,820 followers had been identified in the country. He stated that members of these groups were subject to prosecution, detention under the Internal Security Act, or "rehabilitation." Neither the Government nor religious authorities provided data on the number of such persons subjected to prosecution or "rehabilitation."

The Government continued to monitor the activities of the small Shi'a minority.

According to the Malaysian Consultative Council of Buddhists, Christians, Hindus, Sikhs and Taoists (MCCBCHST), the Government restricted visas for foreign 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.

Article 11, an NGO named after the freedom of religion clause in the Constitution, organized four public forums to discuss the perceived erosion of constitutional protection of non-Muslims' religious freedom. The last three events sponsored were either canceled or shortened at the request of police, following the actual or threatened appearance of a large number of Muslim protesters. As debate over religious topics intensified, in July and August 2006 the Prime Minister warned both mainstream and Internet-based media to refrain from publicizing debates about contentious religious topics. He also directed all NGOs--both Muslim and non-Muslim--to cease public statements and activities that could generate further religious controversy. Article 11 held no further public discussions during the reporting period. On April 23, 2007, a minister in the Prime Minister's department announced the establishment of a National Unity Advisory Panel (NUAP), consisting of representatives from the country's major religions. The NUAP reportedly convened several times in the months prior to the Minister's announcement. Religious leaders reportedly used the NUAP to confidentially voice their concerns to the Prime Minister about controversial religious freedom matters in the country.

Approvals for building permits sometimes were granted very slowly. Minority religious groups reported that state governments sometimes used restrictive zoning and construction codes to block construction of non-Muslim places of worship.

As of the end of the reporting period, a case regarding the pending demolition of an unregistered 150 year old temple Negeri Sembilan remained open. In May 2006 the temple sought a court injunction against the demolition after state officials announced their intention to do so. The temple sits on state-owned land that had been zoned for road construction. Approximately 300 worshippers regularly use the temple

In July 2006, following an 11-year dispute, a high court judge prevented a developer in Pahang state from destroying a Hindu temple on land purchased by the developer. The judge ruled that the temple existed on the land prior to the purchase and had the right to coexist on the land. The developer filed no appeal against the ruling, and the temple remained standing at the end of the reporting period.

Since the defeat of the PAS in Terengganu in March 2004 elections, state and local officials in that state have significantly

reduced enforcement of dress codes for women.

Abuses of Religious Freedom

According to the Government, no individuals were detained under the Internal Security Act (ISA) for religious reasons during the period covered by this report.

The Government is concerned that "deviationist" teachings could cause divisions among Muslims. Members of "deviationist" groups can be arrested and detained, with the consent of a Shari'a court, to be "rehabilitated" and returned to the "true path of Islam." As of June 30, 2007, religious authorities sought Ayah Pin, the leader of a nonviolent religious group in Terengganu known as the Sky Kingdom, and one of his four wives for supporting "deviant" religious practices. In 2005, at the instruction of state officials, police arrested approximately 70 Sky Kingdom members and destroyed all nonresidential buildings on the group's compound. One of the 70 arrested agreed to undergo religious rehabilitation; the cases against the other Ayah Pin followers were pending at the end of the reporting period. In July 2004 the Federal Court dismissed an appeal by four followers of Ayah Pin seeking a statutory declaration that Sky Kingdom followers have the right to practice the religion of their choice. The Federal Court held that their attempt to renounce Islam did not free them from the jurisdiction of the state Shari'a court.

On November 14, 2006, JAIS detained 107 persons, including several children, during a raid in Kuala Lumpur against suspected followers of the banned al Arqam Islamic group. While all detainees were subsequently released, JAIS stated it intended to press charges in a Shari'a court against six of the arrested individuals. The Government banned al Arqam in 1994, labeling it a "deviant" sect. Ashaari Muhammad, the leader of its approximately 10,000 followers, subsequently spent 10 years under house arrest. Ashaari established a holding company, Rufaqa Corporation, to manage his business interests while detained. Rufaqa Corporation came under investigation for allegedly supporting the revival of the al Arqam group. On March 1, 2007 JAIS raided the homes of 28 individuals with links to Rufaqa Corporation to gather further evidence against the company. JAIS also raided several business premises of Rufaqa Corporation on March 2, 2007, tearing down posters and signs bearing the word "Rufaqa" and seizing books and other materials featuring Ashaari.

Forced Religious Conversion

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

Improvements and Positive Developments in Respect for Religious Freedom

On February 22, 2007, the Prime Minister publicly criticized efforts by the Islamic religious departments of several states to establish "snoop squads" to police the private behavior of Muslims. The Prime Minister stated that such activities violated citizens' right to privacy. He stated that each state's Islamic religious authorities should instead focus on programs to strengthen the Islamic values and morals of the community. Following the Prime Minister's comments, no state's Islamic religious authorities established or continued formal programs to investigate the private morality of Muslims. However, state religious authorities continued to police the public behavior of Muslims; public actions deemed immoral (e.g. close physical contact by unmarried Muslim individuals, or "khalwat"), remained punishable by fines and religious "rehabilitation."

Section III. Societal Abuses and Discrimination

There were a few reports of societal abuse or discrimination based on religious belief or practice. The Government sometimes intervened to suppress discussions of controversial religious disputes between Muslims and non-Muslims.

On November 5, 2006, police reacted quickly and forcefully to protect worshippers at a Catholic church in Ipoh, when more than 1,000 Muslims gathered to protest the rumored baptism of several hundred Muslim children. The rumor was false, and the country's top police officer, the Inspector General Police, subsequently declared that those responsible for initiating the rumor were a threat to public order and national security. The Prime Minister declared that the parties responsible for starting the rumor should be severely punished. On November 20, 2006 police detained a married couple from Ipoh on suspicion of starting the rumor. They subsequently released the couple on bail, and the Government's investigation into the incident continued as of June 30, 2007.

In August 2006 a leaflet was widely distributed that contained a death threat against a prominent Muslim human rights lawyer who had played a leading role in organizing Article 11 discussions. He had publicly warned against the encroachment of Shari'a courts upon the jurisdiction of the civil court system. Non-Malay political and religious leaders from across the religious spectrum publicly criticized the leaflet. Several NGO leaders and opposition party politicians noted that government criticism of the death threat was muted, as no cabinet-level minister publicly condemned it. As of

June 30, 2007, the police continued their investigation of the death threat, although no arrests have been made.

Section IV. U.S. Government Policy

The U.S. Government discusses religious freedom matters 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. The Embassy coordinated funding for a Fulbright scholar who addressed interfaith concerns while in residence as a lecturer at a public university. The Embassy sponsored visits by American Islamic scholars; it also funded civil society grants and exchange grants for representatives of NGOs working to promote greater religious tolerance, respect for diversity, and human rights and openness in the country.

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[International Religious Freedom Report Home Page](#)