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Key Findings

Religion, ethnicity, and politics are all profoundly intertwined in Malaysia and complicate religious freedom protections for religious minorities and non-Sunni Muslims. USCIRF has not reported on Malaysia since 2007. Renewed reporting stems from concerns about inadequate legal protections for religious minorities and ethnic Malays who wish to change their religion, bans on certain publications and groups considered religiously "deviant," including Shi'a, and expanded efforts to arrest and harass members of such groups in the past two years. Based on these concerns, USCIRF places Malaysia on Tier 2 in 2014.

Background

Over the past decade in particular, Malaysian politics have been characterized by a balancing act between largely ethnically-based political parties, many of which seek to either increase or decrease Islam's socio-political influence. Despite Prime Minister Najib Razak's efforts to deemphasize ethno-religious differences, friction continues between non-Muslim ethnic populations, the Islamic-influenced moderate Malay government, and those advocating publicly for more conservative interpretations of Islam. Concerns have also been raised that the country's economic affirmative action programs for ethnic Malay Muslims may contribute to this friction; these programs grant preferences to the majority population in business contracts, government, and educational positions, to the detriment of Hindus, Chinese, and other groups.

The legal conflation of ethnic and religious identities negatively affects religious freedom. The official state religion is Islam, and while the constitution protects religious freedom, it defines all ethnic Malays as Sunni Muslims. Civil courts routinely cede jurisdiction to Shari'ah courts over familial or conversion cases involving Muslims, particularly ethnic Malays. Depending on the judge and province, Shari'ah courts sometimes allow conversion from Islam, but only for non-Malays. In

seven provinces conversion from Sunni Islam is a crime. State officials may subject individuals to fines or detention for up to six months in mandatory "rehabilitation" centers, sometimes at the request of parents or Shari'ah courts. A non-Muslim must convert to Islam to marry a Muslim (often leading to legal disputes upon divorce or death) and non-Muslims are barred from proselytizing to Muslims in most provincial areas. However, the Ministry of Islamic Affairs (JAKIM) sometimes supports proselytizing by Muslims to non-Muslims, which has caused problems with indigenous groups, such as the Orang Asli.

JAKIM officials oversee Islamic religious activities and seek to influence the content of sermons, use mosques to convey political messages, and prevent certain imams from speaking at mosques. State security officials also supervise the content of sermons and monitor religious publications, including for the use of certain words by non-Muslims. Since 2010, JAKIM reportedly launched a high profile effort to curtail the influence of the terrorist organization Jemaah Islamiyah in religious schools and mosques.

The federal and provincial governments reportedly maintain lists of "deviant religious sects" deemed to threaten national security. Among the groups believed to be included are Shi'a, Ahmadis, Baha'i, Jehovah's Witnesses, the Church of the Latter Day Saints, and Al-Arqam (a Malaysian-based Islamic religious sect founded by Ashaari Mohammad). Enforcement efforts generally focus on conversions and proselytism, not assembly or worship, but members of such groups are vulnerable to arrests and detentions at any time, particularly if they are ethnic Malays.

Local officials in conservative Muslim-majority states such as Kelantan, Terengganu, and Selangor consider apostasy a capital offense. While prosecutions for apostasy are rare, detentions and fines have occurred, including in the past year. Officials in these states also enforce public modesty codes, including regarding alcohol and pork consumption, gambling, and *khalwat* (prohibited close proximity of unmarried non-relatives of the opposite sex) for both Muslims and non-Muslims. In these states all federal employees, regardless of their religion, are required to attend religious education classes and wear modest dress during work hours.

Religious Freedom Conditions 2013-2014

Arrests of Members of "Banned" Sects"

Over the past several years, Malaysia has expanded efforts to monitor and detain followers of banned sects, most prominently Shi'a and Al-Arqam. In 2011, Minister of Islamic Affairs Jamil Khir Baharom issued a statement banning the promotion of Shi'ism and pledging government efforts to halt the spread of the Shi'a sect, including by monitoring and controlling preaching and materials. Over the past several years, local Islamic Affairs ministries expanded efforts to halt Shi'a practice. According to Minister Baharom, 16 Shi'a were detained in 2013 on charges of proselytization and local authorities carried out 120 "inspections." Since 2010, over 200 Shi'a followers have been detained, including in Kuala Lumpur, Selangor province, and Perak province. Generally they are released on bail pending investigations. Several have been charged with spreading Shi'ism and are out on bail awaiting trial. In 2012, 20 followers of Al-Arqam were arrested at a religious gathering in Selangor province; six were charged in 2013 with trying to promote the banned movement.

Policing Belief and Expression

There are proposals to expand the powers of JAKIM, including by creating a religious police force for Islamic Affairs departments nationwide. This proposal has been widely criticized, but JAKIM's powers to restrict freedoms have expanded in recent years. In May 2013, JAKIM officials arrested bookstore employee Nik Raina for distribution of the book "Allah, Liberty and Love," a publication which had not yet been banned. The book was officially banned two weeks after the arrest. Ms. Raina was charged in a Shari'ah court and the case is currently pending. In August 2013, on JAKIM's recommendation, police in Segamat, Johor province detained Maznah Mohd Yusof. JAKIM requested the action because it found that a video of Ms. Yusof and her three dogs she posted on YouTube was "insulting to Islam." She was released on bail, pending an investigation.

Official Promotion of Religious Hatred

In March 2013, the Federal Territory Islamic Affairs Department issued an official sermon stating that "Muslims must understand Jews are the main enemy to Muslims." In November 2013, JAKIM published a sermon that discussed the "despicable nature" of the Jewish race and stated that "Israel is a nation of ruthless criminals." After criticism, the sermons were removed and the government of Malaysia apologized. However, in January 2014, JAKIM released another approved sermon stating that "divisions among Muslims . . . is caused by Christians and Jews."

Bans on Use of the Word "Allah"

In February 2014, the Malaysian Court of Appeals overturned a 2010 lower court ruling allowing Christian publications to use the word "Allah." The decision reinstated earlier bans on the word's usage by the Ministry of Home Affairs and several provinces. The court stated that the word "Allah" belongs exclusively to Islam and that use of the term by other religious groups could confuse Muslims and be used as a tool of conversion.

Recommendations for U.S. Policy

U.S. officials regularly highlight Malaysia as "moderate" nation and a "multi-faith model." While the country has a tradition of tolerance, these comments fail to recognize how Malaysia's increasingly bifurcated ethno-religious politics threatens its traditional moderation and political stability. USCIRF recommends that the U.S. government should publicly acknowledge that increasingly religion-oriented politics undermines the efforts of those working to make Malaysia a religiously-pluralistic, Muslim-majority democracy. USCIRF also recommends that the U.S. government should undertake greater efforts to connect religious freedom and tolerance issues to expanded U.S.-Malaysia bilateral relations, including by:

- Urging the Malaysian government to cease the arrest of individuals involved in peaceful religious activity, such as Shi'a and Al-Arqam groups, and end government efforts to police religious belief and expression;
- Pressing the Malaysian government to bring all laws and policies into conformity with international commitments, including on freedom of religion or belief and freedom of expression;
- Encouraging Malaysian elected leaders to address the human rights shortcomings of the parallel civil-Shari'ah justice systems to guarantee that all Malaysians, regardless of ethnicity or religion, can enjoy freedom of religion or belief in line with international standards; and

- In the context of expanding U.S.-Malaysia relations, insist in negotiations concerning Malaysia joining the Trans-Pacific Partnership (TPP) that religious and ethnic minorities benefit fairly from freer and expanded trade.

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