MALAYSIA 2016 INTERNATIONAL RELIGIOUS FREEDOM REPORT

Executive Summary

The constitution states Islam is the "religion of the Federation; but other religions may be practiced in peace and harmony." Federal and state governments have the power to control doctrine among Muslims and promote Sunni Islam above all other religious groups. Other forms of Islam are illegal and subject to action by religious authorities. The government maintains a parallel legal system, with certain civil matters for Muslims covered by sharia. The relationship between sharia and civil law remains unresolved in the legal system. Sedition laws criminalize speech that "promotes ill will, hostility, or hatred on the grounds of religion." The government arrested several people practicing forms of Islam other than Sunni and individuals who authorities said insulted religion or incited "religious disharmony." The government continued to bar Muslims from converting to another religion and imposed fines, detentions, and canings on those classified under the law as Muslims who contravened sharia codes. Non-Muslims continued to face legal difficulty in using the word "Allah" to denote God. Non-Sunni religious groups continued to report difficulty in gaining registration as nonprofit charitable organizations or building houses of worship; religious converts had difficulty changing their religion on their national identification cards.

Local human rights organizations and religious leaders stated that society continued to become increasingly intolerant of religious diversity. They cited public protests against non-Sunni Muslim groups, some Muslim groups' continuing public condemnation of events and activities they said were "un-Islamic," as well as heavily publicized social media posts targeting Muslim and non-Muslim groups. Women who did not dress in what others considered modest attire continued to report incidents of public shaming. A Catholic group reported increasing incidents of Islamic proselytism in its schools. At least eight incidents of vandalism at Hindu temples around the country were reported in a span of five months, although authorities stated this did not constitute a trend.

Official U.S. representatives regularly discussed with government officials and leaders issues including constitutional guarantees of freedom of religion, proposed legislation affecting religious groups, and increasing religious intolerance. The U.S. Ambassador at Large for International Religious Freedom and the U.S. Special Representative to Muslim Communities visited and discussed religious freedom with government officials and civil society leaders. Embassy representatives also met with members of religious groups, including those not

officially recognized by the government. The embassy's continued engagement with the government and religious organizations included speaker programs and visitor exchanges to promote religious tolerance and freedom.

Section I. Religious Demography

The U.S. government estimates the total population at 30.9 million (July 2016 estimate). Census figures from 2010 indicate that 61.3 percent of the population practices Islam; 19.8 percent, Buddhism; 9.2 percent, Christianity; 6.3 percent, Hinduism; and 1.3 percent, Confucianism, Taoism, or other traditional Chinese philosophies and religions. Other minority religious groups include animists, Sikhs, and Bahais. Ethnic Malays, who are defined in the federal constitution as Muslims from birth, account for approximately 55 percent of the population. Rural areas – especially in the east coast of peninsular Malaysia – are predominantly Muslim, while the states of Sabah and Sarawak on the island of Borneo have relatively higher numbers of non-Muslims.

Section II. Status of Government Respect for Religious Freedom

Legal Framework

The federal constitution states that "every person has the right to profess and practice his religion," but gives federal and state governments the power to control or restrict proselytization to Muslims. The constitution names Islam as the "religion of the Federation," and gives parliament powers to make provisions regulating Islamic religious affairs. Federal and state governments have the power to "control or restrict the propagation of any religious doctrine or belief among persons professing the religion of Islam." The constitution identifies the traditional rulers, also known as sultans, as the "Heads of Islam" within their respective states. Sultans are present in nine of the country's 13 states; in the remaining four states and the Federal Territories, the highest Islamic authority is the king. Sultans oversee the sharia courts and appoint judges based on the recommendation of the respective state Islamic religious departments and councils who manage the operations of the courts. In states with no sultan and in the Federal Territories, the king assumes responsibility for this process. The law allows citizens and organizations to sue the government for constitutional violations of religious freedom. Federal law has constitutional precedence over state law, except in matters concerning Islamic law. A 1996 fatwa with the effect of law under the sharia code requires the country to follow only Sunni teachings and prohibits

Muslims from possessing, publishing, or distributing material contrary to those teachings.

The law forbids proselytizing of Muslims by non-Muslims, but allows and supports Muslims proselytizing others. The law does not restrict the rights of non-Muslims to change their religious beliefs and affiliation. A non-Muslim wishing to marry a Muslim, however, must convert to Islam for the marriage to be officially recognized. A minor (under the age of 18, according to federal law) generally may not convert to another faith without the explicit permission of his or her guardian; however, some states' laws allow conversion to Islam without permission after age 15.

Muslims who seek to convert to another religion must first obtain approval from a sharia court to declare themselves "apostates." Sharia courts seldom grant such requests and can impose penalties on apostates, including enforced "rehabilitation." In the states of Perak, Melaka Sabah, and Pahang, conversion from Islam to another religion is a criminal offense punishable by a fine or jail term. In Pahang, up to six strokes of the cane may also be imposed. Nationally, civil courts generally cede authority to sharia courts in cases concerning conversion from Islam, and sharia courts remain unwilling to allow such conversions for those who are born Muslims and reluctant to allow conversion for those who had previously converted to Islam. In the states of Perak, Kedah, Negeri Sembilan, Sarawak, and Melaka, sharia allows one parent to convert children to Islam without the consent of the second parent.

Sedition laws regulate and punish, among other acts, speech considered hostile to ethnic groups, which includes speech insulting Islam. The law also bars speech that "promotes ill will, hostility, or hatred on the grounds of religion."

There is only one approved Islamic organization in each state. There is no legal requirement for other religious groups to register, but in order to become approved nonprofit charitable organizations, all groups must register with the government's Office of the Registrar of Societies (RoS) by submitting paperwork showing the organization's leadership, purpose, and rules, and paying a small fee. Many churches and nongovernmental organizations (NGOs), however, continue to find registration difficult, with RoS denying many applications for highly technical reasons. Once registered, these organizations continue to be registered as long as they submit annual reports to the RoS as legally required.

All Islamic houses of worship – including mosques and *surau* (prayer rooms) – fall under the authority of the federal Department of Islamic Development Malaysia (JAKIM) and corresponding state Islamic departments; officials at these departments must give permission for the construction of any mosque or *surau*. JAKIM and state Islamic authorities prepare Friday sermons for congregations as well as oversee and approve the appointment of imams at mosques. JAKIM and state Islamic officials must formally approve all Islamic teachers before they may be allowed to preach in any particular mosque within a state or the Federal Territories.

Sharia courts have jurisdiction over Muslims in matters of family law and religious observances. A constitutional amendment provides that civil courts have no jurisdiction with respect to any matter within the jurisdiction of the sharia courts. Non-Muslims have no standing in sharia proceedings, leading to some cases where sharia court rulings have affected non-Muslims who have no ability to defend their position or appeal the court's decision – most frequently in rulings affecting custody and conversion in interfaith families. The relationship between sharia and civil law remains unresolved in the legal system. Two states, Kelantan and Terengganu, have symbolically enacted *hudood* (Islamic penal law) for Muslims, although the federal government has never allowed the code to be implemented.

The legal age of marriage is 16 for Muslim girls and 18 for Muslim males, although they may marry before those ages with the permission of their parents and the sharia courts. Non-Muslims must be 18 to marry.

Tax laws allow a tax exemption for registered religious groups for donations received and a tax deduction for the individual donors. Donors giving *zakat* (tithes) to Muslim religious organizations receive a tax rebate. Donations to government-approved charitable organizations (including some non-Muslim religious groups) may receive a tax deduction on the contribution rather than a tax rebate.

National identity cards specify religious affiliation and are used by the government to determine which citizens are subject to sharia. The cards identify Muslims in a printed fashion; for members of other recognized religions, religious affiliation is not printed, but encrypted in a smart chip within the identity card. Married Muslims must carry a special photo identification of themselves and their spouse as proof of marriage.

Islamic religious instruction is compulsory for Muslim children in public schools; non-Muslim students are required to take nonreligious morals and ethics courses. Private schools may offer a non-Islamic religious curriculum as an option for non-Muslims.

The country is not a party to the International Covenant on Civil and Political Rights.

Government Practices

The government continued to forbid any non-Sunni practice of Islam, barred Muslims from converting to another religion, and imposed fines, detentions, and canings on those classified under the law as Muslim who contravened sharia codes. It also limited proselytization by non-Muslim religious groups and restricted the distribution of religious texts. The government prosecuted some deemed to have "insulted Islam" under sedition laws, often following criticism of the government's policies on religion. Because Islam, Malay ethnic identity, and the ruling United Malays National Organization (UMNO) political party are closely linked, it is difficult to categorize many incidents as being solely based on religious identity.

The government continued actions against Shia Muslims engaged in religious practice. In October the Selangor State Islamic Department (JAIS) detained 50 Pakistani nationals believed to be Shia Muslims at an event to mark the day of Ashura. In November the Melaka State Islamic Department arrested 15 suspected members of what authorities said was a "deviant" Shia group. Those arrested were free on bail pending trial as of the end of the year. Under state sharia law, each faced up to three years in jail or a 5,000 ringgit (RM) ($1,115) fine for "insulting Islam."

JAKIM continued to implement established federal guidelines concerning what constituted deviant Islamic behavior or belief. State religious authorities generally followed these guidelines. Those differing from the official interpretation of Islam continued to face adverse government action, including mandatory "rehabilitation" in centers that teach and enforce government-approved Islamic practices. The government forbade individuals to leave such centers until they completed the program, which varied in length, but often lasted approximately six months. These counseling programs continued to be designed to ensure the detainee adopted the government's official interpretation of Islam. State Islamic religious enforcement officers continued to have the authority to accompany police on raids of private premises and public establishments, and to enforce sharia, including for violations

such as indecent dress, distribution of banned publications, alcohol consumption, or *khalwat* (close proximity to a nonfamily member of the opposite sex).

Proceedings were ongoing in a civil court in the case of the NGO Sisters in Islam (SIS) against JAIS authorities. The case stemmed from a 2014 fatwa with the force of law labeling the NGO a "religiously deviant organization for subscribing to liberalism and pluralism." In June a lower civil court ruled only the sharia court had the authority to decide on the validity of the fatwa; SIS filed an appeal of the decision to a higher civil court.

The government used sedition laws to restrict and punish speech seen as criticizing Sunni Islam. Civil society activists said the government selectively prosecuted speech allegedly denigrating Islam and largely ignored criticisms of other faiths. In August authorities detained rapper Wee Meng Chee, who uses the stage name Namewee, in Penang State for releasing a music video they said "defiled a place of worship with the intent of insulting a religion of any class." The video used the word "Allah" and sounds of the Islamic call to prayer and was partly filmed at a mosque as well as a church and Hindu, Buddhist, and Taoist temples. Namewee was released on bail after four days and could face up to two years in prison. At year's end, authorities had not charged him with a crime.

In September police conducted a predawn raid on the home of a former journalist after he posted remarks on social media about a recently deceased prominent Islamic political leader. Police detained him twice in 10 days while investigating him under laws against online "abuse" and causing "religious disharmony." As of the end of the year, authorities had not charged him with a crime.

In June the head Islamic official of the Pahang State government referred to members of a mostly ethnic Chinese opposition party as *kafir harbi* (nonbelievers who can be slain for waging war on Islam) for their opposition to the adoption of *hudood* in the country. The police took no action against the religious leader despite calls to do so from civil society and opposition leaders.

Members of banned groups such as Shia, Ahmadi, and Al-Arqam Muslims, could not speak freely about their religious beliefs. Restrictions remained on the use of the word "Allah" by non-Muslims. The Sidan Injil Borneo (an evangelical church), based in Malaysia's eastern island states, requested the Federal Court, the country's highest court, consider the right of the church and its Malay language-speaking congregation to use the word "Allah" in Bibles and other religious publications. The court is scheduled to consider the case in 2017.

The government prohibited publications, public events, and public debates that it stated might incite religious disharmony. Officials at the federal and state levels oversaw Islamic religious activities, distributed sermon texts for mosques to follow, used mosques to convey political messages, and limited public expression of religion. In January JAKIM released pamphlets, flyers, and other promotional materials that said Shia Muslims were potential "radical" threats.

The government placed restrictions on religious assembly and denied certain religious groups the ability to register as charitable organizations. Representatives of religious groups complained the registrar had no consistent policy or transparent criteria for determining whether to register religious groups. In cases in which the government refused to register a religious group, the group could pursue registration as a company. Religious groups reported that registering as a company was generally relatively quick and provided a legal basis for conducting business, did not limit the group's religious activities, and allowed the organization certain activities such as holding a bank account and owning property, but did not give the organization tax-exempt status or government funding. Examples of groups that registered as companies include Jehovah's Witnesses and The Church of Jesus Christ of Latter-day Saints (Mormons).

The federal and state governments continued to forbid religious assembly and worship for groups considered to be deviant Islamic groups such as Shia, Ahmadiyya, and Al-Arqam. While Ahmadi Muslims in the country reported generally being able to maintain a worship center, government religious authorities did not allow them to hold Friday prayers as these could only be done in an officially registered mosque.

In August a court in Kuala Lumpur upheld the government's ban of four books by novelist Faisal Tehrani for allegedly spreading Shia teachings.

State governments had exclusive authority over allocation of land for, and the construction of, all places of worship, as well as land allocation for all cemeteries. Non-Muslim groups reported regular difficulties in obtaining permission from local authorities to build new places of worship, leading many groups to use buildings zoned for residential or commercial use for their religious services. Observers said that this practice has been largely tolerated, but also has left the religious groups vulnerable.

Representatives from one Christian group reported continued frustration at local authorities' unwillingness over the last several years to approve plans to build a new house of worship. The group said it planned instead to renovate existing warehouse space.

The federal government budget allocated RM 1 billion ($223 million) to JAKIM during the year for a wide variety of Islamic education and mosque-related projects. There were no specifically allocated funds in the government budget for non-Muslim religious groups, although some religious groups reported continuing to receive sporadic funding for temple and church buildings and activities.

At primary and secondary public schools, student assemblies frequently commenced with recitation of an Islamic prayer by a teacher or school leader. Homeschooling remained legal, but some families reported difficulty in obtaining approval from the Ministry of Education. Community leaders and civil liberties groups reported that religion teachers in many public schools, particularly in the peninsula of the country, pressured Muslim girls to wear the *tudong* (Islamic head covering) at school. Some private schools required Muslim girls to wear veils fully covering the face.

Civil liberty groups and non-Muslim religious leaders said that when civil and sharia jurisdictions intersected, civil courts continued to give deference to sharia courts, creating situations where non-Muslims were affected by sharia judgments. The media and civil liberty lawyers reported that sharia courts often decided child custody cases where one parent converted to Islam while the other did not – and have historically favored the Muslim parent. When facing competing orders by civil and sharia courts regarding custody, they stated the police generally sided with the sharia decisions. In August, however, Prime Minister Najib Razak announced the government's plans to introduce amendments ensuring interfaith disputes involving civil marriages would be resolved in civil court. Parliamentary debate on the proposed amendments was expected to begin in March 2017.

In May the opposition Pan-Malaysian Islamic Party (PAS) introduced a bill significantly raising current limits on sharia courts' punishment powers. States must currently limit sharia court punishments to three years in prison; RM 5,000 ($1,115) fines; and six strokes of the cane. The most recent version of the PAS bill proposed to raise those limits to 30 years in prison; RM 100,000 ($22,297) fines; and 100 strokes of the cane. The bill generated substantial public discussion, with Muslim groups and some official state Islamic authorities supporting the effort. In a November speech Prime Minister Najib reiterated his ruling UMNO party's

position of cooperating with PAS on the bill in order to "develop Islam" and "empower the sharia courts." Some other Muslim and non-Muslim groups opposed the legislation, which they stated infringed on the country's civil laws and represented a first step toward the eventual enforcement of *hudood*.

It remained difficult for those registered as Muslims to have their religious identification changed by the authorities. In August the court of appeal in Sarawak State ruled against three converts to Islam who later said they had left the religion and wanted their identification information changed accordingly. The court decided that the matter needed to be resolved in the state sharia court but the applicants appealed their case to the civil Federal Court.

According to press reports, in April the National Registration Department (NRD) appealed a federal High Court ruling that a Sarawak man who was born into a Christian family that converted to Islam when he was a child had the right to reconvert to Christianity as an adult and have his identity card show his faith as Christian. Reportedly, the NRD argued that only a sharia court could make this decision, but the High Court judge disagreed saying, "…freedom of religion is his constitutional right and only he can exercise that right."

Government officials made anti-Semitic, and in some cases anti-Christian, statements. In March Member of Parliament and Deputy Minister of Agriculture Tajuddin Abdul Rahman accused former Prime Minister Mahathir Mohamad of working with Jewish-controlled media to bring down Prime Minister Najib.

Some government bodies, including the federal Department of National Unity and Integration, were tasked with encouraging religious harmony and protecting the rights of minority religious groups. Many faith-based organizations, however, continued to state they believed that none had the power and the influence of those that regulated Islamic affairs, citing the large footprint and budget for the Department of Islamic Development, compared to the limited funding for the Department of National Unity and Integration.

Section III. Status of Societal Respect for Religious Freedom

Local human rights organizations and religious leaders stated that society continued to become increasingly intolerant of religious diversity. They cited public protests against non-Sunni Muslim groups, some Muslim groups' continuing public condemnation of events and activities they said were "un-

Islamic," as well as heavily publicized social media posts targeting non-Sunni Muslims and non-Muslim groups.

According to AsiaNews, in February Catholic school leaders reported and denounced what they said was increasingly aggressive proselytism in Catholic schools to convert Catholic students to Islam. The president of the Educational Commission of the Archdiocese of Kota Kinabalu, Sister Rita Chew, said the government denied such activity was taking place but Catholic schools and parents reported their children being taught Islamic prayers and some conversions had taken place.

Hindus protested Indian Imam Zakir Naik's April speaking tour to the country because they said his message insulted Hinduism and promoted extremism. Naik was welcomed by the government.

Religious converts, particularly those converting from Islam, sometimes faced severe stigmatization. In many cases, converts reportedly concealed newly adopted beliefs and practices from their former coreligionists, including friends and relatives. Muslim women and girls faced social pressure to wear the *tudong*. Muslim women who did not wear the head scarf or dress modestly were often subject to shaming on social media. In September fans criticized local celebrity Nik Zaris Uqasha Senrose for removing her *tudong*.

Religious identities continued to affect secular aspects of life. In July Muslim groups including PAS protested Selangor State's approval of a concert featuring an American pop star deemed "too sexy" and therefore "un-Islamic" and inappropriate for the Muslim-majority city to be hosting the event during the holy month of Syawal. The singer performed in the concert.

At least eight incidents of vandalism at Hindu temples around the country were reported from April to November. In April police charged Fathi Munzir Nadzri with defiling a temple in Perak State, which carried a jail sentence of up to two years and a fine. In November the Sessions Court acquitted Nadzri on grounds of insanity, but prosecutors appealed the ruling. In July police arrested a suspect accused of two temple vandalism cases in Penang State. Hindu leaders and NGOs said police ignored the potential religious or ethnic motivations for the crimes and called on authorities to increase protection for places of worship and to investigate the cases of vandalism for any elements of "terrorism and extremism."

According to media reports, in March a mosque in Lutong, Sarawak State, said it would open its new parking lot to churchgoers of the neighboring Anglican church. The priest said it was an example of the "true spirit" of the country and the tolerance in Sarawak.

Several months after protesters forced the congregation of a small Christian church to take down the cross on its outside wall in 2015, the church replaced the cross without protests following community mediation efforts from the Department of National Unity and Integration.

Section IV. U.S. Government Policy

U.S. and embassy officials engaged with a wide variety of federal and state government officials and civil society leaders on religious freedom issues throughout the year.

In November the U.S. Ambassador at Large for International Religious Freedom met with the federal minister for unity, the chair of the National Human Rights Commission, and with the mufti overseeing Islamic affairs in the country's capital and Federal Territories. The Ambassador at Large discussed the difficulties reported by minority groups, including non-Muslim and non-Sunni Muslim groups. He urged the authorities to provide equal protection to all religious groups. In May the U.S. Special Representative to Muslim Communities promoted religious freedom during meetings with religious and civil society leaders. He met with the federal minister for youth and sports and discussed interfaith dialogue and religious freedom issues in the context of preventing violent extremism. During a February visit to Kuala Lumpur, a Deputy Assistant Secretary from the Department of State's Bureau of Democracy, Human Rights, and Labor hosted a roundtable meeting with religious leaders and faith-based organizations. Among the topics discussed with the group, which included Muslim, Christian, Hindu, and Buddhist representatives, were the negative effects of forbidding use of the word "Allah" to denote God for Christians worshipping in their native language, and the role of Islam in the courts' inability to settle the limits of sharia in child custody and conversion cases. They also discussed the changing official view of Islam, which has led government religious authorities to limit the voices heard in mosques.

Embassy officials engaged with religious and civil society leaders throughout the year on topics of concern, including meetings to hear the concerns of Shia and Ahmadi Muslim groups deemed "deviant" by government religious authorities; the groups detailed the heavy restrictions on their worship activities. Embassy

officials also met with a variety of non-Muslim groups who reported continued difficulties registering churches, building houses of worship, and facing societal discrimination. The embassy also engaged with groups of Sunni Muslims whose activities were limited by the government, such as the Islamic NGO Sisters in Islam (SIS). Embassy officers regularly attended the court proceedings in SIS's civil case against JAIS and encouraged diplomats from other countries also to attend and provide support for the group.

The U.S. embassy promoted religious freedom issues through a variety of outreach programs around the country. In January embassy officers visited Islamic religious schools in rural Kedah, Kelantan, Perlis, and Penang states to engage with influential religious leaders on various issues, including freedom of religion. In March a senior embassy official hosted an event for former participants of a U.S. government exchange program on their continued engagement in the country's rural Muslim communities. In June the embassy hosted an iftar for Rohingya refugee children to showcase the U.S. commitment to religious minorities under threat. In August the embassy hosted a U.S.-based imam who spoke with a diverse set of audiences about issues faced by youth, life as a Muslim in the United States, and the positive role young people can play in developing a more tolerant society.

The U.S. embassy also inaugurated a months-long series of interfaith dialogues and forums in September with an emphasis on unity among Malaysians from different religious backgrounds.