

**Refugee Review Tribunal
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RRT RESEARCH RESPONSE

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Questions

- 1. Please provide information on the treatment of Buddhists and ethnic Chinese in Malaysia.**

RESPONSE

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Buddhists in Malaysia

Limited information was found in the sources consulted regarding the specific treatment of Buddhists in Malaysia. However, recent reports by the US Department of State indicate that while non-Muslim minorities may encounter some restrictions in Malaysia they are “generally free” to practice their religion. No reports were found in the sources consulted indicating attacks or violence against Buddhists in Malaysia (US Department of State 2008, International Religious Freedom Report for 2008 – Malaysia, 19 September, Introduction & Section 1 – Attachment 1; US Department of State 2008, *Country Reports on Human Rights Practices for 2007 – Malaysia*, March, Sections 2c – Attachment 2).

The latest US Department of State (USDOS) International Religious Freedom Report for Malaysia states that Buddhists comprise 19% of the population in Malaysia. According to the report, while the national religion of Malaysia is Islam the Constitution allows for freedom of religion. The report indicates that religious minorities may face some restrictions regarding religious expression, property rights and due to the increased jurisdiction of Sharia courts. The USDOS states, however, that within Malaysia in 2007 “there were few reports of societal abuses or discrimination based on religious affiliation, belief, or practice”. The report does

not note any incidences involving of mistreatment of Buddhists. The following is an extract from the report:

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.

...**Religious minorities 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 country has an area of 127,000 square miles and a population of 26.9 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 (US Department of State 2008, *International Religious Freedom Report for 2008 – Malaysia*, 19 September, Introduction & Section 1 – Attachment 1).

The US Department of State 2008, *Country Reports on Human Rights Practices for 2007 – Malaysia*, reports that during 2007 non-Muslims “were free to practice their religious beliefs with few restrictions”. The report similarly does not mention any incidences targeting Buddhists in Malaysia:

The constitution provides for freedom of religion; however, the government placed some restrictions on this right. The constitution defines all ethnic Malays as Muslims and stipulates that Islam is the official religion. The government significantly restricted the practice of Islamic beliefs other than Sunni Islam. **Non-Muslims, who constitute approximately 40 percent of the population, including large Buddhist, Christian, Hindu, and Sikh communities, were free to practice their religious beliefs with few restrictions.** The government provided financial support to Islamic religious establishments and provided more limited funding to non-Islamic religious communities. State authorities imposed Islamic religious laws administered through Shari’a courts on all ethnic Malays (and other Muslims) in some civil matters but generally did not interfere with the religious practices of the non-Muslim community. Over the past several years, the civil courts have ceded jurisdictional control to Shari’a courts in certain areas of family law involving disputes between Muslims and non-Muslims

...The government generally respected non-Muslims’ right of worship; however, state governments have authority over the building of non-Muslim places of worship and the allocation of land for non-Muslim cemeteries. State authorities sometimes granted approvals for building permits very slowly. Minority religious groups reported that state governments sometimes blocked construction using restrictive zoning and construction codes (US Department of State 2008, *Country Reports on Human Rights Practices for 2007 – Malaysia*, March, Sections 2(c) – Attachment 2).

A Freedom House report on Malaysia provides the following information on restrictions for non Muslims in Malaysia during 2007:

In October 2003, Mahathir stepped down, paving the way for his deputy, Abdullah Ahmad Badawi.

...While Abdullah continues to promote Islam Hadhari, or “civilizational Islam,” a tolerant and inclusive form of the faith, religious freedom is restricted in Malaysia and declined significantly in 2007. Practicing a version of Islam other than Sunni Islam is prohibited. Muslim children and civil servants are required to receive religious education using government-approved curriculums and instructors. Proselytizing by other religious groups to Muslims is prohibited, and non-Muslims are not able to build houses of worship as easily as Muslims. The state retains the right to demolish unregistered religious statues and houses of worship.

Non-Muslim minorities have been troubled by a series of court rulings, from late 2005 through 2007, that threaten their constitutional right to self-identify and practice freely. On May 30, 2007, the Federal Court, the country’s highest court, issued the final ruling in the polarizing case of Lina Joy, a Muslim who converted to Christianity in 1998 and has since fought to have her conversion legally recognized. The Federal Court effectively upheld the Court of Appeals’ prior ruling, mandating that Muslims must obtain an order from a Sharia (Islamic law) court stating that they have renounced Islam before they can change their national identity cards. Given that the constitution declares Malays to be Muslims and Sharia courts effectively prohibit Muslims from renouncing their faith, the decision rendered conversion impossible. In July, Deputy Prime Minister Najib Razak declared that Malaysia has always been an Islamic rather than a secular state, prompting a host of negative responses (Freedom House 2008, *Freedom in the World 2008 report – Malaysia*, 2 July – Attachment 3).

The Minority Rights Group International website provides an overview of the situation for religious minorities in Malaysia. The report describes some restrictions in the religious freedom of non-Muslims regarding proselytising, mixed marriages and conversions. The report states that:

Human rights tend to be interpreted through the lens of these constitutional provisions, resulting in non-Muslim and non-Malay minorities and indigenous populations in Sabah, Sarawak and peninsular Malaysia experiencing restrictions and disadvantages in areas such as religion, language, employment, education and land rights. Many aspects of the various affirmative action programmes and favouritism based on religious, ethnic or linguistic background may also be discriminatory in international law. The Constitution itself may be discriminatory and violate freedom of religion, as it defines all Malays as necessarily being Muslims and speaking the Malay language.

In practice, a number of state policies clearly seek to discourage non-Muslim religious activity and promote conversion to Islam, particularly of indigenous peoples. This has at times taken the form of denying permits to build churches and temples, or a refusal to make burial land available to non-Muslims. Conversions to Islam can also take place by force of law; if a non-Muslim marries a Muslim, the former must convert.

...Non-Islamic faiths, who make up about 40 per cent of the population, continue to report problems in Malaysia, where Islam is the official state religion. While freedom of religion is in many aspects respected by the state, some restrictions are placed on non-Islamic faiths, mostly in the area of proselytizing. Muslims come under the purview of Syariah (Sharia) courts while non-Muslims come under civil law. Problems arise when there are mixed marriages.

According to the independent news organization The Irrawaddy, leaders of the state's minority religions have appealed to the government to allow people to choose their faith, amid what they say is a deterioration of religious freedom evidenced by court decisions in 2007 that effectively compelled Malaysians born as Muslims to stay Muslims ('World Directory of Minorities: Malaysia Overview' (undated) Minority Rights Group International website <http://www.minorityrights.org/4524/malaysia/malaysia-overview.html> – Accessed 17 October 2008 – Attachment 4).

The following three reports were found in the sources consulted regarding the treatment of Buddhists in Malaysia:

- On 13 May 2008 *The Nation*, a Thai newspaper agency, reported that a Malaysian Islamic court made a “landmark ruling allowing a Muslim convert to return to Buddhism”. The report states that:

Malaysia's Islamic court late last week made a landmark ruling allowing a Muslim convert to return to Buddhism. The move may set a precedent that could ease religious minorities' worries about their legal rights. It was the first time in the country's recent history that the Shariah High Court permitted a convert to legally renounce Islam in the Muslim-majority country. Historically, the courts have always ruled against people seeking to leave Islam. But, last Thursday, Penang's Shariah court granted Siti Fatimah Tan Abdullah's request to be declared a non-Muslim. She embraced Islam in 1998 because she wanted to marry an Iranian, but claimed she never truly practised the religion.

The Shariah court ruled that Siti's husband and Islamic authorities failed to give her proper religious advice. The verdict should be hailed as a step in the right direction in protecting religious rights in Malaysia and it should be viewed as a good example for the future ('A precedent for tolerance in Malaysia' 2008, *The Nation*, 13 May – Attachment 5).

- On 12 August 2008 *Today*, a Singaporean based newspaper reported that the Malaysian government criticised a Christian newspaper for publishing an article considered to be “political and insulting to Islam”. According to the article the newspaper could face suspension if it does not offer an explanation to the government and “pledge to stick by the rules”. The article states that minority religions in Malaysia including Christians, Buddhists and Hindus are complaining “that their rights are being undermined by government efforts to bolster the status of Islam, the country's official religion”. The following is an excerpt of the article:

Muslim-majority Malaysia's government has accused a Christian newspaper of breaking publication rules by running articles deemed political and insulting to Islam, and warned it of stern action, officials said yesterday.

The reprimand underscores the tenuous position of minority religions in multi-ethnic Malaysia.

Christians, Buddhists and Hindus complain that their rights are being undermined by government efforts to bolster the status of Islam, the country's official religion.

The Home Ministry sent a letter to the Herald's publishers warning that its editions in June "committed offences" by highlighting Malaysian politics and current affairs.

The letter accused the Herald of carrying an article that "could threaten public peace and national security" because it allegedly "denigrated Islamic teachings".

...A ministry official said the Herald must satisfactorily explain why it ran the articles and pledge to stick by the rules. If the newspaper refuses, the ministry will likely suspend its publication.

The publication is also currently embroiled in a court dispute with the government over a ban on the use of the word "Allah" as a Malay-language translation for "God" ('M'sia warns Christian newspaper of stern action' 2008, *Today*, 12 August – Attachment 6).

- A 2002 article by the *Bangkok Post* reports on discrimination in Malaysia against Thai Buddhists. The report states that Buddhists working within the Malaysian bureaucracy "rarely got promoted and most were junior officials". However, it should be noted that according to the report discrimination against Thai Buddhists was due to their Thai nationality as well as their religion. The report states that the "Thais felt they were inferior to Chinese and Malay" and that the Malaysian government did not allow Muslims to sell land to people of other nationalities (Charoenpo, A. 2002 'Mobile Cabinet Meeting – Buddhists say they suffer discrimination in Malaysia', 22 December – Attachment 7).

Ethnic Chinese in Malaysia

A November 2007 report provides the following information on discrimination against Malaysians of Chinese descent. The report states that "according to media sources, Malaysia has known relative peace amongst its ethnic communities since riots against the Chinese minority occurred in 1969":

Chinese Malays represent approximately 25 percent of the population (HRWF 17 July 2007; *Asia Times Online* 24 Mar. 2006) and there are four Chinese-language newspapers in Malaysia (US 6 Mar. 2007, Sec. 2a). Media sources indicate that Malays of Chinese origin "dominate" the business sector (AFP 29 Aug. 2005; *Asia Times Online* 24 Mar. 2006; Reuters 24 Aug. 2005). As well, the Malaysian Chinese Association (MCA) is a political association which is part of the governing National Front (Barisan Nasional, BN), a coalition of 15 parties (Freedom House 2007).

According to media sources, Malaysia has known relative peace amongst its ethnic communities since riots against the Chinese minority occurred in 1969 (*Asia Times Online* 24 Mar. 2006; AFP 17 Nov. 2006; AFP 29 Aug. 2005). Although Islam is the official religion, the constitution guarantees religious freedom to minorities (HRWF 17 July 2007). Sources indicate that minorities are free to practise their culture and religion without restrictions and that the government does not impose restrictions in the field of education (AFP 29 Aug. 2005; *Asia Times Online* 24 Mar. 2006).

However, in 2005, the government renewed an affirmative action policy initiated in 1969 after the race riots (Freedom House 2007). Under governmental provisions, ethnic Malays and other indigenous people are given advantages concerning property ownership, civil service work, access to higher education and other benefits (US 6 Mar. 2007; *Asia Times*

Online 24 Mar. 2006; Freedom House 2007). The affirmative action policy, known as the *New Economic Policy*, was adopted to lift the economic condition of ethnic Malays (ibid.). Sources indicate that the policy has created tensions among communities and a “feeling of being discriminated against” for minorities (AFP 29 Aug. 2005; *Asia Times Online* 24 Mar. 2006). According to *Asia Times Online*, the results of a survey on race relations published in March 2006 clearly indicated that racism and stereotyping are significant issues in Malaysia (ibid.).

Additional information on specific examples of discrimination against Malaysians of Chinese descent was scarce among the sources consulted by the Research Directorate. However, according to the United States Department of State, the Malaysian police have been accused of ethnic profiling in arresting Chinese women deemed to be prostitutes (US 6 Mar. 2007, Sec. 5). Furthermore, a 17 November 2006 Reuters article reported on a confrontation between protesters and Malaysian police officers following attempts by local authorities to demolish a Chinese temple on the island of Penang because it was not built with the proper approval (Immigration and Refugee Board of Canada 2008, *MYS102643.E – Malaysia: Reports of discrimination against Malaysians of Chinese descent (June 2004 – October 2007)*, 5 November – http://www.irb-cisr.gc.ca/en/research/rir/index_e.htm?action=record.viewrec&gotorec=451553 – Accessed 13 October 2008 – Attachment 8).

The Minority Rights Group International website provides information on the current situation for ethnic Chinese in Malaysia. The report indicates that ethnic Chinese feel discriminated against due to affirmative action programs designed for ethnic Malaysians. The report provides the following analysis:

Many members of the Chinese minority continue to feel they are victims of discrimination through the actions of public authorities who continue to favour *Bumiputeras* in terms of employment and education, the use of an exclusive Malay-language policy for state schools, and various other measures which are still in place in order to enhance the position of Malays in many areas of society.

While there has been a perceptible shift in some official statements since 2003, suggesting that affirmative action programmes have either not worked as expected or should be replaced, overall there have not been any significant developments in 2005 or 2006 other than permitting English to be used for the teaching of mathematics and sciences in state schools, and teaching Mandarin as an elective in some state schools. None of these steps change the main causes of exclusion and disadvantage, which may constitute discrimination since they appear to be in place to maintain Malay dominance of society, if not of the economy.

However, recent statements in 2006 made by the government coalition’s main dominant political party, United Malays National Organization (UMNO), are particularly worrying for the Chinese minority. Several high-profile speakers during a telecast conference referred to the need to defend their race and religion with their own blood and warned non-Malays (especially the Chinese) against any threats to the special rights for *Bumiputeras* (‘World Directory of Minorities: Malaysia – Chinese’ (undated) Minority Rights Group International website <http://www.minorityrights.org/4528/malaysia/chinese.html> - Accessed 17 October 2008 – Attachment 9).

A 2004 assessment of Chinese in Malaysia by Minorities at Risk provides an overview of the situation for ethnic Chinese in Malaysia. The report indicates that the ethnic Chinese population in Malaysia is largely Buddhist and also that there is a Chinese “urban commercial sector which is economically advantaged in relation to the majority Malay community”.

Regarding the treatment of ethnic Chinese the report states that “there has been no significant outbreak of violent hostilities between the Chinese and the Malays since the 1969 riots”:

The Chinese are widely dispersed across Malaysia. There has been significant group migration among the country’s regions due to compulsion by the state and the threat of or actual attacks by other communal groups. There are two distinct Chinese groups: the rural poor and the urban commercial sector, which is economically advantaged in relation to the majority Malay community.

Group members use a common language, Chinese, which distinguishes them from the majority Malay-speakers. The Chinese follow different social customs than the dominant community and they are primarily Buddhists in comparison to the Malay Muslims. Although there has been substantial intermixture, the Chinese are racially distinct from the majority group.

...In 1963, Chinese-majority Singapore was incorporated into the Malaysian federation but this arrangement was dissolved after two short years. More than eight hundred people were killed when tensions between the two communities erupted in violent riots in 1969. The following year the government instituted the New Economic Policy (NEP) which sought to redress Malay disadvantages through the provision of subsidies to Malay-owned businesses, job quotas, and requirements that non-Chinese personnel be included in large new ventures.

Some of the NEP’s restrictions were reduced in 1997 as Malaysia sought to deal with the effects of the financial crisis that had spread across Southeast Asia and devastated countries such as Indonesia where widespread riots against the economically-dominant Chinese ensued. Foreign ownership was allowed in most sectors of the economy, excluding manufacturing. By this time, the country had also seen the emergence of a Malayan business elite community that could compete with the economically-dominant Chinese.

...There has been no significant outbreak of violent hostilities between the Chinese and the Malays since the 1969 riots. However, in August and December of 2000, anti-Chinese demonstrations were held by the Malay community against a newly-formed Chinese organization that was advocating equal civil and political rights for group members. No intergroup conflict was recorded from 2001-2003.

Relations between the Chinese community and the government have remained harmonious, unlike the situation in neighboring Indonesia where there are many questions about potential government involvement in the 1998 anti-Chinese riots. A major reason has been Malaysia’s ability to adjust and realign its economy in response to the financial crisis that spread across Asia (‘Assessment for Chinese in Malaysia’ 2004, Minorities at Risk website <http://www.cidcm.umd.edu/mar/assessment.asp?groupId=82001> – Accessed 13 October 2008 – Attachment 10).

A Research Response dated 3 September 2007 provides further information on the situation in Malaysia for the ethnic Chinese population (RRT Research & Information 2007, *Research Response MYS32252*, 3 September – Attachment 11).

List of Sources Consulted

Internet Sources:

Government Information & Reports

Immigration & Refugee Board of Canada <http://www.irb.gc.ca/>

UK Home Office <http://www.homeoffice.gov.uk>

US Department of State <http://www.state.gov/>

US Department of State website <http://www.state.gov>

United Nations (UN)

UNHCR <http://www.unhcr.ch/>

Non-Government Organisations

Amnesty International website <http://www.amnesty.org/>

Freedom House <http://www.freedomhouse.org/template.cfm?page=1>

Human Rights Watch <http://www.hrw.org/>

International Helsinki Federation for Human Rights <http://www.ihf-hr.org/welcome.php>

Human Rights Internet (HRI) website <http://www.hri.ca>

Minorities at Risk website <http://www.cidcm.umd.edu/mar/assessment.asp?groupId=82001>

International News & Politics

BBC News website <http://news.bbc.co.uk/>

Region Specific Links

Search Engines

Google search engine <http://www.google.com.au/>

Databases:

FACTIVA (news database)

BACIS (DIAC Country Information database)

REFINFO (IRBDC (Canada) Country Information database)

ISYS (RRT Research & Information database, including Amnesty International, Human Rights Watch, US Department of State Reports)

RRT Library Catalogue

List of Attachments

1. US Department of State 2008, International Religious Freedom Report for 2008 – Malaysia, 19 September.
2. US Department of State 2008, *Country Reports on Human Rights Practices for 2007 – Malaysia*, March.
3. Freedom House 2008, *Freedom in the World 2008 report – Malaysia*, 2 July.
4. ‘World Directory of Minorities: Malaysia Overview’ (undated) Minority Rights Group International website <http://www.minorityrights.org/4524/malaysia/malaysia-overview.html> – Accessed 17 October 2008.
5. ‘A precedent for tolerance in Malaysia’ 2008, *The Nation*, 13 May. (FACTIVA)
6. ‘M’sia warns Christian newspaper of stern action’ 2008, *Today*, 12 August. (FACTIVA)

7. Charoenpo, A. 2002 'Mobile Cabinet Meeting – Buddhists say they suffer discrimination in Malaysia', 22 December. (FACTIVA)
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9. 'World Directory of Minorities: Malaysia – Chinese' (undated) Minority Rights Group International website <http://www.minorityrights.org/4528/malaysia/chinese.html> - Accessed 17 October 2008.
10. 'Assessment for Chinese in Malaysia' 2004, Minorities at Risk website <http://www.cidcm.umd.edu/mar/assessment.asp?groupId=82001> – Accessed 13 October 2008.
11. RRT Research & Information 2007, *Research Response MYS32252*, 3 September.