

### KEY FINDINGS

In 2016, opposition to the government from both within and outside political spheres negatively impacted religious freedom as stakeholders increasingly jockeyed for support ahead of the 2018 general elections. This ongoing trend continued to invigorate individuals and groups who believe Sunni Islam is the only true form of Islam and that Malaysia must prioritize the Malay Muslim identity, often to the disadvantage of religious and ethnic minorities. The Malaysian government actively restricts freedom of expression and punishes those who criticize it, including online. During 2016, the Malaysian parliament considered a measure to strengthen punishments under the

Islamic penal code and bolster Shari'ah courts at a time when the jurisdictional lines between Shari'ah and civil courts are increasingly indistinct; parliament is expected to further debate the matter in 2017. A landmark court decision enabled a man who was converted to Islam as a child to finally be recognized as a Christian, though many legal challenges remain for those choosing to convert and those involved in interfaith custody disputes. The government continues to ban so-called "deviant" religious groups, such as the Shi'a Muslim, Ahmadiyya, Baha'i, and Al-Arqam communities. In 2017, USCIRF again places Malaysia on its Tier 2, where it has been since 2014.

### RECOMMENDATIONS TO THE U.S. GOVERNMENT

- Ensure that human rights and freedom of religion or belief are pursued consistently and publicly at every level of the U.S.-Malaysia relationship, including in the Comprehensive Partnership and other discussions related to military, trade, or economic and security assistance, and in programs that address freedom of speech and expression and civil society development, among others;
- Press the Malaysian government to bring all laws and policies into conformity with international human rights standards, especially with respect to freedom of religion or belief, freedom of assembly, and freedom of religious expression, including the rights to use the word "Allah" and to possess religious materials;
- Encourage the Malaysian government to become party to the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination (without reservations), and the 1951 Refugee Convention and its 1967 Protocol;
- Urge the Malaysian government to substantively amend or repeal the Sedition Act and cease the arrest, detention, and prosecution of individuals under the act;
- Urge the Malaysian government to cease the arrest, detention, or forced "rehabilitation" of individuals involved in peaceful religious activity, such as members of Shi'a Muslim, Ahmadiyya, Baha'i, and Al-Arqam groups, among others, and to release unconditionally those detained or imprisoned for related charges; and
- Encourage the Malaysian government to establish or support independent institutions, such as the judiciary, office of the Attorney General, and law enforcement, and to address the human rights shortcomings of the parallel civil-Shari'ah justice systems, in order to guarantee that all Malaysians, regardless of ethnicity or religion, enjoy freedom of religion or belief.

## BACKGROUND

Over 61 percent of Malaysia's nearly 31 million people are Muslim, while nearly 20 percent are Buddhist, more than 9 percent Christian, and more than 6 percent Hindu. Collectively, approximately 1 percent of the population practice Confucianism, Taoism, or other traditional Chinese faiths, and smaller segments follow another or an unspecified religion, such as Sikhism, the Baha'i faith, and animism, or no religion at all. Religious groups deemed "deviant," such as the Shi'a Muslim, Ahmadiyya, Baha'i, and Al-Arqam groups, are banned. The government or state-level Shari'ah courts can force individuals considered to have strayed from Sunni Islam—including those from "deviant" sects or converts from Islam—into detention-like camps known as "rehabilitation" centers and/or prosecute them for apostasy, which is punishable by prison terms or fines.

In 2016, political forces continued to exploit religion and ethnicity, appealing to an increasingly conservative and nationalist interpretation of Islam. This trend—blurring the lines of religion and ethnicity—has intensified during the last decade, becoming a popular rhetorical and campaign tool across the political and ideological spectrum. Prime Minister Najib Razak's United Malays National Organization (UMNO), the leading party in the Barisan Nasional (BN) ruling coalition, and the Pan-Malaysian Islamic Party (PAS), formerly aligned with the now-defunct Pakatan Rakyat opposition coalition, joined forces in parliament to promote a measure that would allow Islamic punishments. Also, although general elections are not scheduled until 2018, some observers have speculated that Prime Minister Najib could call polls early depending on when he thinks UMNO can get the most votes.

The Malaysian government continues to suppress individuals who seek to hold the government accountable, such as opposition parliamentarian Rafizi Ramli, anticorruption activist Maria Chin Abdullah, and human rights advocate Lena Hendry, including through the use of national security measures. On August 1, 2016, Malaysia's National Security Council Act went into effect, granting broad new powers to the prime minister to declare a state of emergency and authorize searches and arrests without warrants. Human rights advocates criticized the act for eroding basic rights and liberties and warned of government misuse.

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## RELIGIOUS FREEDOM CONDITIONS 2016–2017

### Discrimination against Non-Muslims and Non-Sunni Muslims

Malaysians generally are free to worship, but minorities often experience discrimination related to their faith, and some have difficulties accessing religious materials, such as Bibles, and obtaining government permission to build houses of worship. The constitution defines ethnic Malays—the majority ethnic group—as Muslim, and in practice, the government only supports Sunni Islam. Over time, BN has implemented policies and practices that prefer or otherwise distinguish for special treatment

ethnic Malay Muslims, specifically Sunni Muslims. Through the federal Department of Islamic Development Malaysia (JAKIM), the government funds most Sunni mosques and imams and provides talking points for sermons, which regularly vilify religious minorities, such as Shi'a Muslims. Also, both the government and UMNO promote Sunni Islam by sending individuals to Saudi Arabia for religious training. The dual system of civil and Shari'ah courts (covered later in the chapter), as well as the layers of federal versus state laws, sultan-issued decrees, and *fatwas* (religious edicts), erode the notion of a secular state and the constitution as the supreme law in Malaysia. There are reports that proselytization of Islam widely occurs in public schools, even Catholic schools. Muslims are allowed to proselytize to non-Muslims, but not vice versa.

Majority Malay Muslims increasingly impose restrictive views and norms upon ethnic and religious minorities that not only impact these groups' ability to practice their faith freely, but also constrain their everyday lives. Religious and ethnic minorities have expressed growing concerns about the government's pro-Malay Muslim policies and subsequent limitations on their right to practice their beliefs freely. These fears are heightened by reports of religious leaders being harassed or even kidnapped. For instance, in February 2017 masked assailants abducted evangelical Pastor Raymond Koh in Petaling Jaya. Religious authorities previously had harassed Pastor Koh after suspecting him of converting Muslims to Christianity; as of this writing, his whereabouts are still unknown.

### "Illegal" or "Deviant" Faiths and Practices

Malaysia deems certain faiths illegal, such as the Shi'a Muslim, Ahmadiyya, Baha'i, and Al-Arqam communities, and authorities crack down on the practice of these faiths. For example, in October religious authorities in Selangor arrested 50 Pakistani Muslims who had gathered for the Shi'a Muslim commemoration of Ashura. Although officials previously have cracked down during Ashura, foreign nationals are supposed to be

exempt from religious bans. In response to the arrests, the G25—a group of 25 prominent Malaysian figures, including many former public officials—urged Malaysian government and religious officials to recognize the Shi'a faith as an accepted form of Islam and allow Shi'a Muslims to practice their faith freely.

State and federal level religious councils issue *fatwas* that often are interpreted as carrying the force of law. In 2014, the Selangor Islamic Religious Council (MAIS) issued a *fatwa* declaring the Malaysian civil society organization Sisters in Islam (SIS) to be "deviant"; the fatwa enabled MAIS to block SIS's website and confiscate its publications. SIS filed a judicial review application to challenge the fatwa's constitutionality, but in June 2016 the High Court ceded jurisdiction to Shari'ah courts. SIS filed an appeal that is still pending.

### Restrictions on Belief and Expression

Malaysian authorities regularly employ the vaguely worded Sedition Act as a means to suppress political and religious dissent and increasingly target individuals, including opposition politician N. Surendren, human rights lawyer Eric Paulsen, academic Dr. Azmi Sharom, and cartoonist Zulkiflee Anwar Ulhaque, also known as Zunar, for expression online. Several individuals

arrested or charged under the Sedition Act have pursued legal cases to question its constitutionality; thus far, the courts have rejected these challenges. In August 2016, police arrested Malaysian rapper Wee Meng Chee,

whose professional name is Namewee, for allegedly insulting Islam in one of his music videos. After several days in police detention, he was released on bail, but could still face up to two years in jail and a fine.

### Ban on the Use of the Word "Allah"

In 2016, non-Muslims faced ongoing hurdles using the word "Allah." The Arabic word for God is the same word used in the Malay language and in the indigenous Iban language. In one instance in October 2016, the Home Ministry reportedly confiscated copies of a weekly Catholic newspaper—the courts had already denied

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it the right to use the word “Allah”—after suspecting the papers still contained the word; the papers were released when authorities determined “Allah” was not used. Also, the Sabah Sidang Injil Borneo (SIB) church fought for the right to use the word “Allah” in Malay and Bahasa translations of the Bible and other religious materials. On September 30, 2016, the Court of Appeal denied the Federal Territories Islamic Religious Council (MAIWP)—the local-level body in charge of religious affairs—the ability to intervene in the case, determining that MAIWP does not have rights over non-Muslims. Sabah SIB first filed the lawsuit in 2007 after authorities seized boxes of Malay-language Christian education books that included the word “Allah.” Although authorities returned the books to Sabah SIB in 2008, the church sustained the lawsuit to clarify that it has the constitutional right to use the word “Allah” in its Bible translations and other materials. The High Court was expected to hear Sabah SIB’s case in February 2017.

### Hudood Punishments

In 2016, Abdul Hadi Awang, leader of the Pan-Malaysian Islamic Party (PAS), introduced a private member’s bill to amend the Shari’ah Court (Criminal Jurisdiction) Act 1965 to implement *hudood* (the Islamic penal code) punishments and expand Shari’ah courts’ jurisdiction. Crimes punishable under *hudood* include apostasy, slander, adultery, and alcohol consumption; the punishments include amputation, stoning, and flogging. In 2015, PAS moved a similar measure through the Kelantan State Assembly (which PAS controls), but needed the Malaysian parliament’s approval before moving forward with *hudood* because of existing constitutional limitations on the power of Shari’ah courts, which essentially would be lifted under the 2016 bill. After PAS split from the now-defunct Pakatan Rakyat opposition coalition in 2015, it more closely aligned with UMNO, garnering Prime Minister Najib’s open support for the measure.

However, UMNO’s political partners in the BN ruling coalition, the Malaysian Chinese Association and the Malaysian Indian Congress, oppose the amendments, as do some non-Muslims. Eastern Malaysia, which includes the states of Sabah and Sarawak, is home to large Christian populations that typically have broader freedom to practice their faith than Christians

living in peninsular Malaysia. For example, there generally are fewer restrictions on possessing Bibles in Sabah and Sarawak. Lawmakers—including Sarawak Chief Minister Adenan Satem, and Sabah member of parliament and Minister of National Unity Joseph Kurup—and church leaders from both states publicly opposed the amendments. Critics elsewhere in the country suspected UMNO of throwing its support behind *hudood* in an attempt to distract voters from BN’s political scandals (see the U.S. Policy section for more information).

Those opposed to the measure have two key concerns: that it would apply *hudood* punishments to non-Muslims, and that it would diminish the power of civil courts. In November 2016, the measure was withdrawn and swiftly reintroduced in amended form, only to be postponed from further consideration until March 2017. Ahead of parliament reconvening, in February 2017 tens of thousands rallied in Kuala Lumpur to support the measure.

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### Forced Conversions and the Dual Court System

In March 2016, the Kuching High Court granted Christian-born Roneey Rebit the legal right to identify as a Christian, and ordered the National Registration Department (NRD) to issue him a new identity card that does not record his religion as Islam. When Roneey was a child, his parents converted to Islam and he was deemed converted under Malaysian law; once he became an adult, Roneey chose to follow the religion of his birth, Christianity, but he was still registered with the NRD as a Muslim. Although the NRD initially appealed the decision, according to reports it issued Roneey his new identity card in October 2016, listing his given Christian name rather than a Muslim name. Until the High Court’s decision, the Malaysian government had argued that only Shari’ah courts could

adjudicate matters involving Islam, which made it extremely difficult for Muslims to convert or to correct official government paperwork to reflect a person's chosen faith. That the decision was made in civil court has widespread and potentially positive implications for interfaith custody cases in which one parent unilaterally converts his/her children to Islam without the other parent's consent. Moreover, the judge's decision affirmed that freedom of religion or belief is a constitutional right. However, it remains to be seen whether the court's favorable decision will be applied more broadly to other individuals in similar situations.

Another longstanding case involves M. Indira Gandhi, a Hindu whose ex-husband converted their three children to Islam without her knowledge. Although she was granted full custody of the children, her ex-husband, who goes by the Muslim name Muhammad Riduan Abdhullah, disappeared with their youngest child approximately eight years ago, and Indira has not seen the child since, despite an earlier court order that her ex-husband return the child. In December 2015, the Court of Appeals set back her case in two ways: first, it overturned a High Court ruling that declared unilateral conversions to be unconstitutional; and second, it determined that Shari'ah courts have sole jurisdiction in Islamic matters, thereby establishing a precedent to eliminate the role of civil courts in family cases in which at least one party is non-Muslim. In April 2016, a court order authorized her ex-husband's arrest, and in May the Federal Court granted Indira the right to challenge her children's unilateral conversions. In November 2016, the Federal Court held a hearing in the case, but by the end of the reporting period had issued no decisions. Authorities have failed to arrest her ex-husband, nor has he made any court appearances.

In August 2016, Prime Minister Najib announced plans to amend Malaysia's Law Reform (Marriage and Divorce) Act 1976 to clarify that matters of civil marriage will be handled in civil courts, including in divorce and child custody cases. Submitted in November 2016, the amendment would ban unilateral child conversions regardless of whether one or both parents converts after marriage. Parliament is expected to debate the amendment in 2017.

In March 2016, Christian lawyer Victoria Martin lost her final bid to practice in Shari'ah courts. The Federal

Court's 3-2 ruling against Ms. Martin overturned an earlier ruling by the Court of Appeal that had decided in her favor, allowing a non-Muslim to practice as a Shari'ah lawyer. Ruling in her favor would have been significant in conversion cases in which Muslims seek to convert to another faith; at present, these individuals can only be represented by a Muslim.

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### Rohingya Muslim Refugees

According to January 2017 statistics from the United Nations High Commissioner for Refugees (UNHCR), there are more than 150,000 refugees and asylum seekers registered with UNHCR in Malaysia. Of these, nearly 134,000 are from Burma (also known as Myanmar), 56,135 of whom are mostly Muslim Rohingya; many others without UNHCR registration are believed to live in Malaysia. While some are migrants seeking better opportunities, many are refugees fleeing persecution in Burma, including serious violations of religious freedom, such as restrictions on their ability to freely practice their faith and the destruction of religious structures. Malaysia is not signatory to the 1951 Refugee Convention and its 1967 Protocol. Refugees and asylum seekers in Malaysia have limited access to government or nongovernmental support and generally cannot be employed legally, although in November 2016 the Malaysian government announced a pilot program to allow up to 300 Rohingya refugees to obtain legal employment.

In December 2016, Prime Minister Najib publicly condemned Burma's ill treatment of Rohingya Muslims and recognized the Rohingya Muslim crisis as a regional challenge for the Association of Southeast Asian Nations. Prime Minister Najib gave similar remarks in January 2017 at a meeting of the Organization of Islamic Cooperation. In February 2017, a Malaysian ship arrived in Sittwe, the capital of Burma's Rakhine State, carrying humanitarian aid supplies for Rohingya Muslims. Some critics, however, viewed Prime Minister Najib's remarks as an effort to shore up

his political support and deflect attention away from corruption allegations.

### Relations with the Vatican

In June 2016, Pope Francis received Malaysia's first Resident Ambassador to the Holy See, Tan Sri Bernard Giluk Dompok; his appointment to the position was announced in March 2016. In November 2016, Pope Francis appointed Archbishop Emeritus Anthony Soter Fernandez as Malaysia's first-ever cardinal.

### U.S. POLICY

In 2014, the United States and Malaysia upgraded their bilateral relationship to a Comprehensive Partnership. During testimony at an April 2016 congressional hearing about U.S. policy in Asia, then Deputy Secretary of State Antony J. Blinken reported that with respect to Malaysia, the United States has “doubled the scope and scale of military cooperation [under the Comprehensive Agreement and] signed two terrorist information-sharing agreements.” The two countries cooperate on a number of other mutually strategic issues, such as trade and investment, the environment, education, and people-to-people exchanges, among others. While the U.S.-Malaysia relationship continues to grow, there are issues and circumstances that test the bilateral bond. For example, following a November 2016 defense deal between Malaysia and China, some observers surmised the move represented Malaysia's shift away from the United States.

Also, in March 2016, the State Department, through a spokesperson, expressed concern about the Malaysian government's “recent actions to restrict access to domestic and international reporting on Malaysian current affairs” and about charges brought against social media users who post criticisms of the government. The State Department issued the comments after the Malaysian government blocked access to an online news portal, *The Malaysian Insider*. In November 2016, then Ambassador-at-Large for International Religious Freedom David Saperstein traveled to Malaysia, meeting with stakeholders in Kuala Lumpur.

Last, on July 20, 2016, the U.S. Department of Justice announced it would seek to recover more than \$1 billion in funds belonging to 1Malaysia Development Berhad, or 1MDB, a Malaysian investment fund, believed to have

been laundered through the United States. The Justice Department filed a lawsuit in federal court, which referred to “Malaysian Official 1,” believed to be Prime Minister Najib, who created 1MDB. Prime Minister Najib has denied all wrongdoing, though in September 2016 he stated that Malaysia would cooperate with all international investigations. At least six other countries, including Switzerland and Singapore, conducted similar fraud and corruption investigations.