

KEY FINDINGS

During 2017, in the lead-up to general elections expected in 2018, Malaysia's government and certain nonstate actors restricted expression, cracked down on critics, and used religion as a political tool. State and nonstate actors employed censorship, threats, and criminal penalties to silence dissent, and coordinated with religious authorities to influence social norms of what it means to be a good Muslim (such as dictating appropriateness in attire, food, and interactions with non-Muslims). The Malaysian government's tightening grasp—bolstered by some religious authorities who are driving a more conservative interpretation of Islam—threatened the religious freedom and related human rights of non-Muslims, non-Sunni Muslims, and atheists and other nonreligious persons, as well as Sunni Muslims who wished to practice Islam in their own way. In 2017, Malaysian lawyers, nongovernmental organizations (NGOs), and others fought back against these restrictive and

discriminatory trends to protect the country's multireligious heritage, but they faced legal ambiguity between the country's civil and Shari'ah courts and other structural roadblocks at the state and federal levels that diminish legal protections for ethnic and religious minorities, including indigenous persons. During the year, these obstacles manifested in threats against atheists, ongoing legal battles regarding the conversion of minors and the right of non-Muslims to use the word "Allah," and additional attempts to strengthen punishments under the Islamic penal code. Based on these concerns, in 2018 USCIRF again places Malaysia on its Tier 2, where it has been since 2014, for engaging in or tolerating religious freedom violations that meet at least one of the elements of the "systematic, ongoing, egregious" standard for designation as a "country of particular concern," or CPC, under the International Religious Freedom Act (IRFA).

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, and to review other laws that limit freedom of religion or belief, opinion and expression, association and peaceful assembly, and the press;
- 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;
- 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 everyone residing in Malaysia, regardless of ethnicity or religion, enjoys freedom of religion or belief; and
- Apply the Global Magnitsky Human Rights Accountability Act, Executive Order 13818, or other relevant targeted tools to deny U.S. visas to and block the U.S. assets of specific officials and agencies identified as responsible for violations of the right to freedom of religion or belief.

COUNTRY FACTS

FULL NAME

Malaysia

GOVERNMENT

Federal Constitutional Monarchy

POPULATION

31,382,000

GOVERNMENT-RECOGNIZED RELIGIONS/FAITHS

Islam (official state religion); other religious groups may be granted registration, excluding those deemed “deviant”

RELIGIOUS DEMOGRAPHY*

61.3% Muslim

19.8% Buddhist

9.2% Christian

6.3% Hindu

1.3% Confucian, Taoist, and other traditional Chinese religions

0.4% Other

0.8% None

*Estimates compiled from the CIA World Factbook

BACKGROUND

Malaysia is ethnically, religiously, culturally, and linguistically diverse, but that diversity has not always translated into tolerance across, or even within, groups. For example, some Malay Sunni Muslims (the majority ethnicity and faith) have previously shared with USCIRF that they feel like a minority within the majority after being pressured to practice their faith or express their devotion contrary to their own conscience. According to SUARAM, an independent Malaysian organization that advances civil and political rights, intolerance toward and harassment of religious minorities by state and nonstate actors increased in 2017. 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.

Malaysia’s next general elections must be held by August 2018. Elections around the world commonly create a natural breeding ground for some stakeholders to manipulate religion for political gain, and

Malaysia in 2017 was no different. In 2017, Prime Minister Najib Razak’s United Malays National Organization (UMNO), the leading party in the Barisan Nasional (BN) ruling coalition, continued to court the Pan Malaysian Islamic Party (PAS), an Islamist party formerly aligned with the opposition. Legislative measures to strengthen punishments under the Islamic penal code, *hudood*, were the main vehicle of their courtship as PAS continued its pursuit of state- and federal-level changes (see the section on *hudood* below).

The United Nations Special Rapporteur on cultural rights assessed conditions during her September 2017 visit to Malaysia. With respect to freedom of religion or belief, her press release and end of mission statement noted concerns about reports of spreading Islamization, Shi’a Muslims’ diminished religious rights, support for stricter punishments under Shari’ah law, and official and societal forms of discrimination against atheists and nonbelievers. She also expressed concern about the influence of “a hegemonic version of Islam imported from the Arabian Peninsula,” in part referring to the close ties between Malaysia and Saudi Arabia.

The Malaysian government also has targeted human rights advocates. In one example, in February 2017, a

Malaysian court convicted human rights activist Lena Hendry for screening a documentary film about human rights abuses in Sri Lanka, imposing a fine equivalent to approximately \$2,500. She was convicted under the Film Censorship Act 2002, but supporters believe the government targeted her because of her human rights advocacy work and connection to a local human rights organization.

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to investigate. The laundromat reversed its ban, as did another laundromat in Perlis State with a similar ban

that changed its policy after a meeting with local officials, including the state's mufti. The public displays of intolerance prompted all nine of Malaysia's sultans—the titular heads of their respective states—to

issue a rare joint statement that both criticized divisive acts in the name of Islam and encouraged unity and harmony.

Throughout 2017, authorities made little progress investigating several mysterious disappearances. The most prominent case was of evangelical Pastor Raymond Koh, whom masked assailants abducted in February 2017. Religious authorities previously had harassed Pastor Koh after suspecting him of converting Muslims to Christianity. In June 2017, Malaysia's government-appointed Human Rights Commission—known by its acronym, SUHAKAM—announced it would investigate Pastor Koh's disappearance, as well as the November 2016 disappearances of Amri Che Mat, a Muslim and social activist whom some accused of spreading Shi'a Islam, and Pastor Joshua Hilmy, an ethnic Malay who reportedly converted from Islam, and his wife, Ruth Hilmy. However, SUHAKAM ceased its inquiry about Pastor Koh in early 2018, shortly after the reporting period, after police charged a suspect in his disappearance. No other information about his case was available at year's end, and his whereabouts and wellbeing—along with that of the other missing individuals—are still unknown. Also, during 2017, authorities questioned and investigated three members affiliated with an NGO coalition called Citizen Action Group on Enforced Disappearance (CAGED) after they made statements about the disappearances of Pastor Koh, Amri, and Pastor Hilmy and his wife.

RELIGIOUS FREEDOM CONDITIONS 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. In previous years, vandals have attacked houses of worship, such as Hindu temples and Christian churches, and some individuals have objected to religious iconography displayed outside Hindu and Buddhist temples. The constitution defines ethnic Malays—the majority ethnic group—as Muslim. Over time, the government has implemented policies and practices that prefer or otherwise distinguish ethnic Malay Muslims—specifically Sunni Muslims—for special treatment. Through the federal Department of Islamic Development Malaysia (JAKIM), the government funds most Sunni mosques and imams and provides talking points for sermons. The dual system of civil and Shari'ah courts and the layers of federal and state laws, sultan-issued decrees, and *fatwas* (religious edicts) often disadvantage non-Muslims and non-Sunni Muslims. 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.

A laundromat in Malaysia's southern state of Johor stirred strong reactions in September 2017 after posting a sign banning non-Muslim customers. Johor's Sultan Ibrahim Sultan Iskandar called on the business to cease the discriminatory practice and reportedly urged state- and local-level religious bodies

Harassment of Atheists

In August 2017, high-level Malaysian officials made alarming statements about atheism after members of a local chapter of an international atheist organization, Atheist Republic, posted online a photo of one of its gatherings.

Online commenters harassed and issued death threats to members of the group. Dr. Asyraf Wajdi Dusuki, a deputy minister in the prime minister's department in charge of Islamic affairs, called for an investigation to ensure no Muslims took part in the group. Shahidan Kassim, a cabinet minister, suggested that atheists be hunted down and recommended forced "reeducation." In November 2017, Dr. Asyraf stated that apostasy is unconstitutional and also that freedom of religion does not mean freedom from religion, but Malaysian lawyers disputed his interpretation of the constitution. Apostasy is not mentioned in Malaysia's constitution, nor is it a federal crime, but several states have criminalized conversions from Islam and Shari'ah courts have sentenced individuals to prison or imposed fines.

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Restrictions on Belief and Expression

In 2017, authorities restricted several individuals' rights, including religious expression. For example, in June 2017, Deputy Prime Minister Ahmad Zahid Hamidi authorized a ban on a book published by the G25, a group of 25 prominent Malaysian figures—including many former public officials—who have regularly spoken up for tolerance, freedom of expression, and freedom of religion. The government deemed the collection of essays, called *Breaking the Silence: Voices of Moderation—Islam in a Constitutional Democracy*, "prejudicial to public order" and "likely to alarm public opinion." In October 2017, the G25 sought a judicial review of the ban, which the High Court granted in January 2018, shortly after the reporting period.

In September 2017, Malaysian immigration officials detained Turkish writer Mustafa Akyol at the Kuala Lumpur airport for allegedly teaching Islam without a license by speaking about Islam and apostasy at a lecture series in Malaysia, something he had done on previous visits to the country. After one of the lectures, Malaysia's religious police issued Mr. Akyol a summons, but not reading Malay, he failed to appear, resulting in his detention at the airport. He was transferred to federal police custody and later questioned in Shari'ah

court. According to Mr. Akyol, authorities released him after former Turkish President Abdullah Gul intervened on his behalf with Malaysian royalty.

Ban on the Use of the Word "Allah"

In October 2017, lawyers for Jill Ireland Lawrence Bill, a Christian, returned to Malaysia's High Court to pursue the right of non-Muslims to use the word "Allah." In 2008, customs authorities seized eight Christian CDs belonging to Ms. Ireland with song titles containing the word "Allah." Although the CDs were eventually returned in 2015 following a years-

long legal battle, the courts did not address Ms. Ireland's question about her constitutional right to use the word "Allah" and to import and possess materials containing the word. The court case centers around a 1986 directive from the Ministry of Home Affairs that prohibited non-Muslim publications from using four words, among them "Allah." The government cited the directive as justification when it confiscated Ms. Ireland's CDs, and also when it made the case before the courts that ultimately banned a Malay-language edition of a Catholic newspaper's right to use "Allah." The Kuala Lumpur High Court is expected to issue a decision in March 2018, after the reporting period.

Hudood Punishments

Crimes punishable under *hudood* (commonly spelled *hudud* in Malaysia) include apostasy, slander, adultery, and alcohol consumption; the punishments include amputation, stoning, and flogging or caning. In July, in its pursuit of strict Shari'ah, the Kelantan State Assembly—controlled by PAS—amended its state-level Criminal Code to allow public caning for individuals found violating Shari'ah. Critics noted that Malaysia's constitution calls for equality before the law and that it would therefore be unconstitutional to single out Muslims for a specific punishment. The state assembly adopted *hudood* punishments in 2015; full implementation of the measure is tied to existing constitutional limitations on the power of Shari'ah courts. PAS also seeks to enact *hudood*

at the national level; after several delays, the Malaysian parliament had not acted on the measure by the end of the reporting period. Malaysian academics have posited that Prime Minister Najib and UMNO have developed a mutually beneficial relationship with PAS: even though Prime Minister Najib and UMNO's support for *hudood* has vacillated, it was enough to siphon away PAS from the opposition coalition, which could influence not only the 2018 general elections, but also the prospects for *hudood* legislation in the long term.

The Unilateral Conversion of Minors

Malaysia's Federal Court ruled in January 2018, after the reporting period, that both parents' consent is required to convert a minor's religion. Before that ruling, advocates seeking to resolve interfaith custody battles were disappointed when the government in 2017 withdrew a measure that would have prohibited unilateral conversion of children. The government first proposed a bill in 2016 to amend Malaysia's Law Reform (Marriage and Divorce) Act 1976 to clarify that civil courts would handle matters of civil marriage; the bill included a clause—article 88 (A)—that would have banned unilateral child conversions regardless of whether one or both parents convert after marriage. However, under pressure from conservative Muslims, the government in August 2017 removed article 88 (A) before parliament passed the bill on August 10. In cases such as that of M. Indira Gandhi, a Hindu whose ex-husband converted their three children to Islam without her knowledge or consent, non-Muslim parents have few rights in Shari'ah courts, which hear family law cases when at least one party is Muslim. While the Federal Court's 2018 decision was a win for M. Indira Gandhi, authorities must still locate and arrest her ex-husband who, at the time of the court's ruling, was at large and had physical custody of their youngest child.

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Rohingya Muslim and Other Refugees

In 2017, after Burmese military- and civilian-led attacks killed and displaced thousands of Rohingya Muslims and forced nearly 700,000 to flee to Bangladesh, Malaysia's government publicly condemned

Burma's atrocities against Rohingya Muslims and coordinated a meeting with the Organization of Islamic Cooperation to discuss the crisis. During 2017, Malaysia sent humanitarian supplies to Rakhine State for Rohingya Muslims, and contributed funds and resources to refugees in Bangladesh throughout the year. In September 2017, Malaysia disassociated itself from a statement issued by the Association of Southeast Asian Nations (ASEAN) about Rakhine State because it failed to fully capture Rohingya Muslims' plight and, at Burma's request, did not mention the Rohingya by name. However, critics accused the Malaysian government of merely currying favor with its Muslim base ahead of the 2018 general elections, especially given the treatment of the approximately 150,000 Rohingya Muslim refugees currently living in Malaysia. In 2017, after reports by SUHAKAM revealed the deaths of more than 100 individuals—many of them Rohingya—at Malaysian immigration detention centers in 2015 and 2016, Southeast Asian parliamentarians and human rights advocates noted serious concerns about Malaysia's treatment of asylum-seekers and refugees. (For further information about refugees in Southeast Asia and how religious freedom and related human rights concerns transcend borders, refer to USCIRF's September 2017 report, *A Right for All: Freedom of Religion or Belief in ASEAN*.)

U.S. POLICY

The year 2017 marked the 60th anniversary of U.S.-Malaysia diplomatic ties. In March 2017, then Secretary of State Rex Tillerson met with Foreign Minister Dato' Sri Anifah Aman in Washington, DC. In his first visit to Southeast Asia as secretary of state, then Secretary Tillerson traveled to Malaysia in August 2017. The secretary met with Deputy Prime Minister Ahmad Zahid Hamidi and reportedly discussed human trafficking, counterterrorism, and other issues. In remarks to the U.S. Embassy staff and their families in Kuala Lumpur, then Secretary Tillerson spoke of the importance of the bilateral relationship in terms of security, the military, and the economy.

When the U.S. State Department released its 2017 Trafficking in Persons Report in June, it improved Malaysia's ranking by upgrading it to Tier 2, acknowledging the government's efforts to eliminate trafficking through investigations, prosecutions, and convictions. At a September 2017 hearing of the House Foreign Affairs Committee about North Korea, Acting Assistant Secretary for the Bureau of East Asian and Pacific Affairs Susan Thornton's written testimony mentioned Malaysia among the United States' global partners who are increasing pressure on the Kim Jong-un regime, noting that "Malaysia deported hundreds of [North Korean] workers and suspended issuing further work permits."

In September 2017, President Donald Trump met with Prime Minister Najib at the White House. The joint statement released after their meeting indicated that the two leaders "discussed the importance of protecting human rights, including freedom of expression and freedom of religion" and also that they "reaffirmed the importance of promoting community resilience and mutual respect across religious and ethnic boundaries." It also indicated that they spoke about the humanitarian crisis faced by Rohingya Muslims in Burma. In remarks at a Washington, DC, think tank following his White House visit, Prime Minister Najib spoke of U.S.-Malaysia cooperation to counter violent extremism and terrorism. He acknowledged that some Malaysians have traveled to Syria and Iraq "to fight for a false cause" under the auspices of the Islamic State of Iraq and Syria (ISIS). He also said, "By claiming their terrorism is Islamic in nature, these individuals blaspheme against our religion—something for which we simply cannot forgive them."

In 2017, the U.S. Department of Justice continued its case against 1Malaysia Development Berhad (1MDB, a Malaysian investment fund) regarding money believed to have been laundered through the United States. In June 2017, the Justice Department filed a civil forfeiture complaint to seize assets that, when combined with its previous complaint, are worth nearly \$1.7 billion. In total, the United States accuses those involved with 1MDB of diverting more than \$4.5 billion from the fund. At a speech in December, Attorney General Jeff Sessions referred to Malaysian officials' alleged money laundering as "kleptocracy at its worst." The previous

filing referred to "Malaysian Official 1," believed to be Prime Minister Najib, who created 1MDB and whose bank accounts allegedly contained \$700 million from the fund.