

**Refugee Review Tribunal
AUSTRALIA**

RRT RESEARCH RESPONSE

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Questions

1. Is there any information concerning attempts by a prospective family of a Muslim male to force his Hindu girlfriend to convert to Islam in order for them to marry?

RESPONSE

1. Is there any information concerning attempts by a prospective family of a Muslim male to force his Hindu girlfriend to convert to Islam in order for them to marry?

An in-depth analysis of the issue of mixed marriages in Malaysia points out that in Malaysia a person seeking to marry a Muslim has to adhere to the Islamic faith:

It is a one-way street. Marry a Malay and you will become a Malay. You will also become a Muslim and, the courts say, you will stay that way.

...

However it also seems the case that migration is the preferred option for the numbers of Malaysians who either marry across ethnic lines or acquire foreign spouses while studying or working abroad.

...

By one estimate, there are some 150,000 mixed marriages in Malaysia, a number that seems impossibly small in a population of 24 million.

...

It is forbidden for a Muslim to marry a non-Muslim, so these women, with their servants and their huge homes, stop being Jean and become Jehan in public, although seldom in private. (Kacukan, Darah 2007, *Elite Malays and Mixed Marriage*, Asia Sentinel, 19 November - <http://politics101malaysia.blogsome.com/2007/08/01/elite-malays-and-mixed-marriage/> - Accessed 19 November 2007 - Attachment 1)

A recent court case involves a Hindu housewife who tried to prevent the conversion of her child subsequent to the conversion of her husband to Islam – this article reiterates that marriages between Muslims and non-Muslims are forbidden by Muslim religious courts in Malaysia:

The woman, a Hindu housewife and secretary identified only as R Subashini, went to the courts in an effort to prevent her 32-year-old businessman spouse, T Saravanan, who assumed the name Muhammad Shafi Saravan Abdullah and converted to Islam in 2006, from taking matrimonial proceedings to Malaysia's syariah, or religious court. When Shafi converted to Islam and confronted Subashini with the news, she attempted suicide and was hospitalized. When she recovered, she discovered Shafi had converted their four-year-old son to Islam. She feared that he would not only convert the younger child, but that she would lose custody and visitation rights ...

Marriages between Muslims and non-Muslims are forbidden by syariah courts in Malaysia and are thus ruled to be broken unless both parties convert.

(‘Malaysia’s Religious Courts win again’ 2007, *Asia Sentinel*, Asia Sentinel website, 30 December - Attachment 2)

The case of Ms R Subashini’s limited rights in regards to her husband’s religion is highlighted in the following article:

More recently, Malaysia's highest court threw out a petition by Subashini Rajasingam, a Hindu, to prevent her estranged husband, Muhammad Shafi Saravan Abdullah, ne Saravanan Thangathony, from registering the younger of the couple's two sons as Muslim. Mr. Shafi had already registered their other son to Islam without her knowledge and Ms. Subashini fears she will lose custody and visitation rights of both children if Mr. Shafi is permitted to "convert" their second son. Ms. Subashini's fear is well-justified. In rejecting her plea, one of the high court judges made clear that since the father of her children is now a Muslim, Ms. Subashini must take her case (and her chances) to the Shariah courts, which are not bound to protect her constitutional rights.

These cases are about more than jurisdictional questions. In simultaneously enforcing religious law and civil law in a multi-religious society, Malaysia has seen the gradual erosion of fundamental rights in the name of Islam.

(Wu, Angela, ‘Uncivil conversions’, *The Wall Street Journal Asia*, 29 January –Attachment 3)

The issue of mixed marriage involving a Hindu partner is contained in the following excerpt which states that non-Muslim women are also expected to convert to Islam so as to be able to marry a Muslim man:

3. Are Muslims prohibited from marrying Hindus?

4. Is this still the case even if they agree to marry outside the relevant Hindu traditions?

According to an Immigration and Refugee Board of Canada response to information request dated 15 November 2007, “in Malaysia non-Muslim men and women must convert to Islam in order to marry a Muslim (Malaysia n.d.)” (Immigration and Refugee Board of Canada 2007, *MYS102644.E – Malaysia: Treatment of Hindus (2006 – November 2007)*, 15 November <http://www.irb-cisr.gc.ca/en/research/rir/?action=record.viewrec&gotorec=451558> – Accessed 10 December 2007 – Attachment 3).

The 2007 US Department of State report on religious freedom in Malaysia also indicates that “[p]ursuant to Shari’a family laws in force throughout the country, non-Muslims must convert to Islam upon marrying a Muslim.” The marriages of Muslims “who married non-Muslims in churches or temples... were not recognized by Muslim religious authorities.” It is stated in the report that:

Pursuant to Shari’a family laws in force throughout the country, non-Muslims must convert to Islam upon marrying a Muslim. In several cases during the reporting period, state religious authorities detained and attempted to religiously “rehabilitate” Muslim spouses who

attempted to renounce Islam, or who married non-Muslims in churches or temples. Such marriages were not recognized by Muslim religious authorities. Children resulting from these unions were sometimes removed by Islamic religious authorities from parental custody, pending religious “rehabilitation” of the detained Muslim parent. Several leading lawyers and human rights advocates spoke out against these practices, and several related court cases remained under review at the Federal Court (the country’s highest court).

The report refers to a case involving a Muslim woman and Hindu man who married in a Hindu temple in July 2006. According to the report:

On April 28, 2007, officers from the Selangor Islamic Affairs Department (JAIS) raided the home of a Muslim woman and Hindu man who were married in July 2006 in a Hindu temple. According to the husband’s police report and petition filed in the High Court, JAIS officials told the couple that their Hindu marriage was deemed void. JAIS stated it removed the woman from the couple’s home on suspicion that she committed “khalwat” (i.e., being in close physical proximity to a man other than her husband). She remained in detention and was undergoing religious “rehabilitation” at the end of the reporting period. The husband’s lawsuit remained pending.

Although not in relation to Hindus, the report also refers to court cases involving “Lina Joy, a Muslim who had converted to Christianity”, who had sought “to change the religion designated on her national identity card.” The report notes that “[b]ecause the designated religion on Lina’s national identity card would remain “Islam,” and because the Civil Marriage Provision of the 1976 Law Reform Act prohibits Muslims from solemnizing a marriage under civil law, Lina will not be legally allowed to marry her Catholic fiancée.” It is stated in the report that:

On May 30, 2007, the Federal Court ruled that Muslim individuals must obtain an order from the Shari’a Court stating that they have become an “apostate” (they have renounced Islam) before they can change their national identity card. As apostasy grants (grants of permission to convert to another religion) by the Shari’a court are extremely rare, the court’s decision effectively precludes any legal right of Muslims to convert to another religion. The 2007 ruling was in response to an appeal in a 2005 case in which the country’s second-highest court, the Court of Appeal, denied the request of Lina Joy, a Muslim who had converted to Christianity, to change the religion designated on her national identity card. The Court of Appeal had ruled that a Shari’a court must first approve a request by a Muslim citizen to convert to another religion. Because the designated religion on Lina’s national identity card would remain “Islam,” and because the Civil Marriage Provision of the 1976 Law Reform Act prohibits Muslims from solemnizing a marriage under civil law, Lina will not be legally allowed to marry her Catholic fiancée. Citing the case as “a matter of general public interest,” the Federal Court (the country’s highest court) had agreed to hear Lina’s appeal and address the degree to which Shari’a courts have jurisdiction over determinations of Muslim apostasy (US Department of State 2007, *International Religious Freedom Report for 2007– Malaysia*, September, Introduction, Section II – Attachment 4).

A RRT research response dated 21 October 2005 includes information on the attitudes of Muslims and Hindus to mixed marriages in Malaysia (RRT Country Research 2005, *Research Response MYS23726*, 21 October, (Questions 1 & 2) – Attachment 5). The research response refers to an Immigration and Refugee Board of Canada response to information request dated 24 June 2004 on societal and governmental attitudes towards mixed marriages and relationships between Muslim women and non-Muslim men in Malaysia (Immigration and Refugee Board of Canada 2004, *MYS42737.E – Malaysia: Update to MYS38913.E of May 2002 on societal and governmental attitudes towards mixed marriages and relationships between Muslim women and non-Muslim men; police protection or legal recourse available to a non-Muslim male who is threatened by family members of his Muslim girlfriend; reports*

of police discrimination based on the religion of the complainant (2002-2004), 24 June – Attachment 6).

(RRT Country Research 2007, *Research Response* MYS32688, 11 December -Attachment 4)

A previous Research Request which contains information on mixed marriages is also attached. (RRT Country Research 2007, *Research Response* MYS32559, 20 November-Attachment 5)

List of Sources Consulted:

Internet Sources:

Non-Government Organisations

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

Human Rights Watch (HRW) website <http://www.hrw.org/>

Search Engines

AlltheWeb search engine <http://www.alltheweb.com/>

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

Ask.com search engine <http://www.ask.com>

Yahoo search engine <http://search.yahoo.com>

Copernic search engine

Databases:

FACTIVA (news database)

BACIS (DIAC Country Information database)

REFINFO (IRBDC (Canada) Country Information database)

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

MRT-RRT Library Catalogue

List of Attachments

1. Kacukan, Darah 2007, *Elite Malays and Mixed Marriage*, Asia Sentinel, 19 November - <http://politics101malaysia.blogspot.com/2007/08/01/elite-malays-and-mixed-marriage/> - Accessed 19 November 2007.
2. 'Malaysia's Religious Courts win again' 2007, *Asia Sentinel*, Asia Sentinel website, 30 December.
3. Wu, Angela, 'Uncivil conversions', *The Wall Street Journal Asia*, 29 January. (FACTIVA)
4. RRT Country Research 2007, *Research Response* MYS32688, 11 December.
5. RRT Country Research 2007, *Research Response* MYS32559, 20 November.