



UNITED STATES COMMISSION *on* INTERNATIONAL RELIGIOUS FREEDOM

COUNTRY UPDATE: MALAYSIA

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USCIRF's Mission

To advance international freedom of religion or belief, by independently assessing and unflinchingly confronting threats to this fundamental right.

Religious Freedom in Malaysia

By Patrick Greenwalt, Policy Analyst

Overview

In its [2021 Annual Report](#), USCIRF noted that conditions of religious freedom in Malaysia stagnated in 2020. This trend has continued into 2021. The fragile coalition between Malaysia's two leading ethnic Malay parties, the United Malay National Organisation (UMNO), and the Malaysian Islamic Party (PAS), threatened to come undone in early January 2021. Prime Minister Muhyiddin Yasin maintained power by [suspending](#) parliament ostensibly due to the COVID-19 pandemic. This kept Muhyiddin in power until August, when he resigned. After consultations with the king, Ismail Sabri Yaakob from UMNO was appointed as prime minister on August 21 and formed his cabinet on August 27.

This report examines ongoing religious freedom issues that have occurred in the lead up to the UMNO's return to power in August 2021 and considers the potential implications of the change in power for religious freedom in the country. Malaysia maintains a dual legal system in a constitutional order that supposedly places the civil court above Shari'a but devolves to each state and the Federal Territories the ability to develop their own religious laws. These laws are obligatory for Muslims within those states and territories.

During its previous 61 years in power, UMNO amended the constitution 40 times, frequently strengthening the position of ethnic Malays and the state-sponsored interpretation of Islam. In 2021, the Malaysian authorities of various political parties in several states and the federal government continue to pursue policies to further restrict the religious freedoms of Malaysians.

Islam and Ethnicity

Article 3 of the 1957 constitution places Islam as the federation's official religion, while Article 160 links Malay ethnic identity with Islam. Islam is more than the religion of the Federation, it is also protected by a vast network of state and federal religious laws and insulated from criticism. Concerns about other faiths can animate state religious institutions. In April, the Selangor Islamic Council [made](#) available digitally a 2014 book entitled "Christian agenda exposed," which labels Christians as enemies of Islam. In response, the state mufti of George Town [urged](#) Muslims to find common ground rather than focus on differences.



In addition to a general *trend* of Malay and Muslim political officials taking strong stances in favor of Malay-Muslim supremacy and against the historical secular nature of the Malaysian constitution, prominent figures have also urged the further Islamization of society. As the PAS and other political actors attempt to further institute steeper penalties and regulations on Muslims, they have *doubled* down on the inability of Muslims in Malaysia to opt out of the state and federal interpretations and regulation of Islam.

The state-sponsored version of Islam, the Shafi'i version of Sunni Islam, is regarded as the only acceptable form of Islam. Shia Islam is portrayed in schools as a danger to the unity of Muslims. In addition, Malaysia's tiny Ahmadiyya Muslim community is further stigmatized with signs placed outside of their mosques and faith centers that use a slur to refer to the community and label them as "not Muslims." A High Court case to determine Ahmadi legal status as Muslims has been ongoing for over a year. A decision date was *set* for March 19, but no decision has been made as of the issuance of this report.

Blurred Lines between Civil and Syariah Courts

During the long period of UMNO-dominated government from 1957 until 2018, the political branches of government consistently *restricted* the civil courts, including the Federal Court, with amendments to the Constitution that curtailed its authority, especially over religious issues. The Shari'a courts, known as Syariah Courts, are maintained by state legislatures and were originally limited to handle family law and religious

observance issues. Since Malaysia's independence in 1957, their jurisdiction has expanded. Although Malaysia was established as a secular country, the UMNO-led federal government, which recently returned to power, increasingly promoted the Islamization of Malaysia as well as policies that benefited Malay supremacy in a specifically state-sponsored Islamic context. Today, the jurisdictional boundary between the civil and Syariah courts remains blurred. However, in recent years the Federal Court has become increasingly assertive of its supremacy in constitutional matters as well as its role in safeguarding the fundamental freedoms of Malaysians. PAS, as well as other political actors, have *attempted* to reorient Malaysia's secular constitutional foundation on the basis of Article 3(1) that proclaims Islam as the official religion. In March, the president of UNMO told delegates at the party's annual general assembly that should it receive a super majority in Parliament, it would *push* for an amendment to the Federal Constitution to "empower" Shari'a law. UMNO has long competed against PAS for the Malay vote. PAS has more firmly *promoted* religious nationalism centered on Malay-Muslim supremacy along deeply conservative interpretations of Islam. In several states in which PAS is the dominant party, stricter interpretations, and thereby stricter enforcement, of state-sponsored Islam is pursued.

Apostasy and Related Restrictions on Religious Expression

Since the 1980s, the Malaysian government has increasingly become existentially threatened by the conversion of Muslims, and especially Malay-Muslims,

from Islam. Religious laws in many states *criminalize* apostasy from Islam with imprisonment, forced rehabilitation, and fines. In 2021, certain events exposed the creeping Islamization of federal and state institutions and the implicit religious freedom violations. In February, a video went viral on social media of a non-Muslim man who claimed to have convinced a Muslim woman to apostatize, *prompting* religious authorities to investigate. On March 12, then Deputy Religious Affairs Minister Datuk Ahmad Marzuk Shaary noted that state governments will take steps to ensure non-Muslim religions will be further limited in propagating their beliefs to Muslims. He argued this power is derived from Article 11(4) of the Constitution, amended in 1980 by the *Control and Restriction of the Propagation of Non-Islamic Religious Enactment 1980* which expressly criminalizes the proselytization of any faith to Muslims. On August 3, social activist Sarajun Hoda Abdul Hassan was *charged* in Sessions Court for comments on social media he made in April that the court deemed insulting to Islam.

On March 10, the Kuala Lumpur High Court *overturned* a ban on the use of “Allah” by non-Muslim publications. The case was initiated when, in 2008, authorities seized the Malay-language religious books and compact discs from a Malaysian Christian that contained the word “Allah,” based on a 1986 home ministry directive banning Malay-language Christian publications from using the word. The directive also banned Christians from using the Arabic words *Kaabah*, *baitullah* (house of God), and *solat* (prayer). The decision by the Kuala Lumpur High Court overturned this directive and *stated* that Malaysian Christians are permitted to use these words. On March 23, the Selangor Sultan *stated* that the Selangor Islamic Religious Council (MAIS) would join a federal appeal to the High Court’s decision to preserve the exclusive use of the word “Allah” to Muslims. Concern on the use of certain Arabic words such as “Allah” in Malaysia *centers* fears of “confusion” for Muslims at coming across Arabic words associated with Islam being used by non-Muslims.

Identity Card Issues

For Malaysian Muslims to change their religious identity on the government-issued ID at the National Registration Department of Malaysia, they must have a letter from the state Shari’a courts. This makes it virtually impossible for an individual who is either born Muslim or converts to Islam to convert away from the faith, since the prevailing interpretation of leaving Islam is viewed as the illicit act of apostasy.

Religious identification on national identification cards, known as MyKad, display “Islam” for those who are registered as Muslims. In January, the Human Rights Commission of Malaysia (SUHAKAM) *highlighted* the issue for Sarawakians, including the Orang Asal indigenous community who were automatically registered as Muslims, in part, because their names contained the word “bin” or “binti,” associated with Islam because of their Arabic roots. SUHAKAM reported that when applicants from these communities attempted to change or replace their MyKad, they often have their status changed to Islam even when no conversion has taken place. Beyond the incorrect faith identification, it forces these communities under the jurisdiction of Syariah courts. This also poses issues for those who marry fellow non-Muslims, which then implicates them further if the married couple seeks divorce.

On March 25, the High Court *ruled* in favor of a Chinese Malaysian woman to restore her original name and have her religious affiliation changed on her identity card to remove “Islam.” The woman, who turned 41 this year, had been unilaterally converted into Islam at age 10 when her father converted. This change means she will be free from the jurisdiction of Malaysia’s Syariah court system.

Targeting the LGBTI Community

Since 2020, state and federal religious authorities escalated their targeting of the Muslim lesbian, gay, bisexual, trans, and intersex (LGBTI) community through state and federal Syariah codes. In 1982, the National Fatwa Council issued a *fatwa* banning sex changes for trans persons who are Muslim. The state and Federal Territories Syariah codes each contain laws which authorities use to target Muslim LGBTI persons for specific acts and behaviors, with penalties including fines, imprisonment, and corporal punishment depending on the state statutes.

On January 6, the Shah Alam Syariah High Court *charged* Nur Sajat, a transwoman, for bringing contempt to Islam for dressing in clothes that matched her gender identity at a religious event on February 23, 2018. On March 1, the Selangor State Religious Authority (JAIS) *prompted* the authorities to send 122 personnel and enforcement officers to find and arrest Nur Sajat for failing to appear in court.

On February 25, 2021, Malaysia’s Federal Court ruled against Selangor’s religious court and *declared* that state Syariah laws banning gay sex “against the order of nature” were unconstitutional. On Friday, June 25, a task



UNITED STATES COMMISSION *on* INTERNATIONAL RELIGIOUS FREEDOM

force within the federal government [proposed](#) a number of modifications to laws governing social media to link the “promotion” of “LGBTI lifestyles” to laws that target insulting Islam.

Failure to Properly Investigate Enforced Disappearances of Religious Leaders

As of early September, the government has [not released](#) the findings of an investigation into cases of enforced disappearances of religious leaders, such as [Amri Che Mat](#) and [Raymond Koh](#). On February 13, 2017, three black SUVs forced Pastor Koh to pull over on a highway in Petaling Jaya in the Malaysian state of Selangor. Footage from CCTV shows at least 15 men emerging from the SUVs to abduct Pastor Koh. This is the last public footage of Pastor Koh. As noted in [USCIRF’s Factsheet on Enforced Disappearances in Malaysia](#), the entire episode lasted 40 seconds, and the speed, coordination, and efficiency of the abduction suggest it had been meticulously rehearsed. In 2019, the federal government under the Pakatan Harapan

established a task force to investigate the disappearances of Pastor Koh, as well as others who were cases of enforced disappearances. However, as of August 2021, that task force [has not](#) released its findings.

Conclusion

The roles of the civil and Syariah courts have a significant impact on freedom of religion or belief in Malaysia. Particularly with UMNO returning to power, Malaysia struggles to build more robust democratic institutions based on rule of law and principles of internationally agreed upon conditions of human rights, including freedom of religion and belief. All persons, regardless of faith or no faith or ethnicity, should be free to pursue their faith identity.

For information on religious freedom conditions in Malaysia during 2020 and USCIRF’s recommendations to the U.S. government, see USCIRF’s [2021 Annual Report](#).

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