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The Shi'a Muslims of Malaysia

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A summary of religious and ethnic minorities in Malaysia, and its Shi'a Muslim community

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Executive Summary

A ban on Shi'a Islam is currently enforced in 11 out of the 14 states in Malaysia, originating from a fatwa that was released in 1996, by the Fatwa Committee of the National Council for Islamic Affairs. This summary paper, published by the Centre for Academic Shi'a Studies (CASS), aims to briefly explore Malaysia's geography, recent history, political system, and the situation of non-Malay minorities, non-Muslims and indigenous populations in Malaysia. This will be with reference to historical events, the 1996 fatwa and its current implementation.

Constitutional provisions entrench Islam as the official religion in Malaysia and protect the rights of the Malay population, which constitutes approximately 60% of the country's overall populace. However, non-Malay minorities, non-Muslims and indigenous populations in Sabah, Sarawak and the peninsular areas have been "experiencing restrictions and disadvantages in areas such as religion, language, employment, education and land rights" (Minority Rights Group International, 2005). The constitution violates freedom of religion because it defines all Malays as necessarily being Muslims and speaking the Malay language. Non-Muslim religious activity has been discouraged through a number of state policies that promote conversion to Islam. At times, this has taken the form of denying permits to build churches and temples, or a refusal to make burial land available to non-Muslims. If a non-Muslim marries a Muslim, the former must convert, meaning that conversions to Islam can take place by force of law.

Various affirmative action programmes that are based on a particular religious, ethnic or linguistic background may be discriminatory, according to international law. Such programmes provoke heightened controversy during periods of economic distress, as is currently the case in Malaysia (Lewis, 2013). Malaysia's strong security apparatus and the country's frequent use of the 1960 Internal Security Act (ISA) ensure that minority rights advocates are kept under control.

Adherents of non-Islamic faiths, who make up approximately 40% of the population, regularly report problems in Malaysia. In the area of proselytizing in particular, restrictions are placed on followers of minority religions. At the same time, minorities within the fold of Islam also face high levels of restriction on their ability to practice their faith. In Malaysia, only the Sunni sect is permitted, denying followers of Shi'a Islam and other sects freedoms that are guaranteed in the Malaysian constitution.

Shi'a Islam is the second largest denomination within the religion, and can be divided into Fivers (Zaidiyyah), Seveners (Ismailism), and Twelvers (Ithna-Ashariyyah). Based on our sources on the ground, Twelver Shi'a Muslims, in particular, face significant restrictions on their freedom to practice their faith. A growing number of states in the country are enforcing bans on Shi'a Islam, originating from a fatwa that was released in 1996, at the 40th Special Muzakarah (Conference) of the Fatwa Committee of the National Council for Islamic Religious Affairs.

Several media outlets have, to a large extent, covered the situation of Shi'a Muslims in the country, reporting up to date events. However, Malaysia has particularly strong censorship laws. Restrictions can be imposed in the name of national security by the authorities, which exert substantial control over the media. Access to information is becoming increasingly limited, leading to Malaysia's lowest ever position on the Press Freedom Index (Press Freedom Index, 2013). Parties or business groups allied with the ruling coalition run most of the privately owned print titles, whilst newspapers must renew their publication licences annually. Publishing permits can be suspended or revoked by the country's Home Minister. Despite these obstacles, the situation that minorities, including Shi'a Muslims, face in Malaysia has been covered by various media outlets in a balanced fashion, reminding audiences of the validity of Shi'a Islam as a fifth school of law within the religion, and describing the enforcement of the 1996 fatwa as persecution. For example, see Lee (2012) and Mahavera (2013).

The Centre for Academic Shi'a Studies (CASS) believes research indicates that the 1996 fatwa which, to date, has been enforced in 11 out of 14 states in Malaysia, contravenes Article 18 of the Universal Declaration of Human Rights (1948), the ASEAN Human Rights Declaration (2012), the Islamabad Declaration (2007), the Amman Message (2004), the International Bill of Human Rights and the Federal Constitution of Malaysia.

General Overview

Key Statistics

Capital: Kuala Lumpur (Putrajaya is referred to as the administrative capital)

Population: 29,628,392

GDP: \$414,400,000,000 (USD)

Total Area: 127,355 (square miles), 329,847 (square kilometres)

Currency: Ringgit (MYR)

(Country Reports, 2013)

Located just north of the equator, Malaysia borders Thailand, Indonesia and Brunei, and has maritime boundaries with Indonesia, Singapore and the Philippines. As a result of the country having a long-established human presence and being a passage for people moving south since ancient times, Malaysia is ethnically diverse. The country's ethnic groups include Malay and indigenous peoples (67.4 per cent), ethnic Chinese (24.6 per cent), ethnic Indians (7.3 per cent) and others (0.7 per cent). Sunni Islam is the predominant religion, with adherents forming the vast majority (around two thirds) of Malaysia's 28 million people (Fernandez, 2013). The official language is Bahasa Malaysia (Malay) but English is widely used, as are Chinese and Tamil dialects (Australian Government Department of Foreign Affairs and Trade, 2013).

Since independence in 1957 Malaysia has been transformed from a commodity-based economy, focusing on rubber and tin, to one of the world's largest producers of electronic and electrical products. Malaysia is now a high middle-income, export-orientated economy, with a life expectancy of 74 years and a gross primary school enrolment of 100 per cent of the school-age population.

Malaysia is a federal constitutional elective monarchy (Asia Online, 2014). The system of government is closely modelled on that of the Westminster parliamentary system, a legacy of British colonial rule (Federation of International Trade Associations, 2006). The head of state is the Yang di-Pertuan Agong, commonly referred to as the King, whose role has been largely ceremonial since changes were made to the Malaysian constitution in 1994. The nine hereditary rulers of Peninsular Malaysia choose a monarch for a five-year term (The Commonwealth, 2014). In theory, freedom of expression and the media is legally protected, however, in practice the government exerts some restrictions, whilst journalists exercise a degree of self-censorship (Minority Rights Group International, 2005).

Malaysia prides itself on being a multi-cultural Muslim country. Malays form the majority of the country's population, most of who follow the religion of Islam. Approximately 8% of the country's total population

are Indians, and some 40% are Chinese. Hinduism, Buddhism, Taoism, Sikhism, and Christianity are among the religions that these ethnic groups follow. Most of these communities are able to enjoy the right to practice their religion freely.

However, Malaysia is marred by ethnic polarisation, and its situation cannot be explained without considering the inherent role of racial separatism in the country, demonstrated by its ethnocentric legal and political system (Jeyamohan, 2004). This can be explained by an analysis of the Chinese community in Malaysia. Up until the formation of the newly independent Malayan state in 1957, the community was formed of two divergent elements: the rural-poor and the urban-commercial sector. In conjunction with British interests, the urban-Chinese controlled the economy, which began to be countered in 1957 by attempts to institutionalise Malay dominance (University of Maryland, 2013).

Following the 1969 general elections that resulted in race riots between people of Chinese descent and ethnic Malays, inter-ethnic tensions erupted and were followed by the proclamation of a state of emergency. Preventative measures were introduced to minimise a repeat of inter-ethnic violence, whilst justifying a 'restructuring' of Malaysian society that emphasised the special position of Malays in comparison to minorities. This was reflected in a statement that was released after the 1969 race riots that placed responsibility for the influx of Chinese and Indian immigrants on the tolerant attitude of the Malay people, which the colonial government had exploited (Ratnam, 1982).

This statement captured Malay sentiment towards the economic success of non-Malays during British rule, whilst paving the way for a range of programmes that aimed to advance Malay socio-economic interests. For example, Chinese participation in sectors where small Malay businesses were concentrated became restricted, whilst Chinese businesses were forced to share ownership with Malay interests at discount prices (Horowitz, 1985). Indeed, such programmes reflected a collective perception shared by Malays of their rightful entitlement to preferential treatment regardless of the effect on non-Malays (Jeyamohan, 2004).

Ethnic and religious minorities in Malaysia

A significant defining factor of the 'Malay' ethno-national community is religion, which is intrinsically linked to Islam. Discrimination in Malaysia mostly takes places on racial and religious grounds because religion is closely intertwined to ethnicity and nationalism (Nathan and Kamali, 2005).

Communal tensions and ethnic polarization are still major determinants in Malaysian politics, despite the fact that no significant episodes of communal conflict have been reported since the 1969 riots. Minorities are experiencing various human rights violations motivated by ethnic and religious discrimination.

Campaigners and activists have explained that although some of the policies adopted by the Malaysian government may not reflect blatant discrimination, they can impact important areas of life, such as citizenship, education and representation. According to some, non-Malays wait longer to get citizenship rights, with spouses of non-Muslim Malaysians finding it especially hard when coming from other countries. Malays are favoured through quota systems that are implemented in education and in certain professions. According to some, the racial composition of the nation is not reflected in the judiciary, the civil service and the police. Places in some prestigious residential schools are only offered to Malay students. In 1993 an opposition MP, Lim Eng, attributed low birth rates among the Malaysian Chinese population to the government's discriminatory policies in education and employment.

At the same time, religious minorities in Malaysia have been dramatically affected by Islamization programs that have been consciously directed through the organs of Malaysia's state apparatus, and a power struggle between the main Muslim political actors in the country (Nathan and Kamali, 2005). According to religious minorities, some of the hallmarks of these programs include statements by political leaders such as Dr. Mahathir Mohamed who, in 2001, declared that Malaysia was already an Islamic state (Barlow, Baxter, and Macqueen, 2008).

Although politically motivated, such statements have caused disquiet among Malaysia's religious minorities. In addition, Islamization measures taken by the Federal Government, such as compulsory courses in "Islamic Civilisation" for all students of all religions, implemented in 1997, and the inauguration of the Institute of Islamic Understanding (IKIM), by Dr. Mahathir, aiming to implement Islamic input into a vision for nation-building, have been perceived by religious minorities as discrimination. Such views have been reinforced by laws passed at the federal level that forbid ownership of the Bible by all Malaysians, except Christians, obstacles to the construction of new houses of worship for religious minorities, and legislation which bars non-Muslims from using terms that are deemed Islamic, such as *Allah*, *Kaabah*, *Baitullah*, and *Solat*. In addition, reports illustrate increasing tendencies towards exclusiveness among Muslim students in Malaysia's universities. In essence, Malaysia's commitment to a religiously pluralist and secular state is increasingly being brought into question by religious minorities.

Such doubts have been reinforced through various events. For example, in 1991, two opposition newspapers were forced to restrict circulation to party members only. In that same year, the Malaysian government refused an application to establish a Malaysian branch by the London-based human rights organisation Amnesty International. More recently, in September 2013, statutory entitlements for secondary education, government-linked jobs, entrepreneurship and housing were increased for ethnic Malays at the expense of the Chinese and Indian population.

Shi'a Islam in Malaysia

Overview

According to government statistics, nearly two thirds of Malaysia's 28 million people are Muslim (Fernandez, 2013). There is common agreement that adherents of Shi'ism form a small number of the country's overall Muslim population, however, estimates vary considerably from 2,000 to 250,000. This huge discrepancy can be attributed to the presence of foreign tourists and students, the opinions shared by Malaysia's political parties and a lack of reliable data.

Despite the constitution guaranteeing freedom of religion, only the Sunni sect of Islam is permitted in Malaysia. Followers of Shi'a Islam often worship privately, due to a fatwa that was issued in 1996 that described the Shi'a sect of Islam as deviant and not of the religion of Islam. The fatwa was issued by the Fatwa Committee of the National Council for Islamic Affairs, which determined that Muslims in Malaysia were to only follow the teachings of Islam based on the beliefs of Ahlus Sunnah Wal Jammah (Sunni Islam) in doctrine, law and morals, prohibiting any doctrine other than that of Ahlus Sunnah Wal Jamaah from being spread and prohibiting the publishing, broadcasting and distribution of resources relating to the teachings of Islam that oppose the beliefs of Sunni Islam.

Convening on May 5 1996, the Committee discussed the status of Shi'as in Malaysia. The main contention of the religious elite was how Shi'a Muslims understand the concept of an "imam", who is considered an infallible leader of the Islamic community. Shi'a Islam is also considered deviant by virtue of being a minority sect and not part of the mainstream. The Prophet Muhammad's saying, "Muslims will break up into 73 sects. One will achieve Heaven the others Hell", is used to justify this belief (Saat, 2012).

The Committee agreed that an earlier provision, accepting the Zaidiyyah and Jafariyyah schools of thought, within Shi'a Islam, should be repealed. This meant that Muslims in Malaysia, as a result of this conference, were only allowed to follow the teachings of Islam based on Ahlus Sunnah Wal Jamaah (Sunni Islam), whilst being prohibited from publicising, broadcasting and distributing any books, leaflets, films and videos that relate to minority schools of thought¹. To date, this fatwa is still in effect.

Although there is a distinction between state and federal law, states have been urged to implement the fatwa and renounce Shi'ism. So far, 11 out of the 14 states in Malaysia have implemented a ban on Shi'a Islam. State religious authorities are empowered by the National Fatwa Council to act against individuals or organisations preaching Shi'a teachings.

¹Appendix A: Fatwa released by The Fatwa Committee of the National Council for Islamic Religious Affairs on 5th May 1996

In total, the government has banned 56 interpretations of Islam, considering them deviant and a threat to national security and to the Muslim community at large (Bureau of Democracy, 2009). Other banned groups, in addition to the Shi'a Islamic school of thought, include the Ahmadiyyah and Bahai faiths.

The treatment of Shi'a Muslims and banning of Shi'a theology, amongst other discriminatory practices against other religious minorities within the country, contravenes the following international agreements and legal documents:

- 1. Article 18 of the UN Declaration of Human Rights (1948)**
- 2. ASEAN Human Rights Declaration (2012)**
- 3. Islamabad Declaration (2007)**
- 4. The Amman Message (2004)**
- 5. The International Bill of Human Rights**
- 6. The Federal Constitution of Malaysia.**

The 1996 fatwa has been enforced in a number of ways. In some places, such as in the state of Negeri Semblian, Shi'a Muslims are free to practice their faith, but are not permitted to spread their beliefs and practices. In essence, in these states the fatwa has been interpreted with the aim of preventing the spread of Shi'ism. However, in other places, the implementation of the fatwa is more extreme. For example, in the state of Selangor state authorities have arrested Shi'a Muslims. In December 2010, two hundred Shi'as were raided at their local centre in Seri Gombak.

Media Coverage

Some media outlets have expressed anti-Shi'a views, endorsing claims made by religious and state officials of the danger posed by Shi'a Muslims in Malaysia, and Shi'a Islam as a whole. Earlier this year, the *Borneo Post* released an article expressing the need to handle adherents of Shi'a Islam aggressively, because they distort the faith, whilst negatively impacting unity and harmony among the Muslim community (Borneo Post, 2013). In the three weeks leading up to August 2013, *Bahasa Malaysia* raised the issue of a Shi'a threat to Islam and Muslims in Malaysia, reinforcing misinformation about the sect (Muzaffar, 2013).

However, other media outlets have, to a certain extent, covered the situation of Shi'a Muslims in Malaysia in a more balanced fashion. The *Malaysia Chronicle* covered Professor Mohsen Kadivar's visit to Malaysia, mentioning his reminder of Mahmud Shaltut's 1959 fatwa, which explicitly recognized Shi'a Islam as the fifth school of law (Malaysia Chronicle, 2013).

Most recently, the *Malaysian Insider* covered the Department of Islamic Development's authority to act against Shi'a Muslim leaders within an Islamic party in Malaysia, mentioning the persecution of Shi'a Muslims as a major theme at the Umno annual general assembly (The Malaysian Insider, 2013).

Persecution

There are many examples of persecution against the Shi'a population in Malaysia. In this section some examples the research has uncovered will be listed. For instance, followers of Shi'a Islam have been placed under the Internal Security Act (ISA), which warrants detention without trial. In 1997, seven Shi'a followers were detained for spreading their teachings. Those who were released early were told to renounce their Shi'a faith and revert to Sunni Islam as a precondition. Between October 2000 and January 2001, six Shi'a followers were arrested under the ISA.

All types of Shi'a advertisements have been banned in the Malaysian state of Malacca, which enforced the ban on Shi'a Islam, originating from the 1996 fatwa.

Many Shi'as were arrested in December 2010 by religious authorities, on accusations of threatening national security. As Shi'as commemorated the death of the Prophet Muhammad's grandson, in an observation known as Ashura, Selangor Islamic Religious Department officers entered the Ali al-Ridha Islamic Centre in Seri Gombak and detained 200 Shi'a Muslims.

In May 2011, security forces accompanied Religious Department officers in another mass arrest of Shi'as who were celebrating the birthday of Lady Fatima, the daughter of the Prophet Mohammed. Lady Fatima is an important personality within Islam, but attracts particular reverence by Shi'a Muslims.

A leading cleric, Harussani Zakaria, who is also a member of the National Fatwa Council, stated, in 2011, that Shi'ism was an Iranian sect that threatens Muslim unity in Malaysia. The Malaysian Islamic Department claims that the active propagation of Twelver Shi'ism began after the 1979 Iranian revolution. Iran has denied any involvement in the increase of Shi'a Muslims in Malaysia (Al Arabiya, 2011).

More recently, the state of Kedah enforced the 1996 fatwa that categorizes Shi'a teachings as deviant. State religious authorities are empowered to act against any person or organization preaching Shi'a Islam. Earlier this year, the Department of Islamic Development Malaysia (JAKIM) announced it would enhance the judicial power of the Sharia Court, with an ability to go beyond the limitations of imposing a maximum of six lashes, a fine and three years imprisonment.

In his paper entitled "Modus Operandi Shiite Movement and Threat to National Security", reportedly presented at a seminar called "Facing the Shiite Virus" at University Sains Malaysia (USM), Mufti Datuk Wan Zahidi Wan Teh argued that Shi'a Muslims were dangerous in Malaysia because of their influence in society and through the subtle spread of their ideologies and products (Keck, 2013).

Recent Events

On August 5th 2013, officers, seizing their books and personal belongings, arrested two Shi'a Muslims.

On 10th September 2013, four Shi'a Muslims were arrested in the state of Perak. A media report for that month stated that enforcement authorities had detained 16 people and carried out 120 inspections in connection with those identified as linked to the dissemination of Shi'a Islamic teachings in the country.

On 28th September 2013, a raid was conducted at a Shi'a Islamic centre in Selangor. Religious authorities seized property, a sum of money to be donated to an orphanage and valuable items belonging to adherents of Shi'a Islam.

On 13th October 2013, the Assistant Secretary of the Security and Public Order Ministry, Zamihan Zain Al-Ghari, argued for the need of a preventative law firm that should be established for the purposes of curbing Shi'a teachings within Malaysia.

Three men who were charged with possession of documents and books on the teachings of Shi'a Islam pleaded not guilty in court on October 31st 2013. Altogether, they were accused of possessing a banner with the name of twelve saints who are considered to be very important within Shi'a Islam, 103 copies of the book, "Sunni-Shia Dialogue", a document entitled "Tears of Karbala" and various other related offences.

Local mosques across Malaysia have been instructed by state religious councils to deliver anti-Shi'a Friday prayer sermons, consisting of false information about the practices of Shi'a Islam. On 29th November 2013, Sunni Muslims in Malaysia were called to stop the spread of Shi'a Islam as part of their "jihad", or holy struggle, through Malaysia's official Friday sermon. Malaysia's foremost Islamic authority issued a statement that claims Shi'a Islam has no historical links to the country.

On 5th December 2013, during the UMNO general assembly the Deputy Prime Minister of Malaysia, Tan Sri Muhyiddin Yassin, called for an amendment to the Malaysian Federal Constitution, with the addition of the word "Sunni" to be inserted after Islam as the official religion of Malaysia.

On 6th December 2013, Home Minister Datuk Seri Ahmad Zahid Hamidi announced that two novels by Faisal Tehrani were to be banned for containing Shi'a Islamic elements, stating that three other books were also to be evaluated.

Most recently, the Islamic Development Department (Jakim) stressed that Shi'ism, as practised in Malaysia, violated Islamic law, claiming falsely that the sect does not believe in Friday prayers. Jakim has also taken into account the issue of national security in banning Shi'ism, describing it as similar to a

cancer that has developed in Malaysia through the availability of reading materials that have come from the Islamic Republic of Iran (IRI) (The Malaysian Insider, 2013). Shi'ism is perceived to be a threat to Malaysian national security as local adherents are believed to be loyal to the (IRI). As one observer notes, local Shi'as are targeted to a greater extent than those from abroad.

1996 Fatwa Enforcement

By August 2013, 10 states had adopted the fatwa and enforced it in their own Islamic law. The four states that had not done so at this point were Kedah, Kelantan, Sarawak and Sabah.

However, in August 2013, Kedah later approved the ban on Shi'a Islam, meaning that any Shi'a Muslim can now be charged in a criminal court. Since the new law was introduced at least five Shi'a Muslims (two women and three men) have been arrested.

After the Special Conference in 1996 a series of fatwas were released between 1998 and 2012 by various states in Malaysia that placed restrictions on the practice and spread of Shi'a Islam.

In the state of Perak, provisions are made within the law to arrest Shi'a Muslims who possess Shi'a Islamic literature.

On August 1st 2013, a Minister within the Prime Minister's Department, Datuk Seri Jamil Khir Baharom, announced that through the Control and Restrictions of Non-Islamic Religions and the Syariah Criminal Offences Fatwa on Collision, individuals involved with the spread of Shi'a Islam could be prosecuted in civil court.

The Centre for Academic Shi'a Studies believes that such events, in combination with the affirmative action policies that Malaysia has adopted at the expense of non-Malay minorities, non-Muslims and indigenous populations, harm Malaysia's image as a tolerant, fair, and open country that respects human rights.

Recommendations

We recommend that Malaysia:

1. Be encouraged to ratify the International Covenant on Civil and Political Rights (ICCPR). The ICCPR is a multilateral treaty adopted by the UN General Assembly on 16 December 1966. It commits its parties to respect the civil and political rights of individuals, including the right to life, freedom of religion, freedom of speech, freedom of assembly, electoral rights, rights to due process and a fair trial;
2. Work together with minority groups to promote policies that ensure the right of every religious group to exercise its faith free from legal, political, and economic restrictions;
3. Return to the 1984 decision made by the Fatwa Committee of the National Council for Islamic Religious Affairs, that recognized the Ja'fari and Zaidi Shi'ite schools of thought as legitimate in Malaysia;
4. Revoke all anti-Shi'ite fatwas and any discriminatory laws arising thereof;
5. Insist on fair reporting on matters to do with Shi'a Islam;
6. Encourage Malaysians to adopt a more pragmatic freedom of thought model that appreciates diversity within the religion of Islam, with support from senior and juristic levels.

Appendix A

The Fatwa Committee of the National Council for Islamic Religious Affairs met on 5 May 1996, and discussed Shiites in Malaysia. It agreed that:

1. The decision of the Fatwa Committee held on 24 and 25 September 1984 [Paper No. 08.02.84, Item 4.2 (2)] on the sect of the Shia is as follows: "After discussing this paper, the Committee has decided that the Shiite, Al - Zaidiyah and Jaafariyah sects are accepted for implementation in Malaysia."
Repealed.
2. Muslims in Malaysia should only follow the teachings of Islam based on Ahlus Sunnah Wal Jamaah in Faith, Sharia and Morals.
3. Support and accept the proposed amendment of the Federal Constitution and the Constitution of the State - the State to provide expressly that the religion of the Federation and the State - the State shall be the religion of Islam based on Ahlus Sunnah Wal Jamaah in Faith, Sharia and Morals.
4. Amendments to Law - State Law and Islamic Law are to harmonize with the definition of Shariah Islamic Law as follows: "Islamic Law or Law - Islamic law means the law - which is based on Islamic law and Ahlus Sunnah Wal Jamaah in Faith, Sharia and demeanours. "
5. Recommends that the teachings of Islam other than Ahlus Sunnah Wal Jamaah is contrary to Islamic law and the law - Islamic law and thus the spread of the teachings of any other holdings is prohibited.
6. Stipulates that all Muslims in the country are subject to the law. Islamic law is based on the teachings of Ahlus Sunnah Wal Jamaah only.
7. The publishing, broadcasting and dissemination of such books, pamphlets, films, videos and other - in relation to the teachings of Islam as opposed to Ahlus Sunnah Wal Jamaat are banned.

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