

**Refugee Review Tribunal  
AUSTRALIA**

**RRT RESEARCH RESPONSE**

**Research Response Number:** MYS35349  
**Country:** Malaysia  
**Date:** 16 September 2009

Keywords: Malaysia – Islamic Councils – Islamic Police – Sikhs – State Protection – Islamic Courts – Conversion

This response was prepared by the Research & Information Services Section of the Refugee Review Tribunal (RRT) after researching publicly accessible information currently available to the RRT within time constraints. This response is not, and does not purport to be, conclusive as to the merit of any particular claim to refugee status or asylum. This research response may not, under any circumstance, be cited in a decision or any other document. Anyone wishing to use this information may only cite the primary source material contained herein.

---

**Questions**

- 1. Please provide information about the Islamic Councils and/or the Islamic police in Malaysia?**
- 2. How are Sikhs (or religious minorities in general) treated in Kuching and in Malaysia generally?**
- 3. What state protection is available for Sikhs (or religious minorities) in Kuching and in Malaysia generally?**
- 4. Are Islamic courts involved in converting, including forcibly, non-Muslims in Malaysia?**

**RESPONSE**

- 1. Please provide information about the Islamic Councils and/or the Islamic police in Malaysia?**

**Islamic Councils**

A 2005 report on reproductive health and rights in Malaysia refers to Islamic Councils in a section on the legal and political framework of Malaysia. The report indicates that “[t]he federal constitution is the supreme law of Malaysia.” Under the constitution, the “legislative powers over different matters are designated to the federal government, the state government, or both.” Among the “areas under the legislative authority of states are Syariah laws for Muslims, and native personal or customary laws for indigenous peoples and tribal groups.” The report refers to “Islamic Councils of each state” in Malaysia being coordinated by the National Council for Islamic Affairs. “Under the Administration of Islamic Law (Federal Territories) Act 1993, religious *fatwas* (Islamic decrees) issued by the National Council for

Islamic Affairs may become legally binding if they are adopted by state governments through implementing legislation” (‘Malaysia’ in ‘Women of the World: Laws and Policies Affecting Their Reproductive Lives, East and Southeast Asia’ 2005, The Center for Reproductive Rights & Asian-Pacific Resource and Research Centre for Women (ARROW) website, pp. 81-122, at pp. 86-87 <http://www.crlp.org/pdf/Malaysia.pdf> – Accessed 1 February 2007 – Attachment 1).

An undated article in *The Halal Journal* on zakat, which is “the systematic giving of 2.5% of one’s wealth each year to benefit the poor”, in Malaysia, includes the following information on Islamic Councils in Malaysia:

In Malaysia, though Islam is the official religion, The Federal Government does not have the fullest authority in religious affairs. Zakat is the responsibility of the Islamic Council of each state in the country There are 14 Islamic Councils, one for each of the 13 states and one for the Federal Territory Wilayah Persekutuan of Kuala Lumpur. Each state has its own religious Administration Enactment while the Federal Territory has its own Act to manage zakat. The Islamic Councils have a unique status in that they are not a part of the Federal or State Government However, they have been established either through Federal or State legislation. They also depend on the Islamic Religious Department which is a government department existing in each state to provide the administrative services and to implement the decisions of the Council.

The Council is mainly a policy-making and supervisory body. Each Council is report to the Sultan or Ruler of each State The National Council for Islamic Affairs acts as a coordinator between the various state Islamic Councils especially when it concerns Islamic matters that effect the whole country (‘Zakat in the context of the Malaysian Economy’ (undated), *The Halal Journal* <http://www.halaljournal.com/article/3377/zakat-in-the-context-of-the-malaysian-economy> – Accessed 11 September 2009 – Attachment 2).

An article dated 3 August 2009 in relation to the Catholic Church in Malaysia filing “for a judicial review against the Home Minister in early February after receiving several letters warning it against publishing the word ‘Allah’ outside the Muslim context in its multi-lingual newspaper, The Herald”, indicates that the High Court in Kuala Lumpur had “allowed 10 state Islamic councils to intervene in the church’s suit against the Home Minister on the basis that their legal rights as advisers to the rulers, who sit as heads of Islam in their respective states, would be gravely affected by any decision taken by the court” (Chong, D. 2009, ‘Islamic councils allowed to fight Catholic church over “Allah”’, *The Malaysian Insider*, 3 August <http://www.themalaysianinsider.com/index.php/malaysia/34084-islamic-councils-allowed-to-fight-catholic-church-over-allah-> – Accessed 11 September 2009 – Attachment 3).

## **Islamic Police**

The 2008 US Department of State report on religious freedom in Malaysia indicates that “[r]eligious police can conduct raids at hotels and bars in order to catch Muslims engaged in close proximity, consuming alcohol, or indecently dressed and charge them under Shari’a law.” The report also indicates that:

Shari’a laws are administered by state authorities through Islamic courts and have jurisdiction over all Muslims. Shari’a laws and the degree of their enforcement vary by state. State governments impose Islamic law on Muslims in some cultural and social matters but generally do not interfere with the religious practices of non-Muslim communities; however, debates continued regarding incorporating elements of Shari’a law, such as khalwat [an act of

“close proximity” between unmarried men and women], into the civil law. Religious police have the authority to raid private premises as well as public establishments. The Government did not provide information on the number of raids carried out by religious police (US Department of State 2008, *International Religious Freedom Report for 2008 – Malaysia*, September, Section II – Attachment 4).

A recent *Agence France-Presse* article dated 6 September 2009 refers to a transsexual sex worker in Malaysia saying that “what really frightens her are the raids mounted by police and religious authorities.” According to the article:

Enforcement officials from the Islamic Affairs Department (JAWI) -- notorious for swooping on nightclubs and motels in search of Muslims drinking or having extramarital sex -- regularly descend on the streets of Chow Kit.

Sex workers are sent scattering on their high heels, and those who are caught and hauled off face jail or intensive “counseling” sessions like a two-week interrogation Tasha once endured (Stewart, S. 2009, ‘Life in the twilight for Malaysia’s Muslim transsexuals’, *Agence France-Presse*, 6 September – Attachment 5).

An *Associated Press Newswires* article dated 25 August 2009 refers to Kartika Sari Dewi Shukarno, a Malaysian woman who was arrested by “Islamic morality police -- enforcement officials of the Islamic Religious Department... in a raid for drinking beer at a hotel lounge at a beach resort in Cherating in Pahang state in December 2007”, being sentenced in July 2009 “to six lashes of a rattan cane by the Shariah court... in what was considered a warning to other Muslims to abide by religious rules.” The caning was delayed “until after the Muslim fasting month of Ramadan”. It is stated in the article that:

Beer, wine and liquor is widely available at shops, bars and restaurants in Malaysia, unlike in more austere Islamic nations such as Iran and Pakistan. Christians, Hindus, Sikhs and other minorities in Malaysia are free to consume alcohol but its Shariah law forbids Muslims -- who make up 60 percent of the 27 million population -- from drinking, although a minority of Muslims still indulge despite the religious stricture.

...Islamic law provides for a three-year prison term and caning for Muslims caught drinking. Most previous offenders were fined and no woman has ever been caned.

The morality police are not a pervasive force in Malaysia, and most citizens were surprised at the verdict against Kartika (Yoong, S. 2009, ‘Caning of Malaysian mother for drinking beer postponed until after Ramadan’, *Associated Press Newswires*, 25 August – Attachment 6).

Another article in the *Financial Times* dated 21 August 2009 indicates that the sentencing of Kartika Sari Dewi Shukarno to be caned “for drinking a beer in violation of Islamic law underscores the tensions between Kuala Lumpur’s desire to promote Malaysia as a moderate Muslim society and the increasingly tough actions taken by local religious police and courts.” The article also indicates that:

Raids of restaurants and bars by the Islamic police to catch Muslims drinking alcohol are a normal occurrence, mainly in rural areas such as Pahang where the Muslim Malay population is concentrated. Those arrested are usually punished by a fine or warning.

...The government has been reluctant to condemn the sentence. [Prime Minister] Mr Najib [Razak] does not want to alienate ethnic Malay voters when support has been on the rise for the conservative Islamic party of Malaysia (PAS), which is part of the three-party opposition

alliance (Burton, J. 2009, 'Caning case exposes Malaysia tensions', *Financial Times*, 21 August [http://www.ft.com/cms/s/0/d7cd7652-8e69-11de-87d0-00144feabdc0.html?catid=24&SID=google&nlick\\_check=1](http://www.ft.com/cms/s/0/d7cd7652-8e69-11de-87d0-00144feabdc0.html?catid=24&SID=google&nlick_check=1) – Accessed 11 September 2009 – Attachment 7).

The US Department of State report on human rights practices in Malaysia for 2008 refers to “[t]he states’ religious police” continuing “to conduct raids on private homes, nightclubs, and other similar locations during the year to search for Muslims engaged in offenses such as gambling, consumption of alcohol, dressing immodestly, and engaging in sexual relations outside marriage. The government provided no statistics regarding the raids” (US Department of State 2009, *Country Reports on Human Rights Practices for 2008 – Malaysia*, February, Section 2(c) – Attachment 8).

An RRT research response dated 11 December 2007 includes information on the treatment by the religious police of Muslims who had married non-Muslims in Malaysia (RRT Research & Information 2007, *Research Response MYS32688*, 11 December, (Questions 6 & 7) – Attachment 9).

An article dated 8 November 2007 indicates that Malaysia’s then prime minister Mr Abdullah Ahmad Badawi, had “warned ‘overzealous’ religious police against blindly enforcing Islamic rules” in a speech at the opening of the general assembly of the United Malays National Organisation (‘Abdullah’s Umno speech, carefully crafted to placate all sides’ 2007, *Today (Singapore)*, 8 November – Attachment 10).

An Amnesty International document dated 3 August 2007 refers to the operations of religious police in Malaysia, in particular, the “Melaka Islamic Religious Affairs Department (*Jabatan Agama Islam Melaka*, JAIM), a local government body tasked with enforcing social norms based on Sharia law.” The document also indicates that:

While the scope and target of their operations may differ in different parts of the country, ‘religious police’ may impose sanctions on anyone deemed to be engaged in ‘indecent behaviour’, such as transsexual people, couples kissing in public (both mixed and same-sex), Muslim women deemed to be dressed inappropriately, or even young people wearing punk-style clothing (Amnesty International 2007, *UA 200/07 Fear for safety/torture or ill-treatment: Malaysia Ayu (f), aged 44 Other transsexual individuals in Malaysia*, 3 August, ASA 28/002/2007 <http://web.amnesty.org/library/Index/ENGASA280022007?open&of=ENG-MYS> – Accessed 30 October 2007 – Attachment 11).

A *Reuters News* article dated 6 July 2007 indicates that Malaysia’s religious police had “detained a Muslim singer at a popular club, saying too much of her back was exposed by a sleeveless blouse she wore while performing, media reported on Wednesday.” According to the article:

Siti Noor Idayu Abd Moin, 24, has been ordered to go before the sharia, or Islamic court, at Ipoh in the northern state of Perak, on Aug 6, to face charges of “revealing her body” and “promoting vice”, the *New Straits Times* said.

...The singer was picked up along with four members of her band, and subjected to repeated breathalyser tests by officials in futile attempts to prove she had drunk liquor, the paper said (‘Malaysian singer draws ire of religious police’ 2007, *Reuters News*, 6 July – Attachment 12).

**2. How are Sikhs (or religious minorities in general) treated in Kuching and in Malaysia generally?**

**3. What state protection is available for Sikhs (or religious minorities) in Kuching and in Malaysia generally?**

A search of the sources consulted found little information on the treatment of Sikhs in Kuching. An undated article on the All About Sikhs website refers to a Gurdwara Sahib being built in Kuching, Sarawak in 1912. The building of a new Gurdwara Sahib was commenced in 1980, with the state government contributing RM20,000 of the RM1,000,000 cost. It is stated in the article that:

Construction of the new three-storey brick building commenced in late 1980, under the Presidency of Sardar Mukartar Singh Sandhu. There are six golden-coloured domes on top of the Gurdwara Sahib building. The Darbar Sahib is located on the second floor. The langgar hall, kitchen, library, office, a store and a guest room are located on the first floor. The Granthi's quarters, ration store, guest's room and a hall are located on the ground floor. This Gurdwara Sahib also had a lift installed for the convenience of the elderly. Its beautiful and unique architecture attracts even tourists who visit Kuching. The cost of this Gurdwara Sahib building was about RM1,000,000.00 out of which RM20,000.00 was donated by the State Government. This new Gurdwara Sahib was declared open on 18th April 1982 by Y.B. Tan Sri Datuk Ong Kee Hui, the Minister of Science, Technology and Environment, Malaysia. After more than a decade, the final structure of the Gurdwara Sahib building was completed under the Presidency of Sardar Sarjit Singh Khaira.

The 300th anniversary of the birth of the Khalsa (Vesakhi), which fell on 14th April 1999, was celebrated on a large scale by the Sikh community of Kuching. An exhibition on the Sikh religion, history of Sikhs in Sarawak, Sikh culture, musical instruments, old photographs, Punjabi suits etc was held on the ground floor of the Gurdwara Sahib Kuching. This exhibition was declared open by Y.B. Datuk James Wong Kim Min, the Minister of Environment and Public Health on 10th April 1999. The 200 invited guests who attended this event were very impressed by the exhibits.

...There are 40 students who attend Gurmukhi classes on Sundays. The Punjabi school is run by volunteer teachers.

Bhai Tarlok Singh served as a Granthi in this Gurdwara Sahib from 1959 to 1970. Datuk Dr. Gurdarshan Singh Hans, who was born in 1943, is the first local born Sikh to become a Doctor in the State of Sarawak. He is a devout Sikh and an Akhand Pathi. He is also the first Sikh in Sarawak to have been awarded a Datukship, in 2001 by the State Government of Sarawak.

Presently, there are about 75 Sikh families who participate in the religious activities in this Gurdwara Sahib. The usual weekly prayers are held on Sunday mornings at 9.00a.m. Other religious programmes are held as and when necessary at the request of the sangat ('Gurdwara Sahib Kuching, Sarawak' (undated), All About Sikhs website <http://www.allaboutsikhs.com/gurudwaras-in-malaysia/gurudwara-sahib-kuching-sarawak.html> – Accessed 11 September 2009 – Attachment 13).

The following articles include information on the treatment of Sikhs in Malaysia:

An *Indo-Asian News Service* article dated 7 September 2009 indicates that:

Two members of the Punjabi community are, for the first time, on Malaysian Indian Congress (MIC) chief S. Samy Vellu's list of nominees for the organisation's poll next Saturday. Samy Vellu has sought to widen his base in the Tamil-dominated party by including on his list J. Randhir Singh from Johor state and G. Jaspal Singh from Selangor. If elected, the two will be the only Punjabis in the party's decision making body after K.S. Nijhar, who was the party vice-president until last year when he resigned abruptly, *New Straits Times* said Monday...

Malaysia has an estimated 100,000 Sikhs. The two million Indian diaspora, however, is predominantly of Tamils who settled here during the British era ('Malaysian Indian Congress reaches out to other parts of diaspora' 2009, *Indo-Asian News Service*, 7 September – Attachment 14).

An article in *Bernama Daily Malaysian News* dated 12 August 2009 refers to Perak Menteri Besar Perak Datuk Seri Dr Zambry Abdul Kadir, "[o]n behalf the Barisan Nasional (BN) state government," expressing "appreciation of the Sikh community for enriching the heritage, culture and social demography and fabric of the country, and especially that of Perak, with their qualities and contributions." He also said that the state government was "aware that the Sikh community is not devoid of problems. Issues like hardcore poverty, crime, substance abuse, lack of opportunities in acquiring skills, rising figure of single mother, among others, faced by the Perak Sikhs need to be addressed properly and promptly," he said, giving an assurance of the state government's support and help" ('Although the Sikh community in Malaysia is small -- 126,000 nationwide and...' 2009, *Bernama Daily Malaysian News*, 12 August – Attachment 15).

The article dated 3 August 2009 in relation to the Catholic Church in Malaysia filing "for a judicial review against the Home Minister in early February after receiving several letters warning it against publishing the word 'Allah' outside the Muslim context in its multi-lingual newspaper, *The Herald*", indicates that the High Court in Kuala Lumpur had "barred the Malaysian Gurdwara Council from" intervening in the church's application against the Home Minister, "noting that the case at hand dealt specifically with the church's demands for the government to allow them to freely publish the word in their newspaper *The Herald*." The article continues:

Judge Lau, who made the decision in chambers, reportedly said the Gurdwara Council had failed to fulfill the necessary criteria to intervene as it had not showed Sikhs would be affected by the court's decision.

Lawyer Balwant Singh Sidhu who represents the Gurdwara Council admitted the government had not placed any conditions on Sikhs to use the word "Allah" in their worship, unlike the case with the Catholic Church.

But Balwant said the Sikh body may yet file a separate suit against the government to defend their rights (Chong, D. 2009, 'Islamic councils allowed to fight Catholic church over "Allah"', *The Malaysian Insider*, 3 August

<http://www.themalaysianinsider.com/index.php/malaysia/34084-islamic-councils-allowed-to-fight-catholic-church-over-allah-> – Accessed 11 September 2009 – Attachment 3).

An earlier *Associated Press Newswires* article dated 4 July 2008 indicates that the Malaysian Gurdwaras Council had "filed an application at the Kuala Lumpur High Court... seeking to join a suit by *The Herald*, a Roman Catholic newspaper, against the government over use of the word 'Allah,'" as "the ruling would affect them", according to the council's president, Sardar Jagir Singh. "The word Allah appears on 'numerous occasions' in the Sikh holy book,

Guru Granth Sahib, he told The Associated Press. ‘Not a word can be altered. It’s our holiest book ... it will mean we can’t practice our own religion’” (Zappei, J. 2008, ‘Sikh group joins protest against ban on use of word “Allah” in Malaysia’, *Associated Press Newswires*, 4 July – Attachment 16).

An *Associated Press Newswires* article dated 6 July 2009 refers to a Sikh family losing a court battle “in Muslim-majority Malaysia for the right to cremate one of their relatives after officials said the man had converted to Islam years before his death.” According to the article:

The case threatens to revive complaints among non-Muslims that their religious rights are being sidelined -- a grievance that has sparked interfaith tensions and severely eroded minority support for the government.

The family of Mohan Singh has been fighting Islamic authorities for custody of his body after Mohan, 41, died of a heart attack on May 25.

Officials from the Islamic government department of central Selangor state insisted Mohan converted to Islam in 1992, but the family said he practiced the Sikh religion until his death.

Malaysia’s secular High Court ruled Monday that it had no jurisdiction in the case, saying that the matter of Mohan’s conversion to Islam had already been decided by the Islamic Shariah court, said the family’s lawyer, Rajesh Kumar.

...Malaysia has a double-tier court system for civil matters -- Muslims go to the Shariah court; non-Muslims go to secular courts. But in interfaith disputes, non-Muslims complain they lose out as Shariah courts get the final say and rarely rule in their favor.

The government has pledged to tackle legal ambiguities related to religious conversions. Authorities recently said minors can no longer be converted without both parents’ consent, but the decision has not been made legally binding.

Officials have not announced any new proposals to resolve disputed conversions in cases where someone has died (Zappei, J. 2009, ‘Sikh family loses court battle against conversion of dead man in Muslim-majority Malaysia’, *Associated Press Newswires*, 6 July – Attachment 17).

An *Indo-Asian News Service* article dated 1 June 2009 indicates that:

Incidence of relative poverty, drug abuse among youth and single mothers in the Sikh community settled in Malaysia’s Perak state have surprised the authorities who have promised to help. Chinese affairs adviser to Perak’s menteri besar (chief minister) Chang Ko Youn said attention to the community’s problems was “long overdue”. “The general impression Malaysians have is that the Sikhs are successful people who don’t have serious socio-economic, education and youth problems. “Today’s (Sunday) briefing has certainly been an eye-opener,” said Chang, adding: “And I have to say that impression does not hold water and must be corrected.” Representatives of nine Sikh organisations presented their case through an umbrella body called the Union of Perak Sikh Organisations (UPSIO).

“The areas where assistance will be extended include substance abuse problems among youth, welfare aid to poor families and single mothers, support for Punjabi language education, sports development and land allocation for gurdwara sahib,” The News Straits Times reported. Over 28,000 Sikhs are settled in Perak state, while Malaysia has an estimated population of 100,000 Sikhs who came here during British rule. The community has produced

many leaders in politics, business, education and entertainment. Chang assured the Sikh leaders that he will arrange for them to meet chief minister Zambry Abdul Kadir so that they can brief him personally. UPSO chairman Dheer Singh said the Sikhs have been suffering in silence for a long time because the community lacked political representation in the Barisan Nasional government. "For over 50 years, Sikhs have been neglected by those in power. I hope things will move in a positive direction now. The perception that Sikhs don't need help must be discarded. We need attention and help, and urgently at that," Dheer Singh was quoted as saying ('Drug abuse, single mothers – issues faced by Sikhs in Malaysia' 2009, *Indo-Asian News Service*, 1 June – Attachment 18).

An *Indo-Asian News Service* article dated 15 April 2009 refers to the Malaysian prime minister Najib Tun Razak visiting a gurudwara in Kuala Lumpur "to greet the Sikh community on Baisakhi." According to the article:

Malaysia has a 100,000 strong Sikh community that has done well in business and trade and professions like law. Many have joined public life and have been lawmakers. Most Sikhs came here during the British era. The community conducts many social services. Razak met with blood donors at a corner of the hall. There was a line-up to shake hands with him and be photographed. In his speech, the prime minister expressed his appreciation and recognition of the Sikh community's contribution to the country's development through the years ('Malaysian PM makes rotis on Baisakhi' 2009, *Indo-Asian News Service*, 15 April – Attachment 19).

The US Department of State report on human rights practices in Malaysia for 2008 indicates that:

Non-Muslims, who constitute approximately 40 percent of the population and include large Buddhist, Christian, Hindu, and Sikh communities, were free to practice their religious beliefs with few restrictions. According to the government, it allocated RM428 million (approximately \$125.9 million) to build Islamic places of worship and RM8.1 million (\$2.4 million) to build Christian, Buddhist, Hindu, and other minority religions' places of worship between 2005 and the end of the year.

...The government generally respected non-Muslims' right of worship; however, state governments have authority over the building of non-Muslim places of worship and the allocation of land for non-Muslim cemeteries. State authorities sometimes granted approvals for building permits very slowly. Minority religious groups reported that state governments sometimes blocked construction using restrictive zoning and construction codes.

...Some religious minorities have complained that the government undermined their rights in deference to the status of Islam. On July 4, a Sikh group representing more than 100,000 Sikhs joined the Catholic archbishop's lawsuit against the Internal Security Ministry's February 12 directive to the Catholic Church to stop using the word "Allah", which the ministry considered exclusive to Islam, in its weekly publication, *The Catholic Herald*. The case remained pending at year's end.

The report also indicates that:

The constitution provides for equal protection under the law and prohibits discrimination against citizens based on sex, religion, race, descent, or place of birth. However, the constitution also provides for the "special position" of ethnic Malays and the indigenous groups of the eastern states of Sabah and Sarawak (collectively, bumiputras), and discrimination based on this provision persisted. Government policies and legislation gave preferences to bumiputras in housing, home ownership, awarding of government contracts

and jobs, educational scholarships, and other areas. Nonbumiputras regularly complained about these preferences, arguing that government subsidies for disadvantaged persons should be dispensed without regard to race (US Department of State 2009, *Country Reports on Human Rights Practices for 2008 – Malaysia*, February, Sections 2(c) & 5 – Attachment 8).

The US Department of State report on religious freedom in Malaysia for 2008 refers to Sikhs as one of the minority religious groups in Malaysia. It is also stated in the report that:

The Government maintains a dual legal system, whereby Shari'a courts have jurisdiction over religious issues involving Muslims, and secular courts rule on other issues pertaining to the broader population. Religious minorities remained generally free to practice their beliefs; however, over the past several years, many have expressed concern that the civil court system has gradually ceded jurisdictional control to Shari'a courts, particularly in areas of family law involving disputes between Muslims and non-Muslims. Religious minorities continued to face limitations on religious expression and alleged violations of property rights. The Government restricts distribution of Malay-language Christian materials in Peninsular Malaysia and forbids the proselytizing of Muslims by non-Muslims.

There were few reports of societal abuses or discrimination based on religious affiliation, belief, or practice (US Department of State 2008, *International Religious Freedom Report for 2008 – Malaysia*, September, Introduction & Section I – Attachment 4).

An *Indo-Asian News Service* article dated 20 April 2008 indicates that the Malaysian government had “advised the 100,000-strong Sikh community in the country to train priests locally to reduce dependence on those from India.” However, “the Sikhs have cited problems similar to those of the much larger Tamil Hindu community.” The article continues:

“Local Sikh youths are not willing to work for a pay of RM 700 to 800 (around \$250). Furthermore, in-depth training is required,” Malaysian Gurudwaras Council secretary Malkith Singh said Saturday after a Sikh delegation met Deputy Prime Minister Najib Tun Razak.

The learning of Punjabi was limited, Malkith Singh said.

“All Punjabi language schools are run on a voluntary basis without any grant from the government,” he said (‘Train priests locally, Malaysia tells Sikhs’ 2008, *Indo-Asian News Service*, 20 April – Attachment 20).

An article in the *New Straits Times* dated 14 April 2008 refers to Menteri Besar Mohammad Nizar Jamaluddin upsetting Malaysian Sikhs when he referred to them as Bengalis at a function in Ipoh. According to the article:

His comment about the Sikh and Tamil new year celebrations raised eyebrows as the Sikhs gathered there had expected the head of the state government to know the difference between Sikhs and Bengalis.

...Dheer Singh, chairman of the United Perak Sikhs Organisation, a consultative umbrella body representing nine Sikh-based voluntary organisations in the state, is upset with Nizar.

...”I feel sad that even though Sikhs have been in this country for close to 150 years, Malaysians still think we are Bengalis” (‘Sikhs upset over MB’s gaffe’ 2008, *New Straits Times*, 14 April – Attachment 21).

An *Agence France-Presse* article dated 2 April 2007 refers to non-Muslim groups in Malaysia including Sikhs holding “special prayers for greater religious freedom amid fears their rights in this Muslim-majority nation are increasingly under threat.” The move by the Malaysian Consultative Council of Buddhism, Christianity, Hinduism and Sikhism “comes after a Malaysian court told a Hindu woman last month to go to a sharia or Islamic court to dissolve her marriage with her Muslim convert husband, and work out custody of their children” (‘Malaysians in prayer campaign for rights of non-Muslims’ 2007, *Agence France-Presse*, 2 April – Attachment 22).

#### **4. Are Islamic courts involved in converting, including forcibly, non-Muslims in Malaysia?**

The *Associated Press Newswires* article dated 6 July 2009 in relation to a Sikh family losing a court battle in Malaysia regarding “the right to cremate one of their relatives after officials said the man had converted to Islam years before his death”, refers to Malaysia’s secular High Court ruling “that it had no jurisdiction in the case, saying that the matter of Mohan’s conversion to Islam had already been decided by the Islamic Shariah court, said the family’s lawyer, Rajesh Kumar.” It is also stated in the article that:

Malaysia has a double-tier court system for civil matters -- Muslims go to the Shariah court; non-Muslims go to secular courts. But in interfaith disputes, non-Muslims complain they lose out as Shariah courts get the final say and rarely rule in their favor.

The government has pledged to tackle legal ambiguities related to religious conversions. Authorities recently said minors can no longer be converted without both parents’ consent, but the decision has not been made legally binding.

Officials have not announced any new proposals to resolve disputed conversions in cases where someone has died (Zappei, J. 2009, ‘Sikh family loses court battle against conversion of dead man in Muslim-majority Malaysia’, *Associated Press Newswires*, 6 July – Attachment 17).

Another *Associated Press Newswires* article dated 30 June 2009 indicates that “[a] council of Malaysia’s royalty has deferred a decision on whether to ban religious conversion of minors by one parent without the spouse’s consent – a source of several interfaith disputes in this Muslim-majority nation.” The article continues:

A meeting of Malaysia’s king and state sultans decided late Monday that they would consult Islamic authorities before deciding whether to approve a proposed amendment banning such conversions without both parents’ consent.

...The hereditary monarchs have a largely ceremonial role in Malaysia but they are seen as the guardians of Islam, the official religion, and are revered by Muslim Malays, who make up 60 percent of the country’s 28 million people.

The endorsement of the monarchs is necessary before the government can push any change in religion-related laws through Parliament (Zappei, J. 2009, ‘Malaysia royalty defers ban on minors’ conversion’, *Associated Press Newswires*, 30 June – Attachment 23).

According to an *Agence France-Presse* article dated 30 April 2009, “[a] Malaysian Muslim convert is challenging a government decision to ban parents from secretly converting children in a case that has strained race relations.” It is stated in the article that:

In the latest religious dispute to erupt in multi-cultural Malaysia, 35-year-old teacher Indira Ghandi faced losing custody after her husband K. Patmanathan converted himself and the children, aged 12, 11 and one, without her knowledge.

Under Malaysian sharia law a non-Muslim parent cannot share custody of converted children.

The cabinet announced last week the law would be changed so that children's conversions would not be allowed without both parents' consent, with a civil court giving Ghandi interim custody of the children. She has also initiated divorce proceedings.

"This ruling contradicts the federal constitution, it is illegal and not applicable on Muslims including myself and my children," Patmanathan said in a court document filed on April 28 opposing the temporary order, but released to the media on Thursday ('Malaysian Muslim challenges secret conversion ban' 2009, *Agence France-Presse*, 30 April – Attachment 24).

An earlier article in *The Straits Times* dated 20 April 2009 refers to "the Islamic Shariah court in northern Perak state" having previously awarded custody of the children of Indira Gandhi and her husband to Ms Ghandi's "husband, K. Patmanathan, following his conversion to Islam in March", according to Ms Gandhi's lawyer. The lawyer said that the conversion of the children to Islam was without Ms Ghandi's consent ('Fight over kids' conversion' 2009, *The Straits Times*, 20 April – Attachment 25).

An article in the *New Straits Times* dated 24 April 2009 indicates that Malaysia's cabinet had "decided that if either spouse were to convert to Islam, the children should follow the faith that the parents had agreed on at the time of marriage, or implied by their common religion. Also, "[t]he cabinet has decided that civil courts are the right place to dissolve a marriage in the event of a spouse converting to Islam." The cabinet had "directed the attorney-general to review and propose changes to the law to prevent any future complications to the family unit when a spouse converted to Islam" ('A civil solution on conversions' 2009, *New Straits Times*, 24 April – Attachment 26).

An *Associated Press Newswires* article dated 6 March 2009 indicates that "[a]n Islamic court in Malaysia" had ruled "that a man given an Islamic name at birth was a Christian, a rare victory for religious minorities in this Muslim-majority nation." According to the article:

The man -- whose original identity card listed his name as "Mohammad Shah alias Gilbert Freeman" -- brought his case to the Shariah court in southern Negeri Sembilan state after the National Registration Department refused to accept he was a Christian and allow him to drop his Islamic name when he applied for a new identity card.

Lawyer Hanif Hassan said his client, who is 61, was raised as a Christian by his mother, and his Islamic name came from his Muslim father, who left the family when he was only 2-months-old. Freeman is married according to Christian rites and has three children who are Christians.

"The Shariah court ruled that he is not a Muslim. He is not practicing Islam, and he hasn't applied to be a Muslim," Hanif told The Associated Press (Ng, E. 2009, 'Malaysian wins court battle to become Christian', *Associated Press Newswires*, 6 March – Attachment 27).

An *Agence France-Presse* article dated 5 March 2009 refers to "[a]n ethnic Chinese Malaysian" going "to court to fight the secret conversion of his 15-month-old daughter by his estranged Muslim convert wife, his lawyer said". Carpenter Hoo Ying Soon was "also

challenging the temporary custody granted to his wife by a sharia court in this Muslim-majority nation.” The article continues:

Lawyer Tang Jay Son told AFP Hoo only learned of his wife and child’s secret conversion two days ago through a sharia court notice, which said the woman had become a Muslim on January 28 and his infant daughter on February 3.

“They also served him an interim court order... that grants the wife a temporary custody over the child and the reason for that is because the child is already a Muslim,” Tang said.

...The couple -- originally both Buddhists who married in 2007 and live in central Negri Sembilan state -- separated in September last year, the lawyer said.

He said the parents took turns to look after their daughter, who has now been given the Muslim name Nurul Syuhada Chew Abdullah.

Hoo is now seeking custody of his daughter in the civil courts while his wife applies for a divorce through the sharia court.

...Tang criticised the Islamic authorities for allowing the baby’s conversion without first determining the child’s custody or the status of the couple’s marriage (‘Malaysian man fights baby’s secret conversion to Islam’ 2009, *Agence France-Presse*, 5 March – Attachment 28).

The US Department of State report on human rights practices in Malaysia for 2008 indicates that “[c]ivil courts continued to cede authority to Shari’a courts on cases concerning conversion from Islam and certain areas of family law involving disputes between Muslims and non-Muslims” (US Department of State 2009, *Country Reports on Human Rights Practices for 2008 – Malaysia*, February, Section 2(c) – Attachment 8).

According to the 2008 US Department of State report on religious freedom in Malaysia, “Muslims generally may not convert to another religion, although members of other religions may convert to Islam.” The report refers to court cases relating to Shari’a court rulings on whether a deceased person had converted to Islam prior to death, and to cases involving the conversion of children to Islam by a parent who had converted to that religion. It is stated in the report that:

The Government does not recognize marriages between Muslims and non-Muslims.

...The Constitution legally categorizes all ethnic Malays as Muslims. In practice, Muslims are generally not permitted to convert to another religion. In several rulings during the reporting period, secular courts ceded jurisdiction to Shari’a courts on matters involving conversion to or from Islam and in family law cases involving Muslims versus non-Muslims. Some of these cases remained under appeal at the Federal Court.

...Courts review on a case-by-case basis the religious status of minors in cases where one parent converts to Islam and the other does not, although they tended to rule in favor of the Muslim parent.

...In January 2008 Gan Eng Gor, an ethnic Chinese man, was buried according to Islamic rites after a Shari’a court ruled that he was a Muslim. Police seized the deceased’s body after his son, a Muslim convert, claimed that his father changed his religion from Buddhism to Islam in July 2007. The rest of the family, all Buddhists, filed a petition in the High Court, insisting that Gan never converted because he previously suffered two strokes and could not

speak at the time of the alleged conversion. The High Court rejected the petition on January 29, 2008. In its ruling, the High Court declared it had no jurisdiction on the matter since a Shari'a court already declared Gan a Muslim.

In May 2006 Siti Fatimah Tan Abdullah, a Muslim convert, applied to the Penang Shari'a Court to renounce Islam after her Iranian husband left her. She had converted to Islam as a condition for marriage. She claimed that she had never practiced Islam since the 1998 conversion and continued to eat pork and practice her Buddhist faith. On May 8, 2008, the Penang State Shari'a Court decided to allow Siti Fatimah to return to Buddhism. In its decision, the court blamed the state's religious council for not ensuring that Siti Fatimah practiced Islam. Despite pressure from certain hard-line societal elements, the Government did not overturn or review the ruling at the end of the reporting period.

Court decisions tended to favor the parent converting to Islam over the non-Muslim parent and allowed the conversion of children to Islam against the wishes of the non-Muslim parent.

In December 2007 the Federal Court ruled civil courts have exclusive jurisdiction in any case involving the dissolution of a civil marriage. Subashini Rajasingam, a Hindu, filed for divorce after her husband converted to Islam. She sought to prevent her husband from unilaterally converting their second son, age two, after her husband converted their eldest son, age four. However, the Federal Court did not clarify the issue concerning the custody of the two children, as it ruled that both the husband and wife could initiate custody proceedings in their respective jurisdictions. The Federal Court also held that Subashini's husband did not abuse the law by converting his eldest son to Islam without the knowledge of the mother. The Court ruled that according to Article 12(4) of the Federal Constitution, the consent of only one parent is sufficient for the religious conversion of a child.

The Federal Court made no decision in the appeal of Kaliasammal Sinnasamy, a non-Muslim woman, involving the disposition of the remains of her spouse, M. Moorthy, who allegedly converted from Hinduism to Islam before his death. She claimed there was no clear evidence of this conversion and disputed with Islamic authorities over which religion's rites should govern his burial. Kaliasammal appealed after a secular High Court ruled it had no jurisdiction to hear the case because it involved a Muslim, even though she was a non-Muslim. A Shari'a court had earlier ruled that the Hindu man was a Muslim and Islamic authorities buried the man according to Islamic rites. On December 27, 2007, the High Court released Moorthy's body for burial under Islamic rites and ruled that the court had no jurisdiction to decide whether Moorthy had converted to Islam before his death, as the Shari'a High Court had already decided on this matter

...There were no reports of forced religious conversion (US Department of State 2008, *International Religious Freedom Report for 2008 – Malaysia*, September, Introduction Section II – Attachment 4).

An article dated 9 May 2008 in relation to the previously mentioned decision by the Shari'a Court in Penang to allow Muslim convert Siti Fatimah Tan Abdullah to renounce Islam and return to Buddhism, indicates that the decision was "the first of its kind in the country where a living Muslim convert is allowed to renounce Islam since the Syariah Court Civil Procedure (State of Penang) Enactment 2004 came into force on Jan 1, 2006" (Dielenberg, P. 2008, 'Syariah High Court lets Muslim convert renounce Islam and go back to Buddhism', *The Star*, 9 May – Attachment 29).

## List of Sources Consulted

Internet Sources:

### Government Information & Reports

Immigration & Refugee Board of Canada <http://www.irb-cisr.gc.ca/>

UK Home Office <http://www.homeoffice.gov.uk/>

US Department of State <http://www.state.gov/>

### United Nations (UN)

UN High Commissioner for Refugees (UNHCR) Refworld

<http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain>

### Non-Government Organisations

Human Rights Watch <http://www.hrw.org/>

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

### International News & Politics

*BBC News* <http://news.bbc.co.uk>

### Topic Specific Links

All About Sikhs <http://www.allaboutsikhs.com/>

### Region Specific Links

### Search Engines

Copernic <http://www.copernic.com/>

### Databases:

FACTIVA (news database)

BACIS (DIAC Country Information database)

REFINFO (IRBDC (Canada) Country Information database)

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

MRT-RRT Library Catalogue

## List of Attachments

1. 'Malaysia' in 'Women of the World: Laws and Policies Affecting Their Reproductive Lives, East and Southeast Asia' 2005, The Center for Reproductive Rights & Asian-Pacific Resource and Research Centre for Women (ARROW) website, pp. 81-122

<http://www.crlp.org/pdf/Malaysia.pdf> – Accessed 1 February 2007.

2. 'Zakat in the context of the Malaysian Economy' (undated), *The Halal Journal*

<http://www.halaljournal.com/article/3377/zakat-in-the-context-of-the-malaysian-economy> –

Accessed 11 September 2009.

3. Chong, D. 2009, 'Islamic councils allowed to fight Catholic church over "Allah"', *The Malaysian Insider*, 3 August

<http://www.themalaysianinsider.com/index.php/malaysia/34084-islamic-councils-allowed-to-fight-catholic-church-over-allah-> – Accessed 11 September 2009.

4. US Department of State 2008, *International Religious Freedom Report for 2008* – *Malaysia*, September.

5. Stewart, S. 2009, 'Life in the twilight for Malaysia's Muslim transsexuals', *Agence France-Presse*, 6 September. (FACTIVA)

6. Yoong, S. 2009, 'Caning of Malaysian mother for drinking beer postponed until after Ramadan', *Associated Press Newswires*, 25 August. (FACTIVA)
7. Burton, J. 2009, 'Caning case exposes Malaysia tensions', *Financial Times*, 21 August [http://www.ft.com/cms/s/0/d7cd7652-8e69-11de-87d0-00144feabdc0.html?catid=24&SID=google&nclick\\_check=1](http://www.ft.com/cms/s/0/d7cd7652-8e69-11de-87d0-00144feabdc0.html?catid=24&SID=google&nclick_check=1) – Accessed 11 September 2009.
8. US Department of State 2009, *Country Reports on Human Rights Practices for 2008 – Malaysia*, February.
9. RRT Research & Information 2007, *Research Response MYS32688*, 11 December.
10. 'Abdullah's Umno speech, carefully crafted to placate all sides' 2007, *Today (Singapore)*, 8 November. (FACTIVA)
11. Amnesty International 2007, *UA 200/07 Fear for safety/torture or ill-treatment: Malaysia Ayu (f), aged 44 Other transsexual individuals in Malaysia*, 3 August, ASA 28/002/2007 <http://web.amnesty.org/library/Index/ENGASA280022007?open&of=ENG-MYS> – Accessed 30 October 2007.
12. 'Malaysian singer draws ire of religious police' 2007, *Reuters News*, 6 July. (FACTIVA)
13. 'Gurdwara Sahib Kuching, Sarawak' (undated), All About Sikhs website <http://www.allaboutsikhs.com/gurudwaras-in-malaysia/gurudwara-sahib-kuching-sarawak.html> – Accessed 11 September 2009.
14. 'Malaysian Indian Congress reaches out to other parts of diaspora' 2009, *Indo-Asian News Service*, 7 September. (FACTIVA)
15. 'Although the Sikh community in Malaysia is small -- 126,000 nationwide and...' 2009, *Bernama Daily Malaysian News*, 12 August. (FACTIVA)
16. Zappei, J. 2008, 'Sikh group joins protest against ban on use of word "Allah" in Malaysia', *Associated Press Newswires*, 4 July. (FACTIVA)
17. Zappei, J. 2009, 'Sikh family loses court battle against conversion of dead man in Muslim-majority Malaysia', *Associated Press Newswires*, 6 July. (FACTIVA)
18. 'Drug abuse, single mothers – issues faced by Sikhs in Malaysia' 2009, *Indo-Asian News Service*, 1 June. (FACTIVA)
19. 'Malaysian PM makes rotis on Baisakhi' 2009, *Indo-Asian News Service*, 15 April. (FACTIVA)
20. 'Train priests locally, Malaysia tells Sikhs' 2008, *Indo-Asian News Service*, 20 April. (FACTIVA)
21. 'Sikhs upset over MB's gaffe' 2008, *New Straits Times*, 14 April. (FACTIVA)

22. 'Malaysians in prayer campaign for rights of non-Muslims' 2007, *Agence France-Presse*, 2 April. (FACTIVA)
23. Zappei, J. 2009, 'Malaysia royalty defers ban on minors' conversion', *Associated Press Newswires*, 30 June. (FACTIVA)
24. 'Malaysian Muslim challenges secret conversion ban' 2009, *Agence France-Presse*, 30 April. (FACTIVA)
25. 'Fight over kids' conversion' 2009, *The Straits Times*, 20 April. (CISNET Malaysia CX224687)
26. 'A civil solution on conversions' 2009, *New Straits Times*, 24 April. (CISNET Malaysia CX224984)
27. Ng, E. 2009, 'Malaysian wins court battle to become Christian', *Associated Press Newswires*, 6 March. (FACTIVA)
28. 'Malaysian man fights baby's secret conversion to Islam' 2009, *Agence France-Presse*, 5 March. (FACTIVA)
29. Dielenberg, P. 2008, 'Syariah High Court lets Muslim convert renounce Islam and go back to Buddhism', *The Star*, 9 May. (CISNET Malaysia CX199641)