



**United Nations Human Rights Council: 25th Session (3<sup>rd</sup> to 28<sup>th</sup> March 2014)**  
**Item 6: Universal Periodic Review – Malaysia**  
**Thursday 20<sup>th</sup> March**  
**Speaker: BHA Representative, Amelia Cooper**

Thank you Mr President.

In Malaysia's UPR report, a number of states noted the country's restrictive legislation regarding the interdependent rights of freedom of religion or belief, freedom of expression and freedom of assembly.

The constitution claims to protect freedom of religion<sup>1</sup>, but subjects it to a number of restrictions which violate the ICCPR and render true freedom of religion or belief an impossibility:

- Registration of religion on state identity cards<sup>2</sup> is obligatory, and only certain classical religions are recognised<sup>3</sup>.
- Ethnic Malays are automatically considered Muslim<sup>4</sup>; conversion is almost impossible<sup>5</sup>, and apostates subjected to punishments such as enforced rehabilitation<sup>6</sup>.
- A fatwa declaring Shia Islam a deviant ideology has been incorporated into the legislation of 11 of Malaysia's 13 States<sup>7</sup>, and the federal territory.
- 'Offences against religion' are punishable by up to three years in prison and a \$1000 fine<sup>8</sup>.
- Proselytizing is constitutionally restricted to Sunni Muslims by Article 11.4<sup>9</sup>.

Article 11.4 facilitates assaults on freedom of expression and thought, and is backed by various laws, such as the Printing Presses and Publication Act, which was used to justify the criminalisation of the use of the word 'Allah' by non-Muslims<sup>10</sup>. This was ostensibly done to prevent tensions arising between different religious groups, yet has exacerbated sectarian discontent, illustrated by the January seizure of over 300 Bibles by the Selangor Islamic Religious department (Jals)<sup>11</sup>.

Malaysian legislature remains the greatest obstacle to freedom of thought and its concomitant rights. We join the call for the Malaysian government to amend the constitution within the areas mentioned and to take effective steps, including implementing the Rabat Plan of Action, to ensure that these freedoms may be equally enjoyed by all Malaysians alike.

Thank you.

<sup>1</sup> Article 3(1) of the Constitution: 'Islam is the religion of the Federation; but other religions may be practised in peace and harmony in any part of the Federation'; Article 11(1) 'Every person has the right to profess and practice his religion...' <http://confinder.richmond.edu/admin/docs/malaysia.pdf>

<sup>2</sup> National Registration Department (NRD) (known as Jabatan Pendaftaran Negara, JPN in Malay) <http://www.jpn.com.my/docs/MyKad.htm>

<sup>3</sup> This violates General Comment 22 of the Human Rights Council: 'Article 18 protects theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief' <http://www.humanrights.gov.au/freedom-thought-conscience-and-religion-or-belief>

<sup>4</sup> Article 160 of the Constitution: "'Malay" means a person who professes the religion of Islam, habitually speaks the Malay language, conforms to Malay custom and - (a) was before Merdeka Day born in the Federation or in Singapore or born of parents one of whom was born in the Federation or in Singapore, or is on that day domiciled in the Federation or in Singapore; or (b) is the issue of such a person' <http://confinder.richmond.edu/admin/docs/malaysia.pdf>

<sup>5</sup> The case of Lina Joy, who applied to have Islam removed from her MyKad, as detailed in the International Humanist and Ethical Union's 'Freedom of Thought Report 2013', p.146. The report is available to download here: <http://freethoughtreport.com/download-the-report/>

<sup>6</sup> Freedom of Thought Report 2013, International Humanist and Ethical Union, p.146. Available to download <http://freethoughtreport.com/download-the-report/>. This report also noted that 'The state governments of Kelantan and Terengganu passed laws in 1993 and 2002, respectively, making apostasy a capital offense. Apostasy is defined as the conversion from Islam to another faith. No one has been convicted under these laws and, according to a 1993 statement by the Attorney General, the laws cannot be enforced absent a constitutional amendment'. While the legality of these laws is unclear, they are demonstrative of the attitudes held by some Malaysian states regarding religion.

<sup>7</sup> 'Shia Malaysians on Trial', Wall Street Journal, published 15<sup>th</sup> December 2013 <http://online.wsj.com/news/articles/SB30001424052702304173704579259473076713800>

<sup>8</sup> Articles 295-298A of the Malaysian penal code, <http://www.agc.gov.my/Akta/Vol.%202012/Act%20574.pdf>

<sup>9</sup> Article 11(4): 'State law and in respect of the Federal Territories of Kuala Lumpur and Lubuan, federal law may control or restrict the propagation of any religious doctrine or belief among persons professing the religion of Islam.'

<sup>10</sup> 'Malaysian court rules non-Muslims cannot use 'Allah'', BBC News, published 14<sup>th</sup> October 2013 <http://www.bbc.com/news/world-asia-24516181>

<sup>11</sup> 'More than 300 Bibles are confiscated in Malaysia', BBC News, published 2<sup>nd</sup> January 2014 <http://www.bbc.com/news/world-asia-25578348>