

**Refugee Review Tribunal
AUSTRALIA**

RRT RESEARCH RESPONSE

Research Response Number: MYS23726
Country: Malaysia
Date: 21 October 2005

Keywords: Malaysia – Mixed marriages – Muslims – Hindus – Tamils – Women – Domestic violence – State protection

This response was prepared by the Country Research 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.

Questions

- 1. Please provide any information on the attitude of Muslims in Malaysia to mixed marriages.**
- 2. Please provide any information on the attitude of Hindus to mixed marriages.**
- 3. Please provide up-to-date information on the treatment of Tamils in Malaysia.**
- 4. Question deleted.**
- 5. Is there any information to suggest that the authorities deny protection to Tamils?**
- 6. Is there any information to suggest that the authorities deny protection to Hindus?**
- 7. Please provide information on community attitudes to domestic violence.**
- 8. What state/non-government protection is available to women in Malaysia who suffer domestic violence?**

RESPONSE

- 1. Please provide any information on the attitude of Muslims in Malaysia to mixed marriages.**

There is scant information on the Muslim community's societal attitude to mixed marriages. The Indigenous People's Development Centre (IPDC) in Malaysia provided the following advice to the Canadian Refugee Board and assessed that mixed relationships were viewed adversely:-

that relationships between Muslims and non-Muslims are viewed negatively in Malaysia (9 June 2004)... The representative of the Murtads from Malaysia expressed the opinion that Muslim dating was frowned upon whether the partners were both Muslim or not (10 June 2004). In addition, cohabitation without marriage (common-law marriages/partnerships) is not allowed in Islam and is frowned upon by Malaysian society in general (Murtads 10 June 2004). These opinions could not be corroborated by other sources consulted by the Research Directorate. (Immigration and Refugee Board of Canada 2004, *MYS42737.E – Malaysia: Malaysia: Update to MYS38913.E of May 2002 on societal and governmental attitudes towards mixed marriages and relationships between Muslim women and non-Muslim men; police protection or legal recourse available to a non-Muslim male who is threatened by family members of his Muslim girlfriend; reports of police discrimination based on the religion of the*

complainant (2002-2000), 24 June – Attachment 1)

However there is information on the prerequisites for a Malaysian non-Muslim to marry a Muslim. According to information provided by the Immigration and Refugee Board of Canada, an individual needs to convert to Islam so as to be able to marry a Malaysian Muslim:

it is against the religious laws of Malaysia for a non-Muslim to marry a Muslim. The individual must convert to Islam in order to marry. The source also stated that it is not possible for Muslims to marry in a civil ceremony in Malaysia. If a Malaysian Muslim marries a non-Muslim in a civil ceremony abroad, couple would encounter difficulties upon their return to Malaysia. The legal status of the marriage could be challenged in an Islamic court by any individual aware of the union. The source also noted that if one marries outside of Islam, he or she can be considered to have committed "murtad" (apostasy).

...

in order for Muslims and non-Muslims to marry in Malaysia, the non-Muslim has to convert to Muslim before any marriage takes place in accordance to the Islamic Law. The non-Muslim has the right to refuse conversion but he/she cannot get married under the Islamic Law.

(Immigration and Refugee Board of Canada 1996, MYS23740.E – *Malaysia: Information on whether it is legal for a Muslim and non-Muslim to marry in a civil ceremony or whether the non-Muslim must convert to Islam in the case of a mixed marriage*, 16 May – Attachment 2)

This is further corroborated by a recent article which states that “a Muslim person cannot ask to marry a non Muslim”. (Nicelli, Paolo, 2005, ‘Malaysia bishops worried: the shadows of the Sharia extends over non-Muslims too’, www.asianews.it, <http://www.asianews.it/view.php?l=en&art=1447> - Accessed 18 October 2005 – Attachment 3)

2. Please provide any information on the attitude of Hindus to mixed marriages.

There is no specific information on the attitude of Hindus regarding mixed marriages.

However there is some recent information which indicates that there may be conflicts in a mixed marriage involving a Muslim and a non-Muslim party and that “the weaker, i.e. non Muslim, party faces most of the problems.” (Nicelli, Paolo, 2004, ‘Catholic bishops oppose Islamic state’, 9 September - <http://www.asianews.it/view.php?l=en&art=1447> – Accessed 18 October 2005 – Attachment 4)

The Malaysian State Attorney General, Mohamed Bazain Idris, stated at the ‘Legal Day 2004’ in Kota Kinabalu, that there may be more conflict of laws and jurisdictional cases before the court, when religious conversion in mixed marriages become more prevalent:

Conflicts could arise in a mixed marriage to determine the custody of the children when one of the parents converted to Islam, he said in his speech at the opening of Legal Day 2004 here.

"Under the Syariah law, the children will follow the Muslim parent and adopt the Muslim religion and the Muslim parent will also have custody over the children. However, under civil law the non-Muslim parent will also have custody over the children," he said.

Mohamed Bazain said in the case of properties succession in a mixed marriage, the Syariah Court would apply the Syariah law principle to the children who embraced Islam as their religion, while the non-Muslim children might take the matter before the Civil Court. (‘Conflict of laws may increase inc cases of mixed marriages’, 2005, *Bernama Daily Malaysian News*, 29 January – Attachment 5)

3. Please provide up-to-date information on the treatment of Hindus and Tamils in Malaysia.

Malaysia has a population of approximately 25 million of which:

According to 2000 census figures, approximately 60.4 percent of the population were Muslim; 19.2 percent practiced Buddhism; 9.1 percent Christianity; 6.3 percent Hinduism; and 2.6 percent Confucianism, Taoism, and other traditional Chinese religions. The remainder was accounted for by other faiths, including animism, Sikhism, and Baha'i. (US Department of State 2004, *International Religious Freedom Report – Malaysia*, 15 September, sections 1– Attachment 6)

Most of the Indians of Malaysia adhere to the Hindu faith and are of Tamil extraction:

While the Indians are dispersed throughout Malaysia, there are significant concentrations of group members in the country's plantation regions. There has been little group migration across Malaysia since the early 1900s.

The majority of Indians are Hindus (80%) but a minority follows Islam which is the main religion of the dominant Malay community. Most group members speak Tamil instead of the country's main language, Malay. They are also of a different racial stock than the dominant group and there has been little or no intermixture.

The Indians are primarily the descendants of Tamils who were brought to the Malayan peninsula from southern India during British colonial rule as a source of cheap labor for the plantations on the west coast. The economic status of the group has changed little since colonialism as the Indians remain concentrated in the plantation sector and they are reported to be among the poorest sectors of society.

...

The Indians are economically and politically disadvantaged in relation to the country's majority population. They face significant poverty and under-representation in the economic arena due to historical practices by the Malay community. Their political under-representation is also due to the social practices of the dominant group and there are few public policies that seek to redress Indian disadvantages.

Economic and social issues form the primary grievances of group members.

(Kholsa, Deepa 2002, 'Indians in Malaysia', Analytic Summary, *Minorities at Risk website*, 21 May. <http://www.cidcm.umd.edu/inscr/mar/data/malind.htm> - accessed 17 January 2004 – Attachment 7)

Ethnic Indians continue to be among Malaysia's most disadvantaged:

The Government maintained extensive preferential programs designed to boost the economic position of the Malay majority, which remained poorer on average than the Chinese minority. Such preferential programs and policies limited opportunities for non Malays in higher education, government employment, business permits and licenses, and ownership of land. According to the Government, these programs were instrumental in ensuring ethnic harmony and political stability. Ethnic Indian citizens, who did not receive such privileges, remained among the country's poorest groups.

(US Department of State 2005, *Country Reports on Human Rights Practices for 2004 – Malaysia*, 28 February, section 5 National/Racial/Ethnic Minorities – Attachment 8)

Two recent reports address the economic plight of the Indian minority: 'Ethnic Indians demand fair share of prosperity' 2005, *Inter Press News Service*, 17 October - Attachment 9; 'Malaysia:

Constitution and institutions’, 2005, *Economist Intelligence Unit – ViewsWire*, 11 October – Attachment 10)

4. Question deleted.

5. Is there any information to suggest that the authorities deny protection to Tamils?

6. Is there any information to suggest that the authorities deny protection to Hindus?

There is no information in the databases available to the Tribunal which indicate that Tamils and Hindus are denied state protection.

7. Please provide information on community attitudes to domestic violence.

8. What state/non-government protection is available to women in Malaysia who suffer domestic violence?

Due to the deeply entrenched beliefs that women need to be disciplined, there is a further need for the education and reform of Malaysian society on this issue. For this reason there is advocacy to reform the current Domestic Violence Act. A study examining a need to reform this Act because of the widespread incidence of domestic violence in all social classes in Malaysia is attached. (‘Why reform the Domestic Violence Act (DVA) 1994?’

<http://www.wao.org.my/news/20050110dvabrochure.htm> - Accessed 18 October 2005 – Attachment 11; US Department of State 2005, *Country Reports on Human Rights Practices for 2004 – Malaysia*, 28 February, section 5. Women – Attachment 8)

Information on the types of Women’s Shelters which provide accommodation to victims is contained in the following documents: (Immigration and Refugee Board of Canada 2002, *MYS38449.E – Malaysia: Recourse available to women who are victims of physical or sexual* 12 February – Attachment 12; Immigration and Refugee Board of Canada 2000, *MYS35707.E – Malaysia: Assistance and protection available for Sikh women who are victims of domestic violence (update to MYS22272.E of 4 December 1995)* - Attachment 13).

Also included for information is: Malaysia’s Domestic Violence Act 521 (1994), which outlines measures for protection which the state offers to victims. (‘Malaysia Domestic Violence Act 521 (1994), Source: International Law Book Services, Malaysia - http://www.learningpartnership.org/legislation/natl_malaysia.phtml - Accessed 18 October 2005 – Attachment 14)

List of Sources Consulted

Internet Sources:

Google search engine

UNHCR

REFWORLD

UNHCR Refugee Information Online

<u>Databases:</u>		
Public	<i>FACTIVA</i>	Reuters Business Briefing
DIMIA	<i>BACIS</i>	Country Information
	<i>REFINFO</i>	IRBDC Research Responses (Canada)
RRT	<i>ISYS</i>	RRT Country Research database, including Amnesty International, Human Rights Watch, US Department of State <i>Country Reports on Human</i>

		<i>Rights Practices.</i>
RRT Library	<i>FIRST</i>	RRT Library Catalogue

List of Attachments

1. Immigration and Refugee Board of Canada 2004, *MYS42737.E – Malaysia: Malaysia: Update to MYS38913.E of May 2002 on societal and governmental attitudes towards mixed marriages and relationships between Muslim women and non-Muslim men; police protection or legal recourse available to a non-Muslim male who is threatened by family members of his Muslim girlfriend; reports of police discrimination based on the religion of the complainant (2002-2004)*, 24 June. (REFINFO)
2. Immigration and Refugee Board of Canada 1996, *MYS23740.E – Malaysia: Information on whether it is legal for a Muslim and non-Muslim to marry in a civil ceremony or whether the non-Muslim must convert to Islam in the case of a mixed marriage*, 16 May. (REFINFO)
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4. Nicelli, Paolo, 2004, 'Catholic bishops oppose Islamic state', 9 September - <http://www.asianews.it/view.php?l=en&art=1447> - Accessed 18 October 2005.
5. Conflict of laws may increase in cases of mixed marriages', 2005, Bernama Daily Malaysian News, 29 January. (FACTIVA)
6. US Department of State 2004, *International Religious Freedom Report – Malaysia*, 15 September, sections 1.
7. Kholsa, Deepa 2002, 'Indians in Malaysia', *Minorities at Risk website*, 21 May. (<http://www.cidcm.umd.edu/inscr/mar/data/malind.htm> - accessed 17 January 2004)
8. US Department of State 2005, *Country Reports on Human Rights Practices for 2004 – Malaysia*, 28 February, section 5.
9. Ethnic Indians demand fair share of prosperity' 2005, *Inter Press News Service*, 17 October. (FACTIVA)
10. Malaysia: Constitution and institutions', 2005, *Economist Intelligence Unit – ViewsWire*, 11 October. (FACTIVA)
11. Why reform the Domestic Violence Act (DVA) 1994? <http://www.wao.org.my/news/20050110dvabrochure.htm> - Accessed 18 October 2005.
12. Immigration and Refugee Board of Canada 2002, *MYS38449.E – Malaysia: Recourse available to women who are victims of physical or sexual* 12 February. (REFINFO)

13. Immigration and Refugee Board of Canada 2000, *MYS35707.E – Malaysia: Assistance and protection available for Sikh women who are victims of domestic violence (update to MYS22272.E of 4 December 1995)*. (REFINFO)

14 'Malaysia Domestic Violence Act 521 (1994), Source: International Law Book Services, Malaysia - http://www.learningpartnership.org/legislation/natl_malaysia.phtml - Accessed 18 October 2005.