



PROMOTING UNDERSTANDING, TOLERANCE & PLURALISM

HAF Malaysia Policy Brief 2007-08

Background

- The Hindu minority (7%) suffers from economic, social and educational discrimination, while the majority Malaysian Muslims benefit from an affirmative-action policy[1]
- Hindus and other minorities face increasing religious discrimination, as Islamicisation has grown in recent years. Although Malaysia has a parallel court system: secular courts for non-Muslims and Sharia courts for Muslims, Hindus and other minorities have, at times, been forced to deal with the Islamic courts, where they have faced severe disadvantages. Furthermore, Hindus have been denied the right to conduct their funeral rites in accordance with Hindu practices, and in one case, lost custody of their child. In another case, a Hindu mother, Subashini Rajasingam, lost an appeal to prevent her husband, a recent Muslim convert, from changing their 4-yr old son's religion to Islam. The highest court in Malaysia affirmed the ruling of a lower federal court, which granted the Muslim husband a right to use the Islamic Sharia courts to seek a divorce, and also upheld his right to convert their child to Islam without the mother's consent. As a result, the Hindu mother may lose legal custody over her child, since Malaysia's Islamic courts will not give custody of a Muslim child to a non-Muslim parent. [2].
- A number of Hindu Temples have been demolished by government authorities, including the 100-yr old Maha Mariamman Hindu Temple. According to the Asian Human Rights Commission (AHRC), thousands of Hindu Temples have been destroyed over the last 15 years. Moreover, in contrast to Hindu temples, mosque properties receive favorable treatment and public funds [3]

Summary of Recent Events

- A peaceful protest of approximately 10,000 Hindus took place on November 25, 2007. However, Malaysian authorities used tear gas, chemical laced water cannons and baton charges to break up the rally; hundreds of protesters were beaten and arrested including several hundred gathered at the Batu Caves Hindu temple complex.[4]
- Prior to the protests, three leaders of a Hindu NGO, Hindu Rights Action Force (Hindraf), were arrested and charged with "sedition;" Malaysian authorities used repressive tactics to try and prevent the protest, including placing Kuala Lumpur on virtual lockdown. The leaders of Hindraf were later released after a court dismissed the sedition charges on technical grounds[5]
- Hindus organized the protest for the following reasons[6]:
 - Submit a petition to the British High Commissioner regarding a lawsuit filed against the British government for bringing Hindus to Malaysia as indentured laborers and failing to protect their rights in the Malaysian Constitution
 - Bring attention to the economic and social plight of Hindus in Malaysia
 - Protest the demolition and destruction of Hindu Temples

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- Following the protests, Malaysian Prime Minister Abdullah Badawi threatened to use the draconian Internal Security Act (ISA), which allows indefinite detention without trial, to repress protests and demonstrations. The Prime Minister's threats were strongly criticized by Malaysian human rights groups and lawyers.[\[7\]](#)
- The dreaded ISA has been used since 1960 as an instrument of oppression and a means to stifle free speech and political opposition to the government. Under the Act, persons suspected of threatening national security may be arrested and detained indefinitely without charges or trial. According to Human Rights Watch, the ISA's "provisions violate fundamental international human rights standards, including prohibitions on arbitrary detention, guarantees of the right to due process, and the right to a prompt and impartial trial." Due its vague language, the Act has been employed to arrest and detain thousands of Malaysian citizens since 1960. Furthermore, persons held in custody under the ISA have frequently been subjected to physical and mental abuse. [\[8\]](#)
- V Ganapathy Rao, one of the leaders of Hindraf arrested prior to the protests on "sedition" charges and later released, was re-arrested on November 29, 2007. At least 80 other Hindu activists were charged with illegal assembly for their participation in the peaceful protests. On December 4, 2007, thirty-one other demonstrators were re-arrested and charged with attempted murder by the Malaysian government.[\[9\]](#)
- Mr. Waytha Moorthy, the main leader of Hindraf, is in the UK under a self-imposed exile as he would almost certainly be arrested in Malaysia.
- On December 13, 2007, five Hindraf leaders were arrested under the Internal Security Act (ISA), for allegedly "carrying out activities that threatened national security." The arrested Hindraf leaders included P Uthayakumar, M Manoharan, R Kenghadharan, V Ganabatirau, and T Vasantha Kumar. Immediately following the arrests, they were moved to the Kamunting detention center in Taiping, Perak, where they can be detained for 2 years without any investigation or trial. Malaysian human rights groups, lawyers, and opposition leader Lim Kit Siang condemned the arrests and strongly criticized the use of the ISA to target and repress Hindu/Indian leaders and activists.[\[10\]](#)
- The Malaysian government dropped attempted murder charges against the thirty-one Hindraf activists arrested on December 4, 2007, however, twenty-six of them are still facing charges for "illegal assembly" and "causing mischief." Furthermore, the five Hindraf leaders arrested and detained on December 13, 2007 under the ISA have yet to be released.[\[11\]](#)
- Malaysian police indicated that they will seek the assistance of Interpol and Europol to monitor the activities of Hindraf. The motives behind such a move are highly questionable, however, as this announcement from Malaysian authorities coincided with reports of Hindraf leader, P Waytha Moorthy seeking international support for the marginalized Hindu community.[\[12\]](#)
- Sixty-six Hindus, including N Gobalakrishnan, member of the opposition Parti Keadilan Rakyat (PKR), are scheduled to be tried by a Malaysian court for their prior participation

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- in a protest rally outside the Batu Caves temple complex on November 25, 2007. The sixty-six Hindus face charges of “unlawful assembly” and “causing mischief.” [13]
- The Malaysian government is also suppressing freedom of expression by banning “policewatchmalaysia” (<http://www.policewatchmalaysia.com>), the official website used by Hindraf.
 - A new visa policy was instituted, placing severe restrictions on foreign born Indians applying for visas to work in Malaysia. According to some reports, the Malaysian government has placed a complete ban on the issuance of new visas for Indian workers. The visa restrictions are seen by some as linked to the earlier protests held by Malaysian Hindus demanding equal rights. [14]
 - On February 16, 2008 multinational rallies protesting Malaysia’s policies of religious apartheid were held across the world, including in Kuala Lumpur, Los Angeles, New York, London, Dublin, Brussels, Melbourne, Auckland, New Delhi, Mumbai, Chennai, Singapore, and Jakarta. In Kuala Lumpur, Hindus gathered at Jalan Raja Laut in the city center to protest the government’s discriminatory policies against Hindus. The protestors carried roses to symbolize their peaceful struggle for equality. The police, however, used tear gas, chemical laced water cannons, and physical force to break up the rally. In addition, close to 200 Hindraf supporters were arrested, and nearly 5,000 temporarily detained, including women and children. Most of the arrested Hindus were eventually released, but at least 9 people still remain in police custody. Government authorities attempted to suppress the peaceful rally by using “racial profiling” and other repressive tactics by preventing Malaysians of Indian origin from entering Kuala Lumpur and removing them from buses traveling to the city. Road blocks were also set up to stop Indians from reaching Parliament, where the rally was originally scheduled to be held.[15]

What Needs to be Done

- Pressure the Malaysian government to protect the human rights of its Hindu minority
- Release all arrested protesters
- Allow Hindus and all minorities to peacefully protest and fully exercise their democratic rights
- Stop the destruction of Hindu temples and treat all places of worship equally
- The US Government must abandon the proposed Free-Trade Agreement (FTA) with Malaysia, unless the Malaysian Government drops its ethno-religious affirmative action policy, which favors the majority Muslim Malays. The FTA as currently constituted would require both foreign and domestic (non-manufacturing) investors to take on ethnic Malay partners (who would hold a minimum 30% of share capital). As a result, conclusion of the FTA with Malaysia would further the uneven distribution of wealth, thereby leaving the Indian Hindu minority at an increased economic disadvantage.[16]

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Why the US Needs to Act Immediately

- It is in America's strategic interests that democracy and human rights are protected and promoted in Malaysia, so it can serve as a model in the Muslim world
- Prevent the situation from further deteriorating
- In addition to Hindus, the human rights of other minorities are also at risk

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