HARMONY LAWS IN SOUTHEAST ASIA

Majority Dominance, Minority Repression

ASIACENTRE

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ASSOCIATION FOR PROGRESSIVE COMMUNICATIONS

Harmony Laws in Southeast Asia:

Majority Dominance, Minority Repression

2021

Asia Centre

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Acknowledgements

In spite of decades of law-making and social integration measures, religious freedom and racial equality remains precarious in Southeast Asia. The four countries examined demonstrate a strong intersection of ethnicity and religion, a connection that is unfortunately overlooked in discourse concerning religious freedom, and racial discrimination. Legislation seeking to secure societal harmony and religious tolerance is often discriminatory to key minority communities.

This report seeks to bring this intersection between ethnicity and religion into the forefront of analysis in developing effective solutions to ongoing issues concerning religious freedom and ethnic discrimination in Southeast Asia.

During the drafting of the report, to generate feedback, strengthen the analysis and further verify the information, Asia Centre presented its ongoing research at online webinars. This included presentation and discussion at conferences organized by the Faculties of Sharia Law of the State Islamic University of Kiai Haji Achmad Siddiq Jember and State Islamic Institute of Ponorogo in Indonesia and the Nordic Center for Conflict Transformation and the Doha International Center for Interfaith Dialogue. The report was launched on 22 November 2021 as part of the 7th Southeast Asia Freedom of Religion or Belief (SEAFORB) Conference. Asia Centre would like to extend a sincere thank you to the aforementioned organisations and networks.

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Harmony Laws in Southeast Asia: Majority Dominance, Minority Repression is dedicated to all ethnic and religious communities in Southeast Asia, civil society organisations, faith leaders and parliamentarians who advocate for religious freedom and racial equality, despite the risk of legal persecutions and majority community pushback. .

Your Sincerely

Dr. James Gomez
Regional Director
Asia Centre

Abbreviations

BARMM	Bangsamoro Autonomous Region in Muslim Mindanao
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CESCR	International Covenant on Economic, Social and Cultural Rights
CMA	Communications and Multimedia Act
CSOs	Civil Society Organizations
CTG	Communist Terrorist Groups
EIP	Ethnic Integration Policy
FoRB	Freedom of Religion or Belief
GAD	Gender and Development
GRC	Group Representation Constituency
GRI	Government Restriction Index
ISA	Internal Security Act
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
LTFRB	Land Transportation Franchising and Regulatory Board
MRHA	Maintenance of Religious Harmony Act
NCCP	National Council of Churches in Philippines
NGOs	Non-Governmental Organization
NLD	National League for Democracy
NUG	National Union Government
OHCHR	Office of the High Commissioner for Human Rights
PAP	People's Action Party
PAS	Parti Islam Se-Malaysia
PH	Pakatan Harapan
PNP	Philippine's National Police
POGOs	Philippine Offshore Gaming Operators
POTA	Prevention of Terrorism Act
PSP	Singapore Progress Party
RDI	Religious Diversity Index
RO	Restraining Order
SR	Special Rapporteur
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
UMNO	United Malays National Organisation
UPR	Universal Periodic Review
USDP	Union Solidarity and Development Party

Executive Summary

Governments in Southeast Asia, largely rely on the use of laws to quell communal tensions and manage the diverse communities within their countries. However, the use of laws as tools to ensure societal stability and promote have resulted in the dominance of the ethno-religious majorities, place restrictions, on the rights to conversion and proselytisation, interfaith marriage, use of religious signifiers and the airing of grievances and calls for action by minority communities. This report examines the implications in a post-independence Malaysia, Myanmar, the Philippines and Singapore where colonial era-laws are being supplemented with "harmony" and other laws to manage communal tensions.

All four countries are ethnically and religiously diverse with divisive colonial histories. This mix has been further accentuated by an influx of short to long term foreign residents that include documented and undocument workers, refugees, retirees, spouses, students and immigrants. Hence, sharp divisions, further complicated by economic disparities, continue to exist within these societies. Often minority groups are rendered as second class citizens by affording special privileges, either legally, structurally or politically to the dominant group. The use of legal provisions to maintain public order and internal stability while appeasing the ethno-religious majority, often compromises Freedom of Religion or Belief (FoRB) and suppresses minority voices.

Despite several decades of legal and non-legal efforts, FoRB remains precarious and racial discrimination persists as evidenced by the intersection between ethnicity and religion. In Malaysia a strong division remains between the Malay-Muslims and other communities leading to unequal ethnic and religious rights. Similarly in Myanmar, the intersection between Buddhism and the largest ethnic group of Bamar, remains wrapped up in ethnic tensions penalizing non-Buddhist groups. In the Philippines the Catholic faith cuts across the different ethnolinguistic groups and forms a significant signifier with political influence vis-a-vis the minority Muslim community. In Singapore, the rationale of tolerance and harmony obscure the ethnically structured inequalities that disadvantages the non-Chinese minorities.

In this report, Asia Centre emphasises the need to recognize the intersection of ethnicity and religion in the context of the four states examined. There is a lot to be done to combat entrenched prejudices and discrimanotry policies: (1) the United Nations (UN) needs to enhance the Universal Periodic Review (UPR) process and be more insistent on adherence to common norms including ascension to key treaties, (2) governments need to move away from exploiting ethnic politics for their own gain and remove discriminatory or repressive laws, (3) faith-based groups need to be critical and more pro-active in bringing attention to issues affecting minority groups and (4) civil society organizations (CSOs) needs to monitor discriminatory laws and policies and advocate for reform.

As the report shows, government action is often misplaced: the priority is often to gain control over political space rather than to give expression to freedom of religion or belief or allow minority communities to air their grievances. In spite of over six decades of post-colonial rule, there has not been significant progress on FoRB or the elimination of racial discrimination in the region rather than framing it as "work-in-progress". Ultimately, for progress to occur, all concerned parties must realise that discriminatory practices that advantage the ethno-religious majorities are not conducive to equitable ethnic and religious relations. Discrimination will only fuel communal tensions, and grasping at majority advantage will do more harm than good in the long run.

1.Introduction

Legislation utilised by the governments of Malaysia, Myanmar, Philippines and Singapore, such as the colonial-inherited Sedition Act and Penal Code, have been acknowledged as insufficient in addressing inter-ethnic and religious tensions. The proliferation of online hate speech, exacerbated by increased ease in accessing the internet and anxieties arising from the COVID-19 pandemic, have led these case countries to update, implement existing laws or consider "harmony" and other laws to respond to actions that might lead to communal tensions. The report reviews the effects of these legislation that ultimately advance preferential treatment of specific ethno-religious majorities, impacts FoRB and suppresses the airing of grievances by minority communities.

1a. Methodology

Research for this baseline study was undertaken from 15th March to 31st May 2021, covering Malaysia, Myanmar, Philippines and Singapore and thereafter the report was sent out for external review. Additional research and revisions were taken from 1st September to 31st October 2021 to record new developments and examples. These countries in Southeast Asia were chosen because of the emerging suite of "harmony" and other laws that were passed or discussed beyond the use of colonial era laws to curb actions that will give rise to ethnic and religious tensions.

The study is based on desk research and draws from primary materials such as documents from the Universal Periodic Review which include National Reports, UN Reports, Stakeholder Summaries, Reports of the Working Group and Addendum from the State under review. The latest submissions made to the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) treaty body by the Philippines in 2008 and 2021 and Singapore in 2018 and the reports of Special Rapporteurs on the human rights situation in Myanmar, FoRB, contemporary forms of racism and cultural rights were also consulted. Other primary sources consulted encompass national laws and emergency decrees. These include colonial era laws such as the Penal Code and Sedition Act, specifically the Sedition Act and Penal Code laws in Malaysia, the Penal Code in Myanmar and Philippines, and the Sedition Act of Singapore.

During the drafting of the report, to generate feedback, strengthen the analysis and further verify the information, Asia Centre also presented the ongoing research at online webinars. This included presentation and discussion at a conference on 13 October 2021, "Politics, Democratisation and the Contemporary Dynamics of Sharia and Law in Southeast Asia", organized by the Faculties of Sharia Law of the State Islamic University of Kiai Haji Achmad Siddiq Jember (UIN KHAS Jember) and of the State Islamic Institute of Ponorogo as well as on 27 October 2021 at 'Interfaith Dialogue and Conflict Transformation: Towards a Paradigm of Change', co-convened by the Nordic Center for Conflict Transformation and the Doha International Center for Interfaith Dialogue. This research builds on Asia Centre's July 2020 report, 'Hate Speech in Southeast Asia: New Forms, Old Rules' (Asia Centre, 2020a).

1b. Ethno-Religious Demographics of Southeast Asia

Southeast Asia is a region that consists of 11 countries and 673.4 million people, from hundreds of separate ethnic groups, speaking nearly 800 languages (Pew Research Center, 2014a). There are five major belief systems within the region; Islam, Buddhism, Christianity, Hinduism, and Animism. This diversity is often a legacy of colonial-era borders and intercontinental migration into Southeast Asia from China and India. Political and economic developments during the late 80s towards mid-90s—such as the Myanmar 8888 uprising and the rapid industrialisation of the region—prompted a new wave of migrant workers from less developed nations towards countries experiencing economic growth such as Malaysia (Indonesians), Singapore (Filipinos) and Thailand (Cambodians, Myanmar, Laotians) (Kaur, 2010). These waves of migration further diversified the religious, ethnic, and social mix, while installing the strong economic position of the Chinese diaspora in the region (Chua, 2004). Against a backdrop of ethnic-religious tensions, post-colonial governments resorted to primarily legal measures against actions that might cause communal tensions.

Table 1: Ethnic Composition (2021)

Country	Major Ethnic Groups			
Malaysia *(Pop. 33,519,406)*	**Bumiputra (62.5%)** (Malays and indigenous people)	**Chinese (20.6%)**	**Indian (6.2%)**	**Non-citizen (9.8%)**
Myanmar *(Pop. 57,069,099)*	**Bamar (68%)**	**Shan (9%)**	**Karen (7%)**	**Rakhine (4%)**
Philippines (Pop. 110,818,325)	**Tagalog (24.4%)**	**Bisaya (11.4%)**	**Cebuano (9.9%)**	**Ilocano (8.8%)**
Singapore (Pop. 5,866,139)	**Chinese (74.3%)**	**Malays (13%)**	**Indian (9%)**	**Other (3.2%)**

Source: CIA World Factbook

Malaysia is one of the most ethnically and religiously diverse countries in Southeast Asia. It's populace numbers 32.3 million, with the official religion being Islam. It is a self-described secular state, yet there has been a continued politicisation of Islam by parties such as the United Malay National Organisation (UMNO) and Parti Islam Se-Malaysia (PAS), in attempts to gain the support of the Sunni Malay-Muslim majority in the country. Historically, colonialism aided Chinese immigrants in achieving a dominant economic position in Malaysian society compared to their local Malay counterparts. Post-independence, this resulted in the implementation of 'Affirmative Action' policies to re-calibrate the economic imbalance of ethnic Malays. The Malay-Muslim who are the majority of bumiputera, now enjoy a privileged position in the socio-economic hierarchy of contemporary Malaysia, thanks to the National Development Policy (NDP) that focused on their uplifting (Gabriel, 2014; Office of International Religious Freedom, 2019a). Due to the policy, by 1992, Malaysia had become a higher-middle income country with the majority of its nationals attaining close to full employment and higher education. However, this also resulted in the economy heavily relying on migrant workers to perform low-skilled jobs.

In 2018, out of 1.7 million migrant workers, Indonesians made up the most of the total number (40%), followed by Nepalis (22%), Bangladeshis (14%). Most of them were brought in based on bilateral memorandum of understandings that established the labor pipeline. These figures have not taken into account the number of undocumented migrant workers estimated to be in between 2 to 4 millions in Malaysia (IOM, 2021), nor the refugees who reside in the country. As of September 2021, the official figure for refugees and asylum seekers who registered with the United Nations High Commissioner for Refugees (UNHCR) is at 179,510 people (UNHCR, 2021).

Myanmar has a population of 54.4 million people, split amongst 135 recognised ethnic groups. Buddhism is the most widely practiced religion by the dominant Bamar ethnic group, who make up over two thirds of the state's populace. Despite the diversity, since independence from the British Empire in 1948 there have been drastic attempts to create a singular unified national culture through Burmanisation policies. Such policies give preferential treatment to the Bamar majority, compelling non-Bamars to adopt Baman practices whilst placing severe restrictions on any form of alternative cultural expression (Office of International Religious Freedom, 2019b). After the military coup led by General Ne Win in 1962, the government began the large-scale expulsion of ethnic Indians, which coupled with the nationalisation of private businesses in 1964, led to the emigration of more than 300,000 Indians from the country (Smith, 1999). Meanwhile, the Rohingya Muslims in the Rakhine State have largely been left unrecognised by the subsequent military governments, due to the belief that they pose a threat to Buddhism and national stability (Peck, 2017). Despite the brief transition to democracy from 2015 to 2021, two waves of military crackdown on the Rohingya in 2016 and 2017, left 25,000 killed and displaced over 700,000 as refugees in Bangladesh (UNHCR, 2021). By 2020, there were approximately 1.1 million Rohingya refugees, with most of them residing in Bangladesh and Malaysia (UNHCR, 2020). The United Nations has described the government's persecution of the Rohingya as 'ethnic cleansing' (UN News, 2017).

Table 2: Religious Demographics (2020)

Religious Affiliation As % of Population	Islam	Christianity	Buddhism	Hinduism	Folk Religion	Unaffiliated
Malaysia *(Pop. 33,360,000)*	**66.1% (22,070,000)**	**9.4% (3,140,000)**	**15.7% (5,220,000)**	**5.8% (1,940,000)**	**2.2% (730,000)**	**3.8% (1,210,000)**
Myanmar *(Pop. 51,910,000)*	**4.7% (2,200,000)**	**7.8% (4,040,000)**	**79.8% (41,440,000)**	**1.7% (890,000)**	**5.8% (2,990,000)**	**0.2% (350,000)**
Philippines (Pop. 110,780,000)	**5.7% (6,330,000)**	**92.4% (102,320,000)**	**< 0.1%**	**< 0.1%**	**5.8% (2,990,000)**	**< 0.1%**
Singapore (Pop. 5,870,000)	**16.1% (950,000)**	**17.7% (1,040,000)**	**32.2% (1,890,000)**	**6.6% (380,000)**	**2.4% (140,000)**	**25% (1,450,000)**

Source: Pew Research Center, 2020

With a population of 109.5 million people, Philippines is the most populous Catholic community in Southeast Asia due to its colonial legacy. Due to the influence of Christianity and the fact that Philippines has numerous local ethnicities, religious affiliation is the main determinant of Philippine's demography (i.e. those who practice Christianity and those who do not). Catholicism is deeply entrenched in society and is the dominant religion in all regions minus a handful of Sunni-Muslim areas in Bangsamoro. While tensions between Christianity and Islam periodically always exist, it only transformed into an open insurgency starting from 1970s, triggered by the Jabidah massacre where 60 Filipino Moro Muslim people were killed.

The insurgency has been largely quelled through the successful negotiation and establishment of Bangsamoro Autonomous Region in Muslim Mindanao in 2019. However, fresh communal tensions in the Philippines emerged during the presidency of Rodrigo Duterte, who pursued a warmer relationship with China. Since he assumed office in 2016, the number of Chinese nationals arriving in the Philippines has nearly tripled (Venzon, 2019). Insiders estimated that there are around 100,000 to 250,000 Chinese employed in various Philippine Online Gambling Operations (POGOs) (Tomacruz, 2019). Most of them take blue-collar jobs under the POGO structure. A local survey showed that 70% of Filipinos see the influx of Chinese workers as a major concern and 52% consider it a threat to national security (Social Weather Stations, 2019).

Singapore is a small city state of 5.85 million people that is multi-ethnic and is considered to be the most religiously diverse nation globally according to the Religious Diversity Index (RDI) (Pew Research Centre, 2014b). Before becoming an independent state in 1965, Singapore was part of Malaysia from 16 September 1963 to 9 August 1965. When Singapore joined, the proportion of ethnic Chinese in Malaysia rose from 36.9% to 43.5% (Mohamad, Salleh, Haniffa, 2020). This resulted in a situation where ethnic Chinese population (3.6 millions) exceeded those of ethnic Malays (3.4 millions), prompting concerns from Malay political leaders who felt their political dominance being threatened (Seng, 2017). Communal tensions led to the eventual break-up of the federation: ethnic Chinese efforts to emphasize secularism in order to secure their political position within the new federation clashed with ethnic Malay efforts to secure Malay political influence, eventually leading to the expulsion of Singapore (Ibid). Since then, Singapore's secularism and multiculturalism is explained as a sacrifice made by the Chinese not to emphasise or demand benefits for its majority (Min, 2021). In post-independence Singapore, the Chinese diaspora constitute the majority population (76%), and are the dominant ethnic group. They do not align with one particular faith but identify with the practice of Buddhism, Christianity or are unaffiliated. Given their demographic majority they dominate across the ruling People's Action Party (PAP), and most public and private institutions. While the government positions itself as promoting secularism, multiracialism and meritocracy, it enacts policies that drawn attention to Singapore's Chinese majority such as the speaking Mandarin Campaigns, Special Assistance Plan schools that are bilingual in English and Mandarin, advance the view that Singapore is not ready for a non-Chinese Prime Minister or that the country would only excel if a Chinese majority is maintained (Saharudin, 2016). Migration studies have shown that ethnic Chinese from Malaysia, followed by China, Hong Kong, and Macau have been a main source of immigrants. This has given rise to complaints of Chinese privileges, which are rejected or explained away by the ruling party (Tang, 2021). Meanwhile, the Malay-Muslims in Singapore continue to campaign for complete freedom for Muslim women to dorn the hijab and seek to have control over their religious affairs and to avoid requirements such as for Islamic schools to get approval from the MUIS before any religious textbooks could be introduced (Chuan, 2017). The co-optation of minority groups by the Chinese majority and the use of these minorities as proxies to support the ethno-dominant government's policies is similarly voiced against. Starting from the 1990s, due to rapid economic growth and the subsequent high demand of labour, immigration policies were relaxed. Over the years, the growing presence of foreign workers have become a hotly debated topic, as the locals feel their jobs security is being threatened (Tan, 2021). As of June 2021, there are a total of 1.47 million non-residents in Singapore out of a total of 5.45 millions population (NPTD, 2020).

1c. FoRB and Racial Discrimination in Southeast Asia

Within Southeast Asia, ethno-religious dominant governments have mostly been highly restrictive of religious freedoms. These restrictions include the implementation of laws that curtail religious freedoms, or other actions that may in some instances affect religious practices, beliefs and sensitivities of the majority. The Government Restrictions Index (GRI), a 10-point index designed by the Pew Research Centre, measures certain forms of government restrictions, including 'efforts by the government to ban particular faith, prohibit conversion, limit preaching or give preferential treatment to one or more religious groups' (Pew Research Center, 2020b, p.3). GRI values above 6.5 indicate 'very high' levels of government restrictions on religious freedom, while scores below 2.3 are considered to be 'low'. Scores between 2.4-4.4 indicate moderate levels of restrictions, while scores from 4.5-6.5 mean restrictions were relatively higher.

Table 3: Government Restrictions Index (GRI)

Country	2016	2017	2018
Malaysia	8.2	8.3	8.2
Myanmar	6.9	6.9	7.3
Philippines	1.3	1.0	1.9
Singapore	7.1	7.1	7.1

Source: Pew Research Center, 2016 & Pew Research Center, 2020c.

Among the four countries under review, only the Philippines' GRI is considered to be 'low', and accordingly the country generally enjoys high FoRB. The Philippines does not restrict one's freedom of religion or practice. However, subtle favouritism is expressed towards Catholic groups, and the protection of minority groups, such as Muslims who face subtle forms of discrimination, is not always ensured. Singapore, Myanmar and Malaysia perform poorly on the scale due to tight governmental controls on religious practices. In Singapore, female Muslim who serve in police force and armed forces are barred from wearing hijab, state approval of Khutbah (friday sermons) must be sought and standardised across mosques, while the procession of Thaipusam is allowed, restriction is imposed on the use of live music. In Malaysia, the formal position of Islam as the 'religion of the Federation' and the accorded status of Malay Muslim as 'Bumiputra' has led to the implementation of socio-economic policies that favor the Malays, and economic developments that are not shared by other ethno-religious groups, resulting in a feeling of unfairness and discrimination. In Myanmar, as the Rohingya Muslims were not recognised as citizens per the 1982 Citizenship Law, this has effectively denied them the associated rights including, FoRB. In Rakhine State, the construction of mosques is nearly impossible; while existing ones risk demolitions under the pretext of lack of state approval (VOA, 2016). Non-Rohingya Muslim citizens are viewed as pro-Islam and thus are treated with suspicion, subjecting them to abuses and rights violation whenever tensions with nationalist Buddhists flare up (Tahiri, 2017).

Table 4: Religious Freedom and Racial Equity

	Malaysia	Myanmar	Philippines	Singapore
Religious Freedom	10.4	5.5	21.4	19.8
Racial Equity	10.7	2.5	10.1	22.7

Source: US News' Best Countries Index

While there is no direct international index that measures the degree of religious freedom and racial equity, the US News' Best Countries ranking offers a snapshot of the situation of racial and religious harmony in countries around the world. Under the category of social purpose—which aims to audit the level of how countries are committed to social justice, inclusivity, and progress—two attributes are relevant to the report: religious and racial equity. Of 78 countries surveyed, only Singapore (25th) makes it into the upper-half of the index in this threshold.

When the two-sub indicators—racial freedom and religious equity—were taken into account, Philippines' and Singapore's scores were satisfactory when compared to Malaysia and Myanmar. Among the four countries, Philippines leads on religious freedom (21.4); while Singapore prevails on racial equity (22.7).

However, the Best Countries index only captures one side of the story: the official narrative and image countries try to present to the outside world. For example, the passage of Philippine's Anti-terrorism Act (2020) has led to expressions of concern from religious leaders and followers. Muslim lawmakers stated that provisions under the law criminalise the teaching of jihad, a concept that which has been erroneously identified with acts of terrorism. In January 2020, the Manila Police District of Philippine's National Police (PNP) released a memorandum requesting all high schools, colleges, and universities in Metropolitan Manila to provide identification of all Muslim students under their care. While the police claimed that the move was part of the effort to combat extremism, such an action could be qualified as 'racial profiling' and drew vehement outcry from Mulsim religious figures (Department of State, 2020). In Singapore, the Ethnic Integration Policy (EIP) was introduced in 1989 to "to ensure a balanced mix of ethnic groups" living in public housing estates to promote racial harmony and strengthen social cohesion (Government of Singapore, 2020). Under the EIP, a homeowner of a minority race can only sell his or her property to another member of a minority race. This is a socio-economic disadvantage to ethnic minorities because when the race quota is reached, they have to sell within only their racial quota which often pushes their property value below market price (Chiew, 2021). There are also arguments that one of the aims of EIP is to prevent voting behavior that is aligned with one's ethnicity. However, the EIP, thus ensures a Chinese majority in every public housing voting district (Tan, 2006). As a result, minorities pay a disportionate price for social harmony in Singapore.

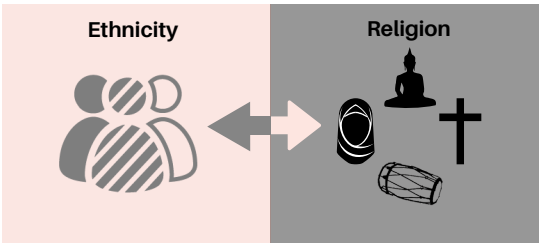
1d. Intersection of Ethnicity and Religion

One important feature this baseline study brings into focus is the intersection of ethnicity and religion in Southeast Asia. In the four countries that are the subject of this report, one can find a strong connection between ethnic and religious identities: the Malay communities in Malaysia and Singapore, as well as the 'indigenous' communities of the Philippines are deeply interlinked with Islam, and the ethnic majority in Myanmar is similarly closely tied to Buddhism.

This creates a dynamic worthy of strong consideration: religious discrimination cannot be separated from ethnic discrimination. In many instances, the involvement of religion by the state or vocal non-state actors is to cover up ethnically-motivated discriminatory policies and the unequal treatment of various religions is a substitute for the unequal treatment of ethnic groups within the country. Thus, it is important that ethnic discrimination is studied alongside religious discrimination as they are often expressing the same prejudice.

For example, it would be difficult to divorce the special status of Islam in Malaysia from the special priviliges of the Malay and indigenous ethnic groups. Unsurprisingly, religion is often caught up in ethnically motivated tensions within society.

1d. Intersection of Ethnicity and Religion



It is important to highlight that in this instance one is not talking about intersectionality: the discrimination suffered is not the combination of religious and ethnic discrimination. Rather, religion, due to its close alignment with ethnic identity, is used as a substitute or cover for ethnic prejudice. Appealing to religious morality or secular societal harmony is found to be more palatable and defendable compared to simply admitting to ethnically motivated discrimination. It is also important to note that this prejudice does not simply cover the alignment of a majority ethnic group with a majority or state religion. The same dynamic can be observed in the treatment of minority groups. While Singapore's dominant Chinese ethnic group does not align iteslf to a single majority religion, skewed outcomes of implementating "integration" policies result in discrimination against the Malays and Indians.

Accordingly, this report will delve into both ethnic and religious discrimination as the two are inseparable within the region. It would be impossible to understand the nuance of the laws in question, and the reasons why they are so much of a concern, without critically examining their impact on ethnic relations in the region. The aim of this baseline study is to appraise the impact of legislation being enacted to combat communal tensions in Malaysia, Myanmar, Philippines and Singapore. The choice of these four countries was based on developments to introduce "harmony" and other laws, in addition to using colonial-era laws to curb actions that might give rise to communal tensions.

The next chapter on international obligations will review submissions to the Universal Periodic Review, the ICERD, and reports of the UN Special Rapporteurs that provide coverage on issues related to FoRB and racial discrimination and the alignment or lack thereof of national laws vis-a-visa international laws and obligations.

2. International Obligations

FoRB is part of fundamental human rights, and accordingly enshrined in international treaties, conventions and norms. This chapter reviews submissions to the UPR by Malaysia, Myanmar, the Philippines and Singapore, reports submitted by the Philippines and Singapore following their accession into the ICERD and reports of the Special Rapporteur on the situation of human rights in Myanmar, Special Rapporteur on contemporary form of racism, Special Rapporteur on cultural rights, and Special Rapporteur on FoRB. The review will show that the internalisation of norms relating to FoRB and racial equality continue to be lacking in the region as governments seek to argue that national laws facilitate social diversity and any criticism by other UN member states that minority groups are disportionately affected, amount to a lack of understanding of the country's exceptional circumstances.

2a. Universal Periodic Review

The Universal Periodic Review (UPR) is a multi-stage process by the United Nations Human Rights Council to review the human rights records of the member states (OHCHR, 2021a). Countries are assessed in cycles, and documents reviewed include (1) a national report submission by the state on its perspective on human rights in the country, (2) a compilation by the Office of the High Commissioner from reports and reviews submitted to the treaty bodies, (3) a stakeholder report that summaries the submissions from INGOs and CSOs, (4) the Working Group's report that captures member states comments and recommendations and, (5) an Addendum where the government of the country under review responds to comments and recommendations, primarily from the Working Group. The process seeks to cover a wide range of input to provide comprehensive feedback to the states on how to improve their human rights records.

Table 5: Universal Periodic Review

Country	1st Cycle (2008 - 2011)	2nd Cycle (2012 - 2016)	3rd Cycle (2017 - 2021)
Malaysia	11 February 2009	24 October 2013	8 November 2018
Myanmar	27 January 2011	6 November 2015	25 January 2021
Philippines	11 April 2008	29 May 2012	8 May 2017
Singapore	6 May 2011	27 January 2016	12 May 2021

Malaysia

There are significant concerns regarding FoRB and racial discrimination in Malaysia. The presence of restrictive legislation has been highlighted in the various UPR cycles. Most concerning is the fact that the country seems to have regressed on some issues.

The three National Reports (2009, 2013 and 2018) of Malaysia have shifted from avoidance of religious issues to outright exclusionary policies. In Cycle 1 (2009), Malaysia reported that it observes religious diversity. In Cycle 2 (2013), it continued to emphasize that "other religions may be practiced in peace and harmony in any part of the Federation". In this Cycle, Malaysia reported that it was evaluating the "feasibility of accession" to the ICERD. In Cycle 3 (2018), Malaysia reported that it continued to promote reconciliatory dialogue to advance the values of moderation, tolerance and mutual respect between and among societies, cultures and religions. Roundtable discussions were conducted to foster a shared sense of responsibility and address racism, extremism and religious bigotry.

The Compilation Prepared by the Office of the High Commissioner for Human Rights points to concerns raised with the treaty bodies in each cycle. In Cycle 1 (2008), there were concerns around the Ministry of Internal Security banning 18 books intended to be used for the study of inter-religious matters on the ground that these materials are in conflict with the true teaching of Islam and could disrupt peace and harmony. In Cycle 2 (2013), the report noted censorship of *The Herald*, the official newspaper of the Roman Catholic Church. It pointed out that the Printing Presses and Publications Act 1972, the Official Secrets Act 1972, the Sedition Act 1948 and the Penal Code, and the invocation of Islam being state religion, were used to silience debate, discussion and dialogue. Cycle 3 (2018) featured concerns of the UN special rapporteur in the field of cultural rights following her visit in 2017. She noted growing religious fundamentalism, referring to the case of teachers telling some girls that fines could be imposed if they come to school unveiled, and that Malaysia Shia Muslims had been unable to worship freely.

The Stakeholder Report shows that these issues haven't been addressed. Cycle 1 (2008) recognised the stricter application of Islamic teaching, which borders on rights violation. Muslim entertainers have been arrested and charged under Sharia offences for allegedly committing immoral activities in pubs and bars. Restrictions on cultural and artistic expression were imposed, particularly on those deemed against the teachings of Islam. Cycle 2 (2013) noted the ban on the use of the word 'Allah' in the Catholic weekly, *The Herald*, pro-Malays pressure groups' attacks upon churches with petrol bombs and molotov cocktails, as a response to the controversy and the recognition of Sunni as the only true and permitted sect of Islam. Cycle 3 (2018) cautions sharp regress of religious tolerance, including minority opinions and dissenting viewpoints. Shia Muslims and other religious minorities, women, journalists and artists were the most affected.

The Reports of the Working Group contain suggestions from member countries to solve these issues. Between each cycle, member countries grow more concerned about FoRB and racial discrimination. Apart from the encouragement to Malaysia to continue its existing policies promoting racial and religious harmony, Cycle 1 (2009) contains only one recommendation, from Algeria asking Malaysia to be more pro-active by ratifying the ICERD. Cycle 2 (2013) contains seven recommendations, asking that Malaysia stops restricting the publications of various religions, passes laws protecting minority groups and sets up a structured interfaith dialogue. Call on ratification of ICERD was followed up by Finland who requested more information. Cycle 3 (2019) contains thirteen recommendations, urging Malaysia to explicitly guarantee freedom of religion, remove mentions of religion on national identity cards, and ensure *fatwas* do not supersede national laws. Six recommendations on ICERD ratification were made to Malaysia. Croatia explicitely points out discrimination towards a minority religion, the Christian community, victim of "religious intolerance".

The Addendum over the three cycles show that the above suggestions were ignored or set aside. Malaysia disregarded recommendations that asked for legislative reforms. Replies in the 2009 Addendum agree with freedom of religion "in principle", yet maintain the country's to "restrict the propagation of non-Islamic religious doctrine or belief among Muslims". In the 2014 Addendum, Malaysia ignored all recommendations, but replied to one on interfaith dialogue by stating that the Government is "not in a position to consider establishing a structured interfaith dialogue at this juncture". In the 2019 Addendum, Malaysia provided a one-paragraph answer to five of the thirteen recommendations by stating that "every person in Malaysia has the right to profess and practice any religion". Malaysia refers to its Constitution to claim freedom of belief is respected, while countering opinions articulated in the other documents submitted to the UPR process. Throughout the three cycles, recommendations on ICERD ratification have been treated with passivity from Malaysia who only took note of the recommendations.

Malaysia's UPR documents display growing concerns between each cycle. Yet, in spite of actionable feedback provided by the Working Group, issues on FoRB and racial discrimination are yet to be addressed with legislative action.

Myanmar

Throughout its three UPR's cycles, concerns over FoRB and racial discrimination in Myanmar were repreatedly pointed out. Persecution of the Rohingya Muslims, the rise of Buddhist extremism, and the issuance of racial and religious harmony laws—which are not aligned to the international standards—ran counter to the official narrative that FoRB is protected under the Constitution and no racial discrimination exist in Myanmar. Following the military coup in February 2021, recommendations presented to Myanmar, as part of Cycle 3 of its UPR, should be considered obsolete due to the new political realities.

The three National Reports present Myanmar as a country where FoRB is facilitated and racial equality is preserved. The Cycle 1 report (2010) highlights that citizens of Myanmar, regardless of their race, religion and sex, are accorded with the rights to the freedom of faith. In the same line, the Cycle 2 report (2015) highlights that a number of new laws - such as Religious Conversion Bill, Myanmar Buddhist Women's Special Marriage Bill, Monogamy Bill, and Health Protection, Coordination on Increase of Population Law—were being drafted and finalised in line with the international standards to promote religious harmony. The Cycle 3 report (2020) highlights the drafting of anti-hate speech bills to promote religious tolerance. The same report further noted that non-legal measures such as interfaith dialogues and training programs were conducted by local NGOs such as the Interfaith Friendship Group and the Religions for Peace to prevent potential conflicts and ill-feeling among different religions.

The Compilation Prepared by the Office of the High Commissioner for Human Rights nevertheless highlights ongoing concerns. The Cycle 1 compilation (2010) notes the closure of places of worship in ethnic minority areas such as the Chin State. The Cycle 2 compilation (2015) highlights that 'protection of race and religion bills,' covering religious conversion, interfaith marriage, monogamy and family planning - which are discriminatory against women and religious minorities - could lead to an escalation of the existing tensions. The Cycle 3 report (2020) reiterates the unease over the discriminatory provisions of the four protection of race and religion bills, enacted in 2015, and the lack of transparency over the drafting of anti-hate speech bills. The report also observes the proliferation of hate speech, from ultra-nationalist Buddhist organisations and individuals, against Muslims and other ethnic minorities.

The Stakeholder Reports highlight similar ongoing concerns from civil society. The Cycle 1 report (2010) states that, in practice, the government controlled and restricted the religious practices of minority religions in the country. Christians, in particular, faced persecution, including instances where pastors were forced to close churches and sign documents refraining themselves from religious activities. The Cycle 2 report (2015) expressed concerns over the four protection of race and religion bills which are discriminatory and equal to government interference in the practice of non-Buddhist religions. For example, the Religious Conversion Bill puts limits on FoRB by limiting one's ability to convert away from Buddhism, requiring government approval. The report also noted that religious minorities' places of worship, traditional holidays and festivals were closely monitored; harsher actions were directed against Islam banning sermons, ceremonies, festivities and during permission to build new Mosques. The Cycle 3 report (2020) does not note any substantial improvements. Persecutions of Kachin Christian people continue unabated in northern Myanmar, including arbitrary detention, torture, killing and blocking humanitarian aid. Furthermore the COVID-19 pandemic provided with authorities the excuse to criminalise religious minorities.

Accordingly, the Reports of the Working Group offer several recommendations from member states to address issues related to FoRB. These recommendations were based on member states' observation that despite the constitutional guarantees, Myanmar still controlled and restricted the practice of minority religions. In Cycle 1 (2010), Myanmar rejected recommendations from Poland to ensure fundamental rights of ethnic minorities, including their FoRB. In Cycle 2 (2015), the government accepted some of the recommendations on FoRB, while rejecting others. It supported recommendations from Japan, the Holy See and Poland to ensure full respect for FoRB, and that the rights of ethnic minorities would not be undermined due to the protection of race and religion laws. It also accepted a recommendation from China to promote harmony among ethnic groups and religions. However, it rejected specific recommendations to revise or repeal the protection of race and religion laws. In Cycle 3 (2020), Myanmar maintained its stance to selectively accept some recommendations. Such as from Ghana and Sudan to continue to enact legislation promoting and protecting FoRB, and ensure full protection of minorities rights to FoRB. Meanwhile, the government deferred recommendations to review and revise domestic legislation on citizenship, race or religion, including the protection of race and religion laws enacted in 2015. Recommendations to repeal the protection of race and religion laws were noted without any indication for further action.

In the Addendum, the government explained their decision as to why it did not adopt some recommendations related to the FoRB. In Cycle 1 (2010), it did not support the recommendation from Poland, because religious intolerance or discrimination is non-existent in Myanmar and that FoRB is guaranteed both by law and practice in the country. In Cycle 2 (2015), explanations from Myanmar echoed the aforementioned stance and reaffirmed that the government never exercised discriminatory practices based on race, religion or gender. In Cycle 3 (2021), Myanmar was supposed to provide responses to the recommendations , but following the military coup in February 2021 , there was no further update.

Philippines

The Philippines has completed three cycles of the Universal Periodic Review (UPR). FoRB received little attention in each cycle and was limited to Sharia Law in Mindanao related to women and children as well Christian faith-based human rights defenders. This is partly due to either the government's position to subsume issues related to FoRB and racial discrimination under indigenous people's rights, or to argue that in the Philippines there is no legal definition for racial discrimination.

Given the above framing, the National Reports submitted by the Philippines in each cycle devotes limited attention to FoRB and racial discrimination. The Cycle 1 report (2008) highlights that the FoRB is recognised and protected as part of the Bill of Rights under the Constitution. It also pointed to the codification of Muslim Personal Laws, through Presidential Decree 1083, to recognise the Shria justice system and perspective of Muslim Filipinos on what is just and lawful. The Cycle 2 report (2011) states that the Autonomous Region in Muslim Mindanao passed the Gender and Development (GAD) Code. The aim of this legislation is to address discriminatory provisions under the Muslim Personal Laws—especially on forced marriage, child marriage and polygamy—based on recommendation from Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 2006. The Cycle 3 reports (2017), however, did not make any mention of issues related to religious minorities and FoRB.

The Compilation Prepared by the Office of the High Commissioner for Human Rights over 3 cycles focused on issues surrounding the situation of the Muslim minority in Mindanao particularly women and children. In Cycle 1 (2008), CEDAW expressed concerns over vaguely-worded provisions under the Muslim Personal Laws which provides for underage marriage, arranged marriage as well as polygamy. Cycle 2 (2012) notes that the Philippines has not significantly progressed on reviewing and repealing discriminatory provisions that affect religious minorities. Muslim women and children were specifically mentioned as the most affected. In Cycle 3 (2017), CEDAW reiterated its call on the Philippines to repeal provisions under Muslim Personal Laws discriminating on the basis of religion regarding the minimum age of girl marriage.

The Stakeholder Report highlights significant concerns from civil society. The Cycle 1 report (2008) did not mention issues related to the FoRB, but it also indicated that there is pending legislation to establish a civil registration system that is sensitive to the cultural and customary ways of indigenous peoples. In Cycle 2 report (2012), the National Council of Churches in Philippines (NCCP) expressed concerns over the actions of local authorities filing trumped-up charges against human rights defenders, who are also members of the Church. NCCP also stated that it received reports of six extrajudicial killings of members of the clergy and lay leaders/workers. The Cycle 3 report (2017) notes that due to the proposed Bangsamoro Basic Law, which would provide for an establishment of the Bangsamoro Autonomous Region in Muslim Mindanao (BARMM), the Christian community within the region feared that its members could be forced to adhere to Sharia law.

In the Draft Report of the Working Group, there has been no specific recommendations made on issues related to FoRB in Cycle 1 (2008), Cycle 2 (2012) and Cycle 3 (2017). Issues related to racial discrimination were also not raised by other member states.

In the Addendum, as there are no recommendations raised towards concerns over FoRB or racial discrimination in the Philippines throughout the 3 Cycles (2008, 2012, 2017), the government also did not provide further explanation nor commitment on the issue.

Overall, the UPR on the Philippines draws attention to the impact of discriminatory provisions under the Muslim Personal Laws on the Mulsims in Mindanao, especially on women and children, and faith-based human rights defenders in relation to FoRB. This discrimination was raised repeatedly and consistently by UN agencies such as the CEDAW and International Covenant on Economic, Social and Cultural Rights (CESCR). However, the issue was not framed as racial discrimination.

Singapore

The UPR of Singapore highlights the use of legal measures primarily to deter and pre-empt expressions that may disrupt racial and religious harmony. These reports also show the disproportionate policy attention the Malay-Muslim community receives and that minority communities experience discrimination as a result of social harmony laws and policies that obscure the advantages the Chinese majority.

In its National Reports, the Singapore Government draws attention to racial and religious tensions leading to Singapore's exit from the Malayan Federation. Thereafter the government reiterates that it pursues social harmony as a priority through the principles of secularism, meritocracy and multiculturalism. In Cycle 1 (2011), it points to its legal framework as a deterrent against racial and religious conflict. It also highlights Government appointed Councils to advise it on legal and other matters related to race and religion, the Ethnic Integration Policy to prevent formation of ethnic enclaves and other community initiatives. The Cycle 2 report (2015), signaling the government's will to sign the ICERD in 2017, reaffirms the aforementioned principles and measures to preserve racial and religious harmony, and cautions against absolute freedom of expression that may result in extremism, racism and xenophobia. Singapore also mentions the online self-radicalisation of Muslim youths and the use of the Internal Security Act to detain them without trial for terrorism related activities. In Cycle 3 (2021), while continuing the rhetoric of maintaining harmony between different races and religions, the focus if engagement shifts to Muslim youths, those who access online Islamic content, those who study in overseas Islamic instituitions and families of those detained without trial for terrorism related activities under the Internal Security Act. Amendment to the Maintenance of Religious Harmony Act (MRHA) to address the threat of foreign influence on religious bodies was also recorded.

The Compilation Prepared by the Office of the High Commissioner for Human Rights offers some critical insights into Singapore's approach to FoRB, such as the restrictions on public discourse on race and religion and the marginalisation of minority groups. In the Cycle 1 (2011) provides an insight into these issues by reporting on the 2010 visit of the Special Rapportuer on contemporary forms of racism, racial discrimination, xenophobia and related intolerance who drew attention to certain blind spots such as restrictions on public debate and discourse on the issues related to race and religion and that several policies had further marginalized certain ethnic groups. Cycle 2 and Cycle 3 reports (2015, 2021) however do not raise further concerns over issues related to FoRB in Singapore.

In the Stakeholder Report, members of civil society extensively express their concerns over the infringements of FoRB and racial discrimination in Singapore. In The Cycle 1 report (2011), recommendations were made for Singapore to accede to the ICERD as well as establish an independent commission to review and abolish statutes that are discriminatory or foster racial inequality. It was also

noted that the MRHA can prohibit religious groups and officials from political activity, that Jehovah Witnesses suffer religious discrimination, and that migrant workers rights to worship are affected. The Cycle 2 report (2015) notes that an increasing number of Muslims were being arrested and detained without trial under the Internal Security Act (ISA). It also noted that conscientious objectors (usually male Jehovah's Witnesses) were sentenced to detention in military penal facilities. It also expresses concern over the situation of domestic workers who were unable to attend religious worship, without a mandatory day-off given and that some employers have forbidden them from praying and fasting. In the Cycle 3 summary (2020), Singapore was asked to set up an anti-discrimination commission. It was also pointed out that the legal provisions of MRHA actually restrict religious speech, violates religious freedoms and discourages legitimate forms of expression, including proselytization and other public manifestations of religious beliefs, and restricts constructive and meaningful dialogues between faiths. Attention was additionally drawn to the ISA and the Terrorism (Suppression of Financing) Act as affecting freedom of religion.

In the Report of the Working Group, most recommendations related to FoRB and racial equality range from commending Singapore's policies, as well as recommendations to ratify and later implement the provisions of the ICERD. What is informative is Singapore's response to recommendations to encourage discussion on grievances related to race and religion. In Cycle 1 (2011), Singapore deferred a recommendation from Slovenia to repeal or narrow down the restrictions upon public discourse on the issues of race, language, religion, ethnicity and politically sensitive issues. In Cycle 2 (2015), Singapore clarified its position that "there must be safeguards against those who abuse human rights to denigrate or offend the beliefs of others, or to incite racial or religious hatred". In the same report, it also stated that it intended to ratify the ICERD in 2017. In Cycle 3 (2020), Singapore deferred a recommendation from Malaysia to enhance the enjoyment of FoRB, including lifting the ban on the wearing of hijab by Muslim women employee in the public services.

Singapore used the Addendums to the Working Group reports as an opportunity to provide explanations and rationale for rejecting recommendations. In Cycle 1, as a response to the recommendation from Slovenia, it stated that "boundaries have to be set to ensure that those who engage in public discourse act responsibly and to minimise the risk of these issues sparking off wider social hostilities". In Cycle 2 (2015), there was no critical recommendation on FoRB or racial discrimination raised. In Cycle 3 (2020), when responding to Malaysia's recommendation, Singapore explained that, except for those in uniform, many female Muslim officers are already allowed to wear a tudung, and that starting from November 2021 it will allow female Muslim public healthcare staff to wear the tudung with their uniform.

Over the three Cycles, the Singaporean Government emphasises that the enjoyment of FoRB and expressions related to race and religion must take into account a country's specific historical circumstances. It continues its rigid position and indifference to criticism over the lack of public discussion around FoRB and racial grievances, citing the need for social harmony and to counter the threat of extremism.

2b. Treaty Bodies: ICERD

The International Convention on the Elimination of all Forms of Racial Discrimination (ICERD) is a United Nations convention ratified by 182 nations to this date (OHCHR, 2021b). Put into application in 1969, this document was drafted in order to address the different issues tied to racial discrimination, such as the Apartheid in South Africa. The Committee on the Elimination of Racial Discrimination (CERD) is the body that monitors the correct application of the ICERD. The ICERD is a legally binding convention, which means that the member states that ratified the document have to abide by its provisions. Apart from the fact that the states must change their laws in order to be in line with those of the treaty, they must also produce and send reports every two years to the CERD on the situation in their countries, highlighting the policies and measures in place to deal with the issues the convention aims to tackle. Out of the ten countries of ASEAN, Brunei Darussalam, Malaysia and Myanmar have not signed the convention.

Table 6: International Convention on the Elimination of All forms of Racial Discrimination (ICERD)

Country	Date
Malaysia	Do not sign nor ratify
Myanmar	Do not sign nor ratify
Philippines	Signature: 1966 Ratification: 1967
Singapore	Signature: 2015 Ratification: 2017

Source: OHCHR, 2021

Malaysia

After announcing in the 2nd UPR cycle in 2013 it will consider acceding to the ICERD treaty, Malaysia eventually refused to ratify the ICERD treaty (Reuters, 24 November 2018). At the core of the issue is special status enjoyed by ethnic Malays, enshrined in the Federal Constitution. Article 153 of the Federal Constitution requires the Yang di-Pertuan Agong (Ruler) to "safeguard the special position of the Malays and natives". Article 153 underpins a system in which quotas have been established to benefit the Malay population in education, access to civil service jobs and business licenses. While originally designed to address systemic inequality arising from colonial times, the system today is entrenched into the ethno-nationalist politics of the country. The issue is wrapped up in the larger ethnic politics of Malaysia: there is a long-standing and ongoing tension between the Malay majority and the Chinese and Indian minority. The special position of Malays is controversial as its distinguishes between citizens based on ethnic grounds, officially allowing for discrimination.

The ratification of ICERD was positioned, by those who opposed it, as conflicting with the Constitution's provisions for the special privileges enjoyed by the Malays. The rationale was that these special privileges would have to be removed to adhere to the non-discriminatory legal requirements of the treaty. Malaysian politics has seen increasing polarization with a shift by UMNO and the Malaysian Islamic Party PAS to appeal to right-wing Malay-Muslim elements to mobilise support in face of the growing popularity of the multi-ethnic Pakatan Harapan coalition. Accordingly, segments of the Malay-Muslim political forces opposed the ICERD ratification by stoking fears with their community the fear of losing their special privileges, politicizing treaty ascension and arguing that ascension to the treaty would conflict with the Federal Constitution.

Since the electoral defeat of the Barisan Nasional government in 2018, the country has been beset with political instability, including the collapse of the Pakatan Harapan government in 2020. This led to more direct appeals to Malay-Muslim community for political support. The following Prime Minister, Muhyiddin Yassin (BERSATU – a bumiputera-only party), governed in coalition with PAS and former constituents of Barisan Nasional. The coalition did not have any interest in or appetite for ICERD ratification, relying on a large Malay voter base to remain in power. 2021 saw the return of UMNO into power with the appointment of Prime Minister Ismail Sabri Yakoob. Still relying on a Malay conservative/nationalist power base, the new government is unlikely to make progress on the issue.

Myanmar

Signing and ratifying the ICERD has been recommended to Myanmar throughout its three UPR cycles. Despite this, ratification has been met with rejection from the government. Buddhist-nationalism and right-wing conservatism has become a strong segment of the Burmese political landscape, matching the global and regional rise of nationalist ideologies. Hence, communal violence, arising from nationalistic driven discriminatory actions and policies towards certain religious and ethnic minorities, have become the core of Burmese politics. Communities, such as the Rohingya, are not considered to be a legitimate part of the Burmese nation and are deprived of basic rights afforded to citizens. This has been well illustrated by the military's action against the Rohingya people, who were forced to flee the country after waves of state crackdown in 2016 and 2017 resulting in 1.1 million Rohingya refugees, majority of whom are residing in Bangladesh and Malaysia.

Following the military coup staged in February 2021, the domestic political crisis has complicated the issues of FoRB and racial discrimination even further. It has led to a nationwide armed conflict where faith-based organisations and clergymen were also persecuted, especially in the ethnic minority areas which resisted the military coup. Immediately after the coup, three moderate Buddhist monks—known to be vocal critics of the military and the extremist Bhuddhist movement—were arrested and sentenced to imprisonment (CSW, 2021). In July 2021, three pastors in Kachin State were arrested while they were organizing an ecumenical meeting of prayer for peace (Agenzia Fides, 2021). In September 2021, during its military operations in Mindat Township, Chin State, the Tatmadaw occupied and desecrated Churches and destroyed food aid for refugees (Radio Free Asia, 2021). By late 2021, it become clear that the focus of the military was to cling on to power and frame the resistance movement, including faith-based resistance, as being responsible for all negative outcomes.

Philippines

The Philippines signed and ratified the ICERD in 1967, being the only country in the region who did it before the enforcement of the treaty. Since then, the Philippines has sent 10 reports, the latest of which was published in 2021. Before the 2021 submission, Philippines' most recent submission was in 2008. In the 2008 submission, for the first time, the State declared as a national policy that it "recognizes and promotes the rights of indigenous cultural communities within the framework of national unity and development" (art. 2, section 22). However, the focus on these efforts are primarily economic: the government devotes significant space to discussing various avenues of integration and economic empowerment. Correspondingly, there is limited attention devoted to actual FoRB and racial discrimination; the submission usually reiterates the basic constitutional commitment to the FoRB as part of the Bill of Rights.

Observably, Philippines' approach to the ICERD is to frame its efforts as trying to eliminate discrimination against Indigenous people, as opposed to framing the issues in terms of race or religion which are subsumed under the former. In the 2021 submission, the country has maintained its position on the non-existence of discrimination due to the "absense" of a formal, legalised definition of racial discrimination in Philippines. Hence, the Philippine government's claims that any instances of discrimination are being addressed

inter alia, through the enactment of the Indigenous Peoples Rights Act (1997) and the Magna Carta of Women (2009). From 2009 to 2018, a total of 215 laws were legislated to address rights issues that are part of the ICERD. The Bangsamoro Autonomous Region in Muslim Mindanao Act (2018) was included in this government's efforts in persuing the committment under the ICERD as the law intends to address the grievances of Muslims in the region, while also ensuring that the freedom of choice and ethnic identity of all people within the region will be retained. The report briefly takes note of the legislative proposals, filed in 2011, prohibiting racial, ethnic, and religious dicrimination such as House Bill No. 4807 and Senate Bill No. 2814.

Overall, the submission in 2021 focuses and outlines government's legislative initiatives, institutional frameworks and policies to eliminate racial discrimination of indigenous people, an undertaking that has been frustrated and stalled by Communist Terrorist Groups (CTG), an entity that the government pinpoints the blame on for its slow progress. It is observed that while the majority of content in the report is responses and associated further clarifications to the Committee's Concluding Observations, made in September 2009, these concerns have not been promptly addressed as they were also raised by stakeholders during Philippine's Cycle 3 of the UPR (2017).

Singapore

In 2017 Singapore ratified the ICERD. Since then, the country has sent one report to the ICERD. The report reiterates what was articulated during the UPR that the principles of secularism, multiracialism and meritocracy inform Singapore's racial and religious policies. To achieve social cohesion, the report outlines that the government has implemented these principles through three pillars: 1) legislative safeguards for racial and religious harmony; 2) policies that encourage social integration and protect the interests of the minorities; 3) local initiatives that mobilise communities to foster mutual understanding and respect. more substantial peace building, including deeper engagement and better integration of minorities, as well as facilitating the return of displaced refugees. Parallel to this, Myanmar witnessed the gradual opening of the

media landscape. The Special Rapporteur noted with concern the proliferation of hate speech following intercommunal violence in Rakhine State, Meiktila, Lashio and elsewhere. The Sedition Act, Internal Security Act and Maintenance of Religious Harmony Act were cited as key legal instruments to prevent incitement to racial hatred. Provisions on the Group Representation Constituency (GRC) system and Presidential Council for Minority Rights under the Constitution and Parliamentary Elections Act were similarly noted to ensure multiracial composition of the Parliament. Policies and practices such as the Ethnic Integration Policy (EIP) in public housings, the adoption of English as an official language, consultation with Islamic Religious Council, Hindu Advisory Board and Sikh Advisory Board were touted as mechanisms by which the government has succeed in avoiding social, racial segregation and promoting religious expression. To foster cross-community communication and dispel misconception, local programs such as SGSecure Community Network and BRIDGE were stated as examples to provide avenues for sensitive questions on race and religion to be discussed and mutual understanding could be reached.

Last but not least, in promoting the ICERD and deepening its commitment to promote racial harmony, the Inter-Ministry Committee on the ICERD (IMC-ICERD) was established in 2015 as a national focal point for coordinating policies and monitoring the implementation of the ICERD.

2c. Special Rapporteur (Myanmar)

In the case of Myanmar, due to the troubled history with military rule, the UN has periodically appointed Special Rapporteurs (SR) to monitor the human rights situation in the country (OHCHR, 2021c). To date, since the mandate was established in 1992, there have been six UN Special Rapporteurs on the situation of human rights in Myanmar: Yozo Yokota (1992-1996), Rajsoomer Lallah (1996-2000), Paulo Sérgio Pinheiro (2000-2008), Tomás Ojea Quintana (2008-2014), Yanghee Lee (2014-2020), and Thomas Andrews (2020-present). Their role included undertaking country visits, providing reporting on the human rights situation in Myanmar, investigating complaints and offering advice for furthering human rights in the country.

Table 7: Myanmar - Special Rapporteurs

Name & Country of Origin	Years Active	Number of Reports
Tomás Ojea Quintana, Argentina	2008-2014	9
Yanghee Lee, Republic of Korea	2014-2020	10
Thomas Andrews, United States of America	2020-present	3

Source: OHCHR, 2021

Tomas Ojea Quintana's reports describe a country in an active conflict. They highlight ongoing civil unrest and conflict with the military, including issues that affect FoRB and racial discriminiation. In its treatment of ethnic minorities – which is often tied to different religious practices – the military is described as engaging in forced displacement, sometimes in order to alter the ethnic composition of an area, land appropriation and forced labour. Prisoners of conscience, including minority leaders, remained a strong concern. The Special Rapporteur describes several tangible incidents when minorities were subjected to human rights violations or direct violence. In 2012, the Special Rapporteur noted the beginning of Government efforts at

Yanghee Lee's reports pick up during this transition period in Myanmar. While Lee notes the continued opening of the flow of information – even if beset by legal obstacles – this is paralleled by concerns about the spread of hate speech and misinformation. Visiting camps of displaced people in 2014, the Special Rapporteur notes "the prevalence of inaccurate rumours and false information concerning the conditions of camps, the quality of assistance provided to one community over the other, and the perceived intentions and behaviours of members of different communities, which subsequently become accepted as reality". Accordingly, the Special Rapporteur argued that "more must be done to stop this type of misinformation, which serves only to heighten tensions and hostility and to increase the sense of discriminatory treatment. The conditions of both camps and the situation of both communities must be accurately reflected and seen for what they are" (UNGA, 2014)

While on paper the government sought to end discriminatory policies, including against the Muslim minority, in practice many local policies further discrimination, preventing the achievement of FoRB. Furthermore these efforts have been beset by misinformation: "The Special Rapporteur is aware of the highly sensitive and politicized nature of these issues. Ultranationalist groups and religious movements have spread misinformation and further fueled tensions between communities" (UNGA, 2016). Issues surrounding ethnicity and religion continued to be highly sensitive, including the criminalisation of certain words, e.g. Rohingya, and protests stoked by the Organization for the Protection of Race and Religion (Ma Ba Tha). The SR notes pervasive rumours and fears concerning the mass spreading of religions other than Buddhism, such as Christianity or Islam. However, official headcounts and statistics continue to disprove these. The SR highlights the need to criminalise speech that falls under "serious and extreme instances of incitement to hatred which cross a clearly defined threshold" (UNGA, 2016). The SR noted the increasing politicization of religious belief, an unwelcome development that would further impede FoRB. In August, 2018, the SR was reported to "remain disturbed by consistently high levels of hate speech, especially targeting religious minorities". (UNGA, 2018)

Since Thomas H. Andrews took over the role of Special Rapporteur in 2020, his reports show that there has been little progress on FoRB and racial equality. Any progress made has been offset by the rise of hate speech and nationalist politicisation of religion. In his report in September 2020, he observed that nationalists groups continue to use social media, especially Facebook, to amplify hate speech against members of the government, as well as Muslims, Rohingya and political parties deemed supportive of freedom of religion (OHCHR, 2020). While his September 2020 report made no specific note of improvements on hate speech, he had little time as Special Rapporteur before the country descended into a military coup and an all-out civil war in 2021. In his subsequent reports in March and September 2021, he focused on the murders, extra-judicial killings, enforced disappearances of protesters and members of ethnic armed forces in Chin, Rakhine, Shan and Karen States, who support the National Union Government (NUG), the government in-exile.

From the various SR's reports on the human rights situation in Myanmar, it is evident that the Government's response to requests to ensure FoRB and racial policies are not in line with international standards. The Government continues to treat religious and ethnic minorities as not being part of the core Bamar-Buddhist nation while allowing nationalistic hate speech and incitement of violence to spread largely unimpeded, attributing little attention to it. This raises significant issues for both FoRB and racial discrimination. The Government uses arguments for stability, security and harmony to stifle the arising of grievances by minority communities while ignoring hate speech against them that would require corrective action.

2d. Special Rapporteurs on Cultural Rights, FoRB and Racism

There are three Special Rapporteurs covering issues related to FoRB and racial discrimination: SR on FoRB, SR on the contemporary form of racism, SR on cultural rights. This report reviews two relevant reports of Special Rapporteurs and responses by the States. This includes the report of SR on cultural rights' visit to Malaysia in 2017 and the government's response; and the other report of SR on the contemporary form of racism's visit to Singapore in 2010 and the government's response. Special Rapporteur on freedom of religion or belief Ahmed Shaheed was due to visit Malaysia during the period between March and April 2020, but the country visit was postponed.

Special Rapporteur on cultural rights Karima Bennoune made a visit to Malaysia from 11 September to 22 September 2017. During her visit, she has noted that Shia Muslim are not able to worship freely and face obstacles to conduct rituals which are both cultural and religious (OHCHR, 2017). Through their interaction with public institutions, indigenous people, locally known as *Orang Asli*, were reported to face pressure to convert to Islam and attempts to identify them as Muslims on their documents and materials related to proselytisation of Islam. This is especially true for Orang Asli children who were pressured to join prayers and wear headscarves (Ibid).

The government's response to the Special Rapporteur on cultural rights reflected the same stance it took when responding to observations and recommendations made throughout its UPR cycles. First, it denied that a problem existed and pointed to the legal arrangement that is currently in place to address the issue, but *not* how it has been practiced. In this instance, Malaysia disagreed that religious minorities struggled to practice their faith as, the government argued, their rights are already protected by Article 11 of the Constitution, which allows each religion to manage its own religious affairs. Second, lack of understanding of local context or history is cited to negate any criticism. With regards to the pressure on the Orang Asli to conform, the government stated that "as Malaysia is a multi-ethnic and multi religious country, the Ministry of Education has no policy to pressure students to become Malays or Muslims in school". Misunderstanding happened, because during religious ceremonies or official functions, Islamic prayers were recited to bless the events. Yet, non-Muslims were allowed to say their blessing in their own way or religion.

During 21 April to 28 April 2010, the Special Rapporteur on the contemporary forms of racism made a visit to Singapore. In his report to the Human Rights Council, he noted that restriction on free speech had prevented open discussion on issues related to race and religion. As a result, blind spots to some of government policies have arisen and subtly contributed to racial and other discrimination. Among these are the inclusion of race in the citizens' identity cards, lack of real political representation of minority communities under the GRC, inconveniences to members of the minority races who wish to buy or re-sell their accommodation. All these have ingrained the status of the minority community in Singapore and further their institutionalisation (OHCHR, 2010). Meanwhile, some government policies such as the Special Assistance Plan schools "favour Chinese culture and Mandarin language and add to the marginalization of minorities" (Ibid).

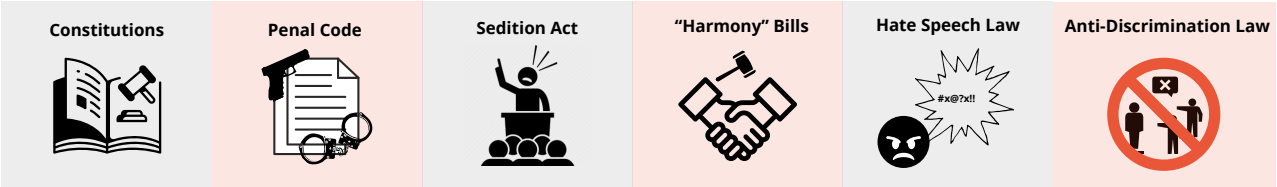
The government's response to the Special Rapporteur's observations was characterised by its focus on defending the ruling party's 'best practices and policies' to maintain social harmony. The tone was harsh and dismissive of the Special Rapporteur's findings. It was not amicable to accept any of the suggestions and recommendations, hinting at the UN as being a recommendatory body without authority to dictate terms.

The response was remarkable in the sense that, in many instances, it used the Special Rapporteur's own words against him to personally attack him, or negate his findings. The government pointed to its unique circumstance, stating that given the ground realities of the country and the multi-ethnic composition, the steps taken by the PAP government were appropriate for Singapore (MFA, 2010).

Despite the widely different nature of these states, the inadequate protection of FoRB and racial discrimination continues to be a common issue. Laws and policies to force diversity and ensure tolerance result in the perpetuation of ethno-religious dominance and effectively criminalise minorities' efforts to voice their concerns. The lack of recognition for this linkage is a key weakness of these measures, as seen for example in UPR reports, which treats the issues of ethnic and religious discrimination largely separately. Even though each state spends a significant time to describe the difficulties of a multi-ethnic state and the lengths they go to implement various measures, these governments reveal a lack of genuine interest in internalizing international norms. A review of the national laws in the next chapter will make this point clear.

3. Legal Measures

As part of their historical legacy, Malaysia, Myanmar, Philippines and Singapore inherited a colonial legal system that was put in place to deal with communol tensions brought about by the redrawing of borders, cross-border labour migration, the introduction of non-native population to the region. With independence, these legal measures were retained as a means for the dominant ethno-religious groups that constituted the post-colonial governments to exert and continue control. This chapter examines the Constitutions and colonial-era legislation, before moving on to the 'harmony' and other laws that were enacted to respond to communal tensions arising from increased ethnic and religious extremism and hate speech over social media that spiked during the COVID-19 pandemic.



3a. Constitutions

There are at least three main features that emerge from the review of Constitutions of the four countries: 1) according special status to a particular ethno-religious group (Malaysia) ; 2) the strategic omission of a particular race (Myanmar) and; 3) an appeal to liberal tradition such as secularism (Philippines) or multiculturalism (Singapore). These characteristics would then inform or influence government's positions when addressing or obscuring issues related to race and religion.

Malaysia

Under the Constitution promulgated in 1957, Article 8 guarantees that all persons are equal before the law and are entitled to its equal protection. FoRB is recognised in Article 11, affirming that every person has the right to profess and practise his or her religion and every religion has the right to manage its own religious affairs.

However, the promotion of a particular religion or ethnic group is also stated in the Constitution, as the definition of the Malay as a racial group is irrevocably tied with, inter alia, Islam. Under Article 160 (2), it stipulates that "Malay means a person who professes the religion of Islam". Article 3 states that Islam is recognised as 'religion of the Federation,' but other religions may be practiced in peace and harmony in any part of the Federation. Corresponding to Article 3, the Constitution provides for the existence of a dual legal system in Malaysia—the Common Law and the Sharia Law—under Article 121. The Syariah Court deals with all matters regarding Sharia law and applies only to Muslims. The Law explicitly allows for the Syariah Court's ability to override the Federal Court in areas of personal and family law.

Under Article 153, the Constitution accords and safeguards the special position of the Malays and indigenous people of Sabah and Sarawak. The interpretation of Article 153 has taken the form of affirmative action; socio-economic policies that exclusively benefit the Bumiputra—Malay Muslims that are the majority group of Malaysia—as part of Malaysia's New Economic Plan (NEP) starting from 1971.

Myanmar

While Myanmar's Constitution (2008) defines who is a citizen and their associated rights. To understand this peculiarity, one needs to understand the concept of 'national races,' in the Constitution. The definition of "national races" or *taingyintha* in the Constitution can be traced back to Myanmar's Citizenship Law (1982), which, under Article 3, authoritatively identifies 8 national races: Burman, Kachin, Kayah, Karen, Chin, Mon, Rakhine and Shan. This definition leaves out the Rohingya Muslims who reside in northern Rakhine. It explains the issues related to the Rohingya community as well as other forms of racial discrimination arising from the Constitution.

The Constitution of Myanmar guarantees FoRB under Article 34, which proclaims that every citizen has the right to freely profess and practice their faith, as long as they do not contravene public order, morality, health or other provisions of the Constitution. Prohibition against discrimination based on lines of race, birth, religion, official position, status, culture, sex and wealth is stated under Article 348. However, the Constitution, under Article 361, makes clear that Buddhism holds a special status and is favoured by the government. Other religions—Christianity, Islam, Hinduism and Animism—were mentioined as 'the religions existing in the Union at the time of the promulgation of this Constitution'.

The narrow definition of citizens and the special status of Buddhism in Myanmar as stated in the Constitution has led to some questioning the concept of national races—and by extension, citizenship rights. This in particular explains the discrimination against, and forms part of a genocidal policy targeting the Muslims in northern Rakhine State, many of whom identify themselves as Rohingya (Brett & Hlaing, 2020).

Philippines

The Philippines' Constitution (1987) is anchored in the liberal tradition of secularism drawn from the colonial influence of the United States. On paper, the Constitution seeks a balance between the unique position of Catholic Church, and other religious groups. In other words, the Philippines is a secular state that adheres to religious neutrality and tolerance (Batala and Baring, 2019).

Section 6 under Article 2 of the Constitution denotes the principle of secularism, stating that "the separation of Church and State shall be inviolable". FoRB is firmly recognised and protected by the Constitution. Section 5 under Article 3 of the Constitution states that "no law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed. No religious test shall be required for the exercise of civil or political rights". Religious neutrality is further reinforced by Section 29 under Article 6, which prohibits the use of public funds to support or benefit any religious groups.

In addition, specific religious allowances are made in some State affairs. This includes the assignment of clergymen or dignitaries to the armed forces, or to any penal institution, or government orphanage (Section 29(2), Article 6), or the exemption made to religious institutions from taxation (Section 28(3), Article 6), and provision of optional religious instruction in public elementary and high schools (Section 3(3), Article 14).

With regards to minorities' rights, Section 20 under Article 10 provides for the right to create autonomous regions, in Muslim Mindanao and in the Cordilleras. In spite of Filipino (Tagalog) being designated as both national and official languages in Section 6 and 7 under Article 14, Section 9 provides for the establishment of a national commission aiming for the promotion and preservation of other languages. Section 17 under Article 14 also obligates the State to recognize and protect the rights of indigenious cultural communities to preserve and develop their cultures, traditions, and institutions.

Singapore

Singapore's Constitution reflects the vision of its immediate post-colonial leaders to build a multi-ethnic, multi-religious society dominated by an overwhelming Chinese majority. This approach is informed by the experience of communal riots and violence in 1964 and the expulsion of Singapore from Malaysia in 1965 —in part caused by the tensions of political competition between the Malays and Chinese.

Equality before the law and its equal protection—and by extension, prohibitions against discrimination—regardless of religion, race, descent or place of birth is stipulated under Article 12 of the Constitution. Article 15 of the Singapore Constitution guarantees the freedom of religion, emphasising that 'every person has the right to profess and practise his religion and to propagate it'. With regards to minority groups, especially the Malays, Article 152 states that the government is responsible for safeguarding the interests of all racial and religious minorities in the nation and recognition is made to accord the Malays as the indigenous people of Singapore—the special position the government needs to cater for to support and promote socio-economic and the cultural rights of the Malays. As the Malays are predominantly Muslims, Article 153 provides for an establishment of official entities to regulate Muslim religious affairs and advise the President in matters relating to the Muslim religion.

Cultural and political representation of minority groups are also stipulated in the Constitution. Article 153(a) designated Malay, Mandarin, Tamil and English as the 4 official languages in Singapore, and Malay as the national language. Article 39(a) provides for an establishment of the Group Representation Constituencies (GRC), where at least one of the candidates, or MPs, in the GRC must be a member of the aforementioned ethno-religious minorities in Singapore. Similarly, in 2017, an amendment to the Constitution was made and incorporated as Article 19(b) to provide for a reserved election for the community that has not held office of President for 5 or more consecutive terms. However, the tinkering of the electoral process to enforce minority representation remains a point of contention.

3b. Colonial Era Laws

Legal measures used against those who make statements that wound religious feelings, or incite racial or religious hatred are found in the Penal Codes. Most of the provisions are leftovers from the British colonial legal system that were in place in Malaysia, Myanmar and Singapore. The Philippines' legislation originates from the era of American colonisation, passed on after its independence. Many of these laws have seen very little change since independence, creating a major dislocation between present law and reality, due to the significant cultural, economic and technological changes all these countries have experienced.

Table 9: Colonial Era Laws

	Laws	Clause	Penalties
Malaysia	Penal Code, Sections 298A Sedition Act (1948)	Seditious activities Presumption to commit terrorist acts Offences on religious places, disturbing religious assembly, trespassing on burial places, uttering words that can wound religious feelings	Up to 3 years of imprisonment, or a fine, or both Up to 28 days of detention for investigation purpose Up to 60 days of detention for investigation purpose, Detention or Restriction Order Up to 2 years of imprisonment, or a fine, or both depending on the offence
Myanmar	Penal Code, Sections 295A and 298	Offences on religious places, disturbing religious assembly, trespassing on burial places, uttering words that can wound religious and ethnic ill-feelings Hate speech, bullying, based on religious and ethnic ill-feeling	Up to 2 years of imprisonment, or a fine, or both depending on the offence Up to 5 years of imprisonment, or a fine, or both depending on the offence
Philippines	Revised Penal Code, Section 4	interrupting religious ceremony, Offenses to the religion Actions that threatens physical integrity, destroy critical infrastructures, government and public facilities, Incitement to commit terrorist acts	Minimum, Medium or Maximum period of prison depending on the offence Up to 14 days of detention, extendable to 24 days
Singapore	Penal Code, Sections 298 Sedition Act (1948)	Offences on religious places, disturbing religious assembly, trespassing on burial places, uttering words that can wound religious feeling	Up to 5 years of imprisonment, or a fine, or both depending on the offence

Malaysia

In Malaysia, Sections 295 to 298A of the Penal Code—collectively known as the Blasphemy Laws—criminalise actions and statements that could wound up religious feeling, or prejudice racial and religious harmony (ILO, 2018). Blasphemy acts include damaging a sacred place, disturbing a religious ceremony or any verbal insult, as well as damaging religious harmony and promoting feelings of enmity and prejudices. Injuring or defiling a place of worship with criminal intent is punishable with 2-year of imprisonment, or a fine, or both. For "disturbing a religious assembly," trespassing on burial places or uttering words that can wound religious feelings of a person, the perpetrator may face up to 1-year of imprisonment, or a fine or both. Finally, individuals convicted of sowing disharmony or ill-feelings may face up to 5-year imprisonment, or a fine or both.

Secondly, "seditious tendencies and actions," broadly defined as any enmity towards the ruler or government, and promoting ill feelings in order to agitate racial harmony are criminalised under the country's Sedition Act. Offences include attempts or preparation of seditious activities, the uttering of seditious words, and printing, sharing and importing seditious publications (Cyrilla, 2015). Individuals found guilty may be sentenced up to 3-years in jail and administered a fine, or both. In 2015, the law was amended to specifically include expressions that cause 'ill-will, hostility or hatred based on the ground of

religion' as part of seditious tendency. Many observers cautioned that while criticism against the government was no longer illegal, most of the criticism, even economics, was tied to ruler, race and religion. In other words, government critics were still liable under the amended law (Loong, 2015; The Guardian, 2015).

Myanmar

In Myanmar, the regulations used to address inter-ethnic tension and social harmony are registered in the Sections 295 to 298 of the Penal Code. The Sections 295 to 298 under the Penal Code deals with matters related to religious offences, also known as the blasphemy laws. The Penal Code of Myanmar is similar to both Malaysia and Singapore's as they both derive from the colonial Penal Code when they were colonies under the British Empire.

Offences under section 295 include acts of destruction or damages to sacred and religious sites, attract a sentence of up to two years of imprisonment, or a fine or both. Section 296 deals with disturbance of religious ceremonies, while Section 297 deals with trespassing on burial sites. Finally, Section 298 deals with uttering words with an attempt to harm religious feelings. These offences can be punishable by up to 1-year imprisonment, or a fine, or both.

However, starting from 2013, which saw the rise of the Buddhist nationalist movements, these blasphemy laws have been mainly used in order to protect the Buddhist faith, while prosecuting other minorities (End Blasphemy Laws, 2020).

Philippines

In the Philippines, actions disrupting religious worship or wounding religious feelings are punishable offenses under Section 4 (Crimes against religious worship), Chapter 1, of the Philippines' Revised Penal Code (United Nations, 2021).

Article 132 condemns any actions taken to interrupt a religious ceremony, carrying an imprisonment sentence of an up to 16-months imprisonment. If such actions are committed with violence or threat, an offender will face an imprisonment between 2 years and 6 years. Meanwhile, Article 133 condemns any actions that offend religious feelings during a festivity or in a place dedicated to religious worship with imprisonment of up to 16 months.

Singapore

Singapore's Penal Code consists of colonial era provisions that criminalise religious offences. Under Sections 295 to 298A, the offences and penalties are similar to its Malaysian and Myanmar counterparts. Under section 295, injuring or defiling a place of worship with the intent to injure the religion of any class results in imprisonment for up to five years, a fine, or both. Under sections 296 to 298A, "disturbing religious ceremonies," trespassing on burial places, uttering words with the intent of offending religious feelings and promoting enmity results in up to 3-years of imprisonment, or a fine, or both.

As Singapore's Sedition Act shares its origin and conception to that of Malaysia's, the law identically deals with any offences that are deemed to occur with seditious tendencies (Singapore Statutes Online, 2021), including animosity against the government and promotion of ill-feelings between different racial or religious groups. What is considered a seditious tendency, however, is highly subjective and dependent on

the government's judgement. As such, many instances of criticism towards the government or its agencies, have been interpreted as an attempt to breed discontentment against the government, and "offenders" have been charged under this Act. Any offender can be punished by a fine of up to 2000 SGD or subjected to an 18-month imprisonment term or both. In October 2021, citing its limited applicability and overlap with other laws, the Parliament of Singapore repealed the Sedition Act (Yuen, 2021).

3c. Harmony Bills and Commissions

As provisions under the colonial era Penal Codes and Sedition Act became increasingly obsolete, governments in the region began to introduce a range of laws designed to address new challenges—such as the internet, religious extremism, and hate speech—that might exploit racial, religious and other community fault lines. This subsection examines the new and emerging legislation including those that were rejected or in hiatus.

Table 10: Harmony Laws

	Laws	Clause	Penalties
Malaysia	Communications and Multimedia Act (1998), Section 233 Security Offences (Special Measures) Act (2012) Prevention of Terrorism Act (2015)	Misuse of network facilities or applications make, create or transmit false or offensive statement. Authorisation of detention pending investigation outcome	a fine up to $US 12 ,000, and a up to 1-year imprisonment , or both Initial detention could be extend up to 28 days (SOSMA), or 2 year (POTA)
Myanmar	Religious Conversion Bill Myanmar Buddhist Women's Special Marriage Bill, Monogamy Bill, and Health Protection, Coordination on Increase of Population Law The Protection against Hate Speech Bill	Religious conversions are subject to approval by a committee Non-Buddhist Men have to observe different sets of rules when marrying Buddhist Women Polygamy and extra-marrital relations are forbidden Some populations may have to space women's pregnancy by 36 months	Up to 2 years of imprisonment or a fine, or both if the demand is seen as insulting against the religion
Philippines	House Bill 3672 "Hate Speech Act" - Filed 2019 Anti-Terrorism Act (2020) House Bill 1579 - "Anti-Racial, Ethnic and Religious Discrimination Act" - passed 2021	Prohibition of discriminations based on race, religion, age, sex in the media, public spaces, job, housing, politics and deliverment of goods and services	Between 30 days to 6 months of imprisonment, or up to 10000 pesos fine
Singapore	Amendment to Maintenance of Religious Harmony Act (2019) Maintenance of Racial Harmony	Prohibition on speeches that could endanger harmony, updated to counteract on Internet and foreign influences	Restraining Order for 2 years

Malaysia

With the increased use of the internet, in 1998, the government enacted the Communications and Multimedia Act (CMA) to regulate internet usage and the associated facilities. Section 233 under the law criminalises "any comment, request, suggestions or other communication which is obscene, indecent, false, menacing or offensive in character with intent to annoy, abuse, threaten or harass another person". While it was originally intended to address misuse of network infrastructure or network services, due to the vaguely-worded nature of the law, the definition was extended to penalise those who allegedly insult Islam and the Prophet Muhammed. Those found guilty under the law will face up to 1-year imprisonment, RM 50,000 fines, or both.

Two legislation were introduced during the 2012 to 2015 to address growing global concerns over the rise of religious extremism. Partly responding to dwindling voter confident, the UMNO government, ahead of the general election, the Security Offences adopted in 2012 (Special Measures) Act (SOSMA) was replaced the Internal Security Act. SOSMA criminalises actions that are deemed to be national security concerns. A person could be arrested without any charges and detained for up to 28 days for interrogation purposes under the presumption of committing a security offence. Similarly, in 2015, the Prevention of Terrorism Act (POTA) was passed to compliment the SOSMA, with additional powers to detain a suspect for up to 60 days, during which time the prosecutor and officer can investigate presumed links to terrorist activities. If the investigation proves strong enough to enact a Detention Order, the suspect faces up to two years of detention under a deradicalization program, or a Restriction Order of up to five years of surveillance with an electronic monitoring device. These restrictions may be renewed, if deemed necessary.

After the surprise election defeat of UMNO in 2018, the newly-installed Pakatan Harapan coalition, in order to replace the Sedition Act, drafted three proposed bills, "the National Harmony and Reconciliation Commission Bill", "the Anti-Discrimination Act" and the "Religious and Racial Hatred Act". Of the three, the government chose to present the "National Harmony and Reconciliation Commission Bill" in early 2020. The bill was to address racial and religious sentiments that fell short of defamation and criminal crime. In August 2020, however, the bill was discontinued by the Perikatan Nasional government (Malay Mail, 2020). The reason advanced was that the proposed bill extensively overlapped with existing laws, especially the Sedition Act, which were deemed already sufficient to tackle racial and religious related hate speech (Malay Mail, 2020).

Myanmar

In 2015, four 'Race and Religion Protection Laws' were adopted (Library of Congress Law, 2015a). These laws were submitted by then Myanmar President Thein Sein for consideration to Parliament. It was supported by the Committee for the Protection of Race and Religion, and the Patriotic Association of Myanmar or Ma Ba Tha, the far-right nationalist Buddhist organisation. The laws discriminates against the Muslim population specifically, with many provisions in direct contradiction to many Muslim cultural traditions.

The first law is the Religious Conversion Bill (Burma Library, 2014). This law states that any person, citizen or non-citizen, who wishes to convert to another religion must be subject to approval by local authorities. The committee, called the Registration Board, who shall approve one's conversion, is composed of a Township Religious Affair officer who acts as president, three members of the Township Administration, two local elders selected by the Township and two Education Officers who will act as secretaries. The purpose of this law is to prevent forced conversion to another faith. Any applicant must fulfill prerequisites, such as being over 18 years old, and give the reasons as to why he or she wants to convert. During an interview, the applicant's intension will be assessed by the board, and questions his knowledge of the religion he wants to convert to, assessed to determine if he really is acting on his own accord. Certain provisions such as those stated under Article 14 says that one's demand may be rejected if the conversion is deemed to be for the intention of degrading or insulting the said religion. The consequences of a conviction under this provision is stated to be up to 2-year of imprisonment, a fine, or both.

Two of the 'Race and Religion Protection Laws' are related to marriage. One is the 'Myanmar's Buddhist Women's Special Marriage law' (Burma Library, 2015a). Though it was adopted in 2015, it is in fact a reactualisation of an old British law; the Buddhist Women's Special Marriage and Succession Law (1954). Under the regulations of this law, a non-Buddhist man who marries a Buddhist woman has to respect her faith, such as allowing her to keep images of Buddha and to practice her faith freely. In addition, a Buddhist woman cannot change her religion under this law, and her children must be free to choose which religion they wish to follow. If the male doesn't follow these rules, the woman is free to ask for divorce. The other one is the Monogamy Bill, which states that any man who wishes to engage in any relationship in Myanmar must be monogamous, even if he is engaged in a religious marriage (Burma Library, 2015b). The bill also allows the State to prosecute individuals who engage in extramarital affairs, regardless of the sex of the person. If one wants to engage with a new person, he or she must end the previous marital contract.

The Population Control Law states that women from certain regions may have to space their pregnancy by at least 36 months (Burma Library, 2015c). The rationale for this bill is to prevent the negative effects of diminishing resources per children in impoverished regions and to ensure sufficient access to socio-economic resources and other opportunities. Even though no group in particular is targeted in this law, it permits the pernicious use to hinder a certain group's natural growth.

In addition, an 'Interfaith Harmonious Coexistence Bill', renamed to the 'Protection Against Hate Speech Bill' has been in draft form since 2016 by the Ministry of Culture and Religious Affairs and the inter-ministerial committee (Free Expression Myanmar, 2016). This adaptation to the law is to combat hate speech and racial or religious incitement to violence. The change will focus upon tighter controls on the internet and other media platforms. The controls would take the form of censorship of any talk deemed to be hateful toward an ethnic or religious community and or that has the potential to threaten social and religious harmony. Moreover, criminal charges and punishments such as imprisonment would be imposed upon any alleged extremists that use ill feelings to provoke mob violence.

Philippines

Introduced to the Filipino parliament by Representatives Hataman and Sangcopan, the "Hate Speech Act" sought to fulfill obligations set by Articles 4 and 19 of the ICERD (House of Representatives of the Philippines, 2017). If adopted into law, the bill aims to tackle hate speech, most notably online, as the increased use of social media has led to a consequent rise in hate speech content directed at ethnic and religious minorities. As such, even though free speech is a guaranteed right, it should not be used in order to offend someone else. The draft qualified hate speech as any "expressions that discriminate against and incite violence against any person or group of persons on the basis of ethnicity, race, and religion", be it orally, on a publication in any media or online, and in public performances. At the time of drafting this report, the bill wasn't adopted and not yet passed into law.

Citing the 9/11 attack in New York as a cause in the rise of intolerance and hate against the Moro Muslim community, as well as taking into account the provisions of ICERD, the Equality and Non-Discrimination on Race, Ethnicity, and Religion Act was unanimously passed by the House of Representatives in February 2021 (House of Representatives of the Philippines, 2021). The provisions of this Act ensures the upholding of human dignity by allowing all access to housing, education, employment, political involvement and delivery of goods and services. The law especially focuses on eliminating all forms of discrimination based on age, ethnicity, religion and gender, in accessing of any of the above-stated rights. Such discriminations are forbidden in the public space, workplace as well as in the media. Individuals, societies or state actors violating this Act may be sued and subject to a term of imprisonment between 30 days and 6 months, and/or a fine between 10,000 and 100,000 pesos, depending on the severity of the offence.

Singapore

In Singapore, the 'Maintenance of Religious Harmony Act' (MRHA) of 1990 was drafted to ensure religious harmony. (Singapore Statutes Online, 2021). The Act serves to regulate religious discourse by persecuting those whose articulations can be mobilised to criticize the government, as well as to stir ill-feelings among the different communities. Under this Act, religious leaders or influential members of religious institutions can be issued a restraining order for up to a two-year period that prevents them from addressing certain topics that may incite hostility between different religious groups, or towards the state (Neo, 2020). However, the phrasing of the Act makes it unclear who constitutes a religious leader, what types of statements the government would consider as offensive, and many continue to question whether this act is sufficient to ensure the separation of religion and politics (Lai, 2019).

The Act also enabled the establishment of the Presidential Council for Religious Harmony, which provides advice to the Minister of Home Affairs when it comes to matters concerning religious harmony. The Council is made up of a mix of representatives from various religious groups, allowing them to make recommendations that ensure the interests of their community are not disregarded (President of the Republic of Singapore, 2020).

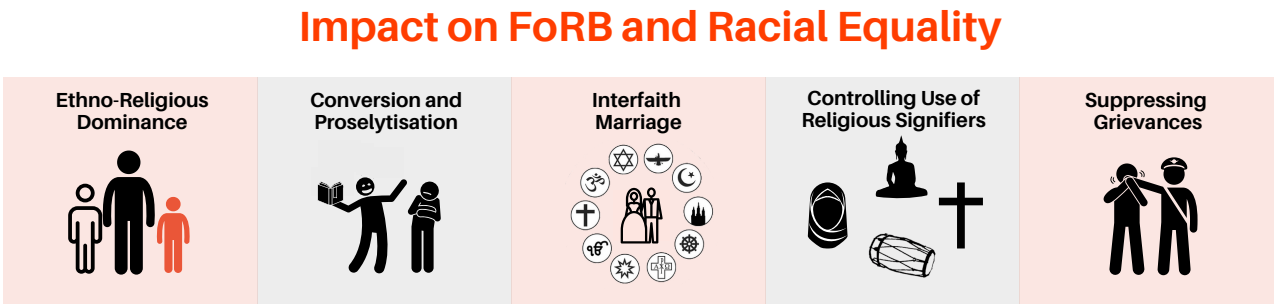
Amendment to the MRHA was passed in September 2019. Citing increased internet and social media usage to spread hate speech, the existing provisions on the issuance of *Restraining Order* (RO) were updated. Key features include an additional requirement for an offender to remove the offensive online content, and a removal of a 14-day notice period for the issuance of RO. Foreign interference was another reason given for the revision. As a result, additional requirements on organisation's leadership and donation from foreign sources were added (Kwang, 2019).

On 29 August 2021, an announcement on the promulgation of Maintenance of Racial Harmony Act was made. In response to the increased racists incidents and strain on racial relations during the COVID-19 pandemic, the new law will introduce non-punitive sanctions and persuasive approaches to shape social behaviors and norms (Lai, 2021). For example, the authorities will be vested with powers to order the offenders to educate themselves about other religions. The offenders will be given the chance to make a public or private apology to the aggrieved parties, or make amends by participating in inter-religious activities.

From the colonial period to the post-colonial period issues related to race and religion continue to impact the management of multi-racial, multi-religious societies in Southeast Asia. However, the use of legal tools to manage these issues has led to an entrenchment of the dominant ethno-religious groups of the post-colonial leaders, creating grievances and discrimination among the racial and religious minorities. The next chapter examines the specific impacts of these legal measures.

4. Impact on FoRB and Racial Equality

There is a strong intersection between ethnicity and religion all across Southeast Asia, including the four countries that are the subjects of this report. The lack of recognition for this intersection has allowed communal tensions to simmer and for prejudices to continue on as countries enact laws and policies in the name of facilitating religious diversity and maintaining racial harmony. These laws and policies remain an important component of the discrimination against ethnic and religious minorities and the maintenance of unequal citizenship rights. This chapter highlights how the use of legislation has resulted in maintaining the ethno-religious dominance of the majority groups as well as restricting conversion and proselytization, interfaith marriage, public display of religious signifiers and the public airing of opinions on race and religion.



4a. Maintaining Ethno-Religious Dominance

In Malaysia there is a significant intersection between the societal status of the Malay ethnic majority and the status of Islam as the official religion of the federation. Accordingly, both the special status of the *bumiputera* (Article 153) and the special status of Islam (Article 11) are enshrined in the constitution. One's status as a Muslim is recorded into one's national ID card, rendering them subject to the jurisdiction of the Department of Islamic Development Malaysia (JAKIM). Ethnicity and religion are often used interchangeably due to the close association between the Malay ethnic majority and Islam. A good example of this is the 2015 incident where a Church was forced to remove the Cross due to Malay residents' complaints that it was an attempt to convert the local Muslims in contradiction to the Constitution. Protesters insisted that a Church is inappropriate in a "Malay area" (Cheng, 2015). Furthermore, the argued that there were already 3 Churches in a Malay majority area (The Malaysian Insider, 2015), expressing dissatisfaction over the potential alteration of the demographic composition of the neighborhood with the arrival of non-Malays and non-Muslims. The incident highlights the strong fusion of Malay and Muslim markers and its dominance in Malaysian political landscape and the usage of religion (often the threat of conversion) to also express ethnically motivated tensions.

In Myanmar, as the government seeks to narrow the definition of citizenship in order to exclude certain groups, such as the Rohingya, religious identity has become a major battlefield: there is a concentrated effort to assert Buddhism as a key signifier of membership in the 'national race' and thus as a signifier of legitimate citizenship.

At the same time, minority religions, such as Islam are used in the othering and alienation of minority ethnic groups, seeking their expulsion from the legitimate body of the state. Burmese nationalism has a strong intersection with religious extremism, with outspoken monks, such as those from the Ma Ba Tha, playing a significant role in spreading hate speech against religious and ethnic minorities, often using religion to express disdain for minorities. Laws such as the Buddhist Women Special Marriage Law seek to separate the ethnic/religious majority from the minority and are clearly designed to preserve some form of 'purity', an expression of the second-class citizen status of minorities and forcing discriminatory policies onto selected citizens. The dominance of the Buddhist vote can be discerned, for example in 2015 when the Ma Ba Tha successfully deterred both the USDP and the NLD from fielding a single Muslim candidate (Kyaw, 2019), despite the fact that some 2 million Muslims live in the country.

In the Philippines, compared to Malaysia or Myanmar, there is no direct or explicit state-sanctioned use of religion to maintain the dominance of the majority. However, the importance of the Catholic Church nevertheless has filtered into the political life of the country, occasionally adversely affecting minorities. For example, due to strong Catholic sentiments, the Philippines remains the only nation state that does not recognise absolute divorce, even if one did not have a Catholic marriage, as the dominant Catholic morality is expressed in the laws of the country. Furthermore, prejudices concerning the Muslim minority continue to permeate throughout the country. For example, in 2019 the Philippines National Police released a memorandum requiring the identification of Muslim students in the Capital region for monitoring as part of counter-terrorism effort. The memorandum clearly profiled the Muslim minority as more likely to engage in terrorism (no such requirement was insituted for non-Muslim students) and perpetuated the unequal treatment of religious groups in the country (Madcasim and Baguilat, 2021). In 2017, there were efforts to institue a special 'Muslim-only' ID requirement in Central Luzon, again on the grounds of counter-terrorism. (Ibid.) Even if the government on the national level does not engage in explicit discriminatory policies, it permits such attitudes to fester within society. Even in the absence of directly restrictive laws, the entrenched everyday prejudices of the majority can be just as harmful to the religious or ethnic minority.

In Singapore, it is not the elevation of one religion that is used to pursue ethno-religious dominance, but the strict insistence on secularism, without taking into account the impact on ethnic minority communities. While the Chinese ethnic majority is not associated with a single religion, the large Malay minority has a close association with Islam, allowing the use of religion as an identifier and the use of state-mandated secularism as a tool for discrimination. In the name of multicultural harmony, one is discouraged from critically discussing race and religion, which adversely affects minorities' ability to articulate grievances or advocate in case of unequal treatment. The Singaporean version of secularism, obscures the Chinese privilege and does not acknowledge that such policies appease the Chinese majority while being unresponsive to the grievances of the minority. In 2021, when addressing the concept of 'Chinese privilege' Finance Minister Lawrence Wong reiterated that there is still a generation of Chinese Singaporeans who feel that they are at a disadvantage in an English-speaking world and more comfortable in Chinese than English. "They would question what Chinese privilege means, if asked, as they feel they have already given up much to bring about a multi-racial society: Chinese-language schools, Nanyang University, dialects, and so on" (Min, 2021). The introduction of EIP and the implementation of the GRC roughly at the same time ignores the fact that Singapore has turned its electoral boundaries into Chinese majority enclaves.

That GRC candidates appeal to the Chinese voters and their sensibilities, because the Chinese constitute the majority in the electoral precincts that form the GRC remains. In 2019, the then Finance Minister Heng Swee Keat articulated often repeated comment by the ruling PAP leaders that Singapore is not ready for a non-Chinese prime minister (Ting, 2019).

4b. Conversion and Proselytization

Malaysia's Constitution guarantees its citizens freedom of religioun in Article 11, aligning with the country's semblant official position as a secular state. However, Muslims face tremendous difficulties to convert away from Islam, regardless of whether they were born into the religion or converted later on. As Section 121 under the Constitution assigns the Sharia court to govern the Islamic affairs, an ethnic Malay who seeks to convert to another religion must obtain approval from the Sharia Court, which has been rarely given. In 2018, the civil court ruled that Muslims cannot convert to other religions without the consent of a Sharia court; this came after four men in Sarawak appealed to the civil court to nullify their status as Muslims as they had converted to Christianity (UCA News, 2018). It is illegal to proselytise any religion to Muslims: Article 11(4) of the Constitution establishes the right for states to prohibit proselytization and it is expressly prohibited in 10 of the 13 states. However, restrictions do not apply in the other direction: there is no law or rule prohibiting Muslims from proselytizing among any other religious groups.

In Myanmar, the Religious Conversion Bill extends government control over conversion, requiring approval from the Registration Board and a mandatory waiting time of religious education. This is an undue infringement on religious freedoms as it ties one's personal beliefs to government approval and opens up space for the majority religion to dissuade people from conversion through mandatory counseling. The conversion bill represents an attempt to control conversion and proselytization through the state apparatus, which will have a chilling effect on free conversion when the state displays preferences for a specific religion. Because of the law shielding ultranationalists, supporters and monks from Ma Ba Tha were emboldened to conduct actions that disturbed social and religious harmony such as the mass conversion in Mandalay in 2016, drawing an ire from local residents who saw the move an inflammation to communal tensions. When questioned whether they followed the Religious Conversion Bill as the ceremony was not official, Buddhist nationalists insisted that the event was held according to the law, but stated the criticism was an assault to Buddhism and threatened to sue the critics (Wai, 2016).

The Constitution of the Philippines recognizes freedom of religion and accordingly there are no legal barriers to proselytization and conversion. Proselytization is ongoing from both the Catholic and Islamic sides. An example is the 'Balik Islam' movement that seeks to convert from Christianity to Islam as a form of 'returning' to their original faith prior to Western colonial domination. Conversion to Islam is procedurally governed by the Rules and Regulations Governing Registration of Acts and Events Concerning Civil Status of Muslim Filipinos (National Statistics Office, 2005). The rules recognise a process to convert away from Islam. While there is no concrete evidence of persecution against the Muslim converts, they are closely watched by the authorities due to their alleged link with Islamic extremist groups such as the Abu Sayyaf and the Moro Islamic Liberation Front (Amazona, 2017).

Although it is legal to renounce or convert from Islam in Singapore, social stigma still persist and affect an ex-Muslim's ability to openly practice his or her new belief, including atheism. Preserving one's family ties were cited as the major reason for former Muslims to remain closeted. During Ramadan, since they no longer practice Islam, some ex-Muslims have to find a way to eat and drink discreetly (Nazren, 2019). Peer-to-peer surveillance among family members also exists and exerts social pressure on ex-believers (Ibid). Aside from conversion or proselytisation, the holding on to belief different from government policies has its consequences. The National Service system, for example, does not account for Jehovah's Witnesses opposition to military service and refuses even a compromise of non-combat roles for conscientious objectors (Jehovah's Witnesses, 2021). As of 2021, there are a total of 13 Jehovah's Witnesses currently serving their prison sentences in Singapore due to their conscientious objection to military service. 5 of them are serving a second sentence as they refused to change their stances after serving the first prison term.

4c. Interfaith Marriage

In Malaysia, religious issues are often caught up in both marriage and divorce. The Islamic principle, that to marry a Muslim spouse one must convert to Islam, is incorporated into law with Islamic marriage matters being governed by the Sharia courts. However, there have been high profile cases that brought the parallel legal systems into conflict and raised concerns about the exploitation of this religious principle. The most high profile case has been the family dispute involving a women named Indira Gandhi, whose three children were unilaterally converted to Islam by her ex-husband who converted to Islam after the divorce, then sought a judgment from the Islamic courts. This created a rift between the civil courts that argued that the conversion was illegal and thus authority rests with them, while the Islamic courts seeking to maintain the conversions and arguing that it is an Islamic matter within their own jurisdiction (Bunyan, 2020). Similarly, there is a significant issue when people are not allowed to leave Islam upon divorcing their partner who was the reason for their conversion. Islamic traditions do not recognize conversion away from Islam and any attempt to change one's religious status is highly discouraged by the state, leaving people as legally classified as Muslims despite their wishes to change their religious status.

In Myanmar, interfaith marriage—especially between a Buddhist and a Muslim—is rare as it is considered a social taboo and this prejudice has been reinforced through public institutions such as schools and Buddhist monastic community (Fishbien, 2021). The main proponents of the country's laws on racial and religious harmony were the monks of Ma Ba Tha, who saw interfaith marriages as part of the Islamisation of Myanmar, spearheaded by the Rohingyas. Communal riots between 2012 to 2014 and waves of state crackdown on the Rohingya from 2016 to 2017—displacing more than 1.1 million Rohingya people—has cemented the prejudice on interfaith marriage. While the laws seem punitive towards the Rohingya, local citizens also face difficulties, albeit to a much lesser extent. The Buddhist Women's Special Marriage Law stipulates that for a Buddhist woman to marry a non-Buddhist man, an application must be submitted and approved by the General Administration Department. The process has created financial hurdles for couples and allowed corrupted officials to extort 'tea money,' before they can finally proceed (Mon, 2019).

In the Philippines, there are no governmental rules prohibiting interfaith marriages or necessitating an order of conversion for such a union. Naturally, the Church and other religious institutions may dictate their own rules for performing the ceremony. Civil marriages and secular ceremonies are allowed. However, the sanctity of religion, while ensured in the Constitution, restricts other rights, such as the rights to decide on one's reproductive choices or divorce. The Philippines is one of the only two sovereign states to prohibit divorce, the other being the Vatican. In 2020, the bill to legitimize divorce was approved by the Committee on Population and Family Relations of the Philippine House of Representatives, but it is facing steep opposition from conservative politicians, such as Lito Atienza, Deputy Speaker of the House (Cervantes, 2021). At the same time, the rules governing the registration of Islamic marriages recognise the Islamic institution of divorce. This creates inequality between religious denominations.

In Singapore, there is no state enforced restrictions on interfaith marriages. Singapore allows for civil marriage without religious requirements, but such a marriage would not be recognized under Islamic rules. But the state does not specifically mandate conversion or offers a preference for conversion in the case of marriage. However, there have been high profile incidents related to inter-ethnic relationships between the Chinese and minorities that betray the deep-rooted prejudices present in Singaporean society. For example, in 2021, Ngee Ann Polytechnic had sacked a senior lecturer due to his racist abuse of an inter-ethnic couple. During the incident, the Chinese man accused the Indian victim of "preying on a Chinese girl" (Cheng, 2021). While there is no law restricting inter-faith marriage, the ethnic fault lines and prejudices between the majority Chinese and minorities from time to time are exposed in the public domain.

4d. Public Display of Racial and Religious Signifiers

The display of religious symbols is a sensitive issue in Malaysia, often caught up in the communal tensions between Malays and minorities. In 2015, a Church in Petaling Jaya was forced to remove its Cross as it was viewed as being inappropriate in a Malay neighbourhood (Bedi and Suganya, 2015). In 2015, a Malay nurse complained that she was forced to dress immodestly in a local private hospital, as the institution mandated a short-sleeved uniform for nurses. She argued that her objection to the uniform led to her termination as she was prevented from working until complying with the objectionable dress code. The hospital argued that she was terminated for her absence from work (Chik, 2015). The incident led to public discussions on whether religious sensitivities or industrial concerns should be superior in deciding on healthcare dress code. The use of the word 'Allah' has been another point of contention. The question is whether the word can only be used by Muslims as Christian religious materials using the word have been seized by the police. In 2021 the High Court ruled to abolish the ban on Christians using the word in publications, which originated from a circular note of the Minister of Home affairs in 1986 citing the threat to public order (Anand, 2021). The issue remains highly controversial and previous rulings led to communal violence and the destruction of both Christian and Muslim places of worship. The ruling is expected to be further challenged (BBC, 2021).

In Myanmar, places of worship and artistic expression are signifiers that are affected. In 2019, during the Ramadan, three temporary places of worship were forced to close down after a mob of 200 people surrounded one of designated places in South Dagon Township. This had occurred on top of the discontent over the authorities' decision to allow only 3 out of 15 houses to be used as temporary religious facilities during the Ramadan (Lynn, 2019). In April 2020, amid the spread of coronavirus, three street artists —Zayar Hnaung, Ja Sai and Naw Htun Aung—were arrested and charged under Section 295(a) over their mural painting to raise awareness of the COVID-19 pandemic and urge people to stay at home. The painting was allegedly to be insulting Buddhism due to the grim reaper—depicted as spreading the virus—was dressed in a similar manner to a Buddhist monk as claimed by the local religious authorities (Zaw, 2020).

Overall, there are no specific legal impediments to the use of religious signifiers in the Philippines. However, the prejudices within Filipino society can negatively impact the Muslim minority nevertheless. After the siege of Marawi in 2017, some Muslims were forced to remove their hijabs when attending school or at their workplace (Madcasim and Baguilat, 2020). While these policies were not directly perpetrated by the government, they are a reflection of deep entrenched prejudices and communal tensions that the government is willing to paper over. The discrimination of Muslims is underpinned by a deep-seated othering from the Catholic minority: Muslims are considered to be distinct from 'regular' Filipinos, a trend exacerbated by a relative lack of representation in politics, educational materials, popular culture and media (Ibid), which could allow communal alienation to receede. Religious signifiers are prejudicially associated with negative traits, creating undue pressure on Muslims to refrain from openly displaying their religious identity in fear of suffering discrimination or diminished opportunities.

In Singapore, some private businesses's decision to bar the wearing of the *tudung* at the workplace has resulted in the charge of discrimination against Muslim women, who may be declined a job offer if they refuse to comply. In 2020, public discontent among the Muslim community emerged, when a story of a Muslim woman who was asked to remove her tudung in order to work as a promoter in a local department store was reported. While the store reversed its policy, after President Halimah Yacob, a female Malay Muslim herself, weighed in her opinion that "there is no place for discrimination". The incident led to a parliamentary debate in March 2021 over the existence of the policy. The change only came in August 2021, when Prime Minister Lee Hsien Loong announced that nurses in the public healthcare sector can wear the *tudung* starting from November 2021 (Channel News Asia, 2021). However the policy remains unaltered for those serving in the Ministry of Home Affairs, Singapore Armed Forces and Singapore Police Force.

4e. Public Discussion of Race and Religion

Public participation is crucial for an equitable society: without space for minorities to advocate for their interests or raise their grievances, it would not be possible to achieve any meaningful form of societal equality. However, in the four countries examined in this report one can observe numerous attempts to hinder public discussion of religious issues and associated discrimination, arguing that it would be detrimental to Public order. This is harmful as it leads to these grievances often being overlooked by the respective governments in the end.

In Malaysia, the special status of Islam as the state religion and the special privileges of ethnic Malays and indigenous people are established in the Constitution and accordingly public debate about them is highly discouraged. Questioning one sided legislation is viewed as a challenge to the constitutional order and detrimental to public security, traditionally persecuted under the Sedition Act. In March 2021, a Malaysian rapper Wee Meng Chee, or better known by his stage name 'Namewee,' surrendered himself to the police in connection to the investigation into his film *Babi*, a Malay word for pig, which could connote racial and religious slur against the Muslim community. In December 2020, a police report was filed against the film as it was believed to contain elements of racism that tarnished Malaysia's image (Zolkepli, 2021).

In Myanmar, the discussion of race and religion is entirely muted, especially when it concerns the grievances of the ethno-religious minorities. Largely, non-Rohingya Muslims—who constitutes half of total Muslim population in the country—have avoided airing their opinion in public as they found themselves under scrutiny from anti-Rohingya Buddhist extremism and public questioning over their loyalty to the country (Kyaw, 2019). In a heated and often extreme political environment it can be dangerous to advocate in favour of minorities. In 2017, Ko Ni, a prominent Muslim lawyer and advisor to Aung San Suu Kyi, was assassinated at Yangon International Airport. Ko Ni was also the drafter of the Anti-Hate Speech Bill. In March 2021, after the military coup, two Muslim NLD members were allegedly tortured to death by the security forces (Lynn, 2021). The action was aimed to strike fear and terror among anti-coup protesters and marked the change of tactics from suppressing civilian protesters to targeted persecution of individuals based on their political affiliation and religion (The New Straits Times, 2021). High profile cases such as these will inevitably have a chilling effect on public discourse, as it forces citizens to choose between advocacy and their own safety.

In the Philippines, FoRB continues to be a politically divisive issue. As Catholic values—such as the sanctity of family and marriage—are safeguarded as part of legal guarantees on FORB. Tensions arise when changes to the law are proposed that goes against the values of the Church related to divorce and birth control. For example, the application of Article 133 under the Philippines' Revised Penal Code could be used to discourage airing of disagreement to the Church on reproductive rights. In 2018, the Supreme Court of Philippines upheld the decision of the Court of Appeals that sentenced Carlos Celdran, a tour guide and an activist, to an up to 13-month imprisonment for "offending religious feelings". This was attributed to an incident in 2010 when Carlos, dressed as the national icon Jose Rizal, disrupted the Church service and held a placard in protest of the Church's opposition towards the Reproductive Health bill, which would make contraception more available to the Filipino women (Rappler, 2019).

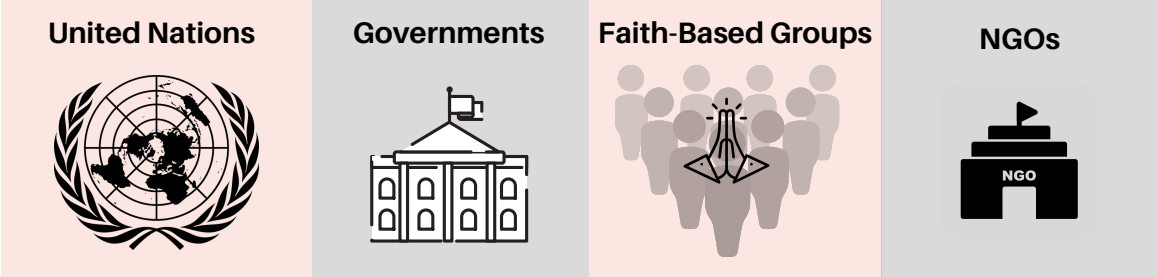
As noted in the summary of the stakeholder in Singapore's UPR, the strict adherence to multiculturalism and the use of, or threat to use, legal measures by the government, has preemptively ruled out public expression of grievances from ethnic and religious minorities. In 2019, a music video—released in response to the highly controversial advertisement featuring an ethnically Chinese actor in 'brownface'—received a public rebuke from the Minister of Home Affairs who described the rap video as blatantly racist. Preeti Nair and her brother Subhas, the artists behind the music video, explained that they had hoped the video would "spark a conversation" about the portrayal of minorities in national media (BBC News, 2019). In November 2021, it was reported that Subhas was to be charged after he allegedly breached the 24-months conditional warning he received from the incident in 2019 by seeking to 'promote further ill will between Chinese and Indians'.

He had posted a social media comment that has argued that a Chinese suspect in the murder of an Indian man (Orchard Towers murder) has received a lenient statement then exhibited a cartoon of this infringement at a concert setting. (Lau, 2021).

In conclusion, we can see that the close intersection between ethnicity and religion has negatively affected both FoRB and racial equality in the region. Entrenched prejudices continue to be prevalent and in many instances they receive direct or in-direct government support through being codified into actual law or policies. The legal environment in these four countries allow for significant discrimination towards minorities and create a hostile legal environment when minority communities air their grievances. The situation remains highly alarming and strong action is needed to address not only the legal environment, but the deeper societal prejudices that underpin the legal inequality of citizens in these countries.

5. Recommendations

This report shows that the situation concerning FoRB and racial discrimination in the examined countries is not encouraging. This raises the important question of where one could take the most meaningful action to encourage positive developments. The main recommendation of this report is that both the United Nations and national governments need to acknowledge the explicit links between ethnicity and religion in Southeast Asia and how laws and policies based on ethnicity or religion further exacerbate community tensions. This intersection is often glossed over, leading to a fragmented and ineffective discussion on the promotion of FoRB and elimination of racial discrimination. Such a recognition is necessary for States to formulate honestly effective policies and for the UPR process to hold states accountable.



5a. United Nations

The United Nations is an important actor: it needs to provide a framework for common norms and insist on adherence to it. And that framework, including the recommendations developed based on it, needs to acknowledge the intersection of ethnicity and religion in Southeast Asia, a feature that may be distinct from other regions. This report highlights that the UPR process has been ineffective in holding states to account and some of the Southeast Asia governments continue to refuse to join key treaties such as the ICERD. The UN has to find a way to counterbalance states' arguments of exceptional circumstance with side-stepping recommendations to improve human rights. A part of this would be to provide support to civil society actors, often on the frontlines of holding their states accountable when other processes fail.

Accordingly, this report's recommendations to the UN are

- to incorporate the intersection of ethnicity and religion into the development of the human rights framework
- to continue advocating for non-signatories to sign and ratify international human rights treaties, especially the ICERD and the ICCPR and to implement recommendation made during the UPR
- to promote the further internalization of human rights norms and encourage signatories to honor their reporting obligations in a timely manner
- to provide support to civil society organizations to act as a crucial check on state's submissions in the UPR process

5b. Governments

States need to be mindful of the intersection of religion and ethnicity, especially how such an intersection occurs within the specific context of their own societies. Hence the formulation of any legislation should consider the consequences of such intersection. States need to recognize that citizenship rights, including the freedom to practice one's religion, need to apply equally and are divorced from ethnic identity. Hence, laws that allow for such discrimination need to be abolished. Similarly, all laws seeking to safeguard societal stability should clearly establish the offences they punish and have transparent oversight over their enforcement. A good starting point to this commitment would be implementing accommodation from the UPR process and the immediate ratification of all outstanding treaties such as the ICERD.

Accordingly, this report's recommendations to national governments are

- to explicitly recognize the intersection of religion and ethnicity within their own societies and legislative frameworks
- to sign and ratify the ICERD and other treaties that they have refrained from doing, and implement recommendations suggested during the UPR process
- to amend or abolish laws that infringe on the human rights and key freedoms of citizens or create a distinction between citizens on religious or ethnic grounds
- to establish the functioning and to ensure the independence of national human rights institutions

5c. Faith-Based Groups

Apart from legal measures, non-legal measures have included interfaith dialogues organised by faith-based groups, often with government support. Such dialogues must move beyond mere religious tolerance, and should instead focus on building understanding and respect, based on the true, lived realities of minority groups. Current dialogues fail at acknowledging laws and policies that are the root of the divisions between religions. Faith-based groups should also share their opinions on discriminatory laws and policies to push for increased accountability.

Accordingly, this report's recommendations to faith-based groups are

- to ensure that faith-based discussions properly acknowledge issues affecting citizens, including potential discrimination, and that they do not allow calls for tolerance or societial harmony to obscure such issues
- to recognize a distinct dividing line between state, including legislation, and religion: while it is important for faith-based groups to be advocates, they should not seek to enshrine religious principles into law (as seen in Malaysia and Myanmar)
- to actively advocate for the whole of society, especially respect for minorities, rather than narrowly focusing on their own denomination
- to actively speak out against discriminatory laws policies that threaten FoRB and racial equality

5d. Civil Society

The role of CSOs should be strengthened. They play an invaluable role in holding the government to account on all issues. Unfortunately, their position is increasingly threatened as governments ramp up rhetoric to classify them as opponents. Governments need to acknowledge the need for these organizations, even if they speak truth to power that governments do not wish to hear. CSOs need to continue to document the situation in their countries and report those findings to international bodies such as the UN, as well as raising awareness within their own societies about key issues. In the absence of a robust civil society sphere, governments can dominate the conversation and persuade people against their own long-term interests

Accordingly, this report's recommendations to civil society are

- to act as a crucial check on the government by monitoring and the human rights situation related to FoRB and racial discrimination and notifying the government about observed problems
- to report on the human rights situation in their respective country to key international organizations such as the UN
- to encourage legal reform that removes discriminatory or rights infringing legislation
- to actively participate in efforts to raise awareness and understanding within their own communities about the importance of FoRB and instances of discrimination face by minorities

Ultimately, FoRB and racial equality can only be safeguarded if the various stakeholders take steps to observe international human rights standards. Unfortunately, some governments continue to promote divisive laws and policies that entrench ethnic and religious divides. The internalization of human rights norms can help stop these divisive measures. Thus, advocacy, raising awareness and public education will be important for any successful strategy to promote human rights.

6. Conclusion

Overall, the situation on FoRB and racial equality is not encouraging. As this report shows, there has been no substantial improvement on FoRB and racial equality in the region over six decades of post-colonial rule. If anything, the introduction of "harmony" and other laws continue the dominance of the ethno-religious majority, limit FoRB and continue to muzzle the airing of grievances by minority communities. Ethno-religious dominant governments in the region remain all too eager to exploit societal divisions for political gain.

It is crucial to recognize the intersection of religion and ethnicity. This intersection has underpinned many of the problems discussed in this report, both legal and non-legal obstacles to equal citizenship in the examined countries. Yet, both governments and the UN tend to overlook this intersection in favour of focusing on religion largely separated from ethnicity. This allows entrenched ethnic prejudices to continue when law and policies on religion result in racial discrimination. For substantial progress to take place, it is imperative that a strong recognition of this intersection is included into the policy making and human rights frameworks.

While there are differences in the methodology – from Singapore's pre-emptive censorship of ethno-religious grievances from gaining traction in public discourse, to Myanmar's rise of active ethno-religious hatred – the end result is the same: Southeast Asian states do not meet international norms when it comes to FoRB and racial equality. Goverments' primary method is to adopt legislation to control public airing of ethnic grievances and contour the practice of religion. However, this is does not tackle genuine discrimination and inequality that might be present, but allows government to manage the demands of the dominant group and to shut down criticism of policies and discussions pertaining to race and religion by minorities. This is well illustrated by the fact that those critical of government laws and policies often face legal consequences. Legislations should not be used by governments to repress legitimate criticisms, political speech or practices of religious beliefs. Governments should be larger than any one ethnic or religious group within the country and no group, regardless of their historical connection to the land, should feel entitled to exclusively govern. For meaningful progress to be made, Malaysia, Myanmar, Philippines and Singapore need to genuinely commit to the advancement of human rights and to create an equal space for all citizens regardless of background, by eliminating discriminative special privileges bequeath by law or social structure.

Unfortunately, entrenched prejudices continue to undermine societal stability in the region. Governments' efforts to deal with diversity through legislation, continues to be a major battlefield for the clash of the ethno-religious majority and key minority groups. For the region to resolve key human rights issues, including FoRB and racial equality, the examined countries will have to earnestly confront the prejudices present in the fundamental fabrics of their societies and come to a collective understanding about the country belonging to every citizen, not only to the majority. Tolerance and respect are two-way streets, and it is crucial that minority groups are allowed to maintain their own identity, without that identity becoming detrimental to their citizenship or ability to carry on a normal life

The report also highlights the weaknesses of the current international regime: the Universal Periodic Review (UPR) process, the ICERD and the Special Procedures have been weak in promoting meaningful progress in any of these countries. Cycle upon cycle, visit after visit, submission after submission, the same issues are being raised and then dutifully ignored by participating governments.

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ASIACENTRE

Asia Centre (asiacentre.org) is a not-for-profit social enterprise and seeks to create human rights impact in the region. Asia Centre's work focuses on issues related to civil society, democracy, elections, freedom of expression, freedom of religion or belief and human rights. The Centre believes that knowledge toolkits built from evidence-based research on critical human rights issues are important for designing activities for stakeholder capacity strengthening and making informed policy interventions. With this aim, Asia Centre was established in Bangkok, Thailand in 2015 and a second branch was registered in 2018 in Johor Bahru, Malaysia. On 21 May 2021, the Centre was recommended by the Committee on Non-Governmental Organizations of the UN ECOSOC for a Special Consultative Status at the UN.

To date, the Centre has been undertaking evidence-based research on key human rights issues to assemble knowledge tools such as books, reports. baseline studies, policy briefs, commentaries, infographics, videos and training programmes. These knowledge tools are often developed at the request of civil society, INGOs and parliamentarians for evidence-based research on critical rights challenges. These knowledge tools are then used to design capacity building programmes for stakeholders so that they can affect positive policy changes.

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