

Refugee Review Tribunal

AUSTRALIA

RRT RESEARCH RESPONSE

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This response was prepared by the Country Research Section of the Refugee Review Tribunal (RRT) after researching publicly accessible information currently available to the RRT within time constraints. This response is not, and does not purport to be, conclusive as to the merit of any particular claim to refugee status or asylum.

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RESPONSE

- 1. Can you provide updated material about PAS?**

In the wake of Parti Islam Se Malaysia's (PAS) electoral defeat in the state of Terengganu and slim margin of victory in the state of Kelantan (see below), recent media reports indicate that PAS is "attempting to shed [its] hardline image" in order "to stay politically relevant". Media commentators in Malaysia are divided as to the party's true intentions, with some doubting the party's sincerity ('PAS rocking to a new beat? A concert featuring Mawi and Nasir may not be enough if PAS wants to shed its hardline image', *Today (Singapore)*, 14 October – Attachment 1; Ahmad, A. R. 2005, 'Pas forges ahead with moderation strategy',

New Sunday Times, 25 September – Attachment 2; Ahmad, A. R. 2005, 'Ummu picks up Pas' reinvention gauntlet', *New Sunday Times*, 16 October – Attachment 3).

2. Who is the current leader of PAS?

The Islamic Party of Malaysia (PAS) is currently headed by Datuk Seri Abdul Hadi Awang ('PAS Political Party' 2005, Wikipedia website, 16 October http://en.wikipedia.org/wiki/Islamic_Party_of_Malaysia - Accessed 1 November 2005 – Attachment 4).

Nik Aziz Nik Mat, the conservative chief minister of the state of Kelantan, is the party's "spiritual leader" ('Lullaby competition for Malaysian wives' 2005, *BBC News online edition*, 25 October <http://news.bbc.co.uk/2/hi/asia-pacific/4374736.stm> - Accessed 7 October 2005 – Attachment 5).

3. What are the main policies of the party?

Despite recent moves to reinvent itself, PAS continues to agitate for the transformation of Malaysia into a theocratic Muslim state based on Shari'ah law. Its main policies include the implementation of Shari'ah law, including Shari'ah criminal law, with notably harsh penalties such as death for converting out of from Islam (*murtad*), amputation for stealing, and stoning for adultery ('Opposition seeks electoral gains in Malaysia' 2003, *Taipei Times* online edition, 12 September <http://www.taipeitimes.com/News/world/archives/2003/09/12/2003067534/print> - Accessed 2 November 2005 – Attachment 6; 'PAS Political Party' 2005, Wikipedia website, 16 October http://en.wikipedia.org/wiki/Islamic_Party_of_Malaysia - Accessed 1 November 2005 – Attachment 4).

In an article on the party's vision of an Islamic state, Yukiko Ohashi observes that:

PAS's Islamic state is based on the permissible and the prohibited...

How one practices Islam in Malaysia, according to PAS, should boil down to observing the prescriptions (the dos) and proscriptions (the don'ts) of the Islamic state, and the kind of restrictive Shariah conceived by it. Therefore, the intermingling of men and women is banned, as are art events deemed offensive" (Ohashi, Y. 2004, 'Malaysia: The elusive Islamic state', *Asia Times* online edition, 9 June http://www.atimes.com/atimes/Southeast_Asia/FF09Ae02.html - Accessed 8 November 2005 – Attachment 7).

The party's blueprint for governance, the *Islamic State Document*, which was produced by PAS ahead of the 2004 State and National elections, provides a full overview of the party's policies. The document indicates that, upon coming to power, PAS "would implement 'the Shariah [Islamic law] to achieve the five imperatives of the Shariah; therein to protect a Muslim's beliefs, life, intellect, dignity and property'" (Ohashi, Y. 2004, 'Malaysia: The elusive Islamic state', *Asia Times* online edition, 9 June http://www.atimes.com/atimes/Southeast_Asia/FF09Ae02.html - Accessed 8 November 2005 – Attachment 7). The document, which is attached, outlines the party's policies on the economy, social development, education, women and the country's youth. Many are distinctly Islamic. Among other things, the party's policy on the economy, for instance, states that "citizens are free to conduct their economic activities within the ambit of the Shari'ah". Likewise, its policy on women is "[t]o encourage healthy competition of women alongside

men within the limits of the Shari'ah" (Islamic Party of Malaysia 2004, The Islamic State Document, Islamic Party of Malaysia website <http://www.parti-pas.org/IslamicStateDocument.php> - Accessed 6 November 2005 – Attachment 8).

The party's website indicates that a PAS government would also restrict the sale of alcohol, and prohibit gambling, prostitution, bribery, interest (*riba*) and so-called "oblivious entertainment". Also, that non-Muslims will have rights under a PAS government, including "the right to religious beliefs", "the right and freedom to practice and express their unique cultural and traditional heritage", the right to engage in "business opportunities which are not against the belief of Islam", and rights to private property, education, job opportunities and welfare ('FAQ—Introduction to PAS' Undated, Parti Islam Se Malaysia website <http://www.parti-pas.org/faq1.php> - Accessed 23 October 2005 – Attachment 9).

4. How do the main policies of PAS differ from those of the present ruling government?

Malaysia's multi-ethnic ruling coalition government, Barisan Nasional (National Front), "has ruled Malaysia uninterrupted since independence". The coalition, which includes 13 member parties, is dominated by the United Malays National Organization (UMNO) ('Barisan Nasional' 2005', Wikipedia website, 13 September http://en.wikipedia.org/wiki/Barisan_Nasional - Accessed 1 November 2005 – Attachment 10; RRT Country Research 2003, *Research Response MYS16197*, 15 October – Attachment 11).

A broad overview of the policies of the ruling government is provided in Barisan Nasional's 2004 Election Manifesto. The document, which is included as Attached 12, indicates, among other things, that Barisan Nasional "recognises Islam as the official religion of Malaysia and will continue to build a progressive and modern Islam Hadhari" (*Barisan Manifesto* 2004, Barisan Nasional website <http://www.bn.org.my/eng.pdf> - Accessed 7 November 2005 – Attachment 12).

Islam Hadhari or Civilisational Islam "emphasizes economic and technological development, social justice and tolerance for other religions". (Wiseman, P. 2004, 'In Malaysia, 'Islamic civilization' is promoted', USA Today website, 11 March http://www.usatoday.com/news/world/2004-11-03-malaysia-islam_x.htm - Accessed 8 November 2005 – Attachment 13)

Malaysia's Department of Islamic Development provides the following information about Islam Hadhari or "Civilisational Islam":

Islam Hadhari is an approach that emphasizes development, consistent with the tenets of Islam and focused on enhancing the quality of life. It aims to achieve this via the mastery of knowledge and the development of the individual and the nation; the implementation of a dynamic economic, trading and financial system; an integrated and balanced development that creates a knowledgeable and pious people who hold to noble values and are honest, trustworthy, and prepared to take on global challengers.

Islam Hadhari is not a new religion. It is not a new teaching nor is it a new mazhab (denomination). Islam Hadhari is an effort to bring the Ummah back to basics, back to the Fundamentals, as prescribed in the Quran and the Hadith that form the foundation of Islamic civilization. If Islam Hadhari is interpreted sincerely and

understood clearly, it will not cause Muslims to deviate from the true path.

As a government that is responsible for ensuring Muslims are able to meet current challenges without deviating from their faith, the doors of ijtihad must remain open, so that interpretations are suited to the developmental needs of the prevailing time and conditions. Policies must be balanced and broad-based development that encompasses the infrastructure and the economy; human resource development via a comprehensive education programme; the inculcation of noble values through spiritual development and assimilation of Islamic values.

Islam Hadhari aims to achieve ten main principles:

Faith and piety in Allah

A just and trustworthy government

A free and independent People

Mastery of knowledge

Balanced and comprehensive economic development

A good quality of life

Protection of the rights of minority groups and women

Cultural and moral integrity

Safeguarding the environment

Strong defenses ('The concept of Islam Hadhari' 2005, Department of Islamic

Development website <http://www.islam.gov.my/islamhadhari/concept.html> -

Accessed 8 November 2005 – Attachment 14).

Differences between UMNO, which leads Barisan Nasional, and PAS, particularly with regard to religion, are somewhat vague with a number of sources indicating that the two are currently "trying to out-Islamize each other" (Gatsiounis, I. 2004, 'Malaysia political parties vie to 'out-Islamize' each other', *The Christian Science Monitor* online edition, 9 March <http://www.csmonitor.com/2004/0309/p07s01-woap.html> - Accessed 8 November 2005 – Attachment 15).

5. How many party members are there?

According to the sources consulted, PAS has, or claims to have, around "1 million members" ('Opposition seeks electoral gains in Malaysia', *Taipei Times* online edition, 12 September <http://www.taipeitimes.com/News/world/archives/2003/09/12/2003067534/print> - Accessed 2 November 2005 – Attachment 6; 'Women demand more say in Malaysia's hardline Islamic party' 2005, *The Hindu* online edition, 3 June <http://www.hindu.com/thehindu/holnus/003200506030312.htm> - Accessed 2 November 2005 – Attachment 16).

6. How do you join PAS?

According to the PAS website, "PAS membership is open to all Malaysians who are Muslims and have reached the aged of puberty, regardless of ethnicity". The website indicates that a person wishing to become members must fill out an "application form" which can be obtained from a local "PAS branch" ('FAQ—Introduction to PAS' (Undated), Parti Islam Se Malaysia website <http://www.parti-pas.org/faq1.php> - Accessed 23 October 2005 – Attachment 9)

7. How many seats did the party win in the 2004 elections?

At the 2004 National elections, PAS “retained only seven of its 27 seats”, out of a nation-wide total of 219 parliamentary seats. (“Malaysian General Election’ 2004, Answers.Com website <http://www.answers.com/topic/malaysian-general-election-2004> - Accessed 1 November 2005 – Attachment 17; ‘Government routs opposition parties in Malaysian elections’, World Socialist Web Site, 29 March <http://www.wsws.org/articles/2004/mar2004/mal-m29.shtml> - Accessed 7 November 2005 – Attachment 18)

8. Europa states that in July 2002 PAS controlled the government of Terengganu. Do they still control the government of Terengganu?

9. How many seats do they hold in Terengganu?

At the 2004 State elections, PAS lost control of the State of Terengganu. According to the sources consulted, the Party “won only two of the 32 seats in the state assembly” (‘Malaysian General Election’ 2004, Answers.Com website <http://www.answers.com/topic/malaysian-general-election-2004> - Accessed 1 November 2005 – Attachment 17; Roberts, J. 2004, ‘Government routs opposition parties in Malaysian elections’, World Socialist Web Site, 29 March <http://www.wsws.org/articles/2004/mar2004/mal-m29.shtml> - Accessed 7 November 2005 – Attachment 18).

Reports also indicate that the party retained power in the State of Kelantan by a narrow margin of 4 seats (Roberts, J. 2004, ‘Government routs opposition parties in Malaysian elections’, World Socialist Web Site, 29 March <http://www.wsws.org/articles/2004/mar2004/mal-m29.shtml> - Accessed 7 November 2005 – Attachment 18).

10. Is there any evidence to suggest that the present government adversely treats PAS members?

Reports were not found among the sources consulted to suggest that the present government systematically or indiscriminately mistreats members of PAS. However, reports do indicate that members of PAS have been arrested, sometimes without charge, and, in certain instances, subject to prolonged periods detention under the terms of the *Internal Security Act*. Most recently, reports by *News Straits Times* and *Bernama Daily Malaysia News* indicated that PAS supporters were detained after clashing with police during the dispersal of illegal assemblies in July and August 2005. In the July incident, media reports state that “police detained 28 Pas supporters for rioting, trespassing and illegal assembly in two [separate] incidents in the [Kemaman] district”. In the August incident, reports indicate that police “used tear gas to disperse a crowd at two gatherings...which were held without permit” (‘Pas followers held for illegal assembly’ 2005, *New Straits Times*, 10 July – Attachment 19; ‘PAS blames police for causing disturbance’ 2005, *Bernama Daily Malaysian News*, 29 August – Attachment 20; ‘Police quiz PAS leaders over illegal “ceramah”’ 2005, *Bernama Daily Malaysian News*, 6 September – Attachment 21).

In 2004, a PAS member alleges that he was illegally arrested and detained for three days without charge by police in July after he had been called to police “headquarters to discuss an application by local Pas to hold a forum on...private property” (‘PAS member sues police, government over detention’ 2005, *Bernama Daily Malaysian News*, 26 October – Attachment 22).

Hakam, a Malaysia-based human rights group, provides a long list of individuals who have been detained under the ISA as of 1 October 2002. Among them are 11 PAS members (‘ISA Campaign’ 2002, Hakam website <http://www.hakam.org/isastats.htm> - Accessed 9 November 2005 – Attachment 23).

Concentrated incidents appear mostly to have occurred in 2001, when “alleged Muslim militants” were arrested and detained under the *Internal Security Act* (ISA). According to reports detailing events, “at least seven members of the main opposition party Parti Islam seMalaysia were arrested [between August and October 2001] under the ISA and accused of links with a local Islamic ‘extremist’ group, Kumpulan Mujahidin Malaysia (KMM), Malaysia Mujahidin Group”. Recent media reports indicate that nine alleged militants, who were arrested in 2001, remain in continuing detention – among them, PAS youth leaders and Nik Adli, the son of the party’s spiritual leader Nik Aziz Nik Mat. In July 2005, Malaysia’s highest appellate court ruled that the detention of five detainees was lawful (Amnesty International 2002, *Malaysia: Amnesty International Report 2002* – Attachment 24; ‘Malaysia urged to release nine alleged Muslim militants’ 2005, *Agence France Presse*, 14 July – Attachment 25; ‘ISA detention of five ruled lawful’ 2005, *New Straits Times*, 26 July – Attachment 26; ‘Malaysia extends detention of 6 alleged Muslim militants’ 2005, *Agence France Presse*, 27 September – Attachment 27).

11. The US State Report 2004 states that the Constitution prohibits discrimination against citizens based on race, descent or place of birth. Is there any information to suggest that people of Pakistani origin suffer discrimination in Malaysia?

Non-Malays, generally, experience various forms of discrimination under a longstanding government policy which privileges ethnic Malays, the so-called *bumiputra* or sons of the soil. The Malaysian Constitution, for instance, specifically provides, under article 153, that:

(The King of Malaysia) shall exercise his functions... in such a manner as may be necessary to safeguard the special position of the Malays... to ensure the reservation... of such proportion... in the public service... and of scholarships... and other similar educational... privileges or special facilities given... by the Federal Government (‘Bumiputra’ 2004, Fixed Reference website, sourced from the Wikipedia website <http://fixedreference.org/en/20040424/wikipedia/Bumiputra> - Accessed 9 November 2005 – Attachment 28).

The sources consulted indicate that non-Muslims face particular discrimination in Malaysia. (‘Discrimination against non-Muslims in Malaysia’ 2004, Fixed Reference website, sourced from the Wikipedia website http://fixedreference.org/en/20040424/wikipedia/Discrimination_against_non-Muslims_in_Malaysia - Accessed 9 November 2005 – Attachment 29; ‘Political forces’ 2005, *The Economist* online edition, 13 October <http://www.economist.com/countries/Malaysia/profile.cfm?folder=Profile-Political%20Forces> – Accessed 9 November 2005 – Attachment 30)

For an expansive consideration of the history of ethnic inequality in Malaysia, see Maznah Mohamad's February 2005 publication 'Ethnicity and Inequality in Malaysia: a Retrospect and a Rethinking', which is supplied as Attachment 31. Among other things, Mohamda notes that ethnic Indians "are the most economically [disadvantaged] and socially marginalized minority in the peninsula, next to migrant workers and rural communities of Sabah and Sarawak (Mohamad, Maznah 2005, 'Ethnicity and Inequality in Malaysia: a Retrospect and a Rethinking', Centre for Research on Inequality, Human Security and Ethnicity website, February <http://www.crise.ox.ac.uk/pubs/workingpaper9.pdf> – Accessed 3 March 2005 – Attachment 31).

Little information was found in the sources consulted on the specific treatment of Pakistanis in Malaysia. A letter to General Pervez Musharraf, which appears on a personal webpage, alleges that "ill-treatment of Pakistanis in Malaysia by the immigration authorities is a common occurrence" (Anees, M. 2000, 'Open letter to General Pervez Musharraf', Pemantau web page, 26 March <http://pemantau.tripod.com/artikel/26Mar2000musharraf.html> - Accessed 9 November 2005 – Attachment 32).

12. How far is Jerteh, Terengganu from Kuala Lumpur?

Jerteh, located on Peninsula Malaysia, is approximately 300 kilometres from Kuala Lumpur according of distance facility of Encarta Interactive Atlas 2000. A tourist website states that couch trip to Jerteh from Kuala Lumpur takes 7 hours ('Jerteh' 1999, Encarta Interactive Atlas 2000 – Attachment 33; 'How to get there' 2005, Perhentian Island Challenge website <http://www.perhentianislandchallenge.com/index.asp?pg=2> – Accessed 9 November 2005 – Attachment 34).

13. How far is Kuala Lumpur from Kudat, Sabah?

Kudat, located on the island of Borneo near Kota Kinabalu, is approximately 1,730 kilometres from Kuala Lumpur according of distance facility of Encarta Interactive Atlas 2000 ('Kudat' 1999, Encarta Interactive Atlas 2000 – Attachment 35). According to the website of the Kudat Golf & Marian Resort:

The approximate travelling time by plane to Kota Kinabalu is 2 hours from Kuala Lumpur...

Kudat Golf & Marina Resort is located a mere two and a half hour drive from Kota Kinabalu covering the journey of 190 KM ('How to get to Kudat Golf and Marina Resort' 2004, Kudat Golf & Marian Resort website <http://www.hotelssabah.com/howtoget.html> - Accessed 9 November 2005 – Attachment 36).

List of Sources Consulted

Internet Sources:

Google search engine

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UNHCR Refugee Information Online

Databases:

Public *FACTIVA*

Reuters Business Briefing

DIMIA *BACIS*

Country Information

REFINFO

IRBDC Research Responses (Canada)

RRT	<i>ISYS</i>	RRT Country Research database, including Amnesty International, Human Rights Watch, US Department of State <i>Country Reports on Human Rights Practices</i> .
RRT Library	<i>FIRST</i>	RRT Library Catalogue

List of Attachments

1. 'PAS rocking to a new beat? A concert featuring Mawi and Nasir may not be enough if PAS wants to shed its hardline image', *Today (Singapore)*, 14 October. (FACTIVA)
2. Ahmad, A. R. 2005, 'Pas forges ahead with moderation strategy', *New Sunday Times*, 25 September. (FACTIVA)
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(http://en.wikipedia.org/wiki/Islamic_Party_of_Malaysia - Accessed 1 November 2005)
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16. 'Women demand more say in Malaysia's hardline Islamic party' 2005, *The Hindu* online edition, 3 June. (<http://www.hindu.com/thehindu/holnus/003200506030312.htm> - Accessed 2 November 2005)
17. 'Malaysian General Election' 2004, Answers.Com website. (<http://www.answers.com/topic/malaysian-general-election-2004> - Accessed 1 November 2005)
18. Roberts, J. 2004, 'Government routs opposition parties in Malaysian elections', World Socialist Web Site, 29 March. (<http://www.wsws.org/articles/2004/mar2004/mal-m29.shtml> - Accessed 7 November 2005)
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36. 'How to get to Kudat Golf and Marina Resort' 2004, Kudat Golf & Marian Resort website. (<http://www.hotelssabah.com/howtoget.html> - Accessed 9 November 2005).