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Human Rights in Asia-Pacific; Review of 2019 - Malaysia

The Pakatan Harapan coalition government struggled to implement human rights reforms as promised in its 2018 election manifesto. While it took steps toward creating a formal police complaints commission, repressive laws limiting the rights to freedom of expression and peaceful assembly remained on the books. The government accepted more recommendations during a review of its human rights record at the UN Human Rights Council than ever before. However, it rejected recommendations to protect the rights of LGBTI and Indigenous peoples.[1] The government also backtracked from its decision to join the Rome Statute of the International Criminal Court in April, a month after it had promised to accede to it.

Freedom of expression

The government tolerated a degree of criticism, but continued to use laws restricting the right to freedom of expression, such as the Sedition Act and the Communications and Multimedia Act, especially against those making comments deemed sensitive, involving race, religion or royalty. In March, a 22-year-old was sentenced to 10 years in prison for posting offensive comments about Islam on social media. In July, Islamic preacher Wan Ji Wan Hussin was sentenced to one year in prison following his failed appeal against a 2014 conviction under the Sedition Act over comments he had made about the sultan of Selangor state. The sentence was stayed pending appeal. In October, the government banned *Belt and Road Initiative for Win-Winism*, a comic book promoting China’s foreign policy goals in Malaysia, for “[trying] to promote communism and socialism ideologies.”

Freedom of peaceful assembly

In July, the Peaceful Assembly Act 2012 was amended to relax restrictions on processions, marches, and other forms of peaceful demonstration, and also shorten the notification period required for assemblies from 10 to seven days. Public protests were generally tolerated, although in March authorities questioned organisers of an International Women’s Day march because of what were deemed to be pro-LGBT speeches and slogans. The investigation was ultimately dropped. In August, police opened investigations into the organisers of a protest over the government’s decision to

allow a rare-earth processing plant to continue operations. Similar action was taken in October, following a pro-Hong Kong solidarity march in Kuala Lumpur. In both cases no charges were filed. In December, police successfully obtained a court order to stop a Chinese-language education lobby group from holding a congress to discuss its objections to the teaching of Jawi, an Arabic script for writing the Malay language.

Indigenous peoples' rights

In January, the government explicitly pledged to recognise and protect the rights of Indigenous peoples, and consider previous recommendations made by the Human Rights Commission of Malaysia.^[2] The same month, the government filed a lawsuit against the Kelantan state government for failing to protect lands belonging to an Indigenous community. Yet despite these positive steps, Indigenous peoples continued to be marginalized. In July, police arrested three Orang Asli protestors after they attempted to prevent state forestry officials from removing a blockade near a logging site in Perak. The incident followed a spate of deaths affecting the Batek people in Kelantan state, which the government later attributed to measles. The deaths highlighted the poor quality of government-provided healthcare to Indigenous communities. These concerns and others, including reports that Indigenous peoples had been forced to use birth control, were raised by the United Nations Special Rapporteur on Extreme Poverty and Human Rights following his August visit to Malaysia.

Police and security forces

In July, after years of calls from human rights groups to address police abuse, the government tabled the Independent Police Complaints and Misconduct Commission bill, which aimed to set up a new police monitoring body. However, the first draft of the bill, which was debated and voted on in October by Parliament, was heavily criticised by civil society organisations for being weak and giving excessive powers to the prime minister. In December, the government said that it would table a revised version of the bill in March 2020.

Death penalty

Having announced its intention to fully abolish the death penalty in 2018, the government reversed this decision in March, stating that it would only repeal the mandatory death penalty for 11 criminal offences.^[3] In October, the government said it planned to introduce the legislation in March 2020. There were no executions since October 2018.

Freedom of religion

In June, the Kelantan state government announced plans to convert all Indigenous peoples in the state, who customarily practice animism, to Islam by 2049. The announcement corroborated the widely-held view that the government had a policy of converting all Indigenous peoples to Islam.

In September, the High Court dismissed the application by women’s rights group Sisters In Islam to challenge a 2014 fatwa issued by the Selangor Islamic Religious Council against the organisation. Civil society organisations feared this precedent would allow Islamic authorities to undermine the rights to freedom of religion and freedom of expression.

Also in September, the authorities detained dozens of Shiites who were commemorating Ashura, a Shia holy day, in raids around the country. Witnesses reported that the police ill-treated those detained in a raid in Johor, including threatening some detainees with a gun. They were later released.

Rights of lesbian, gay, bisexual, transgender and intersex people

Discrimination against LGBTI people continued both in law and in practice. Section 377A of the Penal Code criminalized oral and anal sex between consenting adults. In April, police questioned LGBTI rights activist Numan Afifi over a speech he gave during Malaysia’s review at the UN Human Rights Council, in which he addressed issues of gender identity and sexual orientation. In June, the Islamic Development Department accused the International Conference on Gender and Sexuality, which was to be held in Kuala Lumpur in October, of “promoting LGBTI” in Malaysia. The conference’s venue was then moved to Thailand. In November, the government caned and imprisoned five men after they were found guilty of “attempting intercourse against the order of nature” by the Selangor state Sharia court.

Torture and other ill-treatment

Reports of abuse in custody continued. In May, a 30-year-old man suspected of armed robbery claimed he was assaulted, tasered, and had his genitals rubbed with chili paste by police officers to induce a confession from him. The government did not respond to these claims. In July, Thomas Orhions Ewansiha, a 34-year-old Nigerian doctoral student, died in an Immigration Detention Centre. An inquest into the death was scheduled to be held in January 2020. In October, a prisoner in the state of Sabah was found dead in his cell with blunt force trauma wounds to his head and body. The police said they were investigating the case.

Refugees and asylum-seekers

Malaysia, which is not a party to the 1951 Refugee Convention but permits the UN Refugee Agency (UNHCR) to process refugees, deported at least two asylum seekers. In May, police arrested Praphan Pipithnamporn, a Thai political activist registered with

UNHCR, and deported her at the request of the Thai authorities. In August, the authorities deported Arif Komis, also registered with UNHCR, along with his family, back to Turkey, where he was said to face accusations of belonging to the Gulen network. Both deportations violated the international legal rule of non-refoulement.

[1] Malaysia: Ratify core human rights treaties, repeal repressive laws, and abolish the death penalty (ASA 28/0028/2019, 14 March).

[2] Malaysia: Fully recognise and protect Indigenous rights (ASA 28/9723/2019, 23 January).

[3] Malaysia: Repeal of mandatory death penalty should be a first step towards full abolition (ACT 50/0040/2019, 14 March).

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