Document #2004247

USDOS – US Department of State

Country Report on Human Rights Practices 2018 - Malaysia

EXECUTIVE SUMMARY

Malaysia is a federal constitutional monarchy. It has a parliamentary system of government selected through regular, multiparty elections and is headed by a prime minister. The king is the head of state and serves a largely ceremonial role; he serves a five-year term; the kingship rotates among the sultans of the nine states with hereditary rulers. In May parliamentary elections, the opposition Pakatan Harapan coalition defeated the ruling Barisan Nasional coalition, resulting in the first transfer of power between coalitions since independence in 1957. Before and during the campaign, opposition politicians and civil society organizations alleged electoral irregularities and systemic disadvantages for opposition groups due to lack of media access and malapportioned districts favoring the then-ruling coalition.

Civilian authorities at times did not maintain effective control over security forces.

Human rights issues included: reports of unlawful or arbitrary killings by the government or its agents; arbitrary or unlawful interference with privacy; censorship, site blocking, and abuse of criminal libel law; substantial interference with the rights of peaceful assembly and freedom of association; corruption; violence against transgender persons and criminalization of adult same-sex sexual activities; child labor; and trafficking in persons.

The government arrested and prosecuted some officials engaged in corruption, malfeasance, and human rights abuses, although civil society groups alleged continued impunity.

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings

There were reports the government or its agents committed arbitrary or unlawful killings. According to the National Human Rights Commission (SUHAKAM), 521 persons died in prison from 2015 through 2016, while more than 100 individuals died in immigration detention centers. The government claimed that deaths in police custody, particularly those caused by police, were rare, but civil society activists disputed this claim. In a 2018 report on custodial deaths, the nogovernmental organization (NGO) Lawyers For Liberty described a "broken system that abets the perpetrators of these crimes."

Early in the year, the government's Enforcement Agency Integrity Commission (EAIC) determined that police were guilty of "serious misconduct" in relation to the 2017 death of a man in police custody. The EAIC also found that closed-circuit cameras in the police station were nonfunctional. No further action was taken.

In March a 39-year-old man was found dead in a police detention center. A police official stated the incident was believed to have been caused by negligence and would be investigated. No further action was taken.

Investigation into use of deadly force by a police officer occurs only if the attorney general initiates the investigation or if the attorney general approves an application for an investigation by family members of the deceased. When the attorney general orders an official inquiry, a coroner's court convenes, and the hearing is open to the public. In such cases, courts generally issued an "open verdict," meaning that there would be no further action against police.

b. Disappearance

In January the inspector general of police informed SUHAKAM that police had charged a man with the February 2017 abduction of Christian pastor Raymond Koh. Police noted that the law bars SUHAKAM from investigating any complaint that is the subject of a court proceeding, after which SUHAKAM announced it would "immediately cease" its public inquiry into the matter. Some civil society members believed the arrest was an attempt by police to stop SUHAKAM's public inquiry into Koh's disappearance. SUHAKAM announced in May it would reopen its investigation, although little progress was made in the case.

Police also made little progress in investigating the separate disappearances in November 2016 of Christian pastor Joshua Hilmy and his wife Ruth, and of Amri Che Mat, a Muslim activist alleged to be linked to Shiite teachings. SUHAKAM continued public inquiries into the disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

No law specifically prohibits torture; however, laws that prohibit "committing grievous hurt" encompass torture. More than 60 offenses are subject to caning, sometimes in conjunction with imprisonment, and judges routinely mandated caning as punishment for crimes including kidnapping, rape, robbery, and nonviolent offenses such as narcotics possession, criminal breach of trust, migrant smuggling, immigration offenses, and others.

Civil and criminal law exempt men older than age 50, unless convicted of rape, and all women from caning. Male children between ages 10 and 18 may receive a maximum of 10 strokes of a "light cane" in a public courtroom.

Some states' sharia provisions, which govern family issues and certain crimes under Islam and apply to all Muslims, also prescribe caning for certain offenses. Women are not exempt from caning under sharia, and national courts have not resolved conflicts between the constitution, the penal code, and sharia.

In August a sharia court in Terengganu State sentenced a woman to six months in jail and six strokes of the cane for prostitution. No charges were filed against the woman's alleged client.

Civil laws in Kelantan State allow courts to sentence individuals to public caning for certain civil offenses, although there were no reports of such punishment in the state.

Prison and Detention Center Conditions

Conditions in prisons and detention centers operated by the government's Immigration Department were harsh. In 2017 SUHAKAM described the conditions at one police detention center as "cruel, inhumane, and degrading." In January SUHAKAM made a follow-up visit to a police detention center in Johor State that it recommended be closed due to poor conditions. According to SUHAKAM, "conditions of the lock-up remain unchanged and unsatisfactory."

Physical Conditions: Overcrowding in prisons and immigration detention centers, particularly in facilities near major cities, remained a serious problem. According to the Home Ministry, 20 of the country's 37 prisons were overcrowded.

In April Thanabalan Subramaniam, age 38, died in police custody in Selangor State; a postmortem could not determine the cause of death but found no signs of abuse. According to Amnesty International, the incident "shows that the authorities, at the very least, are (sic) not proactive in ensuring that [the inmate] received immediate and comprehensive medical treatment in case of an emergency or health hazard. His death also suggests that standard operating procedures put in place for these kind of situations may have been neglected."

Administration: The law allows for investigations into allegations of mistreatment; however, this did not always function in practice. Law enforcement officers found responsible for deaths in custody do not generally face punishment. In August the lawyer for a man who died in police custody in 2014 said no investigation was conducted into his client’s death, which the EAIC’s investigations revealed was caused by police beatings.

Authorities restricted rights to religious observance for members of Islamic sects the government banned as “deviant.”

Independent Monitoring: Authorities generally did not permit NGOs and media to monitor prison conditions; the law allows judges to visit prisons to examine conditions and ask prisoners and prison officials about conditions. The government provided prison access to the EAIC, the International Committee of the Red Cross, and SUHAKAM, on a case-by-case basis.

The Office of the United Nations High Commissioner for Refugees (UNHCR) generally had access to registered refugees and asylum seekers, and to unregistered persons of concern who may have claims to asylum or refugee status held in immigration detention centers and prisons. This access, however, was not always timely.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention and provides for the right of any person to challenge the lawfulness of his or her arrest or detention in court, and the government generally observed these requirements. Police may use certain preventive detention laws to detain persons suspected of terrorism, organized crime, gang activity, and trafficking in drugs or persons without a warrant or judicial review for two-year terms, renewable indefinitely. Within seven days of the initial detention, however, police must present the case for detention to a public prosecutor. If the prosecutor agrees “sufficient evidence exists to justify” continued detention and further investigation, a fact-finding inquiry officer appointed by the minister of home affairs must report within 59 days to a detention board appointed by the king. The board may renew the detention order or impose an order to restrict, for a maximum of five years, a suspect’s place of residence, travel, access to communications facilities, and use of the internet. Details on the numbers of those detained or under restriction orders were not generally available.

In other cases the law allows investigative detention to prevent a criminal suspect from fleeing or destroying evidence during an investigation.

Immigration law allows authorities to arrest and detain noncitizens for 30 days pending a deportation decision.

Role of the Police and Security Apparatus

The Royal Malaysia Police force, with approximately 102,000 personnel, reports to the home affairs minister. The inspector general of police is responsible for organizing and administering the police force. The Ministry of Home Affairs also oversees immigration and border enforcement and the People’s Volunteer Corps, a paramilitary civilian organization. NGOs remained concerned inadequate training left corps members poorly equipped to perform their duties.

State-level Islamic religious enforcement officers have authority to accompany police on raids or conduct their own raids of private premises and public establishments to enforce sharia, including bans on indecent dress, alcohol consumption, sale of restricted books, or close proximity to unrelated members of the opposite sex. Religious authorities at the state level administer sharia for civil and family law through Islamic courts and have jurisdiction for all Muslims.

Civilian authorities at times did not maintain effective control over security services. The government has some mechanisms to investigate and punish abuse and the EAIC and SUHAKAM played a role in investigating alleged abuses committed by the security forces (see section 1.b.). NGOs and media reported that, despite investigation into some incidents, security forces often acted with impunity.

Police officers are subject to trial by criminal and civil courts, but convictions were infrequent. Police representatives reported disciplinary actions against police officers; punishments included suspension, dismissal, and demotion. Police training included human rights awareness in its courses. SUHAKAM also conducted human rights training and workshops for police and prison officials. In October the inspector general of police stated 72 police personnel were fired and 1,484 others were disciplined during the year through September for such offenses as “abuse of power, negligence, failure to report for duty, as well as criminal activities.”

Arrest Procedures and Treatment of Detainees

The law permits police to arrest and detain individuals for some offenses without a warrant, even outside situations of a crime in progress or other urgent circumstances. To facilitate investigations, police can hold a suspect for 24 hours, which can be extended for a maximum 14 days by court order under general criminal law provisions. NGOs reported a police practice of releasing suspects and then quickly rearresting them in order to continue investigative custody without seeking judicial authorization. In August the lawyer for a person suspected of criminal breach of trust claimed police held his client in custody for more than 40 days without any charges, repeatedly extending the remand order by moving the suspect from one jurisdiction to another. A local human rights NGO described the extended detention as “excessive and [an] abuse of power” by police.

Some NGOs asserted that a police approach of “arrest first, investigate later” was prevalent, particularly in cases involving allegations of terrorism. By law a person must be informed of the grounds for arrest by the arresting officer.

Bail is usually available for persons accused of crimes not punishable by life imprisonment or death. The amount and availability of bail is at the judge’s discretion. Persons granted bail usually must surrender their passports to the court.

Police must inform detainees of the rights to contact family members and consult a lawyer of their choice. Nonetheless, police often denied detainees’ access to legal counsel and questioned suspects without allowing a lawyer to be present. Police justified this practice as necessary to prevent interference in investigations in progress, and the courts generally upheld the practice.

While authorities generally treated attorney-client communications as privileged, in 2017 the Federal Court, the country’s highest court, ruled that Malaysian Anticorruption Commission officials could question lawyers who accompanied their clients to commission hearings (which are nonjudicial) about their interaction with their clients and the content of their discussions.

Police sometimes did not allow detainees prompt access to family members or other visitors.

The law allows the detention of a material witness in a criminal case if that person is likely to flee.

<u>Arbitrary Arrest</u>: Authorities sometimes used their powers to intimidate and punish opponents of the government. Activists and government critics were often subject to late-night arrests, long hours of questioning, and lengthy remand periods, even if they were not ultimately charged with an offense. According to SUHAKAM, police raided the home of lawyer and civil society activist Siti Kasim in June “without the police adequately and reasonably investigating the factual circumstances of the case.”

<u>Pretrial Detention</u>: Crowded and understaffed courts often resulted in lengthy pretrial detention, sometimes lasting several years. The International Center for Prison Studies reported that pretrial detainees made up approximately 26 percent of the prisoner population in mid-2015.

<u>Detainee’s Ability to Challenge Lawfulness of Detention before a Court</u>: Detainees have the right to challenge their detention by filing a habeas corpus application, although they were rarely successful, especially when charged under preventive detention laws.

e. Denial of Fair Public Trial

Three constitutional articles provide the basis for an independent judiciary; however, other constitutional provisions, legislation restricting judicial review, and executive influence over judicial appointments limited judicial independence and strengthened executive influence over the judiciary. The judiciary frequently deferred to police or executive authority in cases those parties deemed as affecting their interests.

Members of the Malaysian Bar Council, NGO representatives, and other observers expressed serious concern about significant limitations on judicial independence, citing a number of high-profile instances of arbitrary verdicts, selective prosecution, and preferential treatment of some litigants and lawyers.

According to Lawyers for Liberty, the former government was guilty of “concerted attempts to politicize the judiciary,” including forcing judicial officers to attend a political lecture in May 2017 “in flagrant breach of the doctrine of separation of powers and the concept of an independent judiciary.”

In August court of appeal judge Hamid Sultan Abu Backer said he was “severely reprimanded” by an unnamed senior judge for dissenting in a high-profile case and was never again assigned to hear public interest cases related to constitutional matters.

Trial Procedures

The constitution provides for the rights to a fair and public trial, and the judiciary generally enforced this right. The civil law system is based on British common law and defendants are presumed innocent until proven guilty. Defendants have the right to be informed promptly of the charges against them and the right to a timely trial and the right to be present at their trial. Defendants have the right to communicate with an attorney of their choice or to be appointed counsel at public expense if they face charges that carry the death penalty. Defendants also may apply for a public defender in certain other cases.

According to the Malaysian Bar Council, defendants generally had adequate time and facilities to prepare a defense if they had the means to engage private counsel. Otherwise, defendants must rely on legal aid and the amount of time to prepare for trial is at the discretion of the judge. Authorities provide defendants free interpretation in Mandarin, Tamil, and some other commonly used dialects from the moment charged through all appeals. The right to confront witnesses is limited by provisions allowing the identity of prosecution witnesses to be kept secret from the defense before a trial, which inhibits cross-examination of those witnesses. Defendants may present witnesses and evidence on their behalf. Limited pretrial discovery in criminal cases also impeded the defense. Strict rules of evidence apply in court. Defendants cannot be compelled to testify or confess guilt.

Defendants may appeal court decisions to higher courts, but only if the appeal raises a question of law or if material circumstances raise a reasonable doubt regarding conviction or sentencing. The Malaysian Bar Council claimed these restrictions were excessive.

In cases related to terrorism or national security, the law allows police to hold persons even after acquittal against the possibility of appeal by the prosecution.

Many NGOs complained women did not receive fair treatment from sharia courts, especially in cases of divorce and child custody (see section 6).

Political Prisoners and Detainees

In May opposition leader Anwar Ibrahim was released from detention after receiving a full royal pardon for consensual sodomy, a charge he denied and many international observers and human rights organizations viewed as politically motivated. Until his release, authorities generally permitted Anwar’s lawyers and family to visit him; however, in April prison authorities banned attorney Latheefa Koya from seeing Anwar because she violated prison regulations by allegedly releasing a statement to the press in which Anwar purportedly criticized a controversial bill in parliament. Family members said prison officials at times limited Anwar’s access to medical treatment for a shoulder injury.

Civil Judicial Procedures and Remedies

Individuals or organizations may sue the government and officials in court for alleged violations of human rights; however, a large case backlog often resulted in delays in civil actions, to the disadvantage of plaintiffs. The courts have increasingly encouraged the use of mediation and arbitration to speed settlements.

f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence

Laws prohibit such actions; nevertheless, authorities sometimes infringed on citizens’ privacy. Under national security laws, police may enter and search the homes of persons suspected of threatening national security without a warrant. The government monitored the internet and threatened to detain anyone sending or posting content the government deemed a threat to public order or security (see section 2.a.).

Islamic authorities may enter private premises without a warrant to apprehend Muslims suspected of engaging in offenses such as gambling, consumption of alcohol, and sexual relations outside marriage.

The government does not recognize marriages between Muslims and non-Muslims and considers children born of such unions illegitimate.

In 2017 the court of appeal ruled that the National Registration Division was not bound by an edict issued by the National Fatwa Committee that declared children to be illegitimate, and therefore unable to take their father's name, if they were born fewer than six months after the parents' marriage. The government, however, appealed the case and successfully applied for a stay. The case remained pending.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Expression, Including for the Press

The constitution allows restrictions on the freedom of expression "in the interest of the security of the Federation...[or] public order." The former government regularly restricted freedom of expression for the media and civil society, citing reasons such as upholding Islam and the special status of ethnic Malays, protecting national security, maintaining public order, and preserving friendly relations with other countries.

Freedom of Expression: The law prohibits sedition and public comment on issues defined as sensitive, including racial and religious matters or criticism of the king or ruling sultans. Sedition charges often followed comments by vocal civil society or opposition leaders. Civil society groups claimed the former government generally failed to investigate and prosecute similar statements made by progovernment or pro-Malay persons.

Citing a "misdirection of law," the court of appeals in February overturned the 2014 conviction of Adam Adli under the Sedition Act after he urged people to topple the government during a Kuala Lumpur forum in 2013. Authorities also withdrew Sedition Act charges against Members of Parliament Khalid Samad, Hassan Abdul Karim, and R. Sivarasa; former Member of Parliament Tian Chua; human rights lawyers N. Surendran and Eric Paulsen; socialist party central committee member S. Arulchevan; and political cartoonist Zulkiflee Anwar Al Haquem, popularly known as Zunar. The government initiated new charges under the Sedition Act against several persons for allegedly criticizing the country's royal families.

In February artist Fahmi Reza was sentenced to one month in jail and fined RM30,000 ($7,500) for publishing a caricature of then prime minister Najib Razak in 2016 that was deemed "obscene, indecent, false, menacing or offensive in character with intent to annoy, abuse, threaten, or harass another person." Amnesty International called the decision "yet another example of the continued crackdown on dissent by the Malaysian authorities." In November the High Court upheld the conviction but reduced the fine to RM10,000 ($2,500) and revoked the jail sentence. In October prosecutors dropped similar charges against Fahmi in a separate case.

In September the Federal Court ruled that the government can sue individuals for defamation. Human rights groups, the Malaysian Bar Council, and former judges criticized the decision, describing it as "not in consonance with the citizens' freedom of speech and the principle of good governance."

Press and Media Freedom: Political parties and individuals linked to the former ruling coalition owned or controlled a majority of shares in almost all print and broadcast media, many of which were overtly progovernment. Online media outlets were more independent but were often the target of legal action and harassment.

Despite many restrictions and official pressure, opposition parties, social action groups, unions, internet news sites, and other private groups actively covered opposition parties and frequently printed views critical of government policies. Online media and blogs provided views and reported stories not featured in the mainstream press.

The government maintained and at times exerted control over news content, both in print and broadcast media. The former government punished publishers of "malicious news" and banned, restricted, or limited circulation of publications believed a threat to public order, morality, or national security. The government has the power to suspend publication for these reasons and retained effective control over the licensing process. In February the Malaysian Communications and Multimedia Commission (MCMC) asked two online news portals to remove articles that went "against the country's laws." According to media, "the articles all addressed current issues and local politics, while being openly critical of certain political parties and leaders."

In April parliament passed the Anti-Fake News law, criminalizing the "malicious" production or dissemination of "any news, information, data or reports, which is or are wholly or partly false." Later that same month, Salah Salem Saleh Sulaiman, a Danish national of Yemeni descent, pled guilty to maliciously creating and publishing fake news and was fined RM10,000 ($2,500) for posting a video on social media in which he alleged police did not respond promptly to emergency calls following the assassination of Palestinian lecturer Fadi Albatsh on April 21. Parliamentarians voted to repeal the law in August, but the opposition-controlled Senate overturned the decision, postponing the law's repeal for as long as one year.

The former government sometimes barred online media from covering government press conferences.

Violence and Harassment: Journalists were subject to harassment and intimidation, especially in the run-up to the general election.

Censorship or Content Restrictions: The former government censored media, primarily print and broadcast media; the new government maintained the ability to censor media but did not use this power as frequently. In addition to controlling news content by banning or restricting publications believed to threaten public order, morality, or national security, the former government prosecuted journalists for "malicious news," and took little or no action against persons or organizations that abused journalists. The law requires a permit to own a printing press, and printers often were reluctant to print publications critical of the government due to fear of reprisal. Such policies, together with antidefamation laws, inhibited independent or investigative journalism and resulted in extensive self-censorship in the print and broadcast media.

On election night the MCMC reportedly instructed internet service providers to block access to independent media outlets such as *Malaysiakini*, which were publishing unofficial election results indicating a possible win by the Pakatan Harapan opposition coalition. The new government ordered an investigation into the matter.

The government occasionally censored foreign magazines, newspapers, and news programming, most often due to sexual content.

Government restrictions on radio and television stations mirrored those on print media, and all also predominantly supported the government. News about the opposition in those media remained restricted and biased. Television stations censored programming to follow government guidelines.

The government generally restricted publications it judged might incite racial or religious disharmony. The Ministry of Home Affairs maintained a list of 1,653 banned publications as of March 2017. In April 2018 the ministry banned six books whose contents it judged could be detrimental to public order, morality, or public interest, including texts that contained "elements promoting liberalism that can cause confusion among some readers." In January the court of appeal ruled a 2015 ban on three books by novelist Faisal Musa violated the author's freedom of speech. The previous government appealed the decision, but in October the new government withdrew the appeal and instructed the Ministry of Home Affairs to remove the titles from its list of banned publications.

Libel/Slander Laws: The law includes sections on civil and criminal defamation. Criminal defamation is punishable by a maximum two years' imprisonment, a fine, or both. True statements can be considered defamatory if they contravene the "public good." The government and its supporters used these laws, along with provisions against sedition, to punish and suppress publication of material critical of government officials and policies. In August prosecutors charged a member of the opposition United Malays National Organization (UMNO) under the Communications and Multimedia Act for allegedly insulting another UMNO member on Facebook. The accused's attorney questioned why prosecutors dropped similar charges against members of the ruling coalition.

National Security: Authorities under the former government occasionally cited national security laws to restrict media distribution of material critical of government policies and public officials.

Nongovernmental Impact: NGOs sympathetic to the former government sought to limit freedom of expression through criminal complaints of allegedly seditious speech. Such NGOs also sometimes attempted to intimidate opposition groups through demonstrations.

Internet Freedom

The government generally maintained a policy of restricted access to the internet. Authorities blocked some websites and monitored the internet for email messages and blog postings deemed a threat to public security or order. Following the May election, the new government restored access to several online media outlets that were previously blocked, including *Sarawak Report* and *Medium*.

Authorities restricted internet freedom to combat dissenting political views online. In August the minister of religious affairs stated government authorities would monitor "LGBT (lesbian, gay, bisexual, and transgender) issues, as well as liberal Islam" on social media.

The government warned internet users to avoid offensive or indecent content and sensitive matters such as religion and race, and aggressively pursued charges against those criticizing Islam, the country's royalty, or its political leaders.

In July authorities opened an investigation into lawyer Fadiah Nadwa under the Sedition Act and Communications and Multimedia Act in relation to a blog post in which she criticized the royalty.

In February a man was sentenced to a RM20,000 ($5,000) fine or four months in jail for uploading content to Facebook in 2016 related to the prime minister and attorney general that authorities deemed offensive.

Sedition and criminal defamation laws led to self-censorship by local internet content sources including bloggers, news providers, and NGO activists.

The law requires internet and other network service providers to obtain a license, and permits punishment of the owner of a website or blog for allowing offensive racial, religious, or political content. By regarding users who post content as publishers, the government places the burden of proof on the user in these cases. NGOs and members of the public criticized the law, noting it could cause self-censorship due to liability concerns.

According to the International Telecommunication Union, approximately 80 percent of the population had access to the internet in 2017.

Academic Freedom and Cultural Events

The government placed some restrictions on academic freedom, particularly the expression of unapproved political views, and enforced restrictions on teachers and students who expressed dissenting views. The government requires all civil servants, university faculty, and students to sign a pledge of loyalty to the king and government. Opposition leaders and human rights activists claimed the government used the loyalty pledge to restrain political activity among these groups. Although faculty members sometimes publicly criticized the government, public university academics whose career advancement and funding depended on the government practiced self-censorship. Self-censorship took place among academics at private institutions as well, spurred by fear the government might revoke the licenses of their institutions. The law imposes limitations on student associations and on student and faculty political activity. In February a court ruled on procedural grounds that the University of Malaya should not have disciplined four students for holding political placards during a town hall meeting in 2016. The court did not, however, entertain the students’ claim that the university’s actions violated their right to freedom of expression.

The government regularly censored films, editing out profanity, kissing, sex, and nudity. The government also censored films for certain political and religious content, not allowing, for example, screening of films in Hebrew, Yiddish, or from Israel. Although the government allowed foreign films at local film festivals, it sometimes censored content by physically blocking screens until the objectionable scene was over. Media censorship rules forbid movies and songs that promote acceptance of gay persons (see section 6). The Film Censorship Board banned a controversial Hindi film that featured a relationship between a Hindu queen and a Muslim ruler in medieval India. The board also banned *Those Long Haired Nights*, a Philippine film about transgender prostitutes.

b. Freedoms of Peaceful Assembly and Association

The constitution provides for the freedoms of peaceful assembly and association but allows restrictions deemed necessary or expedient in the interest of security, public order, or (in the case of association) morality. Abiding by the government’s restrictions did not protect some protesters from harassment or arrest.

Freedom of Assembly

The constitution provides all citizens “the right to assemble peaceably and without arms;” however, several laws restricted this right. Although the law does not require groups to obtain a permit for assemblies, police frequently placed time, location, and other restrictions on the right to assemble. Authorities banned street protests, and police sometimes confronted civil society and opposition demonstrations with mass arrests.

Protests deemed acceptable by the government usually proceeded without interference.

In December police approved a demonstration opposing the ratification of the International Convention on the Elimination of All Forms of Racial Discrimination but rescinded a previously approved application to hold a Human Rights Day event on the same day citing security risks.

Freedom of Association

The constitution provides for the right of association; however, the government placed significant restrictions on this right, and certain statutes limit it. By law only registered organizations of seven or more persons may legally function. The government often resisted registering organizations deemed particularly unfriendly to the government or imposed strict preconditions. The government may revoke registrations for violations of the law governing societies.

The government bans membership in unregistered political parties and organizations.

The law prohibits students who hold political positions from conducting political party activities on campus. Students are also prohibited from “expressing support or sympathy” for an unlawful society or organization. In December the lower house of parliament passed amendments to legislation on university students’ participation in political-party activities on campus. The Senate, however, did not approve the legislation during the year. Earlier in the year the government lifted the ban on opposition politicians visiting schools in their constituencies, but required them to first obtain approval from state authorities.

Many human rights and civil society organizations had difficulty obtaining government recognition as NGOs. As a result, many NGOs registered as companies, which created legal and bureaucratic obstacles to raising money to support their activities. Authorities frequently cited a lack of registration as grounds for action against organizations. Some NGOs also reported the government monitored their activities in order to intimidate them.

c. Freedom of Religion

See the Department of State’s *International Religious Freedom Report* at www.state.gov/religiousfreedomreport/ (http://www.state.gov/religiousfreedomreport/).

d. Freedom of Movement

The constitution provides for freedom of internal movement, emigration, and repatriation, but these rights were often restricted by federal and state government officials, particularly in eastern Sabah and Sarawak States.

Abuse of Migrants, Refugees, and Stateless Persons: The government generally did not impede organizations providing protection and assistance to migrants, refugees, and stateless persons, most of whom lived intermingled with the general public. Access to those in detention centers, however, was often significantly limited.

Migrants, refugees, and stateless persons receive no government support. The government allows UNHCR and NGOs to work with these populations, but government cooperation with UNHCR was inconsistent. In 2017 the government launched the Tracking Refugees Information System to register refugees and collect their biometric data. The program requires refugees to pay an annual fee of RM500 ($125) for an identification card but did not provide any benefits.

As "illegal immigrants," refugees and others are subject to deportation at any time. They also face a maximum five years' imprisonment, a fine of RM10,000 ($2,500), or both, and mandatory caning of a maximum six strokes if convicted of immigration law violations.

In July the government used what some NGOs called inhuman and degrading methods to carry out a mass operation to arrest undocumented migrant workers.

Most migrants, refugees, and stateless persons lived in private accommodations and survived on support from UNHCR and NGOs or illegal casual labor. The government, however, held thousands in immigration detention centers and other facilities.

NGOs and international organizations involved with these populations made credible allegations of overcrowding, inadequate food and clothing, lack of regular access to clean water, poor medical care, improper sanitation, and lack of bedding. An NGO with access to the detention centers claimed these conditions and the lack of medical screening and treatment facilitated the spread of disease and contributed to deaths. NGOs provided most medical care and treatment in the detention centers.

Local and international NGOs estimated the population at most of the country's 17 immigration detention centers was at or beyond capacity, with some detainees held for a year or longer. The number detained in these centers was not publicly available.

In-country Movement: Sabah and Sarawak States controlled immigration into their areas and required citizens from peninsular Malaysia and foreigners to present passports or national identity cards for entry. State authorities continued to deny entry to certain national opposition leaders to these states. Sarawak maintained a travel ban on a SUHAKAM commissioner for criticizing the construction of a controversial dam in the state. SUHAKAM stated the travel ban prevented it from holding its October commission meeting as planned.

Foreign Travel: Travel to Israel is subject to approval and limited to religious purposes. The government also sometimes used its powers to restrict travel by its critics. In addition to preventing overseas travel by some activists, the former government temporarily detained and in some cases denied entry to foreign human rights activists.

In May immigration authorities banned former prime minister Najib Razak, his wife, and several other former government officials from traveling overseas because they were suspected of corruption, although they had not been charged with a crime at the time they attempted to leave the country. Authorities later charged Najib with 38 counts of money laundering, bribery, and criminal breach of trust, and his wife with 19 counts of money laundering and corruption.

Protection of Refugees

Refoulement: The government at times did not provide legal protection against the expulsion or forcible return of refugees to countries where their lives or freedom could be threatened based on their race, religion, nationality, membership in a particular social group, or political opinion. In 2017 authorities detained three Turkish citizens, one a UNHCR-registered refugee, and deported them to Turkey, reportedly at the request of the Turkish government. According to a report released during the year by a Swedish human rights group, a Turkish national deported by Malaysian authorities in 2016 was beaten, tortured, and threatened with death upon his return to Turkey. Malaysian human rights groups said in April that the incident violated international customary law.

In October the government released 11 Uighurs from prison and dropped charges against them of illegal entry. The government also rejected China’s request to forcibly return the group to China and allowed them to relocate to Turkey.

Access to Asylum: The law does not provide for granting asylum or refugee status; government cooperation with UNHCR was inconsistent, but the government occasionally reported potential refugees to UNHCR.

Human rights organizations expressed serious concerns about conditions in immigration detention centers and the lack of access to fair legal process and adequate representation during immigration court hearings. The Malaysian Bar Council has strongly criticized the immigration courts in detention centers as facilitating a legal process where migrant workers were not provided with a clear understanding of the charges against them in their own language and were effectively denied the right to legal counsel. At court hearings 15 to 20 migrants were often tried together, grouped by the offense with which they were charged. If found guilty the cost of deportation is generally at the detainee’s expense, which led to prolonged detention for migrants who were unable to pay.

Freedom of Movement: The government generally tolerated the presence of undocumented refugees and asylum seekers, but sometimes detained them for a variety of causes in police jails or immigration detention centers until they could be deported or UNHCR established their bona fides. Some refugees holding UNHCR identification cards reported, nonetheless, limited ability to move throughout the country because authorities sometimes did not recognize the UNHCR card.

Employment: Although the government does not authorize UNHCR-registered refugees to work, it typically did not interfere if they performed informal work. UNHCR reported the government brought charges, in a few cases, against employers for hiring them. During the year the government permitted a pilot program for 30 Rohingya refugees to work in a local bakery, a program refugee advocates said was a success.

Access to Basic Services: The government provided access to health care at a discounted foreigner's rate of 50 percent to UNHCR-registered refugees, but not to asylum seekers, who did not receive UNHCR registration cards. NGOs operated mobile clinics, but their number and access was limited. Refugees did not have access to the public education system. Access to education was limited to schools run by NGOs and ethnic communities, and UNHCR estimated no more than 40 percent of refugee children attended school. A lack of resources and qualified teachers limited opportunities for the majority of school-age refugee children. UNHCR staff members conducted numerous visits to prisons and immigration detention centers to provide counseling, support, and legal representation for refugees and asylum seekers.

Temporary Protection: The government provided temporary, renewable residence permits to a group of Syrian refugees. The permit allows for legal residency and conveys work rights, but must be renewed annually.

Stateless Persons

The National Registration Department did not maintain records of stateless persons. UNHCR estimated there were 12,350 stateless persons residing in peninsular Malaysia and 450,000 in Sabah. In May the government established a minority task force to address statelessness among members of the country's ethnic Indian community.

Citizenship law and birth registration rules and procedures created a large class of stateless children in the migrant/refugee population. When mothers did not have valid proof of citizenship, authorities entered the child's citizenship as "unknown" on the birth certificate. UNHCR deemed this a widespread problem and reported that, in a population of approximately 80,000 Filipino Muslim refugees in Sabah State, an estimated 10,000 were children who were technically stateless.

Even if the father is a citizen, the marriage may be considered invalid and the children illegitimate if the mother lacks proof of citizenship; such children were also considered stateless.

Some observers indicated that children born to Muslim refugees and asylum seekers often had an easier time obtaining citizenship than non-Muslim refugees and asylum seekers. For refugees in Muslim marriages, the observers claimed authorities often accepted a UNHCR document or other documentation in lieu of a passport as proof of citizenship.

Persons who lacked proof of citizenship were not able to access government services, such as reduced cost health care, or own property.

In October the federal government approved the citizenship applications of two stateless children after lawyers sued the government. The cases of three other stateless children remained pending.

Section 3. Freedom to Participate in the Political Process

The law provides citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage. In May the opposition Pakatan Harapan coalition unseated the ruling Barisan Nasional coalition in general elections, marking the first federal transition of power between coalitions since independence in 1957. In the lead up to the elections, then-opposition political parties were disadvantaged due to government control over traditional media outlets and malapportionment of constituencies, among other issues.

While authorities generally recorded votes accurately, there were irregularities that affected the fairness of elections. The constitution fixes the number of seats in parliament assigned to each state to the advantage of rural states and regardless of population shifts over time. Moreover, it does not require equal populations in electoral constituencies in any given state. Each constituency elects one member of parliament. The Electoral Commission has established constituencies with widely varying populations, further to the advantage of rural populations. For example, the rural district of Igan had 18,000 registered voters, while the urban district of Kapar had more than 144,000 registered voters. Local and municipal officials are appointed at the state or federal level.

Elections and Political Participation

Recent Elections: The country’s general election was held on May 9 amidst allegations of partisanship on the part of public institutions, in particular the Election Commission and the Registrar of Societies. A consortium of NGOs released a formal report in July detailing irregularities in the election, including vote buying, the use of public funds for partisan activity, and allegations of biased behavior by public officials. According to the NGOs, none of which were formally accredited to observe the polls, federal and state governments spent over RM5 billion ($1.25 billion) on “handouts” after legislatures had been dissolved and lawmakers were ostensibly prohibited from making new financial commitments. The report also alleged one accredited election observer actively campaigned for the former government.

Despite strong objections by opposition political parties and civil society, in March the former government approved redrawn parliamentary districts that critics said unfairly advantaged Barisan Nasional through gerrymandering and malapportionment.

Citing Election Commission regulations that stipulate only a party's president or deputy president can appear in campaign materials (besides candidates in that specific district), in April police removed then opposition leader Mahathir's photo from a billboard in a key parliamentary district.

The Election Commission disqualified at least six candidates from the Pakatan Harapan opposition coalition from participating in the May election, including a party vice president and two-term incumbent member of parliament. After police blocked an opposition candidate from entering a nomination site in Negeri Sembilan State, the incumbent chief minister was declared the winner by default. In November an election court invalidated the result and called for a re-election, a decision the incumbent appealed.

Political Parties and Political Participation: Many opposition candidates were unable to compete on equal terms with the UNMO-led coalition and were subject to restrictions and outside interference. The lack of equal access to media was a serious problem for the opposition in national elections. News about the opposition was restricted and reported in a biased manner in print and broadcast media. Registering a new political party remained difficult because of government restrictions on the process.

The Registrar of Societies announced at a press conference in April that the opposition Bersatu party would be temporarily deregistered for failing to provide documents requested by the government. Later that month a Kuala Lumpur High Court judge temporarily blocked the 30-day dissolution of Bersatu, arguing that if Bersatu remained "provisionally dissolved, it may cause irreparable damage to the political party in its attempt to provide an alternative choice for the voters" on election day.

Participation of Women and Minorities: No laws limit participation by women or members of minorities in the political process, and they did participate. The deputy prime minister in the new government is the first woman to hold the post. The Pakatan Harapan government appointed the first non-Malays as Chief Justice, Law Minister, and Attorney General.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials; however, prior to the change in government, enforcement generally focused on relatively small scale, low level crime. There was a broadly held perception of widespread corruption and cronyism within the former ruling coalition and in government institutions, a view that remained after the change in government. Media reported numerous cases of alleged official corruption.

The Malaysian Anticorruption Commission is responsible for investigating corruption in both private and public bodies but does not have prosecutorial authority. An auditor general is responsible, per the constitution, for auditing the accounts of the federal and state governments, government agencies, and other public authorities.

Corruption: Corruption was a key campaign issue in the May general elections. Under the previous government, journalists, activists, and politicians were harassed and prosecuted after publicly reporting on or criticizing senior level corruption, but such practices generally stopped following the election.

In July and August, former prime minster Najib Razak was charged with criminal breach of trust, abuse of power as a public officer, and money laundering for his alleged role in a corruption scandal involving a government-owned investment development fund. Police removed approximately RM1 billion ($250 million) in cash, jewelry, and other luxury items from the former prime minister’s homes. In October the government charged his wife, Rosmah Mansor, with 17 counts of money laundering and tax evasion. She was charged with two additional counts of corruption in November.

Financial Disclosure: Cabinet members must declare their assets to the prime minister. Senior civil servants are required to declare their assets to the chief secretary of the government. Junior civil servants must declare their assets to the head of their department. The assets, liabilities, and interests public officials must declare are clearly defined and do not include the assets and incomes of spouses and dependent children. Public officials must declare their assets annually, but not upon entry or exit of their posting. Those who refuse or fail to declare their assets face disciplinary actions and are ineligible for promotion. The government did not make public these declarations.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses of Human Rights

Domestic and international human rights groups operated subject to varying levels of government restriction, investigating and publishing their findings on human rights cases; however, the government was not always cooperative or responsive to their views.

Outside the political and human rights fields, the government generally allowed NGOs to function independently, met with representatives from some NGOs, and responded to some NGO requests. The government, however, also took action against some NGOs.

Government Human Rights Bodies: Created by an act of parliament, the official human rights commission SUHAKAM is headed by a chairperson and commissioners appointed by the king on the recommendation of the prime minister. Observers generally considered SUHAKAM a credible human rights monitor. It conducted training, undertook investigations, provided reports, and made recommendations to the government. SUHAKAM may not investigate cases in progress in court cases and must cease its inquiries if a casebecomes the subject of judicial action.

The EAIC also performs some oversight functions although its mandate is not limited to human rights.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

Women

Rape and Domestic Violence: Rape is a criminal offense, as are most forms of domestic violence. Rape is punishable by a maximum 20 years' imprisonment and caning. The law does not recognize marital rape as a crime.

Many government hospitals had crisis centers where victims of rape and domestic abuse could file reports without going to a police station. Women's groups asserted the courts were inconsistent in punishing rapists.

Although the government and NGOs maintained shelters and offered other assistance to battered spouses, activists asserted that support mechanisms for victims of domestic violence remained inadequate. There is a sexual investigations unit at each police headquarters to help victims of sexual crimes and abuse, and police sometimes assign psychologists or counselors to provide emotional support.

Female Genital Mutilation/Cutting (FGM/C): The law does not prohibit FGM/C and it is a common practice, but data on it was very limited. Ministry of Health guidelines allow the practice but only at government health-care facilities. Women's rights groups said a 2009 fatwa by the National Council of Islamic Religious Affairs declaring the practice obligatory made FGM/C more prevalent. According to an investigation published by local media in November, there are no standard procedures for the practice and "in some cases box cutters and stationery store blades are used." The Ministry of Health has never released guidelines for the procedure. Government officials defended the practice during a UN review in February, with a Ministry of Health official stating that the practice was only performed by medical professionals and compared it to immunization programs for female babies. The UN panel urged the country to abolish the practice.

Sexual Harassment: The law prohibits a person in authority from using his or her position to intimidate a subordinate to have sexual relations. The law classifies some types of workplace sexual harassment as criminal offenses (see section 7.d.). A government voluntary code of conduct provides a detailed definition of sexual harassment intended to raise public awareness of the problem. Observers noted that authorities took claims seriously, but victims were often reluctant to report sexual harassment because of the difficulty of proving the offense, and a lengthy trial process.

Coercion in Population Control: There were no reports of coerced abortion, involuntary sterilization.

Discrimination: The constitution prohibits discrimination against citizens based on gender, and gives men and women equal property rights; however, sharia, which deviates from these principles in some areas, was sometimes applied. For instance, Islamic inheritance law generally favors male offspring and male relatives. Sharia also generally requires a husband’s consent for divorce, but a small and steadily increasing number of women obtained divorces under sharia without their husband’s consent. Non-Muslims are not subject to sharia. Civil law gives non-Muslim mothers and fathers equal parental rights, while sharia favors fathers. Nevertheless, four states--Johor, Selangor, Negri Sembilan, and Pahang--extend equal parental rights to Muslim mothers.

In March a woman reported that Kota Baru Municipal Council officials stopped her from working as a master of ceremonies during a children’s event, claiming that Muslim women cannot speak into microphones because a woman’s voice should not be heard by unrelated men.

The law requires equal pay for male and female workers for work of equal value. Nonetheless, NGOs reported continued discrimination against women in the workplace in terms of promotion and salary (see section 7.d.).

Children

Birth Registration: A child born in the country obtains citizenship if one parent is a citizen or permanent resident at the time of birth and the parents are married. Parents must register a child within 14 days of birth. Parents applying for late registration must provide proof the child was born in the country. According to UNHCR children born to citizen mothers outside the country may only acquire citizenship at the discretion of the federal government through registration at an overseas Malaysian consulate or at the National Registration Department in country. Authorities do not register children born to illegal immigrants or asylum seekers. UNHCR registered children born to refugees (see section 2.d.).

Education: Education is free, compulsory, and universal through primary school (six years), although there was no mechanism to enforce attendance. Public schools are not open to the children of illegal immigrants or refugees, whether registered with UNHCR or not.

Early and Forced Marriage: The minimum age of marriage is age 18 for men and age 16 for women. Muslim women younger than age 16 may marry with the approval of a sharia court. In some cases authorities treated early marriage as a solution to statutory rape.

In June a Malaysian man, age 41, married a Thai girl, age 11, in Thailand and returned to the country to live with her. Despite public outrage over the matter, the deputy prime minister stated the government was powerless to act because the marriage was legal under Islamic law.

Sexual Exploitation of Children: The law outlaws pornography and states that a child is considered a victim of sexual abuse if he or she has taken part as a participant or an observer in any activity that is sexual in nature for the purposes of a photograph, recording, film, videotape, or performance. Federal police reported detecting approximately 20,000 internet addresses in the country uploading and downloading child pornography. Under the law the minimum age for consensual, noncommercial sex is age 16 for both boys and girls. A conviction for trafficking in persons involving a child for the purposes of sexual exploitation carries a punishment of three to 20 years' imprisonment and a fine. In 2017 the government established a special court for sexual crimes against children to speed up trials, many of which took years to conclude. Child prostitution existed and a local NGO estimated in 2015 that 5,000 children were involved in sex work in Kuala Lumpur and the surrounding areas. Authorities, however, often treated children engaged in prostitution as offenders or undocumented immigrants rather than as victims.

The government focused on preventing sexual exploitation of children, including commercial sexual exploitation. The law provides for six to 20 years' imprisonment and caning for persons convicted of incest. A child's testimony is acceptable only if there is corroborating evidence, which posed special problems for molestation cases in which the child victim was the only witness.

Displaced Children: Street children were most prevalent in Sabah. Estimates of the street children population ranged from a few thousand to 15,000, many of whom were born in the country to illegal immigrant parents. Authorities deported some of these parents, leaving their children without guardians. Lacking citizenship, access to schooling, ord other government-provided support, these children often resorted to menial labor, criminal activities, and prostitution to survive; those living on the streets were vulnerable to forced labor, including forced begging.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data.html (https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data.html).

Anti-Semitism

The country's Jewish population was estimated at between 100 and 200 persons. Anti-Semitism was a serious problem across the political spectrum and attracted wide support among segments of the population. A 2015 Anti-Defamation League survey found 61 percent of citizens held anti-Jewish attitudes. Prime Minister Mahathir Mohamad defended his right to be anti-Semitic in interviews with the Associated Press in August, stating "Anti-Semitic is a term that is invented to prevent people from criticizing the Jews for doing wrong things," and the BBC in October repeating his claim from the 1970s that Jews are "hook-nosed" and that the number of Jews killed in the Holocaust was not six million.

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip/rls/tiprpt/ (http://www.state.gov/j/tip/rls/tiprpt/).

Persons with Disabilities

The law affords persons with disabilities the right to equal access and use of public facilities, amenities, services, and buildings open or provided to the public. The Ministry of Women, Family, and Community Development is responsible for safeguarding the rights of persons with disabilities.

New government buildings generally had a full range of facilities for persons with disabilities. The government, however, did not mandate accessibility to transportation for persons with disabilities, and authorities retrofitted few older public facilities to provide access to persons with disabilities. Recognizing public transportation was not "disabled friendly," the government maintained its 50 percent reduction of excise duty on locally made cars and motorcycles adapted for persons with disabilities.

Employment discrimination occurred in relation to persons with disabilities (see section 7.d.).

Students with disabilities attended mainstream schools, but accessibility remained a serious problem. Separate education facilities also existed, but were insufficient to meet the needs of all students with disabilities.

National/Racial/Ethnic Minorities

The constitution gives ethnic Malays and other indigenous groups, collectively known as “bumiputra,” a “special position” in the country. Government regulations and policies provide extensive preferential programs to boost the economic position of bumiputra, who constitute a majority of the population. Such programs limited opportunities for nonbumiputra (primarily ethnic Chinese and Indians) in higher education and government employment. Many industries were subject to race-based requirements that mandated bumiputra ownership levels. Government procurement and licensing policies favor bumiputra-owned businesses. The government claimed these policies were necessary to attain ethnic harmony and political stability.

Indigenous People

The constitution provides indigenous and nonindigenous people with the same civil and political rights, but the government did not effectively protect these rights. Indigenous people, who numbered approximately 200,000, constituted the poorest group in the country.

Indigenous people in peninsular Malaysia, known as Orang Asli, had very little ability to participate in decisions that affected them. A constitutional provision provides for “the special position of the Malays and natives of any of the States of Sabah and Sarawak,” but does not refer specifically to the Orang Asli. This ambiguity over the community’s status in the constitution led to selective interpretation by different public institutions.

The courts have ruled that the Orang Asli have rights to their customary lands under the constitution, but NGOs said the government failed to recognize these judicial pronouncements. The government can seize this land if it provides compensation. There were confrontations between indigenous communities and logging companies over land, and uncertainty over their land tenure made indigenous people vulnerable to exploitation.

Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity

Adult same-sex acts are illegal regardless of age or consent. The law states that sodomy and oral sex acts are “carnal intercourse against the order of nature.” While authorities rarely enforced this provision, it was the basis for the controversial case against then-opposition leader Anwar Ibrahim (see section 1.e.). Religious and cultural taboos against same-sex sexual conduct were widespread (see section 2.a.). In August two women in

Terengganu State were sentenced by a sharia court to RM3,300 ($825) in fines and six strokes of the cane each after they were accused of same-sex sexual activity. Authorities caned the women before an audience of approximately 100 persons, marking the first public caning recorded in the state.

Authorities often charged transgender persons with “indecent behavior” and “importuning for immoral purposes” in public. Those convicted of a first offense faced a maximum fine of RM25 ($6.25) and a maximum sentence of 14 days in jail. The sentences for subsequent convictions may be maximum fines of RM100 ($25) and a maximum three months in jail. Local advocates contended that imprisoned transgender women served their sentences in prisons designated for men and that police and inmates often abused them verbally and sexually.

A survey by a local transgender rights group reported more than two-thirds of transgender women experienced some form of physical or emotional abuse. In August a group of boys repeatedly beat a transgender woman in Negeri Sembilan State. In November police arrested a man for allegedly killing his transgender girlfriend in Perak State.

State religious authorities reportedly forced lesbian, gay, bisexual, and transgender (LGBTI) persons to participate in “treatment” or “rehabilitation” programs to “cure” them of their sexuality. In August police raided a club in Kuala Lumpur associated with the LGBTI community, detaining 20 men and ordering them to attend counseling for “illicit activities.” Authorities stated the raid was part of an antidrug operation, but a government minister posted on Facebook that he hoped the operation would “mitigate the LGBT culture from spreading into our society.”

LGBTI persons reported discrimination in employment, housing, and access to some government services because of their sexuality.

In August a federal government minister ordered festival organizers in Penang State to remove portraits of two LGBTI activists from a photography exhibition because the government does “not support the promotion of LGBT culture...” One of the activists whose photograph was removed received multiple death threats in the wake of the controversy. Authorities took no action against those making the threats.

Also in August a government minister stated that authorities would monitor social media and other online content in order “to curb LGBT issues, as well as liberal Islam.”

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides for limited freedom of association and for some categories of workers to form and join trade unions, subject to a variety of legal and practical restrictions. The law provides for the right to strike and to bargain collectively, but both were severely restricted. The law prohibits employers from interfering with trade union activities, including union formation. It prohibits employers from retaliating against workers for legal union activities and requires reinstatement of workers fired for union activity.

The law prohibits defense and police officials, retired or dismissed workers, or workers categorized as "confidential, managerial, and executive" from joining a union. The law also restricts the formation of unions to workers in "similar" trades, occupations, or industries. Foreign workers may join a trade union but cannot hold union office unless they obtain permission from the Ministry of Human Resources. In view of the absence of a direct employment relationship with owners of a workplace, contract workers may not form a union and cannot negotiate or benefit from collective bargaining agreements.

The director general of trade unions and the minister of human resources may refuse to register or withdraw registration from some unions without judicial oversight. The time needed for a union to be recognized remained long and unpredictable. Union officials expressed frustration about delays in the settlement of union recognition disputes; such applications were often refused. If a union's recognition request was approved, the employer sometimes challenged the decision in court, leading to multi-year delays in recognizing unions.

Most private-sector workers have the right to bargain collectively, although these negotiations cannot include issues of transfer, promotion, appointments, dismissal, or reinstatement. The law restricts collective bargaining in "pioneer" industries the government has identified as growth priorities, including various high tech fields. Public sector workers have some collective bargaining rights, although some could only express opinions on wages and working conditions instead of actively negotiating. Long delays continued in the treatment of union claims to obtain recognition for collective bargaining purposes.

Private-sector strikes are legal, but severely restricted. The law provides for penal sanctions for peaceful strikes. The law prohibits general strikes, and trade unions may not strike over disputes related to trade union registration or illegal dismissals. Workers may not strike in a broad range of industries deemed "essential," nor may they hold strikes when a dispute is under consideration by the Industrial Court. Union officials claimed legal requirements for strikes were almost impossible to meet; the last major strike occurred in 1962.

The government did not effectively enforce laws prohibiting employers from seeking retribution for legal union activities and requiring reinstatement of workers fired for trade union activity. Penalties included fines, but were seldom assessed and generally not sufficient to deter violations.

Freedom of association and collective bargaining were not fully respected. National-level unions are prohibited; the government allows three regional territorial federations of unions--peninsular Malaysia, Sabah, and Sarawak--to operate. They exercised many of the responsibilities of national-level labor unions, although they could not bargain on behalf of local unions. The Malaysian Trade Unions Congress is a registered "society" of trade unions in both the private and government sectors that does not have the right to bargain collectively or strike but may provide technical support to affiliated members. Some workers' organizations were independent of government, political parties, and employers, but employer-dominated or "yellow" unions were reportedly a concern.

The inability of unions to provide more than limited protection for workers, particularly foreign workers who continued to face the threat of deportation, and the prevalence of antiunion discrimination created a disincentive to unionize. In some instances companies reportedly harassed leaders of unions that sought recognition. Some trade unions reported the government detained or restricted the movement of some union members under laws allowing temporary detention without charging the detainee with a crime. Trade unions asserted some workers had wages withheld or were terminated because of union-related activity.

b. Prohibition of Forced or Compulsory Labor

The law prohibits and criminalizes all forms of forced or compulsory labor. Five agencies, including the Department of Labor of the Ministry of Human Resources, have enforcement powers under the law, but their officers performed a variety of functions and did not always actively search for indications of forced labor. NGOs continued to criticize the lack of resources dedicated to enforcement of the law.

The government continued efforts to enforce laws prohibiting forced labor. The Department of Labor required evidence of three months' nonpayment of wages in order to initiate an investigation into a potential forced labor case. Penalties included fines. In addition to fines, authorities often charged forced labor perpetrators with related crimes that included harsher penalties.

The National Anti-Human Trafficking Council reported labor department officials received four specialized training courses, including with other law enforcement agencies, to help increase coordination. The Department of Labor had 30 "special enforcement officers" who focused primarily on forced labor and other human trafficking indicators (see section 7.e.).

In September the government established an Independent Committee on Foreign Workers to provide comprehensive reform plans to the government regarding foreign worker management and labor policy.

Forced labor occurred in the country. A variety of sources reported occurrences of forced labor, or conditions indicative of forced labor, in plantation agriculture, the fishing industry, electronics factories, garment production, construction, restaurants, and domestic households, among both adults and children (also see section 7.c).

Employers, employment agents, or labor recruiters subjected some migrants to forced labor or debt bondage. Many companies hired foreign workers using recruiting or outsourcing companies rather than directly, creating uncertainty about the legal relationship between the worker, the outsourcing company, and the owner of the workplace, making workers more vulnerable to exploitation and complicating dispute resolution. Labor union representatives described a typical pattern involving recruiting agents both in the countries of origin and in Malaysia who imposed high fees, which made migrant workers vulnerable to debt bondage.

Media reported in July that former deputy prime minister Zahid Hamidi was connected to a fraudulent scheme involving hundreds of thousands of Nepali workers seeking jobs in the country. According to the report, which civil society organizations deemed credible, private companies linked to the then-deputy prime minister’s brother and brother-in-law charged Nepali workers more than RM185 million ($46.3 million) for medical tests and to submit visa applications during the prior five years. These medical and visa processing services increased the cost ten-fold without offering additional protections or benefits. Zahid denied involvement in or knowledge of the scam, but the Malaysian Anticperorruption Commission charged him in October with 45 counts of corruption, bribery, and money laundering, three of which relate to RM3 million ($750,000) he allegedly received in bribes from a company that ran a visa center for Nepali workers. Critics of the former government had long characterized the foreign worker recruitment system as corrupt.

In June the minister of human resources suspended the system used to recruit migrant workers from Bangladesh following allegations of large-scale corruption under the former government. Local media alleged that a third-party recruitment agent with close links to senior Barisan Nasional officials earned more than RM2 billion ($500 million) in two years through the recruitment of more than 100,000 Bangladeshi workers. The new human resources minister called the former recruitment process a “total mess,” in which workers paid exorbitant amounts to intermediaries and became debt bonded. In October the government also signed a new Memorandum of Understanding with the government of Nepal that mandates direct government-to-government recruitment of foreign workers instead of relying on private recruitment companies. In addition to removing third-party intermediaries from the process, the new agreement requires the employer to pay workers’ airfare, visa fees, and medical checkup costs and also requires employers to deposit workers’ wages directly into bank accounts.

Nonpayment of wages remained a concern. Passport confiscation by employers increased migrant workers’ vulnerability to forced labor; the practice was illegal but widespread and generally went unpunished. Migrant workers without access to their passports were more vulnerable to harsh working conditions, lower wages than promised, unexpected wage deductions, and poor housing. NGOs reported that agents or employers in some cases drafted contracts including a provision for employees to sign over the right to hold their passports to the employer or an agent. Some employers and migrant workers reported that workers sometimes requested employers keep their passports, since replacing lost or stolen passports could cost several months’ wages and leave foreign workers open to questions about their legal status.

Also see the Department of State’s *Trafficking in Persons Report* at www.state.gov/j/tip/rls/tiprpt/ (http://www.state.gov/j/tip/rls/tiprpt/).

c. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits the employment of children younger than age 14 but permits some exceptions, such as light work in a family enterprise, work in public entertainment, work performed for the government in a school or in training institutions, or work as an approved apprentice. There is no minimum age for engaging in light work. For children between ages 14 and 18, there was no list clarifying specific occupations or sectors considered hazardous and therefore prohibited.

The government did not fully enforce laws prohibiting child labor. Those found contravening child labor laws faced penalties of imprisonment and/or a fine.

Child labor occurred in some family businesses. Child labor in urban areas was common in the informal economy, including family food businesses and night markets, and in small-scale industry. Child labor was also evident among migrant domestic workers.

NGOs reported that stateless children in Sabah were especially vulnerable to labor exploitation in palm oil production, forced begging, and work in service industries, including restaurants. Although the National Union of Plantation Workers reported it was rare to find children involved in plantation work in peninsular Malaysia, others reported instances of child labor on palm oil plantations across the country. Commercial sexual exploitation of children also occurred (see section 6, Children).

d. Discrimination with Respect to Employment and Occupation

The law does not prohibit discrimination with respect to hiring; the director general of labor may investigate discrimination in the terms and conditions of employment for both foreign and local employees. The director general may issue necessary directives to an employer to resolve allegations of discrimination in employment; however, there were no penalties under the law for such discrimination.

Employers are obligated to inquire into most sexual harassment complaints in a prescribed manner. Advocacy groups such as the Association of Women Lawyers stated these provisions were not comprehensive enough to provide adequate help to victims.

Discrimination in employment and occupation occurred with respect to women; members of national, racial, and ethnic minorities; and persons with disabilities. A code of practice guides all government agencies, employers, employee associations, employees, and others with respect to placement of persons with disabilities in private-sector jobs. Disability rights NGOs reported employers were reluctant to hire persons with disabilities. A regulation reserves 1 percent of public sector jobs for persons with disabilities.

Migrant workers must undergo mandatory testing for more than 16 illnesses as well as pregnancy. Employers may immediately deport pregnant or ill workers. Migrant workers also faced employment discrimination (see sections 7.b. and 7.e.). Employers were also unilaterally able to terminate work permits, subjecting migrant workers to immediate deportation.

Women experienced some economic discrimination in access to employment. A UN report noted participation in the labor market for women was 46.1 percent, compared to 78.7 percent for men. Employers routinely asked women their marital status during job interviews. The Association of Women Lawyers advocated for passage of a separate sexual harassment bill making it compulsory for employers to formulate sexual harassment policies. The law prohibits women from working underground, such as in sewers, and restricts employers from requiring female employees to work in industrial or agricultural work between 10 p.m. and 5 a.m. or to commence work for the day without having 11 consecutive hours of rest since the end of the last work period.

The government reserved large quotas for the bumiputra majority for positions in the federal civil service, as well as for vocational permits and licenses in a wide range of industries, which greatly reduced economic opportunity for minority groups (see section 6).

e. Acceptable Conditions of Work

The minimum wage was raised to RM1,050 ($263) across all parts of the country, up from RM920 ($230) per month in Sabah and Sarawak States and RM1,000 ($250) per month in peninsular Malaysia. The minimum wage applied to both citizen and foreign workers in most sectors, with the exception of domestic service (see below). The minimum wage rates were less than Ministry of Finance-published poverty income levels in Sabah and Sarawak.

Working hours may not exceed eight per day or 48 per week, unless workers receive overtime pay. The law specifies limits on overtime, which vary by sector, but it allows for exceptions.

The law protects foreign domestic workers only with regard to wages and contract termination. The law excludes them from provisions that would otherwise stipulate one rest day per week, an eight-hour workday, and a 48-hour workweek. Instead, bilateral agreements or memoranda of understanding between the government and some source countries for migrant workers include provisions for rest periods, compensation, and other conditions of employment for migrant domestic workers, including prohibitions on passport retention.

On January 1, employers became responsible for paying a levy for their foreign workers, a move designed to better protect low-wage foreign workers and to encourage the hiring of local employees. Previously employers regularly passed the costs on to employees and withheld as much as 20 percent of a worker’s annual salary to cover the fees. Despite the change, some employers continued to deduct a government-imposed levy on companies employing migrant workers from the wages of their workers.

The Ministry of Human Resources began enforcing amendments to the Private Employment Agencies Act (PEAA) on February 1, following its passage in October 2017. The measure aims to make the cost of business too high for small-scale recruiting agencies that have been the sources of abuses in the past. Employment agencies must now pay as much as RM250,000 ($62,500) to operate a business that recruits foreign workers, a significant increase from the RM1,000 ($250) required under the original PEAA. Further, agencies must secure a guaranteed bank note for as much as RM250,000 ($62,500) that would be liquidated (and used for victim repatriation costs) if they are found to be in violation of the law. Under the new amendment, agencies found operating without a license would face tough new penalties, including a RM200,000 ($50,000) fine and a maximum three years in prison, increased from a RM5,000 ($1,250) fine.

Occupational health and safety laws cover all sectors of the economy except the maritime sector and the armed forces. The law requires workers to use safety equipment and cooperate with employers to create a safe, healthy workplace, but it does not specify a right to remove oneself from a hazardous or dangerous situation without penalty. Laws on worker’s compensation cover both local and migrant workers but provide no protection for migrant domestic workers.

The National Occupational Safety and Health Council--composed of workers, employers, and government representatives--creates and coordinates implementation of occupational health and safety measures. It requires employers to identify risks and take precautions, including providing safety training to workers, and compels companies with more than 40 workers to establish joint management-employee safety committees.

The National Wages Consultative Council is responsible for recommending changes to the minimum wage and coverage for various sectors, types of employment, and regions. The Department of Labor of the Ministry of Human Resources enforces wage, working condition, and occupational safety and health standards. Labor enforcement officers were responsible for enforcing labor law at hundreds of thousands of businesses and in private residences that employ domestic help; however, the number of officers was insufficient to enforce compliance. Department of Labor officials reported they sought to conduct labor inspections as frequently as possible. Nevertheless, many businesses could operate for years without an inspection.

Penalties for employers who fail to follow the law begin with a fine assessed per employee and can rise to imprisonment. Employers can be required to pay back wages plus the fine. If they refuse to comply, employers face additional fines per day that wages are not paid. Employers or employees who violate occupational health and safety laws are subject to fines, imprisonment, or both.

Employers did not respect laws on wages and working hours. The Malaysian Trade Union Congress reported that 12-, 14-, and 18-hour days were common in food and other service industries. Migrant workers often worked under difficult conditions, worked in sectors where violations were common, performed hazardous duties, had their pay withheld by employers, and had no meaningful access to legal counsel in cases of contract violations and abuse. Some workers alleged their employers subjected them to inhuman living conditions, confiscated their travel documents, and physically assaulted them. Employers of domestic workers sometimes failed to honor the terms of employment and subjected workers to abuse. Employers reportedly restricted workers’ movement and use of mobile telephones; provided substandard food and living conditions; did not provide sufficient time off; physically and sexually assaulted workers; and harassed and threatened workers, including with deportation.

According to statistics by the Department of Occupational Safety and Health, 117 workers died, 1,612 acquired a nonpermanent disability, and 80 acquired permanent disability in the first half of the year.

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ecoi.net summary:
Annual report on human rights in 2018

Country:
Malaysia

Source:
USDOS – US Department of State (/en/source/11558.html)

Original link:
https://www.state.gov/j/drl/rls/hrrpt/2018/eap/289059.htm (https://www.state.gov/j/drl/rls/hrrpt/2018/eap/289059.htm)

Document type:
Periodical Report

Language:
English

Published:
13 March 2019

Document ID:
2004247

Austrian Red Cross
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ecoi.net is run by the Austrian Red Cross (department ACCORD) in cooperation with Informationsverbund Asyl & Migration. ecoi.net is funded by the Asylum, Migration and Integration Fund, the Austrian Ministry of the Interior and Caritas Austria. ecoi.net is supported by ECRE & UNHCR.