



# Malaysia

PARTLY FREE

**52**  
/100

|                         |               |
|-------------------------|---------------|
| <u>Political Rights</u> | <b>21</b> /40 |
| <u>Civil Liberties</u>  | <b>31</b> /60 |

## LAST YEAR'S SCORE & STATUS

**52 /100**      **Partly Free**

Global freedom statuses are calculated on a weighted scale. [See the methodology.](#)



## Overview

The same political coalition ruled Malaysia from independence in 1957 until 2018, maintaining power by manipulating electoral districts, appealing to ethnic

nationalism, and suppressing criticism through restrictive speech laws and politicized prosecutions of opposition leaders. The coalition lost to an opposition alliance in the May 2018 general elections, and the new government began to deliver on its promises of reform, though progress on legislative and other substantive changes has been slow.

## Key Developments in 2019

- Prime Minister Mahathir Mohamad's governing coalition, Pakatan Harapan (PH), accepted a steady stream of defectors from the opposition during the year, increasing the government's parliamentary majority.
- The United Malays National Organisation (UMNO), the lead party in the formerly governing Barisan Nasional (BN) coalition, signed a cooperation pact in September with the Malaysian Islamic Party (PAS), laying the groundwork for an opposition bloc based on ethnic Malay and Islamist interests. The BN also won most of the year's state and federal legislative by-elections.
- Criminal trials pertaining to the embezzlement of billions of dollars from the state investment fund known as 1MDB proceeded during the year, with former prime minister Najib Razak and former deputy prime minister Ahmad Zahid Hamidi, the current leader of UMNO, facing multiple charges.
- In July, Parliament adopted legislation that lowered the voting age from 21 to 18, a change that received broad cross-party support.
- In October, Parliament repealed the Anti-Fake News Act, which had prescribed large fines and up to six years in prison for the publication of wholly or partly false news.

## Political Rights

### A. Electoral Process

**A1** 0-4 pts

Was the current head of government or other chief national authority elected through free and fair elections?

**2/4**

The prime minister is the head of government and chief executive. Though formally appointed by the monarch, the prime minister and cabinet must have the support of a majority in the lower house of Parliament. Mahathir Mohamad of the Malaysian United Indigenous Party (PPBM)—part of the PH coalition—returned to the premiership as a result of the May 2018 parliamentary elections. Mahathir had previously served as prime minister from 1981 to 2003 but broke with UMNO and the BN in 2016 over then prime minister Najib’s involvement in the 1MDB scandal.

The largely ceremonial monarch, known as the Yang di-Pertuan Agong, is elected for five-year terms by and from among the hereditary rulers of 9 of Malaysia’s 13 states. Sultan Muhammad V of Kelantan, who took office as the country’s head of state in 2016, abruptly abdicated in January 2019, following reports that he had married a Russian woman. Sultan Abdullah of Pahang was chosen to replace him later that month.

**A2** 0-4 pts

**Were the current national legislative representatives elected through free and fair elections?**

**2/4**

The upper house of the bicameral Parliament, the Senate or Dewan Negara, consists of 44 members appointed by the monarch on the advice of the prime minister and 26 members elected by the 13 state legislatures, serving three-year terms. The Senate has limited power to amend or block legislation passed by the lower house. The House of Representatives, or Dewan Rakyat, has 222 seats filled through direct elections in single-member constituencies.

In the May 2018 elections, the PH won 113 seats in the House of Representatives, followed by the BN with 79, the PAS with 18, the Sabah Heritage Party (Warisan) with 8, the Homeland Solidarity Party with 1, and independents with 3. The PH victory came despite lopsided electoral conditions that gave the BN significant advantages, such as gerrymandered and seriously malapportioned voting districts, weak regulation of campaign spending, and legal constraints on media independence and expressions of dissent.

After a series of defections from the opposition, the PH controlled a strong majority of 139 seats in the House of Representatives by late 2019, though it lost two of the year's three federal by-elections.

**A3** 0-4 pts

**Are the electoral laws and framework fair, and are they implemented impartially by the relevant election management bodies?**

**2/4**

The Election Commission (EC), which administers elections and is responsible for voter rolls and the delineation of electoral boundaries, was seen as subservient to the government under the BN, with members appointed by the king on the advice of the prime minister. A new EC chairman was appointed under the PH government in September 2018, and other new commissioners were appointed by March 2019. The reconstituted EC was considered more transparent and independent in its management of by-elections, though major changes to the legal framework had yet to be adopted. In October 2019, an Electoral Reform Committee proposed a shift from single-member constituencies toward proportional representation at the federal level, among other changes; its full report was due in 2020.

## B. Political Pluralism and Participation

**B1** 0-4 pts

**Do the people have the right to organize in different political parties or other competitive political groupings of their choice, and is the system free of undue obstacles to the rise and fall of these competing parties or groupings?**

**2/4**

The party system in Malaysia is diverse and competitive, but groups that challenged BN rule prior to 2018 often faced obstacles such as unequal access to the media, restrictions on campaigning and freedom of assembly, and politicized prosecutions. The Registrar of Societies (ROS) oversees the registration of political parties and was known to issue politicized decisions under the BN government.

One of the legal reforms under discussion at the Electoral Reform Committee during 2019 was the transfer of responsibility for political party regulation from the ROS to the EC.

**B2** 0-4 pts

**Is there a realistic opportunity for the opposition to increase its support or gain power through elections?**

**3/4**

Although opposition parties had long governed in a number of Malaysia's states, the 2018 elections produced the country's first democratic transfer of power between rival political groups at the federal level since independence in 1957.

The balance of power between the PH and BN remained in flux during 2019. Although opposition defectors continued to join the governing coalition in Parliament, many of them moved from UMNO to Mahathir's PPBM, threatening the position of the reformist People's Justice Party (PKR)—led by Anwar Ibrahim, a key opposition figure under BN rule—within the PH. Mahathir had pledged to eventually step down and allow Anwar to succeed him as prime minister, and suspicions that he would not fulfill this promise have fueled tensions in the alliance.

Meanwhile, UMNO began formal cooperation talks with the PAS in March 2019 and a signed a pact in September, laying the groundwork for an opposition bloc based on ethnic Malay and Islamist interests. The BN also won two out of three federal by-elections and both state-level by-elections during the year.

**B3** 0-4 pts

**Are the people's political choices free from domination by forces that are external to the political sphere, or by political forces that employ extrapolitical means?**

**2/4**

The military is not active in politics, and foreign powers do not directly meddle in domestic political affairs, though the BN's increasingly close ties with China were a prominent issue in the 2018 election campaign.

During its decades in power, the BN built strong connections with Malaysia's business elites and used these relationships to influence electoral outcomes,

including through favorable coverage by mainstream private media and greater access to financial resources. The BN administration was also suspected of using government-linked companies, official monopolies for certain goods and services, and state investment vehicles for political purposes. The PH government initiated some reform programs and made new appointments to these entities, but a more comprehensive overhaul was still pending at the end of 2019.

**B4** 0-4 pts

|                                                                                                                                                                             |            |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|
| <b>Do various segments of the population (including ethnic, religious, gender, LGBT, and other relevant groups) have full political rights and electoral opportunities?</b> | <b>2/4</b> |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|

Suffrage in Malaysia is universal for adult citizens, and in July 2019 Parliament lowered the voting age from 21 to 18 with broad cross-party support. However, social and legal restrictions limit political participation among some minority groups—including LGBT+ people. Women’s interests remain generally underrepresented in politics. In a positive change, the government formed in 2018 included more women and minority representatives in more powerful positions, and it began consideration of increased autonomy for the East Malaysian states of Sabah and Sarawak, which are located on the island of Borneo and are home to distinct ethnic groups..

UMNO and the PAS are influential in opposition as defenders of long-standing policies that favor the ethnic Malay and Muslim majority. At a Malay Dignity Congress in October 2019, attended by politicians from both government and opposition parties, delegates advocated for more radical changes, including a proposal that all leading positions in government be reserved for Malay Muslims.

## C. Functioning of Government

**C1** 0-4 pts

|                                                                                                                                    |            |
|------------------------------------------------------------------------------------------------------------------------------------|------------|
| <b>Do the freely elected head of government and national legislative representatives determine the policies of the government?</b> | <b>2/4</b> |
|------------------------------------------------------------------------------------------------------------------------------------|------------|



While elected officials determine and implement government policy, the unfair electoral framework has historically weakened their legitimacy. Decision-making power has typically been concentrated in the hands of the prime minister and his close advisers, though the PH government continued to show signs of broader consultation in 2019.

**C2** 0-4 pts

|                                                                         |            |
|-------------------------------------------------------------------------|------------|
| <b>Are safeguards against official corruption strong and effective?</b> | <b>2/4</b> |
|-------------------------------------------------------------------------|------------|

High-level corruption was a critical weakness of the BN government, and Najib's efforts as prime minister to avoid accountability for the 1MDB scandal had crippled the country's anticorruption mechanisms more generally. The Malaysian Anti-Corruption Commission (MACC) and other law enforcement institutions grew more active under a new chief commissioner after the change in government, unleashing a raft of investigations against the former leadership. Among others who faced charges, Najib, his wife, and his successor as UMNO leader—former deputy prime minister Ahmad Zahid Hamidi—were all arrested and eventually indicted for numerous corruption-related offenses. Their trials were ongoing at the end of 2019, with Najib taking the witness stand in his own defense in December. Separately, the PH government launched a National Anti-Corruption Plan in January 2019 and called on civil society and the media to contribute to the effort.

**C3** 0-4 pts

|                                                                    |            |
|--------------------------------------------------------------------|------------|
| <b>Does the government operate with openness and transparency?</b> | <b>2/4</b> |
|--------------------------------------------------------------------|------------|

A lack of independent oversight regarding state-affiliated companies and investment funds has long created conditions conducive to corruption. The PH government pledged to operate with greater openness than its predecessor, and while it did in some respects, its initial performance was uneven. It resisted releasing the findings of the Institutional Reforms Committee, which was formed after the elections and produced more than 200 recommendations meant to improve government integrity and prevent corruption. As of 2019 the government

was still engaging in consultations on a possible freedom of information act and amendments to existing laws, such as the Official Secrets Act, that deter whistle-blowers and journalists from exposing information in the public interest.

## Civil Liberties

### D. Freedom of Expression and Belief

**D1** 0-4 pts

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|---------------------------------------|-----|
| Are there free and independent media? | 3/4 |
|---------------------------------------|-----|

Prior to the 2018 elections, most private news publications and television stations were controlled by political parties or businesses allied with the BN, and state news outlets similarly reflected government views. The market began to change after the PH took power, with some BN-linked outlets suffering financially and others producing more neutral coverage, even as independent outlets benefited from a reduction in political pressure and harassment.

The PH government pledged to reform restrictive media laws, and it made some progress during 2019. The House of Representatives voted in October to repeal the Anti-Fake News Act, which the BN had hastily adopted in April 2018. The measure prescribed large fines and up to six years in prison for the publication of wholly or partly false news. Although the Senate had blocked a similar repeal effort in late 2018, it could not do so again under the constitution, and the act was formally repealed in December 2019. Other problematic laws, including the Sedition Act, remained in place.

The Malaysian Communication and Multimedia Commission (MCMC) monitors websites and can order the removal of material considered provocative or subversive. A 2012 amendment to the 1950 Evidence Act holds owners and editors of websites, providers of web-hosting services, and owners of computers or



mobile devices accountable for information published through their services or property.

In December 2019, the government agreed to a proposal to establish a Media Council—made up of representatives from media outlets, journalist associations, and civil society groups—as a self-regulatory body for the sector. It had yet to begin operating at year's end.

**D2** 0-4 pts

|                                                                                                               |            |
|---------------------------------------------------------------------------------------------------------------|------------|
| <b>Are individuals free to practice and express their religious faith or nonbelief in public and private?</b> | <b>1/4</b> |
|---------------------------------------------------------------------------------------------------------------|------------|

While Malaysia is religiously diverse, legal provisions restrict religious freedom. Ethnic Malays are constitutionally defined as Muslim and are not entitled to renounce their faith. The powerful Malaysian Islamic Development Department (JAKIM) has played a central role in shaping and enforcing the practice of Islam in Malaysia, and state-level authorities perform their own enforcement functions. Muslim children and civil servants are required to receive religious education using government-approved curriculums and instructors. Practicing a version of Islam other than Sunni Islam is prohibited, and Shiites and other sects face discrimination. More than 30 people were arrested for practicing Shia Islam in the states of Selangor and Johor during 2019. Separately, six people were sentenced to a month in jail in the state of Terengganu in December for picnicking rather than attending Friday prayers.

Non-Muslims are not able to build houses of worship as easily as Muslims, and the state retains the right to demolish unregistered religious statues and houses of worship. In 2018, a dispute over the relocation of a Hindu temple triggered rioting, with assailants allegedly linked to a property developer storming the temple and beating worshippers.

**D3** 0-4 pts

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|---------------------------------------------------------------------------------------------------------------|------------|
| <b>Is there academic freedom, and is the educational system free from extensive political indoctrination?</b> | <b>2/4</b> |
|---------------------------------------------------------------------------------------------------------------|------------|

There is some degree of academic freedom in Malaysia. Under the BN government, instructors and students who espoused antigovernment views or engaged in political activity were subject to disciplinary action under the Universities and University Colleges Act (UUCA) of 1971. Under the new government, in late 2018, Parliament amended the UUCA to allow students to engage in political activity on campus. The government continues to control appointments of top officials at public universities; in 2018 the PH education minister, Maszlee Malik, organized the replacement of several university chairmen who had been installed by the BN. Maszlee himself was appointed as president of the International Islamic University of Malaysia, but he resigned that post in January 2019 following protests over his dual role in government and academia.

The government in July 2019 announced plans to introduce lessons on the Arabic-based Jawi script for writing the Malay language, even in schools that used other languages, such as Chinese or Tamil, as the language of instruction. Following objections from minority groups, the government said in August that the lessons would be optional for those schools, though the issue remained the subject of debate at year's end.

**D4** 0-4 pts

**Are individuals free to express their personal views on political or other sensitive topics without fear of surveillance or retribution?**

**3/4**

The PH government's initial statements and initiatives generally created a more open environment for public discussion of issues that had previously been considered off limits. However, as of 2019 the government had not repealed the Sedition Act despite earlier promises to do so, and other restrictive laws, including criminal prohibitions on blasphemy, remained in place, impeding individual expression on sensitive political and religious topics. The year featured multiple arrests and prison sentences for social media posts that were deemed insulting to Islam or Malaysia's hereditary rulers.

## **E. Associational and Organizational Rights**

**E1** 0-4 pts

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|--------------------------------------|------------|
| <b>Is there freedom of assembly?</b> | <b>2/4</b> |
|--------------------------------------|------------|

Freedom of assembly can be limited on the grounds of maintaining security and public order. In July 2019, Parliament amended the 2012 Peaceful Assembly Act, reducing the mandatory police notification period from 10 days to seven days before the planned event, among other changes. However, the law still imposed criminal penalties for violations, lacked provisions to allow spontaneous assemblies, banned those under age 21 from organizing an assembly, and prohibited participation by minors and noncitizens. While demonstrations are often held in practice, police continue to enforce such restrictions, investigating participants in allegedly illegal protests on multiple occasions during 2019. The events in question included a march for women's rights and a rally to express support for prodemocracy protesters in Hong Kong.

**E2** 0-4 pts

|                                                                                                                                              |            |
|----------------------------------------------------------------------------------------------------------------------------------------------|------------|
| <b>Is there freedom for nongovernmental organizations, particularly those that are engaged in human rights– and governance-related work?</b> | <b>2/4</b> |
|----------------------------------------------------------------------------------------------------------------------------------------------|------------|

A wide array of nongovernmental organizations (NGOs) operate in Malaysia, and they have a strong record of campaigning for electoral, anticorruption, and other reforms. However, NGOs must be approved and registered by the government, which has refused or revoked registrations for political reasons in the past. Some international human rights organizations have been forbidden from forming local branches. Individual activists remained subject to police harassment and criminal charges—particularly for speech-related offenses—under the PH government, and certain NGOs were affected by the authorities' efforts to freeze assets that could be linked to the 1MDB scandal.

**E3** 0-4 pts

|                                                                                           |            |
|-------------------------------------------------------------------------------------------|------------|
| <b>Is there freedom for trade unions and similar professional or labor organizations?</b> | <b>2/4</b> |
|-------------------------------------------------------------------------------------------|------------|

Most Malaysian workers can join trade unions, but the law contravenes international guidelines by restricting unions to representing workers in a single or similar trade. The director general of trade unions can refuse or withdraw registration arbitrarily. Collective-bargaining rights are limited, particularly in designated high-priority industries, as is the right to strike.

In December 2019, the Senate approved new labor legislation adopted by the lower house in October. The law shifted some discretionary powers from the minister for human resources to the director general of industrial relations, and replaced the penalty of imprisonment for illegal strikes with higher fines, among other changes. The Malaysia Trade Union Congress (MTUC) objected to the measure, arguing that its provisions allowing rival unions to compete for sole bargaining rights at a workplace would effectively empower employers and their preferred unions.

Also in December, the ROS suspended the MTUC and threatened it with deregistration over allegations of mismanagement. The organization was working to address the complaints at year's end.

## F. Rule of Law

**F1** 0-4 pts

|                                    |            |
|------------------------------------|------------|
| Is there an independent judiciary? | <b>2/4</b> |
|------------------------------------|------------|

Judicial independence has historically been compromised by extensive executive influence, with courts frequently issuing arbitrary or politically motivated verdicts in high-profile cases. However, a series of new judicial appointments since 2018 have improved confidence in the independence of the higher courts and prospects for reform. In May 2019, Datuk Tengku Maimun Tuan Mat took office as chief justice, becoming the first woman to hold the country's top judicial post. She replaced Richard Malanjum, who retired after just nine months in office; both were seen as more independent than their predecessors. Malanjum had played a role in a number of important decisions at the Federal Court that upheld individuals' constitutional rights in civil and criminal cases.

**F2** 0-4 pts**Does due process prevail in civil and criminal matters?****2/4**

Several existing laws undermine due process guarantees, and they remained in place as of 2019 despite PH plans to review them. The 2012 Security Offences (Special Measures) Act allows police to detain anyone for up to 28 days without judicial review for broadly defined “security offenses,” and suspects may be held for 48 hours before being granted access to a lawyer. It was renewed for another five years in 2017. Also that year, lawmakers amended the Prevention of Crime Act—a law ostensibly aimed at combating organized crime—to revoke detainees’ right to address the government-appointed Prevention of Crime Board, which is empowered to order the detention of individuals listed by the Home Ministry for renewable two-year terms without trial or legal representation. The 2015 Prevention of Terrorism Act together with the National Security Council (NSC) Act from the same year gives the NSC—led by the prime minister—wide powers of arrest, search, and seizure without a warrant in areas deemed as security risks and in the context of countering terrorism.

Malaysia’s secular legal system is based on English common law. However, Muslims are subject to Sharia (Islamic law), the interpretation of which varies by state, and the constitution’s Article 121 stipulates that all matters related to Islam should be heard in Sharia courts. This results in different treatment of Muslims and non-Muslims in “moral” and family law cases.

**F3** 0-4 pts**Is there protection from the illegitimate use of physical force and freedom from war and insurgencies?****2/4**

Torture and abuse in police custody remain problems, and prisons are often overcrowded and unsafe. A number of criminal offenses can be punished with caning, including immigration violations.

Most of the roughly 1,300 people facing the death penalty in Malaysian prisons were convicted under the country’s harsh laws on drug trafficking. In March 2019,

the government announced that it would retain the death penalty, which can be applied for numerous offenses, but end its mandatory application, affecting 11 offenses including murder. The PH had previously pledged to abolish the death penalty. Legislation to implement the new plan had yet to be introduced at year's end.

**F4** 0-4 pts

**Do laws, policies, and practices guarantee equal treatment of various segments of the population?**

**1/4**

Although the constitution provides for equal treatment of all citizens, it grants a “special position” to ethnic Malays and other indigenous people, known collectively as *bumiputera*. The government maintains programs intended to boost the economic status of bumiputera, who receive preferential treatment in areas including property ownership, higher education, civil service jobs, business affairs, and government contracts.

Women are placed at a disadvantage by a number of laws, particularly Sharia-related provisions. They are legally barred from certain occupations and work schedules, and they suffer from de facto discrimination in employment.

LGBT+ Malaysians face widespread discrimination and harassment. Same-sex sexual relations are punishable by up to 20 years in prison under the penal code, though this is generally not enforced. Some states apply their own penalties to Muslims under Sharia statutes. Transgender people can also be punished under state-level Sharia laws. In November 2019, five men in the state of Selangor were sentenced to fines, up to seven months in prison, and six strokes of the cane for “attempted” same-sex sexual activity, following a police raid on a private event. Four of the men were caned later that month.

## G. Personal Autonomy and Individual Rights

**G1** 0-4 pts



**Do individuals enjoy freedom of movement, including the ability to change their place of residence, employment, or education?**

**3/4**

Citizens are generally free to travel within and outside of Malaysia, as well as to change residence and employment. However, professional opportunities and access to higher education are affected by regulations and practices that favor bumiputera and those with connections to political elites. Although the practice is illegal, employers of migrant workers commonly hold their passports, preventing them from leaving abusive situations.

**G2** 0-4 pts

**Are individuals able to exercise the right to own property and establish private businesses without undue interference from state or nonstate actors?**

**3/4**

Malaysia has a vibrant private sector. Bribery, however, is common in the business world, and the close nexus between political and economic elites distorts normal business activity and fair competition. Some laws pertaining to property and business differentiate between bumiputera and non-bumiputera, and Sharia-based inheritance rules for Muslims often favor men over women.

**G3** 0-4 pts

**Do individuals enjoy personal social freedoms, including choice of marriage partner and size of family, protection from domestic violence, and control over appearance?**

**2/4**

While some personal social freedoms are protected, Muslims face legal restrictions on marriage partners and other social choices. Societal pressures may also regulate dress and appearance, especially among Malay women. Sharia courts often favor men in matters of divorce and child custody. The minimum age for marriage is generally 16 for girls and 18 for boys, but Sharia courts in some states allow younger people to marry. Prime Minister Mahathir has called on all state governments to raise the minimum age to 18 for Muslims and non-Muslims of both genders, though only one state had done so by the end of 2019, and seven had expressed opposition.

**G4** 0-4 pts**Do individuals enjoy equality of opportunity and freedom from economic exploitation?****1/4**

Rural residents and foreign workers, especially those working illegally, are vulnerable to exploitative or abusive working conditions, including forced labor or debt bondage. Foreign workers make up over a fifth of the country's workforce; about two million are documented, and estimates of the undocumented range from one million to more than three million. The authorities' periodic crackdowns on illegal foreign workers can result in punishment rather than protection for victims of human trafficking.

There have been no convictions of Malaysians for involvement in a network of human trafficking camps along the Thai-Malaysian border since the sites were discovered in 2015. The camps included mass graves holding the bodies of dozens of victims, and corrupt Malaysian officials were thought to have been complicit in the operation.

**On Malaysia**

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**Country Facts**

Global Freedom Score

**52/100**    **Partly Free**

Internet Freedom Score

**57/100**    **Partly Free**

*Other Years*

2019

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