



Freedom in the World 2015 - Malaysia

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2015 Scores

Status: Partly Free

Freedom Rating (1 = best, 7 = worst): 4.0

Civil Liberties (1 = best, 7 = worst): 4

Political Rights (1 = best, 7 = worst): 4

Trend Arrow:

Malaysia received a downward trend arrow due to the government's use of the Sedition Act to intimidate political opponents, an increase in arrests and harassment of Shiite Muslims and transgender Malaysians, and more extensive use of defamation laws to silence independent or critical voices.

OVERVIEW

The government increasingly targeted regime critics and those challenging conservative societal norms in 2014. In August and September alone, at least eight people faced sedition charges. In March, in a move that was widely viewed as politically motivated, the Court of Appeal reinstated the 2012 sodomy conviction of opposition leader Anwar Ibrahim. Also in March, authorities arrested 114 Shiite Muslims in Perak for attending a religious celebration. In June, Prime Minister Najib Razak and a political ally filed a defamation suit against editors Steven Gan and Fathi Aris Omar of the independent online outlet *Malaysiakini* for the publication of compilations of reader comments concerning Najib.

In August, the Court of Appeal upheld a conviction of malfeasance against Inspector General of Police Tan Sri Khalid Abu Bakar and his subordinates in the cover-up of the high-profile torture and killing of Kugan Ananthan, who died in 2009 while in police custody. Despite the ruling, Khalid retained his post.

Malaysia's LGBT (lesbian, gay, bisexual, and transgender) community faces discrimination and hostility from both state and nonstate actors. In June, an Islamic law court in the state of Negeri Sembilan fined 16 transgender women and sentenced them to seven days in prison under a law that prohibits men from wearing women's clothing in public. In a historic decision in November, the Court of Appeal ruled this law to be unconstitutional.

POLITICAL RIGHTS AND CIVIL LIBERTIES

Political Rights: 19 / 40

A. Electoral Process: 6 / 12

The paramount ruler, the monarch and titular head of state, is elected for five-year terms by fellow hereditary rulers from 9 of Malaysia's 13 states. King Tuanku Abdul Halim Mu'adzam Shah was elected to the post in 2011. The role of the king is largely ceremonial.

Executive power is vested in the prime minister and cabinet. The leader of the coalition that wins a plurality of seats in legislative elections becomes the prime minister. The upper house of the bicameral Parliament, the Senate, consists of 44 members appointed by the king and 26 members elected by the 13 state legislatures, serving three-year terms. The House of Representatives, or Dewan Rakyat, has 222 seats; its members are elected by popular vote at least every five years.

The National Front (BN) won the 2013 parliamentary elections, capturing 133 seats in the lower house despite receiving only 47 percent of the overall popular vote. Among the three main opposition parties, the Democratic Action Party (DAP) took 38 seats, the People's Justice Party (PKR) took 30, and the Pan-Malaysian Islamic Party (PAS) won 21. The opposition and observers accused the BN of electoral fraud, citing irregularities like phantom voting and power outages that occurred in vote-tallying centers in a number of constituencies that opposition parties hoped to win. Gerrymandering and other structural flaws in the electoral system also favored the ruling coalition. Following the elections, a People's Tribunal was held to record individuals' accounts of electoral problems. The resulting report, issued in March 2014, concluded that electoral irregularities contributed to the ruling coalition's victory.

The Election Commission (EC) is frequently accused of manipulating electoral rolls and gerrymandering districts to aid the ruling coalition, and the Registrar of Societies arbitrarily decides which parties can participate in politics. The first-past-the-post voting system also increases the power of the largest grouping. In 2012, a government committee issued recommendations for electoral reforms, many of which had been called for by the Coalition for Free and Fair Elections (Bersih), an alliance of civil society organizations. However, there is continuing skepticism over the EC's effective implementation of all recommended changes. One change implemented for the 2013 elections was the use of indelible ink to mark voters who had already cast their ballots; voters and electoral watchdogs charged that the ink was easily removed. Watchdogs have also voiced concerns about the EC's opaque handling of electoral delineations, which the Electoral Integrity Project assessed as a major cause of the low integrity of the 2013 elections.

B. Political Pluralism and Participation: 7 / 16

The BN coalition and its pre-1973 predecessor organization have governed Malaysia since 1957, the longest rule of any coalition in the world. Most of its constituent parties have an ethnic or regional base, including the dominant United Malays National Organization (UMNO) and the United Traditional Bumiputera Party, whose stronghold is in Sarawak.

Malaysia's three main opposition parties face a skewed electoral system and obstacles such as unequal access to the media, restrictions on campaigning and freedom of assembly, and politicized prosecutions, all of which make it difficult for them to compete on equal terms with the BN. The effectiveness of these barriers in preventing a rotation of power was underscored by the 2013 election results. Six politicians from the opposition DAP, PKR, and PAS were charged in 2014 with sedition for various critical or satirical remarks against the government or the monarchy, including some expressed on social media platforms.

PKR leader Anwar Ibrahim has been dogged by claims that he "sodomized" a male aide in 2008, a charge seen as politically motivated. He was acquitted of the charges in 2012, but the Court of Appeal overruled the acquittal and reinstated the sodomy conviction in March 2014. The decision came just

two weeks before Anwar was to contest a Kajang by-election for chief minister of Selangor, where he was largely favored to win. The case was under appeal at the end of the year.

C. Functioning of Government: 6 / 12

Government favoritism and blurred distinctions between public and private enterprises create conditions conducive to corruption. Officials regularly move back and forth between the private and public sectors, fostering many opportunities for collusion and graft. Political parties are allowed to own or have financial holdings in corporate enterprises. The Whistleblower Protection Act took effect in 2010 but has not significantly improved accountability.

Malaysia was ranked 50 out of 175 countries surveyed in Transparency International's 2014 Corruption Perceptions Index. Transparency International's 2014 Malaysian Corruption Barometer, a public opinion survey conducted in all 13 states, found that Malaysians view political parties as the most corrupt institution in the country, followed closely by the police. The survey also noted the troubling increase in bribery demands in the health and education sectors.

Government and law enforcement bodies have suffered a series of corruption scandals in recent years. The Malaysian Anti-Corruption Commission (MACC) has itself come under scrutiny for its interrogation practices, as two suspects have died after falling from MACC office buildings since 2009. In 2014, authorities reported that they will reopen investigations into the case of one of the individuals, Teoh Beng Hock, a journalist and political aide who was being questioned about allegations of corruption before his death. In 2013 and again in early 2014, the rights group Global Witness brought allegations against former chief minister and current Sarawak governor Abdul Taib Mahmud concerning a company linked to his son. The group claims that the company may have been used as a front to receive 6.6 million ringgits (\$1.8 million) in commissions for a waste disposal project involving a government venture with the German firm Trienekens GMBH.

Civil Liberties: 27 / 60

D. Freedom of Expression and Belief: 7 / 16 (-1)

Freedom of expression is constitutionally guaranteed but restricted in practice. The 1984 Printing Presses and Publications Act was amended in 2012, retaining the home minister's authority to suspend or revoke publishing licenses but allowing judicial review of such decisions. The amendments also eliminated the requirement that publications and printers obtain annual operating permits. 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 used to post online content accountable for information published on their sites or through their services. Critics of the amendment charge that it effectively shifted the burden of proof to the accused.

Most private publications are controlled by parties or businesses allied with the BN, as are most private television stations, which generally censor programming according to government guidelines. State outlets reflect government views. Books and films are directly censored or banned for profanity, violence, and political and religious content. Publications often face harassment from the government. In January 2014, the Home Ministry lifted its suspension on the weekly news magazine *The Heat*, which had been suspended in late 2013 following a front-page story on Prime Minister Najib and his wife's activities and expenditures.

The internet has emerged as a primary outlet for free discussion and the exposure of political corruption, although the Malaysian Communication and Multimedia Commission monitors websites and can order the removal of material considered provocative or subversive. The government engages in legal harassment of bloggers, activists, academics, lawyers, and journalists who post critical content, charging them under defamation laws, the Official Secrets Act, and the Sedition Act, all of which include imprisonment as a possible penalty. As of fall 2014, 15 people faced sedition charges in

Malaysia. In September, two students were charged under the Sedition Act: Safwan Anang and Adam Adli were sentenced to ten months and one year in prison, respectively, for public remarks made in 2013 about the general election and the government. As of 2014, *Malaysiakini*, a leading online newspaper, faced five defamation suits targeting its editors and parent corporation, including one brought in June in response to the publication of readers' comments about stories critical of Najib.

While some members of the BN government continue to articulate the need for a tolerant and inclusive form of Islam in Malaysia, religious freedom is restricted. Ethnic Malays are defined under the constitution as Muslims, and practicing a version of Islam other than Sunni Islam is prohibited. Muslim children and civil servants are required to receive religious education using government-approved curriculums and instructors. Proselytizing among Muslims by other religious groups is prohibited, and a 2007 ruling by the country's highest court effectively made it impossible for Muslims to have their conversions to other faiths recognized by the state. 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.

Discrimination against Shiite Muslims continued in 2014. In March, 114 Shiites were arrested in Perak while attending a religious celebration. Mainstream media outlets regularly attack the religious minority. In the last several years, UMNO has called for a government commission to protect Sunni Islam against "deviant" religious sects and the LGBT community. The party has also tabled a constitutional amendment that would identify Malaysia as a Sunni Muslim nation.

In June, Malaysia's highest court upheld the reinstatement of a ban, made by an appeals court in 2013, on non-Muslims using the word Allah to refer to God. The decision was a devastating blow to freedom of religion and private discussion, as Malay-speaking Christians widely used the word in their scriptures, including Christian bibles, and in daily life. In October, prominent officials defended a call by a far-right politician to burn bibles containing the word Allah.

Teachers and students espousing antigovernment views or engaging in political activity are subject to disciplinary action under the Universities and University Colleges Act (UUCA) of 1971. However, following a 2011 court finding that the constitution protected students' involvement in political campaigns, Parliament amended the UUCA in 2012 to allow students to take part in political activities off campus. After organizing a talk by Anwar Ibrahim in October 2014, seven students at the University of Malaya in Kuala Lumpur faced disciplinary action.

E. Associational and Organizational Rights: 6 / 12

Freedoms of assembly and association are limited on the grounds of maintaining security and public order. The 2011 Peaceful Assembly Act lifted a rule requiring police permits for nearly all public gatherings, but other restrictions remain, including a prohibition on street protests and excessive fines for noncompliance. In addition, the law delineates 21 public places where assemblies cannot be held – including within 50 meters of houses of worship, schools, and hospitals – and prohibits persons under the age of 15 from attending any public assembly. In October 2014, police disassembled a year-old blockade constructed by local protesters near the Baram River in Sarawak to stop the clearing of forested lands for a controversial hydroelectric dam project. The protesters reconstructed the barrier, continuing to call for the cessation of logging and construction.

The Societies Act of 1996 defines a society as any association of seven or more people, excluding schools, businesses, and trade unions. Societies must be approved and registered by the government, which has refused or revoked registrations for political reasons. Numerous nongovernmental organizations operate in Malaysia, but some international human rights organizations are forbidden from forming local branches.

Most Malaysian workers – excluding migrant 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, and the union recognition process can take from 18 to 36 months. Collective bargaining is limited, as is the right to strike. Amendments to the Employment Act in 2011 weakened the responsibilities of employers to workers by allowing for the greater use of subcontractors.

F. Rule of Law: 5 / 16

Judicial independence is compromised by extensive executive influence. Arbitrary or politically motivated verdicts are common, as seen in the convictions of Anwar Ibrahim in 1999, 2000, and 2014 on charges of corruption and sodomy. Malaysia's secular legal system is based on English common law. However, Muslims are subject to Sharia (Islamic law), the interpretation of which varies regionally, and the constitution's Article 121 stipulates that all matters related to Islam should be heard in Sharia courts. This results in vastly different treatment of Muslims and non-Muslims regarding "moral" and family law issues. In 2014, officials discussed the possibility of elevating the powers of Sharia courts, which critics saw as a challenge to the constitution.

The 1960 Internal Security Act was replaced in 2012 with the Security Offences (Special Measures) Act, which abolished preventive detention but left a sweeping definition of "security offences." The new law allows police to detain anyone for up to 28 days without judicial review, and suspects may be held for 48 hours before being granted access to a lawyer. A 2013 amendment to the Prevention of Crime Act (PCA), a law ostensibly aimed at combating organized crime, allows a five-member board to order the detention of individuals listed by the Home Ministry for renewable two-year terms without trial or legal representation. The PCA had previously allowed detentions of 72 days.

Allegations of abuse and torture in police custody persist. The case of Kugan Ananthan, who died in 2009 while in custody in the state of Selangor, led to an investigation into the actions of various police officers and Inspector General Khalid, who was the Selangor police chief at the time of Kugan's death. Concluding in 2014, the investigation found that Khalid had failed to investigate the death as a murder and had provided misleading information about it. Despite these findings, he was not removed from his post.

Although the constitution provides for equal treatment of all citizens, the government maintains an affirmative action program intended to boost the economic status of ethnic Malays and other indigenous people, known collectively as *bumiputera*. Bumiputera receive preferential treatment in areas including property ownership, higher education, civil service jobs, and business affairs, and bumiputera-owned companies receive the lion's share of large government contracts. In 2013, the government announced a "bumiputera economic empowerment" plan, devoting 30 billion ringgits (\$9.2 billion) in new funding to supporting bumiputera-owned businesses.

LGBT people face discrimination and harassment. Same-sex sexual relations are punishable by up to 20 years in prison under the penal code, and some states apply their own penalties to Muslims under Sharia statutes. In 2014, the government continued attacks on LGBT individuals. The Ministries of Health and Education initiated campaigns for parents, teachers, counselors, and young people to "prevent, overcome, and correct" symptoms of homosexuality in children, while the Ministry of Information banned television and radio shows depicting gay characters. In the first half of 2014, 16 transgender women in Negeri Sembilan were arrested under a law that prohibits men from wearing women's clothing or posing as women in public, subsequently receiving fines and a seven-day prison sentence. In a positive development, the Court of Appeal in November found the statute in question to be unconstitutional. At year's end, Negeri Sembilan authorities signaled intentions to challenge the court's decision.

G. Personal Autonomy and Individual Rights: 9 / 16

Citizens are generally free to travel within and outside of Malaysia, as well as to be employed in fields of their choosing. Malaysia is generally recognized to have a vibrant private business sector.

However, professional opportunities and access to higher education are affected by regulations and practices favoring ethnic Malays and those with connections to political elites.

Women are underrepresented in politics, the civil service, and professional fields such as law, medicine, banking, and business. Violence against women remains a serious problem. Muslim women are legally disadvantaged because their family grievances are heard in Sharia courts, where men are favored in matters including inheritance and divorce; women's testimony is not given equal weight. Despite some progress in investigating and punishing sex-trafficking offenses, government efforts to combat trafficking are inadequate. In a notable victory for gender equality, a high court ruling in November 2014 found the government guilty of discrimination against a female teacher, who had been refused employment while pregnant in 2009.

Foreign household workers are often subject to exploitation and abuse by employers. An estimated two million foreigners work in Malaysia illegally. If arrested and found guilty, they can be caned and detained indefinitely pending deportation. In November and December 2014, more than 300 illegal immigrants were arrested in the Cameron Highlands as part of a series of joint operations by the military and the police.

Scoring Key: X / Y (Z)

X = Score Received

Y = Best Possible Score

Z = Change from Previous Year

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