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Country Report on Human Rights Practices 2017 - 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, and the kingship rotates among the sultans of the nine states with hereditary rulers. The United Malays National Organization, together with a coalition of political parties known as the National Front (BN), has held power since independence in 1957. In the 2013 general election, the BN lost the popular vote to the opposition coalition but was re-elected in the country's first-past-the-post system. The opposition and civil society organizations alleged electoral irregularities and systemic disadvantages for opposition groups due to lack of media access and malapportioned districts favoring the ruling coalition.

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

The most significant human rights issues included: an incident of forced disappearance; abusive and degrading treatment by security officials that in some cases led to death; the use of caning as a legal punishment; indefinite detention without warrant or judicial review for persons suspected of certain security-related crimes; arbitrary arrest and detention of government critics; limits on the freedoms of expression, including for the press, assembly, and association; limits on political rights and privacy; corruption; violence against transgender persons and criminalization of same-sex sexual activities, although the law was rarely enforced; and child and forced labor, especially for migrant workers.

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 individuals died in prison from 2015 through 2016, including more than 100 individuals 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 February a 44-year-old man died in police custody after responsible officers did not comply with a court order for the suspect to be released and taken to the hospital. Witnesses testified at a public inquiry held by the Enforcement Agencies Integrity Commission that police officers slapped, punched, and beat the detainee with a bamboo stick and rubber hose. The National Human Rights Commission described the individual's treatment as "without reasonable and credible justification." The government has taken no action to date.

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 February a group of highly organized individuals abducted Raymond Koh, a Christian pastor, from his vehicle on a suburban Kuala Lumpur highway. Despite closed-circuit television footage of the kidnapping, police investigation made little progress, leading to widespread public speculation, denied by police, that government officials were involved. The inspector general of police later announced that police would investigate reports that Koh was involved in proselytizing to Muslims, adding, "It would not be fair if we only investigated Raymond's disappearance."

Police made little progress in investigating the separate disappearances in November 2016 of Christian pastor Joshua Hilmy and his wife Ruth, and of Amir Che Mat, a Muslim activist alleged to be linked to Shiite teachings. In May the United Nations said in a statement, "Enforced disappearances are rare in Malaysia and it is deeply concerning that little progress has been made into" the cases of the Kohs and Amir Che Mat. In October, SUHAKAM convened a public inquiry into the disappearances, but police witnesses refused to share key evidence and notes, although police did participate in the inquiry process. Police said that SUHAKAM should work through the attorney general's chambers in order to compel testimony.

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 in response to 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 exempts men older than 50 years, unless convicted of rape, and all women from caning. Male children between 10 and 18 years 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 issues involving conflicts among the constitution, the penal code, and sharia.

In July the state assembly of Kelantan voted to permit courts to sentence individuals to public caning for certain civil offenses.

Prison and Detention Center Conditions

Conditions in prisons and detention centers operated by the government's Immigration Department were harsh. In August, SUHAKAM described the conditions at one police detention center as "cruel, inhumane, and degrading."

Physical Conditions: Overcrowding in prisons and immigration detention centers, particularly in facilities near major cities, remained a serious problem.

In February inmates at the Sungai Buloh prison submitted a petition to the government detailing poor prison conditions, including contaminated food and water and widespread diseases due to lack of medical care. The government has not responded publicly to the allegations.

Suara Rakyat Malaysia, a human rights nongovernmental organization (NGO), documented 15 cases of custodial deaths in the year through October, eight of which occurred in police custody and five of which occurred in prisons.

In June a detainee collapsed in court, but police claimed he was well enough to proceed with the hearing. The suspect, however, died in court shortly after the proceedings. Police conducted a postmortem without informing the family, and pronounced the cause of death to be a congenital heart defect. Human rights groups challenged the government's claims.

A May report in international media quoted refugees who claimed to have been beaten and forced to drink water from toilets out of desperation, although the government has called the allegations "grossly misleading."

Administration: Law enforcement officers found responsible for deaths in custody do not generally face punishment. In April, four police officers who were charged with the 2013 murder of a 32-year-old man were acquitted, despite the Enforcement Agency Integrity Commission concluding that the victim died from police use of physical force.

Rights to religious observance were restricted for members of Islamic sects the government bans 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 International Committee of the Red Cross and SUHAKAM, the government human rights commission, on a case-by-case basis.

The Office of the UN 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 and refugee status held in immigration detention centers and prisons. This access, however, was not always timely.

d. Arbitrary Arrest or Detention

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

Civilian authorities at times did not maintain effective control over security services. The Royal Malaysia Police force, with approximately 102,000 members, 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. 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. The Ministry of Home Affairs also oversees the People’s Volunteer Corps (RELA), a paramilitary civilian volunteer corps. NGOs remained concerned inadequate training left RELA members poorly equipped to perform their duties.

The government has some mechanisms to investigate and punish abuse and SUHAKAM played a role in investigating alleged abuses committed by the security forces (see section 1.b. re: Koh investigation). 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. Civil society groups and NGOs continued to call for establishment of an independent police complaints and misconduct commission. Government officials and police opposed the idea. Police training included human rights awareness in its courses. SUHAKAM also conducted human rights training and workshops for police and prison officials.

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 up to 14 days by court order under general criminal law provisions. NGOs reported the police practice of releasing suspects and then quickly rearresting them in order to continue investigative custody without seeking judicial authorization. In June human rights group Suaram alleged police arrested and rearrested a man suspected of gang activity six times, while also holding the suspect in different jurisdictions after courts denied the application to extend his detention. Police also arrested the suspect under different laws in order to extend his detention.

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 right to contact family members and to 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 August the Federal Court ruled that Malaysian Anti-Corruption Commission (MACC) officials could question lawyers who accompanied their clients to MACC hearings (which are nonjudicial) about their interaction with their clients.

On occasion police did not allow 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.

Arbitrary Arrest: 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. In June, Bersih, a coalition of NGOs campaigning for electoral reform, submitted a memorandum to SUHAKAM reporting that police conducted 119 arrests or investigations of Bersih-related activities between 2016 and May 2017.

Pretrial Detention: 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 as of mid-2015.

Detainee's Ability to Challenge Lawfulness of Detention before a Court: Detainees have the right to challenge their detention by filing a habeas corpus application, although they are rarely successful, especially when charged under preventative 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 the judicial appointments limited judicial independence and strengthened executive influence over the judiciary. The politicized 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.

In August the Malaysian Bar Council called the government’s extension of the term in office for the chief justice and president of the Court of Appeal “unconstitutional, null, and void” as the two judges had reached the constitutionally mandated retirement age. Critics alleged the extensions were politically motivated and were enacted to limit the independence of the judiciary.

Trial Procedures

Constitutional provisions enshrine the rights of citizens in a trial. The civil law system is based on English common law and defendants are presumed innocent until proven guilty. Judges conduct trials and render verdicts. Trials are public, although judges may order restrictions on press coverage. Defendants have the right to counsel at public expense if they face charges that carry the death penalty and may apply for a public defender in certain other cases.

According to the Malaysian Bar Council, defendants generally have adequate time and facilities to prepare a defense if they have 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. Strict rules of evidence apply in court.

Defendants have the right to be present at their own trial. 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 impeded defendants’ ability to defend themselves.

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

Opposition leader Anwar Ibrahim remained in prison, serving a five-year sentence for consensual sodomy, a charge he denied and many international observers and human rights organizations viewed as politically motivated. Authorities generally permitted Anwar's lawyers and family to visit him. Family members have said officials sometimes 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. In July the Federal Court upheld the decision to award an opposition Member of Parliament damages of ringgit (RM) 350,000 ($80,800) over her 2008 arrest under the Internal Security Act. The structure of the civil judiciary mirrors that of the criminal courts. A large case backlog often resulted in delayed court-ordered relief for civil 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 arbitrary interference with privacy rights; 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 catch 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 July the Court of Appeal ruled that the National Registration Division was not bound by an edict by the National Fatwa Committee that declared children 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 of execution.

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 government regularly restricted the media's and civil society's freedom of expression, 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 stemmed from comments by vocal civil society or opposition leaders. Civil society groups claimed the government generally failed to investigate and prosecute similar "seditious" statements made by progovernment or pro-Malay persons.

Legal procedures in advance of an expected sedition trial against political cartoonist Zulkiflee Anwar Al Haque, better known as Zunar, continued as of November. The charge, dating from 2016, followed the publication of cartoons that criticized the prime minister. Zunar has also been barred from travelling abroad since being charged, which he challenged separately in court. In November the High Court upheld the travel ban.

Immigration authorities detained Mustafa Akyol, a Turkish journalist and visiting fellow at Wellesley University's Freedom Project, as he attempted to depart the country on September 25 after giving a series of lectures. Akyol had previously been summoned by the Kuala Lumpur Islamic Affairs Department in relation to a speech he delivered at a private club. Religious authorities later questioned him under a law prohibiting individuals from teaching "any matter relating to the religion of Islam" without authorization.

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

The government exerted control over news content, both in print and broadcast media; 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 May the government charged the chief executive of online news website *Malaysiakini* with improper use of network facilities or services under the Communications and Multimedia Act for publishing a video in which a former ruling party official criticized the attorney general for clearing the prime minister of involvement in a corruption scandal. The government had previously charged the editor of *Malaysiakini* for his involvement in the same incident in November 2016. An international NGO called the charges "seriously concerning, and also a clear violation of international human rights law on freedom of expression." The trial is expected to begin in January 2018.

Authorities sometimes barred online media from covering government press conferences.

Violence and Harassment: Journalists were subject to harassment and intimidation. In January, two journalists were arrested while covering a protest by a group of indigenous villagers against deforestation on their land. The journalists said Forestry Department officers handcuffed them and attempted to intimidate them physically to prevent them from reporting on the protest. They were released after 12 hours and no charges were filed against them.

Censorship or Content Restrictions: The government censored media, primarily print and broadcast media. In addition to controlling news content by banning or restricting publications believed to threaten public order, morality, or national security, the 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.

Despite these restrictions, publications of 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 occasionally censored foreign magazines, newspapers, television programming, and movies, 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 fora 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. In October the home minister announced the ban of Turkish author Mustafa Akyol's *Islam Without Extremes: A Muslim Case for Liberty*, finding the book "not suitable to the societal norms here."

In February a court convicted human rights activist Lena Hendry of screening "No Fire Zone: The Killing Fields of Sri Lanka," a documentary about human rights violations in Sri Lanka, without prior approval of the Film Censorship Board. She was ordered to pay a 10,000 RM ($2,310) fine, but prosecutors filed an appeal for a higher sentence, which remained in progress as of October. An international NGO called the prosecution "an outrageous assault on basic free expression" and "part of the Malaysian government's disturbing pattern of harassment and intimidation of those seeking to raise public awareness of human rights issues."

Libel/Slander Laws: The law includes sections on civil and criminal defamation. Criminal defamation is punishable by a maximum of two years in jail, 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 April, Prime Minister Najib sued an opposition Member of Parliament after the latter claimed that the tabling of a controversial amendment to the powers of sharia courts was to divert public attention away from an alleged corruption scandal. The case continued as of year's end.

National Security: Authorities frequently cited national security laws to restrict media distribution of material critical of government policies and public officials. In July the government banned a book of essays on moderate Islam that the government deemed to be "prejudicial to public order."

Nongovernmental Impact: Progovernment NGOs sought to limit freedom of expression through criminal complaints of allegedly seditious speech. Progovernment NGOs also sometimes attempted to intimidate opposition groups through demonstrations. Organizers canceled an exhibition displaying the work of prominent political cartoonist Zunar in July after members of the ruling party's youth wing threatened to attend. In November 2016, members of the ruling party's youth wing stormed a different Zunar exhibition, destroying artwork and physically threatening the cartoonist.

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.

Authorities restricted internet freedom to combat dissenting political views online. In March the government revealed it blocked 3,110 websites in 2016 for various offenses such as jeopardizing public order, although the list of banned sites also includes pornography and gambling sites.

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, and its political leaders.

In January the Court of Appeal upheld a 19-year-old man's conviction for posting Facebook comments criticizing the Sultan of Johor. The man was sentenced to a correctional institution until he turns 21. In August the government charged three individuals for posting critical images of the prime minister on Facebook.

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 World Bank, approximately 71.1 percent of the population had access to the internet.

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 fears the government might revoke the licenses of their institutions. The law imposes limitations on student associations and on student and faculty political activity.

The government regularly censored films, editing out profanity, kissing, sex, and nudity. The government also censored films for certain political and religious content. The government did not allow cinemas to show 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). In March the Film Censorship Board said the Disney film *Beauty and the Beast* would only be released if four minutes of content involving a "gay element" were removed. Although filmmakers refused to make the changes, the government allowed the film to be shown in its entirety.

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.

In May a lower court charged the organizer of a Bersih rally with failing to provide police with 10-day advance notice of an October 2016 rally. The formal charge was the first against a Bersih activist, although more than 100 individuals, including Bersih Chairman Maria Chin Abdullah, were detained and questioned following the group's demonstrations in November 2016. In response to the charges, an international NGO expressed alarm "that the authorities are increasingly responding to activities that aim to express dissent and protest against injustice with baseless police investigations," adding, "these recent actions by the police highlight an escalating pattern of misusing the criminal justice system to target and harass political activists and human rights defenders."

In August riot police arrested 44 Myanmar nationals of Rohingya origin who were protesting violence in Rakhine state. The demonstrators were charged with immigration violations; local law prohibits non-Malaysian citizens from participating in protests.

Protests deemed acceptable by the government usually proceeded without interference.

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 August the High Court upheld a university's decision to suspend a student for participating in an off campus, peaceful political demonstration outside of school hours, arguing his suspension did not constitute a violation of his rights to free speech or association.

Many human rights and civil society organizations had difficulty obtaining government recognition as NGOs. As a result many NGOs registered as companies, which presented legal and bureaucratic obstacles to raising money to support their activities. Authorities frequently cited a lack of registration as grounds to take 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 the eastern states of Sabah and Sarawak.

An appeals panel ruled in July that a valid passport does not give citizens the right to travel overseas, arguing that the right to freedom of movement provided for in the constitution is limited to movement within the country. The court also upheld the government's argument that the director general of immigration has no duty to explain the reasoning for prohibiting an individual from traveling overseas.

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 are considered "illegal immigrants" and receive no government support or recognition. The government allows UNHCR and a range of NGOs to work with these populations, but cooperation with UNHCR was inconsistent. For example, the government launched the pilot Tracking Refugees Information System in April to register refugees and collect their biometric data. Civil society groups expressed concern that the program will duplicate and degrade the value of identification documents provided by UNHCR and may be used to target and detain refugees.

As "illegal immigrants," refugees and others are subject to deportation at any time. They also face up to five years' imprisonment, a fine of 10,000 RM ($2,310), or both, and mandatory caning of not more than six strokes if convicted of immigration law violations.

Most migrants, refugees, and stateless persons live in private accommodations and survive 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 lack of medical screening and treatment facilitated the spread of disease and contributed to deaths. NGOs provided most of the 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 more. The number detained in these centers was not publicly available.

In-country Movement: Sabah and Sarawak 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 selected national opposition leaders to these east Malaysian states.

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 the travel of some activists overseas, the government temporarily detained and in some cases denied entry of foreign human rights activists.

The July ruling that a valid passport does not give citizens the right to travel overseas allows unrestricted administrative denial of the right to overseas travel, although there are several challenges to the ruling before the courts.

Protection of Refugees

Refoulement: The government did not provide legal protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened based on their race, religion, nationality, membership in a particular social group, or political opinion. In May authorities detained three Turkish citizens, one of whom was a UNHCR-registered refugee, and deported them to Turkey, reportedly at the request of the Turkish government.

Access to Asylum: The laws do not provide for the granting of asylum or refugee status; nonetheless, the government generally cooperated with UNHCR and the government occasionally reported potential refugees to UNHCR. According to UNHCR statistics, there were 149,147 "persons of concern" in the country, including 132,106 from Myanmar, as of August 31. Because the country does not grant asylum or refugee status, UNHCR's ultimate mission is to provide third-country resettlement options for the populations with which it works. In the year to November, UNHCR successfully resettled 2,061 refugees.

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 are not provided with a clear understanding of the charges against them in their own language and are effectively denied the right to legal counsel. At court hearings 15 to 20 migrants are often tried together, grouped by the offense to which they have been charged. If found guilty, the cost of deportation is generally at the detainee's expense, which has led to prolonged detention for migrants who are 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 said they limited their movement throughout the country due to fears that authorities would not recognize the UNHCR card.

Employment: Although the government does not legally 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. The government began a pilot program in March to provide legal work opportunities for UNHCR-designated Rohingya refugees on palm oil plantations. Although a major step forward, the pilot received limited numbers of Rohingya

participants due to insufficient pay for hard physical labor in isolated plantations, often requiring family separation. UNHCR was re-evaluating the parameters of the pilot project and encouraging multiple sectors to participate in the pilot, including manufacturing firms for which jobs might be available near communities where refugee families live.

Access to Basic Services: The government provided access to health care at a discounted foreigner's rate 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 30 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.

Stateless Persons

The National Registration Department did not keep records of stateless persons. Estimates varied considerably and were not consistent. UNHCR estimated there were 12,350 stateless persons residing in peninsular Malaysia and 450,000 stateless persons in Sabah.

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 the eastern state of Sabah, 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 attend school, access government services such as reduced cost health care, or own property.

A number of local NGOs and SUHAKAM conducted research, held workshops, and ran

public awareness campaigns on the problem of stateless children.

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. Nonetheless, opposition political parties were disadvantaged due to government control over traditional media outlets and malapportionment of constituencies, among other issues. The ruling government coalition has held power since 1957.

While authorities generally recorded votes accurately, there were irregularities that affected the fairness of elections. The constitution fixes the number of seats in the 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: Following two parliamentary by-elections in 2016, opposition parties and NGOs accused the Election Commission of redrawing constituency boundaries and thereby shifting more than 100,000 voters throughout the country to new constituencies without informing the voters or obtaining parliamentary approval. Critics of the Election Commission called the action unconstitutional and "sleight-of-hand" gerrymandering, which affected some voters in the by-elections. Election Commission officials claimed the transfers moved voters to closer poll centers, easing the voting process.

In 2016 the Sarawak State government, which maintains autonomy over immigration, barred entry to opposition leaders from other states during the state election campaign.

The overrepresentation of some constituencies affected national elections in 2013, when the ruling coalition won 133 of 222 seats, although opposition parties won 52 percent of the popular vote. In a postelection report, electoral reform coalition Bersih cited the lack of independence of the Election Commission, which reports directly to the prime minister, as an unfair advantage to the ruling National Front (BN).

Political Parties and Political Participation: Opposition parties were unable to compete on equal terms with the United Malays National Organization-led BN 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 fashion in print and broadcast media. Registering a new political party remained difficult because of government restrictions on the process. In July the government's Registrar of Societies (RoS) ordered the opposition Democratic Action Party (DAP) to hold a second re-election for its central executive committee, using voter lists from 2012. The party held a re-election in 2013 after the RoS did not recognize the results of the party's 2012 central executive committee election due to alleged irregularities. The DAP questioned why the RoS waited four years to express concern over the conduct of the 2013 election. The party's secretary general charged that the RoS' action was meant to "fix and sabotage" the DAP before parliamentary elections. The opposition Pakatan Harapan coalition had not received official recognition by the RoS by year's end.

Participation of Women and Minorities: No laws limit participation by women and/or members of minorities in the political process, and they did participate.

The politically dominant Malay ethnic majority held the most powerful government senior leadership positions. Non-Malays filled 11 of the 36 ministerial posts and 14 of the 32 deputy minister positions. There were three female ministers and six female deputy ministers.

Section 4. Corruption and Lack of Transparency in Government

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

The Malaysian Anti-Corruption Commission (MACC) is responsible for investigating and prosecuting corruption of both private and public bodies. An auditor general has the responsibility, set forth in the constitution, to audit the accounts of the federal and state governments, government agencies, and other public authorities.

Media reports and statements by civil society and opposition leaders questioned the government's ability and willingness to prosecute corruption of high-ranking government officials.

Corruption: While the government successfully prosecuted some bribe-taking officials and persons paying bribes, observers noted the government neither prosecuted nor convicted any senior officials. Journalists, activists, and politicians were harassed and prosecuted after publicly reporting on or criticizing senior level corruption.

According to the MACC, between August 2016 and August 2017 the agency seized RM 334.53 million ($77.26 million) worth of assets, an increase of 600 percent compared with the previous year. The MACC said it had opened 952 investigations (3 percent increase), brought 405 cases to court (33 percent increase), and made 910 arrests (6 percent increase) during the same period.

In August the MACC arrested the former chairman of a government agency over allegations of corruption related to the purchase of a hotel in London for an above-market price of RM 495 million ($114.32 million). He had not been charged by year's end.

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

Some domestic and international human rights groups generally operated without 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 actions 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 is not empowered to inquire into allegations relating to court cases in progress and must cease an inquiry if an allegation under investigation becomes the subject of a court case.

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

Women

Rape and Domestic Violence: Rape, including marital rape, is a criminal offense, as are most forms of domestic violence. Rape is punishable by a maximum 20 years' imprisonment and caning. Marital rape does not have a minimum penalty, but the maximum penalty is five years' imprisonment. According to the latest statistics from the Ministry of Home Affairs, approximately 16 percent of reported rape cases were taken to court, with a conviction rate of 2.7 percent of all reported cases.

Many government hospitals had crisis centers where victims of rape and domestic abuse could make 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): FGM/C is a common practice, but data is very limited. Ministry of Health guidelines allow the practice but only at government health-care facilities.

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 embarrassment, the difficulty of proving the offense, and a lengthy trial process.

Coercion in Population Control: There were no reports of coerced abortion, involuntary sterilization, or other coercive population control methods. Estimates on maternal mortality and contraceptive prevalence are available at: www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/ (http://www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/).

Discrimination: The constitution prohibits discrimination against citizens based on gender, and gives men and women equal property rights. However, sharia law, 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 but steadily increasing number of women were able to obtain divorces under sharia without their husband's consent. Non-Muslim women are not subject 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.

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 Malaysian 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), though there was no enforcement mechanism governing school attendance. Public schools are not open to the children of illegal immigrants or refugees, whether registered with UNHCR or not.

Child Abuse: Child abuse took the form of neglect, physical abuse, sexual abuse (including incest), and infant abandonment. Punishment for child abuse includes fines, imprisonment, caning, or a combination of these measures.

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

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. Under the law the minimum age for consensual, noncommercial sex is 16 years 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 June the government

established a special court for sexual crimes against children to speed up trials, many of which take 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 in prostitution as offenders or undocumented immigrants rather than as victims.

The government focused on preventing sexual exploitation of children, including commercial sexual exploitation. In April parliament passed a bill to protect children from sexual abuse, including provisions that can be applied to citizens who commit offenses outside of the country. The law provides for six to 20 years' imprisonment and caning for individuals 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: The prevalence of street children was a problem 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 the children without guardians. Lacking citizenship, access to schooling, and 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 travel.state.gov/content/childabduction/en/legal/compliance.html (http://travel.state.gov/content/childabduction/en/legal/compliance.html).

Anti-Semitism

The country's Jewish population was estimated to be 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. Government-owned newspapers and statements by current and former political officeholders sometimes blamed civil society activity on "Jewish plots" or "Jewish conspiracies."

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 gives 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 for extensive preferential programs designed 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 say 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

Homosexual 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," though authorities rarely enforced this provision.

It was, however, the basis for the controversial case against parliamentary opposition leader Anwar Ibrahim (see section 1.e.). Religious and cultural taboos against same-sex sexual conduct were widespread (see section 2.a.).

Authorities often charged transgender individuals with "indecent behavior" and "importuning for immoral purposes" in public. Those convicted of a first offense faced a maximum fine of 25 RM ($5.77) and a maximum sentence of 14 days in jail. The sentences for subsequent convictions may be maximum fines of 100 RM ($23.10) and a maximum of three months in jail. Local advocates contended that imprisoned transgender women served their sentences in prisons for men where 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 February, Sameera Krishnan, a transgender woman, was shot and killed and her body mutilated in the eastern city of Kuantan. Police arrested five suspects in April but later released them on bail. Sameera had been previously kidnapped, beaten, and raped in 2015. Court proceedings against two men charged in her 2015 kidnapping continued as of November. According to a local transgender rights NGO, two other transgender women were killed in the year through November.

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 union activities, including union formation. It prohibits employers from seeking retribution 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 unpredictable and long. 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, and 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. There continued to be long delays in the treatment of union claims to obtain recognition for collective bargaining purposes.

Private sector strikes are legal, although they were severely restricted. The law provides for penal sanctions for peaceful strikes. Union officials claimed legal requirements for strikes were almost impossible to meet. 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 before the Industrial Court.

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. While the Ministry of Labor prohibits national-level unions, it 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 (MTUC) 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 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 the enforcement of the law. The government continued efforts to enforce laws prohibiting forced labor.

The government was negotiating with Thailand to extradite three suspects alleged to have trafficked Rohingya and other groups, whose remains were found in mass graves on both sides of the Malaysia-Thailand border in 2015. At year's end, no local perpetrators had been convicted in connection with these investigations.

The Labor Department relied on 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 connected crimes that included harsher penalties.

Amendments to antitrafficking legislation made in 2015 allow confirmed trafficking victims to move freely and work, but only six trafficking victims met the established criteria and were issued work visas in 2016.

The National Anti-Human Trafficking Council reported labor department officials received specialized training, including with other law enforcement agencies, to help increase coordination. In the Labor Department, there were 30 to 40 "special enforcement officers" who focused primarily on forced labor and other human trafficking indicators (see section 7.e.).

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 adults and children (also see section 7.c).

Employers, employment agents, or labor recruiters subjected some migrants to forced labor or debt bondage. Labor activists and human rights NGOs reported the existence of debt bondage conditions for migrant workers on some plantations as well as in some factories and other businesses. Many companies hired foreign workers using recruiting or outsourcing companies rather than directly by the factory or plantation where they worked, creating uncertainty regarding the legal relationship between the worker and the outsourcing company or owner of the workplace, and 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 the country who imposed high fees, which made migrant workers vulnerable to debt bondage.

Passport confiscation by employers of migrant workers, which was illegal but widespread and generally unpunished, increased workers' vulnerability to forced labor. 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 the employer to 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. The government increased law enforcement efforts to hold employers accountable under the law, but the number of convictions for passport retention remained low.

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 14 years 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 14 and 18 years, 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 sector, including family food businesses and night markets, and in small-scale industry. Child labor was also evident among migrant domestic workers. The International Labor Organization encouraged the government to take steps to make such data available and collaborated with the Ministry of Plantation Industries and Commodities to study the prevalence of child labor in the plantation industry.

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, a worst form of child labor, also occurred (see section 6, Children).

d. Discrimination with Respect to Employment and Occupation

The law does not prohibit discrimination with respect to hiring, although 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 directives necessary to resolve the matter to the employer.

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 individuals with disabilities. A regulation reserves one 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 with 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 engaging in "underground working," referring to occupations literally 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 regarding positions in the federal civil service and regarding 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 920 RM ($212) per month in the states of Sabah and Sarawak and 1,000 RM ($231) 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 the Ministry of Finance-published poverty income levels in Sabah and Sarawak.

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

The law provides for protections for 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 countries of migrant workers' origin include provisions for rest periods, compensation, and other conditions of employment for migrant domestic workers, including prohibitions on passport retention. Some employers deduct a government-imposed levy on companies employing migrant workers from the wages of their workers. In 2016 the government announced plans to make employers fully responsible for the levy, but delayed its implementation due to pressure from business owners.

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 Labor Department 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. Labor Department 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 of 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. In the past, the MTUC has called for heavier penalties on employers.

Employers did not respect laws on wages and working hours. The MTUC reported that 12-, 14-, and 18-hour days were common in food and other service industries. In general, migrant workers were more apt to face poor working conditions, worked in sectors where violations were common, and faced challenges in accessing justice. Migrant workers often worked under difficult conditions, 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, 142 workers died, 2,184 acquired a nonpermanent disability, and 103 acquired permanent disability in the first half of the year.

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