

MALAYSIA 2021 HUMAN RIGHTS REPORT

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, serves a largely ceremonial role, and has a five-year term. The kingship rotates among the sultans of the nine states with hereditary Malay rulers. In 2018 parliamentary elections, the Pakatan Harapan coalition defeated the ruling Barisan Nasional coalition, resulting in the first transfer of power between coalitions since independence in 1957. Before and during that campaign, opposition politicians and civil society organizations alleged electoral irregularities and systemic disadvantages for opposition groups due to a lack of media access for the opposition and malapportioned districts favoring the then ruling coalition. In February 2020 the Pakatan Harapan coalition collapsed, and power transferred to the Malay-dominated Perikatan Nasional coalition which included the main Barisan Nasional components, headed by Prime Minister Muhyiddin Yassin. In August that coalition lost its majority in the lower house of parliament, resulting in a transfer of power to a Barisan Nasional-led coalition headed by the new prime minister, Ismail Sabri.

The Royal Malaysian Police maintain internal security and report to the Ministry of Home Affairs. State-level Islamic religious enforcement officers have authority to enforce some criminal aspects of sharia. Civilian authorities at times did not maintain effective control over security forces. There were credible reports that members of the security forces committed some abuses.

Significant human rights issues included credible reports of: unlawful or arbitrary killings by the government or its agents; torture and cases of cruel, inhuman, or degrading treatment or punishment by government entities; harsh and life-threatening prison conditions; arbitrary arrest and detention; problems with the independence of the judiciary; arbitrary or unlawful interference with privacy; restrictions on free expression and media including unjustified arrests or prosecutions of journalists, censorship, and the existence of criminal libel laws; restrictions on internet freedom; substantial interference with the freedom of

peaceful assembly and freedom of association; severe restrictions on religious freedom; restrictions on freedom of movement; serious government corruption; serious government restrictions on or harassment of domestic human rights organizations; lack of investigation of and accountability for gender-based violence; significant barriers to accessing reproductive health; trafficking in persons; violence against lesbian, gay, bisexual, transgender, queer, or intersex persons; criminalization of consensual adult same-sex sexual conduct; and child labor.

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

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

There were scattered reports the government or its agents committed arbitrary or unlawful killings, mostly in the prison system.

In June human rights organizations called for inquests into what media termed “a recent spate of deaths in police custody.” In July the Malaysian Human Rights Commission (SUHAKAM), an independent entity established by parliament, stated it was launching investigations into four fatalities in May and June, including the case of a security guard, Sivabalan Subramaniam, who died less than an hour after his arrest and detention on May 20 at Gombak District police headquarters in Selangor State, allegedly from injuries sustained while in custody. The nongovernmental organization (NGO) Eliminating Deaths and Abuse in Custody Together (EDICT) accused the government and police of not taking the issue seriously and called for a coroner’s inquest to determine the cause of death. In June, responding to prisoner deaths in the Gombak facility, the inspector general of police transferred Gombak police chief Arifai Tarawe to the Integrity Unit at Bukit Aman police headquarters.

On June 3, Umar Faruq Abdullah, a truck driver, died at the Southern Klang

District police headquarters in Selangor State, a day after police arrested him for stealing a gas cylinder. Media reported police told the family that Umar had “fallen to his death while he attempted to escape.” Umar’s family’s lawyer told media, however, that “something was definitely not right” about the circumstances of his death and indicated he planned to file a suit against police and the government for causing Umar Faruq’s death. Umar’s wife, who viewed the body before the autopsy, said she saw swellings all over the body.

Investigation by the Criminal Investigation Division within the Royal Malaysian Police into the use of deadly force by a police officer occurs only if the attorney general initiates the investigation or 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

There were no reports of disappearances by or on behalf of government authorities.

SUHAKAM continued its public inquiry, suspended for six months in 2020 due to the COVID-19 pandemic, into the 2016 disappearance of Christian converts Pastor Joshua Hilmy and his wife, Ruth Sitepu. On January 11, SUHAKAM expressed disappointment that the government was withholding evidence on orders from the Attorney General’s Chambers and claimed the legal authority to demand such evidence.

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

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

older than 50, unless convicted of rape, and all women from caning. Male children between ages 10 and 18 may receive a maximum of 10 strokes of a “light cane” in a public courtroom.

Impunity was a significant problem in the security forces due in part to corruption and political influence over the police force. Police abuse of suspects in custody and a lack of accountability for such offenses remained a serious problem. The executive director of local human rights NGO Suaram, Sevan Doraisamy, reported that according to Suaram’s media monitoring, widely reported custodial deaths during the year pointed to a “combination of a sense of impunity and poor health systems in detention centers.”

In March the then inspector general of police, Abdul Hamid Bador, declared that there was a “cartel of dirty cops” in middle and senior ranks. He claimed their collaborators would get promoted to dominate the police hierarchy, so that “when they are top officers and have power, they will start to do their dirty work, including collaborating with criminals.” In November the Home Affairs Ministry referred the matter to the Enforcement Agency Integrity Commission for further investigation.

In September, Home Affairs Minister Hamzah Zainudin told parliament that since January, 42 individuals had died while in custody, 14 in prison or police custody and 28 in immigration detention centers. According to the NGO Suaram, however, 16 persons died in police lockups and prison through September, while more than 40 individuals died in immigration detention centers. The government claimed that deaths caused by police were rare, but civil society activists disputed this claim. Hamzah announced that the Ministry of Home Affairs was installing closed-circuit television inside all police lockups in April and that installation was 40 percent complete as of September 29.

In February media reported an accusation by the attorney for retail worker Leong Ann Ping that Leong was sexually harassed by male suspects while detained in the local jail at Mukah, Sarawak State, that she suffered from insomnia and headaches while incarcerated, and that police were not responsive to her request for morning headache medicine. Leong had been arrested three times since November 2020 in connection with a break-in, under a statute designed to combat organized crime

and terrorism. Responding to a request from the deputy public prosecutor, a judge ordered her release.

On February 17, Rafi Ullah, a Pakistani refugee, died at Sungai Buloh Prison, near Paya Jaras, Selangor State, reportedly of a heart attack; his lawyer said serious injuries on his hands and feet raised questions about the cause of death. Media reported the prison only informed the family on February 19 and only agreed to conduct an autopsy after the family filed a police report.

On April 17, A. Ganapathy died of severe injuries at Selayang Hospital in Gombak District, Selangor State, following 12 days in custody at Gombak District police headquarters, according to media reports. A lawyer representing Ganapathy's family said an autopsy revealed his death was due to "severe injuries" to his legs and shoulders. The NGO EDICT called for an inquiry, adding that for police to "abuse tactics to force suspects to confess is inappropriate." In September, Home Affairs Minister Hamzah announced police had started an inquest into the death.

In May families of 10 inmates filed police reports after their incarcerated relatives claimed to have been abused while under quarantine at Jelebu Prison in Negeri Sembilan. Among the allegations was that the inmates' genitals and anuses were pepper-sprayed, rendering them unable to urinate or defecate.

In September Selangor State Criminal Investigation Department chief Nik Ezanee Mohd Faisal told media that police would investigate the reported sudden death in custody of Vinaiyagar Thinpathy for foul play and noncompliance with standard operating procedures. Police arrested Vinaiyagar on September 8 for alleged "gangsterism," and he died five days later due to a ruptured stomach ulcer, per police reports. Police indicated he was also COVID-19 positive. His wife disputed the reports and filed a wrongful death claim against police, stating that his body appeared swollen and beaten. Vinaiyagar's death in police custody was the tenth since January.

Prison and Detention Center Conditions

Conditions in prisons and detention centers could be harsh and life threatening.

The government cracked down on migrants, particularly Rohingya, who were put

into detention centers for what it claimed was COVID-19-related “quarantine.”

In December the NGO Suaram stated that deaths in police custody were “severely underreported” and reported there were 19 custodial deaths from January 20 through November 16.

Physical Conditions: Overcrowding in prisons and immigration detention centers, particularly in facilities near major cities, remained a serious problem. According to the Home Affairs Ministry, 20 of the country’s 37 prisons were overcrowded. In Kuala Lumpur as well as Selangor and Kelantan States, prisons exceeded capacity by 45 to 50 percent. According to World Prison Brief, as of August 2020 the country had 69,000 inmates in 52 prisons designed to hold only 52,000 inmates.

Administration: The law allows for investigations into allegations of mistreatment; however, this provision did not always function. Officers found responsible for deaths in custody did not generally face punishment.

Authorities restricted rights to religious observance for members of all non-Sunni practices of Islam, which 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’s Enforcement Agency Integrity Commission, the International Committee of the Red Cross, and SUHAKAM monitored prisons on a case-by-case basis.

The government did not grant the Office of the UN High Commissioner for Refugees (UNHCR) access to detention facilities where migrant laborers and refugees were held.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention and provides for the right of any person to challenge the lawfulness of his or her arrest or detention in court, and the government generally observed these requirements.

Police may use certain preventive detention laws to detain persons suspected of terrorism, organized crime, gang activity, and trafficking in drugs or persons without a warrant or judicial review for two-year terms, renewable indefinitely. Within seven days of the initial detention, however, police must present the case for detention to a public prosecutor. If the prosecutor agrees “sufficient evidence exists to justify” continued detention and further investigation, a fact-finding inquiry officer appointed by the minister of home affairs must report within 59 days to a detention board appointed by the king. The board may renew the detention order or impose an order to restrict, for a maximum of five years, a suspect’s place of residence, travel, access to communications facilities, and use of the internet. In other cases the law allows investigative detention for up to 28 days 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.

In October the minister of home affairs reported that 374 individuals were detained under security legislation from January 1 through September 30.

In September Home Affairs Minister Hamzah Zainudin reported to parliament that as of August 25, there were 2,881 prison detainees younger than 21. Among these detainees, 45 were pending trial while 2,836 were convicted prisoners. As of the same date, there were 1,490 detainees younger than 21 at immigration depots and temporary immigration depots nationwide.

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. During investigations police may hold a suspect for 24 hours, which may be extended for a maximum of 14 days by court order under general criminal law provisions. NGOs reported a police practice of releasing suspects and then quickly rearresting them to continue investigative custody without seeking judicial authorization.

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

While authorities generally treated attorney-client communications as privileged, Malaysian Anti-Corruption Commission officials may question lawyers who accompanied their clients to nonjudicial commission hearings about their interaction with their clients and the content of their discussions.

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

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

On May 13, police detained two boys, ages 12 and 13, at a local police station in Sentul, a suburb of Kuala Lumpur, on suspicion of throwing firecrackers at policemen sent to disperse a crowd of approximately 200 setting off fireworks. They were released on bail the next day. The SUHAKAM children’s commissioner, Noor Aziah Mohd Awal, declared that the arrests contravened the law, which states that a child being arrested should not be handcuffed, the parents or guardians must be informed of the child’s whereabouts, the child’s identity must be protected, and the child has the right to consult with counsel of his or her choice.

Arbitrary Arrest: Authorities sometimes used their powers to intimidate and punish opponents of the government. Activists and government critics were often

subjected to late-night arrests, long hours of questioning, and lengthy remand periods, even if they were not ultimately charged with an offense.

From March 3 to July 29, Selangor State Islamic religious authorities detained journalist Wan Norhayati Wan Alias, known as “Ibu Yati,” without charge, based on controversial comments she posted on social media about the “Arabization” of Malay culture. During this time authorities allegedly repeatedly questioned her; deprived her of contact with her lawyer; and detained her in unsafe conditions, including lack of water, food, and access to medicine, at times with possibly COVID-19-positive detainees. On July 28, the Selangor State sharia high court charged Ibu Yati and two others with expounding religious doctrines contrary to Islamic law and spreading them through Facebook from December 2020 through February 1. They were released on bail but ordered to report to the nearest District Islamic Religious Department and barred from uploading on social media. A November 2 hearing was fixed for Ibu Yati. Ibu Yati’s court date was set for January 25, 2022.

Also on July 28, authorities detained youth activist Sarah Irdina and questioned her for 10 hours over social media posts promoting the “black flag” campaign to protest the Muhyiddin government’s response to COVID-19. Police also raided her home without a search warrant.

Pretrial Detention: The International Center for Prison Studies reported that pretrial detainees comprised approximately 27 percent of the prison population in 2018. Crowded and understaffed courts often resulted in lengthy pretrial detention, sometimes lasting several years. In September Chief Justice Tengku Maimun Tuan Mat issued directives to improve the detention process and ensure suspects detained for investigation for more than 24 hours had access to legal representation, were in good health, and were allowed to testify in court about their treatment while under detention.

e. Denial of Fair Public Trial

Three constitutional articles provide the basis for an independent judiciary; however, other constitutional provisions, legislation restricting judicial review, and executive influence over judicial appointments limited judicial independence and

strengthened executive influence over the judiciary. The judiciary frequently deferred to police or executive authority in cases those parties deemed as affecting their interests.

Members of the Malaysian Bar Council, NGO representatives, and other observers expressed serious concern about significant limitations on judicial independence, citing several high-profile instances of arbitrary verdicts, selective prosecution, and preferential treatment of some litigants and lawyers. Representatives of these groups argued that the lines between the executive, the judiciary, and the state were very blurred and that the judiciary needed to exert more independence and objectivity.

The Judges' Ethics Committee suspended Court of Appeal judge Hamid Sultan Abu Backer from February through August because of an affidavit he filed in 2019 as part of a lawsuit against then chief justice Richard Malanjum. Hamid alleged government interference in previous judicial decisions and complicity by judges in sham cases designed to reward government supporters with large settlements. Hamid was the first judge suspended since the statute establishing the ethics committee came into effect in 2010. The inquiry against him took place behind closed doors, causing human rights NGOs to question the independence of the decision. After the suspension, Hamid retired.

Trial Procedures

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

According to the Malaysian Bar Council, defendants generally had adequate time and facilities to prepare a defense if they had the means to engage private counsel. Otherwise, defendants must rely on legal aid, and the amount of time to prepare for

trial is at the discretion of the judge. Authorities provide defendants free interpretation in Mandarin, Tamil, and some other commonly used dialects from the moment charged through all appeals. Criminal defendants have the right to confront witnesses. Defendants may present witnesses and evidence on their behalf. Limited pretrial discovery in criminal cases impeded the defense. Strict rules of evidence apply in court. Defendants may not be compelled to testify or confess guilt.

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

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

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

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

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

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

Laws prohibit such actions; nevertheless, authorities sometimes infringed on citizens' privacy. Under national security laws, police may enter and search the homes of persons suspected of threatening national security without a warrant. The government monitored the internet and threatened to detain anyone sending or

posting content the government deemed a threat to public order or security (see section 2.a.).

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

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

Throughout the year there were numerous instances of police confiscating the cell phones of human rights defenders brought in for questioning.

In August, NGOs reported that after activists cancelled a planned protest against the government, police went to many of the organizers' homes and questioned them and their families.

Section 2. Respect for Civil Liberties

a. Freedom of Expression, Including for Members of the Press and Other Media

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 freedom of expression for members of the public, media, and civil society, citing reasons such as upholding Islam and the special status of ethnic Malays, protecting national security, maintaining public order, and preserving friendly relations with other countries. The government curbed freedom of expression, particularly freedom of the press.

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. The law prohibits speech “with deliberate intent to wound the religious feelings of any person.”

According to the International Press Institute, the nationwide state of emergency declared in January to combat the COVID-19 pandemic, postponing parliamentary

sittings and elections while banning interstate travel and imposing restrictions on media, posed “a grave threat to press freedom and freedom of expression.” In March the government enacted an emergency ordinance prohibiting the spread of “fake news” related to COVID-19 and the state of emergency declaration with heavy fines, three years in prison, or both for violations. Opposition members of parliament, media, lawyers, and civil society activists called the ordinance “draconian” and prone to abuse because “fake news” was not clearly defined. Although parliament annulled the emergency ordinance in October, Communications and Multimedia Minister Annuar Musa declared that any ongoing investigations of “fake news” would not be affected by the annulment. According to the minister, of 30 investigations opened from March to October, 12 were brought to court, 14 were classified as “no further action,” and four remained under investigation.

In April police threatened activist and artist Fahmi Reza with sedition for mocking the queen over her Instagram posts. Police detained Reza after he compiled two Spotify playlists of songs that referenced either the queen, Azizah Aminah Maimunah Iskandariah, or her Instagram question to followers if they were jealous of her and her servants for receiving early COVID-19 vaccinations. Supporters congregated at the police station, and civil rights organizations demanded his release; they were then also called in for questioning. In August police dropped the sedition case.

In August police investigated seven activists from youth coalition Sekretariat Solidariti Rakyat for sedition in relation to a planned street protest. The organizers had held two street protests in July, demanding the prime minister’s resignation, the reopening of parliament, and an automatic loan repayment moratorium for all. A youth coalition press statement slammed the use of sedition as excessive intimidation of ordinary individuals.

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

harassment.

In April, Reporters Without Borders, referring to the March emergency ordinance, cited the country's "restoration of more authoritarian rule" as the government imposed a "fake news" decree enabling authorities "to impose their own version of the truth."

The government maintained and at times exerted control over news content, both in print and broadcast media. The government banned, restricted, or limited circulation of publications it considered a threat to public order, morality, or national security. The government has the power to suspend publication for these reasons and retained effective control over the licensing process.

In February, Court of Appeal President Rohana Yusuf found independent online news portal *Malaysiakini* guilty of contempt for user comments posted to an article the portal published in June 2020; chief editor Steven Gan was acquitted. The ruling found the user comments, which *Malaysiakini* removed within 12 minutes of posting, "contemptuous" of Chief Justice Tengku Maimun Tuan Mat. The Attorney General's Chambers requested a fine of 200,000 ringgit (\$47,500), but Yusuf fined *Malaysiakini* more than double that amount. A prominent human rights advocate stated, "the amount is not punitive. It is vindictive."

Also in February authorities investigated *Malaysiakini* chief editor Steven Gan and member of parliament Charles Santiago under sedition and multimedia legislation for issuing statements critical of the judicial ruling that the news portal was guilty of contempt.

Violence and Harassment: Journalists were subjected to harassment and intimidation.

In May the National Union of Journalists Peninsular Malaysia, the Centre for Independent Journalism, and Gerakan Media Merdeka issued a statement in response to five incidents where authorities questioned and investigated journalists early in the year. Noting that *Malaysiakini*, *Astro Awani*, *Free Malaysia Today*, and the *China Press* had been subjected to police investigations, the foregoing media groups declared that the press should not be "summoned by the government

or threatened with action based on articles they publish in their capacity as the media,” and termed harassment of journalists for doing their jobs “a tactic to stifle press freedom.”

Censorship or Content Restrictions: The government maintained the ability to censor media. 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 and the emergency ordinance prohibiting the spread of “fake news” enacted in March under the January-August COVID-19 pandemic-related state of emergency, inhibited independent or investigative journalism and resulted in self-censorship in the print and broadcast media.

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

Government restrictions on radio and television stations mirrored those on print media, and electronic media predominantly supported the government. 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 more than 1,700 banned publications as of November 2020. In April the High Court upheld a 2019 ban on the comic book *Belt and Road Initiative for Win Winism* by “Superman Hew.” In July NGO Refuge for the Refugees founder Heidy Quah was charged under communications legislation over a 2020 social media post regarding conditions at an immigration detention center. She faced up to a year in prison and a fine of 50,000 ringgit (\$12,000).

In July police raided the offices of Freedom Film Network in response to an animated short film the network and the NGO Suaram released in June about the lack of police accountability. Police reportedly questioned Suaram staff to assess whether the film violated sedition or communications legislation but made no determination. The cofounder of youth group Misi Solidariti, Sharon Wah, questioned along with four other activists, declared: “Laws that arbitrarily criminalize speech and legitimate criticism remain on the book. All it takes is one

offhand comment, one misplaced statement, and you're on the receiving end of a police investigation too."

Libel/Slander Laws: The law includes sections on civil and criminal defamation. Criminal defamation is punishable by a maximum two years' imprisonment, a fine, or both. True statements may 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 July the Federal Court upheld a 2018 criminal defamation conviction against online news portal *Malaysiakini* for articles and videos published in 2012 about pollution allegedly linked to Raud Australian Gold Mining and ordered *Malaysiakini* to pay 550,000 ringgit (\$132,000) in damages and costs.

In October the government revived a 2018 criminal defamation suit against British journalist Claire Rewcastle-Brown for her reporting on the 1 Malaysia Development Berhad financial scandal that led to the conviction of former prime minister Najib in 2020 on corruption charges and occasioned his continued prosecution on other corruption and abuse of power charges during the year.

National Security: Authorities often cited national security laws to restrict media distribution of material critical of government policies and public officials. The government used the COVID-19 pandemic to further this practice.

Nongovernmental Impact: Groups sympathetic to the sitting government sought to limit freedom of expression through public criticisms of expression deemed dangerous or criminal complaints of allegedly seditious speech. In June, 40 religious and educator groups jointly protested an online program, "School as a Safe Place for Individuals of Various Sexual Orientations," arguing that schools "must be saved from elements of pro-unnatural sex orientations and transgenderism ideology that are against religious teachings" (see section 6, Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation and Gender Identity). Such groups also sometimes attempted to intimidate opposition groups through demonstrations.

Internet Freedom

The government restricted access to the internet. Curtailing internet freedom to combat dissenting political views online, authorities blocked some websites and monitored the internet for messages and blog postings deemed a threat to public security or order.

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

Sedition and criminal defamation laws led to self-censorship by local internet content sources, including bloggers, news providers, and 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. The government regards those who post content as publishers, thereby placing the burden of proof on the poster. NGOs and members of the public criticized the law, noting it could cause self-censorship due to liability concerns. Legal observers feared the February ruling by the Court of Appeal against *Malaysiakini* (see section 2.a., Freedom of Expression for Members of the Press and Other Media, Including Online Media) set a precedent that websites could be held responsible for reader comments posted in response to content.

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. Some politicians and human rights activists claimed the government used the loyalty pledge to restrain political activity among these groups. Although faculty members sometimes publicly criticized the government, public university academics whose career advancement and funding depended on the government practiced self-censorship. Self-censorship took place among academics at private

institutions as well, spurred by fear the government might revoke the licenses of their institutions. The law imposes limitations on student associations and on student and faculty political activity. Students remain prohibited from “expressing support or sympathy” for an unlawful society or organization.

The government censored films for certain political and religious content, not allowing, for example, screening of films in Hebrew or 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.

In July authorities charged Toh Han Boon for producing and promoting the movie *Babi*, which the government banned in 2020 over its portrayal of race relations in the country. The law bars the production, distribution, or exhibition of films without authorization from the National Film Development Corporation Malaysia. Toh was released on bail but could face a substantial fine, two years’ imprisonment, or both. The court scheduled a hearing for October 14, and the case continued at year’s end.

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 Peaceful Assembly

The constitution provides 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 often banned street protests, and police sometimes confronted civil society and opposition demonstrations with mass arrests.

Protests deemed acceptable by the government usually proceeded without interference.

In August police stopped a candlelight vigil organized by the NGO Sekretariat Solidariti Rakyat to commemorate COVID-19 victims in Kuala Lumpur and arrested 31 activists for violating infectious disease control regulations despite participants following all necessary COVID-19 standard operating procedures for gatherings. Police fined each of the activists, including a local city councilor, and detained them for several hours.

Also in August, police barricaded the main route to parliament to prevent opposition members of parliament from entering the building after Speaker of the Lower House Azhar Harun suspended a special parliamentary session citing COVID-19 concerns.

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.

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

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at <https://www.state.gov/religiousfreedomreport/>.

d. Freedom of Movement and the Right to Leave the Country

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

In-country Movement: Sabah and Sarawak States controlled immigration into their areas and required foreigners and citizens from peninsular Malaysia to present passports or national identity cards for entry. State authorities continued to deny entry to certain national leaders to these states. Sarawak maintained its ban on Zakir Naik, an Islamic preacher; Mandeep Karpal Singh, formerly of the fair-election NGO coalition Bersih; sitting Bersih chair Thomas Fann; former chair Ambiga Sreenevasan; Wong Chin Huat, an academic and Bersih resource chair; Jerald Joseph, a SUHAKAM commissioner; and activists Colin Nicholas and Jannie Lasimbang, among others. There were some restrictions on in-country movement by refugees and asylum seekers (see section 2.f., Freedom of Movement).

Foreign Travel: Travel to Israel is subject to approval and limited to religious purposes.

e. Status and Treatment of Internally Displaced Persons

Not applicable.

f. Protection of Refugees

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. The government cooperated to a limited extent with UNHCR and other humanitarian organizations in providing protection and assistance to refugees and asylum seekers. As there is no legal framework for dealing with refugees and asylum seekers in the country, UNHCR conducted all activities related to protection, including registration and status determination.

Access to Asylum: The law does not provide for granting asylum or refugee status, and the government has not established a system for providing protection to

refugees.

Migrants, refugees, and stateless persons receive no government support. The government allowed UNHCR and NGOs to work with these populations, but government cooperation with UNHCR was inconsistent.

Viewed as “illegal immigrants,” refugees and others were subject to deportation at any time. They also faced a maximum of five years’ imprisonment, a fine, or both, and mandatory caning with a maximum of six strokes if convicted of immigration law violations.

In June human rights organizations protested an illustration posted on social media by the National Task Force, a government unit charged with tightening border controls, that showed armed security officials and navy ships surrounding a boat, captioned, “Rohingya migrants, your arrival is not welcome.” In response to complaints, Minister of Home Affairs Hamzah Zainudin declared he believed most Malaysians were concerned that “the huge number of refugees who made Malaysia their destination of choice” might “lead to various social ills.” In turn migrant rights activist Adrian Pereira of the NGO North South Initiative expressed fear of what the government’s portrayal of the Rohingya could lead to, especially after the surge of online hate against that community in 2020.

Abuse of Migrants and Refugees: UNHCR reported that as of December 31, there were 180,440 refugees and asylum seekers in the country who were registered with the agency, of whom 155,400 were from Burma: 103,380 Rohingyas, 22,570 Chins, and 29,450 of other ethnic groups coming from conflict-affected areas or “fleeing persecution” in Burma. The remaining 24,040 individuals, UNHCR reported, came from 50 countries, including 6,730 Pakistanis, 3,720 Yemenis, 3,300 Syrians, 3,210 Somalis, 2,800 Afghans, 1,690 Sri Lankans, 1,200 Iraqis, 770 Palestinians, and others. Among the refugees and asylum seekers, 68 percent were men and 32 percent were women. There were 46,170 children younger than age 18. Ongoing travel restrictions to curb the spread of COVID-19 prevented many individuals from presenting themselves to renew their UNHCR cards, leaving them with expired documentation.

Most migrants, refugees, and stateless persons lived in private accommodations

and survived on support from UNHCR, NGOs, community-based organizations, refugee support networks, or illegal or informal labor. The government held thousands of individuals in immigration detention centers and other facilities. Access to those in detention centers was often significantly limited. According to observers, as of September, there were at least 600 registered asylum seekers and refugees, including 57 children, held in immigration detention centers.

The government continued to arrest undocumented migrant workers, including children, and held thousands in confined and congested cells at immigration detention centers and other facilities.

In April a Pakistani UNHCR cardholder refugee was assaulted by a group of men in Selangor State who severed his genitals.

Migrants and potential refugees expressed fear about coming forward for the COVID-19 vaccine, fearing detention and possible deportation after receiving mixed messaging from the government. In May Home Affairs Minister Hamzah Zainudin declared the government would “round up” and vaccinate undocumented migrants to “help” them and “protect Malaysians.” If the migrants did not come for vaccinations, the government would “go after them,” he told media, adding that authorities would then work with employers and embassies to get individuals documented only for the purpose of vaccination. In September, however, Hamzah informed parliament the government would require healthcare workers to notify security forces if undocumented migrants appeared at health facilities and vaccine centers.

In September Minister of Health Khairy Jamaluddin announced that everyone in the country was eligible for a COVID-19 vaccine regardless of documentation status, but many remained skeptical. Applicants had to provide their name and address for their vaccine status to be recorded, and some feared authorities could use the information later to raid their homes. Although observers reported that no Department of Immigration officers were seen at vaccination centers, there were isolated reports of police roadblocks or intimidation of refugees by police on their way to vaccination centers, including an instance when police tore up an expired UNHCR card. In another case a refugee said police on patrol stopped him, became aggressive, and despite his UNHCR card, threatened him with arrest, claiming he

had broken the law. “I panicked because I was made to believe that I had committed something wrong. Eventually, they asked for money, which I had no choice but to oblige.”

UNHCR affirmed that authorities continued to disallow visits by its staff to detention centers to meet refugees and asylum seekers, determine those in need of international protection, and advocate for their release.

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 in the immigration detention centers.

Local and international NGOs estimated most of the country’s 12 permanent and nine temporary immigration detention centers were at or beyond capacity, with some detainees held for a year or longer. The number detained in these centers was not publicly available.

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

The government on several occasions forcibly expelled boats with refugees and asylum seekers who had come from a country where their lives or freedom could be threatened due to their race, religion, nationality, membership in a particular social group, or political opinion.

In February the High Court issued an interim stay on the deportation of 1,200 Burmese nationals after the deportees were already aboard Burmese naval ships. The stay followed a hearing on a joint filing against the government by Amnesty

International Malaysia and Asylum Access Malaysia, alleging that among the deportees there were documented refugees, asylum seekers, and minors separated from parents residing in Malaysia. Nonetheless, the ships departed later that day despite the court ruling. The immigration director general issued a statement confirming that the ships departed with 1,086 of the 1,200 Burmese nationals aboard. UNHCR declared that the deportees included at least six individuals registered with the agency. According to refugee groups, minority Chin and Kachin asylum seekers fleeing persecution and approximately a dozen children with at least one parent in Malaysia were also among them. These groups also expressed concern that some deportees might not have had their UN-issued cards with them when they were picked up and pointed out that others had applied for asylum but were awaiting assessment of their claims. Human Rights Watch called on the government to investigate the deportations and to provide UNHCR with access to all detainees, refugees, and asylum seekers in the country, stressing the risk they faced of a return to persecution.

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

Employment: Although the government does not authorize UNHCR-registered refugees to work, it typically did not interfere if they performed informal work. UNHCR reported the government brought charges in a few cases against employers for hiring refugees. Refugees employed in the informal sector were paid lower wages than comparable employees and were vulnerable to exploitation.

Access to Basic Services: The government provided access to health care at a discounted foreigner's rate of 50 percent to UNHCR-registered refugees, but not to persons without UNHCR registration cards. NGOs operated static and mobile clinics, but their number and access were limited. Refugees did not have access to the public education system. Access to education was limited to schools run by NGOs and ethnic communities, and UNHCR estimated no more than 40 percent of

refugee children attended school. A lack of resources and qualified teachers limited opportunities for the majority of school-age refugee children. UNHCR noted that because most schooling was virtual during the year, some populations, such as Rohingya, allowed girls to participate in schooling virtually when they would have been prohibited from attending in person.

g. Stateless Persons

The National Registration Department did not maintain records of stateless persons. In October UNHCR estimated there were 9,040 stateless persons residing in peninsular Malaysia, the majority of whom were of Indian Tamil ethnicity. In 2019 UNHCR estimated there were 450,000 stateless persons residing in the eastern state of Sabah. Baseline figures of stateless persons and persons “at risk” of statelessness in Sabah, where approximately 80,000 Filipino Muslim refugees resided, were unavailable.

Citizenship law and birth registration rules and procedures created a large class of stateless children in the migrant and 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.

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

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

Persons who lacked proof of citizenship were not able to access government services, such as reduced-cost health care, or own property. Previously the federal government permitted stateless children to enroll in public school if parents were able to prove the child’s father was a citizen, but in November 2020 the minister of education informed parliament that stateless children did not have access to public

schools but could attend private schools.

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. The constitution also provides for transfers of power without new legislative elections. This occurred in August for the second time since 2018, when Prime Minister Muhyiddin Yassin resigned after losing majority support from members of the lower house of parliament, resulting in a transfer of power to a new prime minister, Ismail Sabri. The king determined that Sabri commanded a parliamentary majority and appointed him prime minister after meeting with parliamentarians, in conformity with constitutional parameters.

Elections and Political Participation

Recent Elections: The country's most recent general election was held in 2018 amid allegations of partisanship on the part of public institutions, in particular the Election Commission and the Registrar of Societies. In the election the Pakatan Harapan coalition unseated the ruling Barisan Nasional coalition, marking the first federal transition of power between coalitions since independence in 1957. Prior to the 2018 elections, opposition political parties were disadvantaged due to the Barisan Nasional government's control over traditional media outlets and malapportionment of constituencies, among other matters.

While authorities generally recorded votes accurately, there were irregularities perpetrated by the former Barisan Nasional coalition government that affected the fairness of elections.

A consortium of NGOs released a formal report in 2018 detailing irregularities in the election, including vote buying, the use of public funds for partisan activity, and allegations of biased behavior by public officials. According to these NGOs, none of which were formally accredited to observe the polls, federal and state governments spent more than five billion ringgit (\$1.2 billion) on "handouts" after legislatures had been dissolved and lawmakers were ostensibly prohibited from making new financial commitments. The report also alleged that one accredited

election observer actively campaigned for the former Barisan Nasional government.

Despite strong objections by opposition political parties and civil society, in 2018 the former Barisan Nasional coalition government approved redrawn parliamentary districts that critics contended unfairly advantaged Barisan Nasional through gerrymandering and malapportionment. By law the government is not allowed to redraw the electoral boundaries until 2026 unless members of parliament amend the federal constitution, a process that requires a two-thirds majority vote. Despite alleged electoral irregularities and systemic disadvantages for opposition groups, Barisan Nasional lost the election to Pakatan Harapan, the first transfer of power between coalitions since independence in 1957.

Political Parties and Political Participation: Many opposition candidates were unable to compete on equal terms with the then ruling Barisan Nasional coalition and were subject to restrictions and outside interference during the 2018 election campaign. Registering a new political party remained difficult because of government restrictions on the process.

In August the minister of home affairs rejected an appeal by the Malaysian United Democratic Alliance to register as a political party. The alliance, led by parliamentarian and former youth and sport minister Syed Saddiq Syed Abdul Rahman, had a successful social media launch, securing more than 300,000 member registrations in one month in late 2020.

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

Participation of Women and Members of Minority Groups: No laws limit

participation by women or members of minority groups or of historically marginalized groups in the political process, and they did participate. In parliament 33 women held 14.8 percent of the seats, an increase from 10.8 percent in the previous election cycle. Eight of 14 Federal Court judges were women, including Chief Justice Tengku Maimun Tuan Mat. There were four non-Muslim judges serving on the Federal Court.

The political environment was hostile towards women. Attacks on female politicians and women who were critical of the country's politics were common, including sexist remarks in parliament against female members, threats of rape and murder via Facebook and other social media platforms, and stereotyping female political candidates. In July Speaker of the Lower House Azhar Harun repeatedly told female opposition members to "shut up" during parliamentary proceedings.

Nine cabinet positions were held by women.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials; several sitting and former government officials remained on trial for corruption, including the former prime minister, and there remained a broadly held perception of widespread corruption and cronyism in government institutions. Media outlets reported numerous cases of alleged official corruption during the year.

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

Corruption: Corruption and abuse-of-power criminal trials were ongoing for former prime minister and sitting member of parliament Najib Razak, United Malays National Organization (UMNO) political party president Zahid Hamidi, and opposition Democratic Action Party head Lim Guan Eng, among others. Trials for all were delayed due to the state of emergency and movement control

orders to combat COVID-19.

In January authorities seized 1,500 tons of frozen meat worth 30 million ringgit (\$7.2 million) during a raid in Johor State. They discovered that an international cartel for more than 40 years had smuggled noncertified meat into the country and falsely represented it as halal-certified by using national halal logos with the help of corrupt senior government officials from at least four agencies. The officials were allegedly offered cash and women for sexual services to ignore the cartel's activities. Police charged two business executives for using fake halal logos, and MACC arrested eight suspects including import agents and enforcement officers.

In February the High Court sentenced former federal minister and Negeri Sembilan State's longest serving chief minister, Isa Samad, to six years' imprisonment and a 15.4 million ringgit (\$3.7 million) fine on nine counts of corruption and bribery for accepting three million ringgit (\$720,000) in bribes in connection with luxury hotel purchase transactions. Isa was granted a stay pending his appeal.

In May MACC arrested member of parliament Tajuddin Abdul Rahman on two charges of abuse of power for interfering with the operations and business dealings of Prasarana Malaysia Berhad, a government-owned public transport company under the Ministry of Finance. Police released him on bail.

In July the Court of Appeal acquitted UMNO parliamentarian and former federal territories minister Tengku Adnan Tengku Mansor of two million ringgit (\$480,000) in corruption charges and overturned a 12-month jail sentence imposed by the High Court in December 2020. The court ruled that the money received by Tengku Adnan from a businessman was a donation to UMNO, although it was deposited into an account of a company that belonged to Tengku Adnan.

In August MACC charged member of parliament and former youth and sports minister Syed Saddiq Syed Abdul Rahman with money laundering. Saddiq pleaded not guilty in a lower court in Johor State to two counts of money laundering, involving 100,000 ringgit (\$24,000). The charges came on top of two other corruption charges against Saddiq on July 22 for misappropriation of one million ringgit (\$240,000) in funds that belonged to his former political party, Bersatu, led by Prime Minister Muhyiddin. Saddiq was released on bail, and the

charges were transferred to a Kuala Lumpur court in September.

In September a sessions court fined immigration officer Yusrazif Wan Yusoh 50,000 ringgit (\$12,000) after he pleaded guilty to five counts of accepting kickbacks totaling 15,000 ringgit (\$3,600) to free Filipino and Chinese nationals detained by the Immigration Department. Investigations revealed Yusrazif received a list of names and passport details of the detained foreigners from two agents and facilitated the release and return of detainees to their countries of origin in exchange for bribes. Authorities arrested Yusrazif as part of a special operation conducted by MACC and the Immigration Department since 2020 at the country's entry and exit points that saw the arrest of 65 individuals, including 39 immigration officers, 17 agents, and nine civilians.

Also in September, MACC withdrew 29 charges of corruption against Noor Ehsanuddin Mohd Harun Narrashi, a former UMNO parliamentarian and former director of the government-linked Federal Land Development Authority. MACC noted that all transactions associated with the 29 charges against Noor Ehsanuddin were "advances" that had been fully repaid.

According to MACC, authorities arrested 337 public officials for corruption and bribery from January to August.

Section 5. Governmental Posture Towards International and Nongovernmental Investigation of Alleged Abuses of Human Rights

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

Outside the political and human rights fields, the government generally allowed NGOs to function independently, met with representatives from some NGOs, and responded to some NGO requests. The government, however, also acted against some human rights defenders and NGOs. During the week preceding a July 31 *Lawan* (Fight) protest in Kuala Lumpur to demand the resumption of parliamentary

sessions, a moratorium on the repayment of all loans, and the resignation of Prime Minister Muhyiddin for his handling of the pandemic, authorities reportedly summoned at least 20 activists, including youth activist Sarah Irdina, who was detained for 10 hours and charged with sedition for her tweet about the upcoming event (see section 1.d., Arbitrary Arrest). A group of civil society organizations later reported that on the day of the protest, roadblocks, closure of the public square where protesters were gathering, police crowding, and ostentatious surveillance, including by drones and a helicopter, “obstructed the public’s freedom of expression and assembly.”

Government Human Rights Bodies: 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, issued reports, and made recommendations to the government. SUHAKAM may not investigate court cases in progress and must cease its inquiries if a case becomes the subject of judicial action. Representatives of SUHAKAM asserted that the government was reluctant to engage with them, making implementation of reforms impossible.

Section 6. Discrimination and Societal Abuses

Women

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

Women’s groups asserted the courts were inconsistent in punishing rapists. The NGO Women’s Aid Organization reported that from January through September, it received 1,662 complaints involving domestic violence, and the number of survivors seeking shelter increased one and a half times during the same period. There was a lack of investigation into accusations of rape and gender-based violence, and little accountability.

In January a male inmate raped a 16-year-old girl, also an inmate, at a local police

station in Miri, Sarawak State. The NGO EDICT declared police violated the legal mandate that at least one female officer be assigned to take care of underage female inmates. Police suspended two officers pending investigation.

Although the government and NGOs maintained shelters and offered other assistance to victims of domestic violence, activists asserted that support mechanisms remained inadequate. Many government hospitals had crisis centers where victims of rape and domestic abuse could file reports without going to a police station. There was also a sexual investigations unit at each police headquarters to help victims of sexual crimes and abuse, and police sometimes assigned psychologists or counselors to provide emotional support. NGOs reported that the government did not take action in cases of domestic violence; victims must keep evidence, gather witness testimony, and ensure their own safety.

In 2020 the NGO Women's Aid Organization reported that 9 percent of women who had ever been in a relationship experienced domestic violence and such violence was "symptomatic of a deeper problem: gender inequality." A November report by the organization found that 53 percent of respondents believed domestic violence was a "normal" reaction to stress or frustration, and 43 percent believed a woman could so anger a man that he hit her without meaning to, suggesting a culture deeming such violence acceptable "when perceived as an emotional gesture, or in the event the victim has behaved in a way that triggers the abuse." In Penang State, police as of July recorded a 35 percent increase in domestic-violence cases compared to 2020. Penang police chief Mohd Shuhaily Mohd Zain observed that factors driving the rise in domestic violence were pressure and stress due to the COVID-19 pandemic.

Female Genital Mutilation/Cutting (FGM/C): The law does not prohibit FGM/C, and it was a common practice among Muslim and some indigenous communities. While recent data was very limited, a 2012 study by a professor at the Department of Social and Preventive Medicine, University of Malaya, found that more than 93 percent of approximately 1,000 Muslim women surveyed in three of the country's 13 states had undergone the procedure. Ministry of Health guidelines allow the practice in general but only at government health-care facilities, which was not always the case. Advocates and the international medical

community remained concerned that the Health Ministry endorsement legitimizes the harmful practice and contributes to the “medicalization” of FGM. Women’s rights groups contended a 2009 fatwa by the National Council of Islamic Religious Affairs declaring the practice obligatory made FGM/C more prevalent. According to an investigation published by local media in 2018, there are no standard procedures for the practice and “in some cases box cutters and stationery store blades are used.” Government officials defended the practice during a UN review in 2018, when a Ministry of Health official stated that the practice was performed only by medical professionals and compared it to immunization programs for female babies. The UN panel urged the country to abolish the practice.

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

In April two members of parliament accused then deputy inspector general of police Acryl Sani Abdullah Sani, since promoted to inspector general, of trivializing a rape threat made against a teenage girl. In separate statements Batu Kawan member Kasthuri Patta and Petaling Jaya member Maria Chin Abdullah criticized Acryl Sani for his remarks about a police report made by a student, age 17, that a classmate had threatened to rape her after she called out her teacher for making jokes about rape. Acryl Sani was reported to have commented that the classmate’s rape threat was possibly a joke. After this incident, more than 300 former and sitting students issued anonymous statements, with the hashtag #MakeSchoolsASaferPlace, recounting sexual harassment and abuse they had experienced at school by teachers and fellow students.

Reproductive Rights: There were no reports of coerced abortion or involuntary sterilization on the part of government authorities.

In April, news portal *Malaysiakini* submitted to the Ministry of Education a list of

15 schools that allegedly required female students to undergo intrusive physical examinations to prove that they were menstruating and hence exempted from prayers. *Malaysiakini* reported that the practice of period spot checks dated as far back as 20 years. The measures included school officials forcing girls to show their blood-soaked sanitary pads; doing swabs of their vaginas with cotton buds, tissues, or fingers; or patting them down to feel if they were wearing a sanitary pad.

Cultural barriers and government policies impeded access to sexual and reproductive health services. For example, sexual health education remained limited for all women, although more accessible for married women than for unmarried women. Reproductive awareness advocates and NGOs that provided sexual health education were frequently accused of encouraging sin and eliciting sexual behaviors. Government-run family planning clinics often would not provide contraceptive services to unmarried young persons.

One-Stop Crisis Centers, an integrated multiagency service in the emergency department of most major public hospitals, provided support, including emergency contraception, to victims of sexual violence.

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

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.).

Systemic Racial or Ethnic Violence and Discrimination

No laws provided for the protection of members of racial or ethnic minorities or groups against violence and discrimination. The constitution gives ethnic Malays and indigenous groups, collectively known as *bumiputra*, a “special position” in the country. Government regulations and policies provided extensive preferential programs to boost the economic position of bumiputra, a majority of the population. Such programs limited opportunities for non-bumiputra (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 favored bumiputra-owned businesses. The government claimed these policies were necessary to attain ethnic harmony and political stability.

The government and politicians often incited or condoned violence or abuse of members of racial or ethnic minorities. For example, a government unit charged with tightening border controls posted an illustration on social media that showed armed naval vessels threatening a boat and captioned it, “Rohingya migrants, your arrival is not welcome” (section 2.f., Access to Asylum). The minister of home affairs stated refugees might “lead to various social ills.”

In October, according to media reports, a senior politician from the Bersatu party, Borhanuddin Che Rahim, used an ethnic slur to describe an ethnic Indian member of the national badminton team. Also in October, in a widely viewed TikTok video, Muslim preacher Syakir Nasoha accused members of religious and ethnic minorities of “killing Muslims,” sparking fears this could incite violence against Buddhists (largely citizens of Chinese descent), Hindus (largely citizens of Indian descent), and Dayaks (an indigenous community of Sarawak and Sabah states).

Indigenous Peoples

The constitution provides indigenous and nonindigenous persons with the same civil and political rights, but the government did not effectively protect these rights.

Indigenous persons in peninsular Malaysia, known as Orang Asli, who number

approximately 200,000, constituted the poorest group in the country and had very little ability to participate in decisions that affected them. The constitution 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 contended the government failed to recognize these judicial pronouncements. The government may 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 persons vulnerable to exploitation.

In February the High Court ruled against the Semelai Orang Asli claim for customary rights over a plot of land in Pahang State to make way for an oil palm cultivation project. In 2013 the state government had awarded Sri Jengka, a semi-state government corporation, a 99-year lease on the 1,618-acre tract. In September, however, the Court of Appeal overturned the High Court decision, citing improper procedures by the company in taking possession of land with a customary right claim.

In April the Selangor State government issued an eviction notice to the Mah Meri Orang Asli for illegally infringing upon government land, nine days after the state government’s investment arm, Permodalan Negri Selangor Bhd, had awarded a 99-year lease for 101.62 acres of land in Mukim Sepang, Selangor, to a private ecotourism development company. The notice warned residents they could be fined up to 500,000 ringgit (\$120,000), serve a five-year jail term, or both, if found guilty of the offense of building structures on government land.

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. Authorities do

not register children born to illegal immigrants or asylum seekers. UNHCR registers children born to refugees (see section 2.g., Stateless Persons).

In September the High Court ruled that mothers who are citizens have the right to confer citizenship to their children born overseas on an equal basis with men who are citizens, but the government appealed the decision. Family Frontiers president Suriani Kempe lamented “a missed opportunity” for the government to “rectify this discrimination and make amends to its women who have been negatively impacted for over 60 years by their inability to obtain citizenship for their children on an equal basis as Malaysian men.” After the Attorney General’s Chambers filed the appeal, NGO Lawyers for Liberty coordinator Zaid Malek termed the government position “unacceptable” and declared that mothers with foreign spouses and children born overseas “live in fear that their children could be rendered stateless.”

Education: Education is free, compulsory, and universal through primary school (six years of school) for citizens and permanent residents, although there was no mechanism to enforce attendance. Public schools are open to some UNHCR-registered refugees, but not to the children of illegal immigrants.

Child, Early, and Forced Marriage: The minimum age of marriage is 18 for men and 16 for women. Muslim women younger than 16 may marry with the approval of a sharia court. Indigenous persons are governed by customary laws with no fixed minimum age for marriage. In some cases authorities treated early marriage as a solution to statutory rape. Advocates remained concerned that Rohingya refugee families were resorting to child marriage for their girls to cope with economic hardship.

The government’s national five-year roadmap for 2021-25 targets child marriage. The plan outlined policies to increase access to education and attendance in schools, increase access to health education, address stigma and social norms on child marriage, and specify laws and guidelines on child marriages that are in line with government policies guarding the well-being of children.

Sexual Exploitation of Children: The law bans child pornography and states that a child is considered a victim of sexual abuse if he or she has taken part as a participant or an observer in any activity that is sexual in nature for the purposes of

a photograph, recording, film, videotape, or performance. Federal police reported approximately 20,000 internet addresses in the country uploading and downloading child pornography. By law the minimum age for consensual, noncommercial sex is 16 for both boys and girls. The involvement in making or producing child pornography carries a penalty of up to 30 years' imprisonment and not fewer than six strokes of a cane; conviction for accessing or possessing child pornography carries a punishment of five years' imprisonment or a fine; 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.

There is a special court for sexual crimes against children, established to speed up trials that often took years to conclude. Commercial sexual exploitation of children existed, and a local NGO estimated in 2015, the last year with reported data, that 5,000 children were involved in sex work in Kuala Lumpur and surrounding areas. Authorities, however, often treated children exploited in commercial sex as offenders or undocumented immigrants rather than as victims.

The government focused on preventing sexual exploitation of children, including sex trafficking.

The law provides for six to 20 years' imprisonment and caning for persons convicted of incest.

As of April, the Ministry of Women, Family, and Community Development recorded 2,040 cases of child abuse. Of the total, 30 percent were physical and sexual abuse.

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.

In May police reported an increase in cases involving child pornography during the movement control order period from March 2020 to April 2021, including child grooming without physical contact using words or showing obscene sexual acts to children.

In June the Royal Malaysian Police Sexual, Women, and Child Investigation

Division reported an increase in the number of reports of child rape by older family members during the various movement control orders. The division's principal assistant director, Siti Kamsiah Hassan, told media that police received an average of 15 incest cases every month during the year.

In August, Alladin Lanim was arrested for online child exploitation and sentenced to 48 years and six months in prison and 15 strokes of the cane after joint investigations by the Royal Malaysian Police and Australian Federal Police revealed he was sexually abusing children at a plantation in Sarawak State and sharing the material online. Alladin, one of the child sex offenders most wanted by global law enforcement authorities, was linked to at least 34 victims between ages two and 16; he had uploaded more than 1,000 images and videos depicting the sexual abuse of children over the course of 14 years.

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

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

Anti-Semitism

The country's Jewish population was estimated at 100-200 persons, consisting mostly of foreign residents. Anti-Semitism was a serious problem across the political spectrum and attracted wide support among segments of the population. The religious NGO Ikram warned that some residents rejected the COVID-19 vaccine, believing it to be part of the "Jewish agenda," that it contained nonhalal

ingredients and tracking chips, and that it could cause death.

There were restrictions on Israeli citizens entering the country.

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

Persons with Disabilities

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

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

Employment discrimination occurred against 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.

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

All same-sex sexual conduct is illegal. The law states that sodomy and oral sex acts are “carnal intercourse against the order of nature.” In February the Federal Court nullified a Selangor State law on same-sex sexual conduct. The verdict

ruled on an appeal of a Selangor State sharia court's 2019 conviction of a man for "intercourse against the order of nature." The Federal Court found that existing federal legislation outlawing the same conduct for the same reason preempted the state law, meaning it was unconstitutional and hence the case should not have been brought nor ruled on by the sharia court. This verdict could potentially nullify some strict anti-lesbian, gay, bisexual, transgender, queer, and intersex (LGBTQI+) legislation at the state level that uses the same rationale as the federal laws. Religious and cultural taboos against same-sex sexual conduct were widespread (see section 2.a., Nongovernmental Impact).

In June then deputy religious affairs minister Ahmad Marzuk Shaary proposed that social media postings that "promote LGBTQ lifestyles" and "insult Islam" be punishable offenses under sharia. Ahmad Marzuk also announced a special multiagency government task force, including the government multimedia agency and police, to monitor posts related to LGBTQI+ issues. Activist Numan Afifi expressed concerns about the "escalation and trend towards more prosecution against the LGBTQI+ community in Malaysia," including separate proposals in April to increase sentencing terms against LGBTQI+ offenses under sharia. SUHAKAM urged the government to reconsider its decision to impose heavier punishments for offenses associated with the LGBTQI+ community. SUHAKAM commissioner Hishamudin Yunus declared the best approach towards LGBTQI+ individuals was to "help integrate them into mainstream society" by respecting their constitutional rights to equality, privacy, and a life of dignity. Speaking to local media, the former Court of Appeal judge declared it should not be acceptable to discriminate against the community or to treat its members as criminals.

In June, 40 religious NGOs and educator groups released a joint statement protesting an online program entitled, "School as a Safe Place for Individuals of Various Sexual Orientations," alleging the event supported the "open promotion of LGBTQI+ elements in schools." The statement argued that schools "must be saved from elements of pro-unnatural sex orientations and transgenderism ideology that are against religious teachings." The online program proceeded as scheduled.

Authorities often charged transgender persons with "indecent behavior" and "importuning for immoral purposes" in public. Those convicted of a first offense

face a token fine and a maximum sentence of 14 days in jail. The sentences for subsequent convictions are fines and up to three months in jail. Local advocates contended that imprisoned transgender women served their sentences in prisons designated for men and that police and inmates often abused them verbally and sexually.

In January the Selangor Islamic Religious Department detained transgender social media influencer Nur Sajat for questioning regarding an online video of her saying Islamic prayers in women's clothing in 2018. Religious department officers allegedly beat and slapped her while in custody. They subsequently charged her with "defamation of Islam," punishable by a fine, up to three years' imprisonment, or both, and released her on bail. Nur Sajat failed to appear for her court date on February 23, citing a medical condition. Her lawyer presented a medical leave certificate to the court the next day, but the judge rejected it. The religious department then issued a warrant for her arrest without bail and sent department officers looking for her, with police support. Nur Sajat crossed into Thailand, and UNHCR granted her refugee status.

In September the Perlis State Fatwa Committee declared that men "who appear like women" such as "cross-dressers" or transgender individuals were forbidden from entering mosques while "not in gender-conforming appearances." Penang State mufti Wan Salim Wan Mohd Noor suggested that transgender individuals "should change their appearance" if they wanted to be in mosques or *suraus* (Islamic assembly buildings) so that "they do not look odd and avoid uncomfortable feelings among other worshippers." Representatives from the NGO Sisters in Islam observed that "the fatwa and statement of the mufti not only contradicts the federal constitution" but was "not in accordance with inclusive Islamic traditions."

A 2018 survey by a local transgender rights group reported more than two-thirds of transgender women experienced some form of physical or emotional abuse.

State religious authorities reportedly forced LGBTQI+ persons to participate in "conversion therapy," "treatment," or "rehabilitation" programs to "cure" them of their sexuality. In a September response to a parliamentary inquiry, Prime Minister Sabri wrote that as of June, a total of 1,733 individuals from the

LGBTQI+ community had been sent to a rehabilitation camp run by the Islamic Development Department, a government agency. The camp, called the Mukhayyam Program, was a government initiative designed to change the lifestyle and sexual orientation of LGBTQI+ individuals. Sabri added that the government was serious about the issue, “as Malaysia is a country that adheres to the religion of Islam.”

In September religious authorities in Kelantan State posted fliers in public places such as shopping malls and grocery stores warning the community about LGBTQI+ persons and the need to be vigilant against their influence. On November 1, Kelantan’s Sharia Criminal Code (I) Enactment 2019 came into force, criminalizing 24 new offenses applying to Muslims. Although the code’s five offenses infringing the rights of LGBTQI+ persons – “sodomy,” “homosexual activities involving women,” “changing gender,” “crossdressing as a female,” and “crossdressing as a male” – were not among the newly added crimes, observers expressed concern about the implications for the LGBTQI+ community. The NGO Sisters in Islam declared that Kelantan first minister Ahmad Yakob’s characterization of the code as “restorative and retributive” posed “a grave concern” and asked what this meant for actions deemed crimes under the code in the context of the “looming tabling” of legislation in federal parliament allowing sharia courts to mete out stiffer penalties. The Malaysian Consultative Council of Buddhism, Christianity, Hinduism, Sikhism, and Taoism urged the Kelantan government to review its “recently enforced” law, including “punishments against homosexual activities and a slew of other offenses.” There were no reports of the revised code being used to prosecute LGBTQI+ individuals at year’s end.

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

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides for limited freedom of association and for certain categories of workers to form and join trade unions, subject to a variety of legal and practical restrictions. The law provides for the rights to strike and to bargain collectively,

but both were severely restricted. The law prohibits employers from interfering with trade union activities, including union formation. It prohibits employers from retaliating against workers for legal union activities and requires reinstatement of workers fired for union activity. The nationwide January-August state of emergency restricted freedom of assembly and prohibited worker strikes and protests.

The law prohibits defense and police officials and retired or dismissed workers from joining a union. The law also restricts the formation of unions of workers in similar trades, occupations, or industries. Foreign workers may join a trade union but may not 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, subcontracted workers may not form a union and may not negotiate or benefit from collective bargaining agreements.

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

Most private-sector workers have the right to bargain collectively, although these negotiations may not include matters of transfer, promotion, appointments, dismissal, or reinstatement. The law restricts collective bargaining in "pioneer" industries the government has identified as growth priorities, including various high-technology fields. Trade unions in companies granted pioneer status may not negotiate terms and conditions that are more favorable than the provisions stipulated in labor law unless approved by the minister of human resources. Public-sector workers have some collective bargaining rights, although some could only express opinions on wages and working conditions instead of actively negotiating. Long delays continued in the treatment of union claims to obtain recognition for collective bargaining purposes. The government also had the right to compel arbitration in the case of failed collective bargaining negotiations.

Private-sector strikes were severely restricted. The law requires two-thirds of the

members of a registered trade union to vote for a strike through a secret ballot, and a report must be submitted to the director general of trade unions to approve the strike as legal. Workers who strike without the consent of the director general of trade unions are liable to a fine of 2,000 ringgit (\$480), imprisonment for up to one year, or both. The law prohibits general strikes, and trade unions may not strike over disputes related to trade-union registration or illegal dismissals. Workers may not strike in a broad range of industries deemed “essential,” nor may they hold strikes when a dispute is under consideration by the Industrial Court. Union officials claimed legal requirements for strikes were almost impossible to meet; the last major strike occurred in 1962.

The government did not effectively enforce laws prohibiting employers from seeking retribution for legal union activities and requiring reinstatement of workers fired for trade union activity. Penalties included fines but were seldom assessed and were not commensurate with those under other laws involving denials of civil rights, such as discrimination.

In July police opened investigations into a protest by contract doctors demanding better job security. The protest took place amid threats of disciplinary action by hospital administrations and heavy police presence at several major hospitals nationwide. Doctors at the Malaysia Agro Exposition Park Serdang COVID-19 Center canceled their walkout after police allegedly threatened them with arrest. Opposition lawmakers slammed then minister of health Adham Baba for breaking his promise that no action would be taken against doctors who participated in the strike. Member of parliament Saifuddin Nasution Ismail stated on July 28, “the doctors were questioned from midnight till 4 a.m., this is a form of intimidation” and added that the physicians’ lawyer had been prevented from representing his clients.

Freedom of association and collective bargaining were not fully respected. National-level unions are prohibited; the government allows three regional territorial federations of unions – for peninsular Malaysia, and for the states of 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 Trades Union Congress is a registered “society” of trade

unions in both the private and government sectors that does not have the right to bargain collectively or strike but may provide technical support to affiliated members.

Some workers' organizations were independent of government, political parties, and employers, but employer-dominated or "yellow" unions were reportedly a concern.

In some instances companies reportedly harassed leaders of unions that sought recognition. Some trade unions reported the government detained or restricted the movement of some union members under laws allowing temporary detention without charging the detainee with a crime. Trade unions asserted some workers had wages withheld or were terminated because of union-related activity.

b. Prohibition of Forced or Compulsory Labor

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

The government did not effectively enforce laws prohibiting forced labor in some cases, and large fines as penalties were not commensurate with those for other analogous serious crimes, such as kidnapping.

In February General Mills issued global "no buy orders" from palm oil producers FGV and Sime Darby Plantation due to forced labor claims. Other buyers requested suppliers to reduce or exclude FGV and Sime Darby products for supplies entering numerous countries.

In June the Malaysia Stock Exchange removed Top Glove from its responsible investment indexes based on allegations of forced labor. Observers reported occurrences of forced labor or conditions indicative of forced labor in plantation agriculture, electronics factories, garment production, rubber-product industries, and domestic service among both adults and children (also see section 7.c.).

Employers, employment agents, and labor recruiters subjected some migrants to forced labor or debt bondage. Many companies hired foreign workers using recruiting or outsourcing companies, creating uncertainty about the legal relationship between the worker, the outsourcing company, and the owner of the workplace, making workers more vulnerable to exploitation and complicating dispute resolution. Labor union representatives noted that recruiting agents in the countries of origin and locally sometimes imposed high fees, making migrant workers vulnerable to debt bondage. A July study by Newcastle University of 1,500 mainly migrant workers found that the following forced labor indicators in the country had worsened during the pandemic: restrictions on movement, isolation, abusive working and living conditions, and excessive overtime. Other indicators, such as abuse of vulnerability, deception, physical and sexual violence, intimidation, and retention of identity documents, had remained at the same level as before the pandemic.

The Newcastle research found that 85 percent of workers reported paying recruitment fees and 43 percent reported taking out loans averaging more than \$2,000 to cover the costs, which took nearly a year on average to repay. Nearly a third reported that their recruitment agency threatened them not to speak about being charged the fees.

During the year several medical glove manufacturers announced repayments to workers based on forced labor practices. By April, Top Glove had reimbursed 150 million ringgit (\$36 million) to approximately 13,000 existing and eligible former workers. Kossan completed repaying more than 5,500 workers a total 54 million ringgit (\$13 million) with a final transfer of 24 million ringgit (\$5.8 million) at the end of June. Hartalega finished its reimbursements process of 41 million ringgit (\$9.8 million) to existing workers who joined the firm prior to April 2019. A Hartalega spokesperson announced in August the firm had fully reimbursed all migrant workers who were then employed at Hartalega and was continuing to reimburse eligible former workers. Supermax had repaid nearly 1,750 workers by June and stated it had allocated 23 million ringgit (\$5.5 million), including remediation payment to contract workers.

The trial of former deputy prime minister Zahid Hamidi for his role in a fraudulent

scheme involving hundreds of thousands of Nepali workers seeking jobs in the country continued as of September. Zahid faced charges filed in 2018 of corruption, money laundering, and taking bribes totaling three million ringgit (\$720,000) from a company that ran a visa center for the workers, who paid tenfold higher costs for visa services and medical tests over a five-year period without receiving additional protections or benefits.

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

Also see the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

c. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits all of the worst forms of child labor. The law prohibits the employment of children younger than 15 but permits some exceptions, such as light work in a family enterprise, work in public entertainment, work performed for the government in a school or in training institutions, or work as an approved apprentice. There is no minimum age for engaging in light work. For children between ages 14 and 18, there was no list clarifying specific occupations or sectors considered hazardous and therefore prohibited.

The government did not effectively enforce laws prohibiting child labor. Those found contravening child labor laws faced penalties that were not commensurate with those for other analogous serious crimes, such as kidnapping.

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

NGOs reported that stateless children in Sabah State 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. Child sex trafficking also occurred (see section 6, Children).

Also see the Department of Labor's *List of Goods Produced by Child Labor or Forced Labor* at <https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods>.

d. Discrimination with Respect to Employment and Occupation

The law does not prohibit discrimination with respect to race, religion, national origin, color, sex, ethnicity, disability, age, sexual orientation, HIV or AIDS status, or refugee status in employment and hiring; the director general of labor may investigate discrimination in the terms and conditions of employment for both foreign and local employees. The law prohibits women from working underground, such as in mines, 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 director general may issue necessary directives to an employer to resolve allegations of discrimination in employment, although there were no penalties under the law for such discrimination and thus penalties were not commensurate with laws related to civil rights, such as election interference.

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 that employers were reluctant to hire persons with disabilities. A regulation reserves 1 percent of public-sector jobs for persons with disabilities.

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

Women experienced some economic discrimination in access to employment. Employers routinely asked women their marital status during job interviews. The Association of Women Lawyers advocated for passage of a separate sexual harassment bill requiring employers to formulate sexual harassment policies.

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

e. Acceptable Conditions of Work

Wage and Hour Laws: The minimum wage applied to both citizen and foreign workers, except for those in domestic service and the gig economy (see section 7.e., Informal Sector). Minimum wage rates varied according to location and were less than Ministry of Finance-published poverty income levels in Sabah and Sarawak states.

Working hours may not exceed eight hours per day or 48 hours per week, unless workers receive overtime pay. The director general of the Ministry of Labor may

grant exceptions if there are special circumstances making the extra hours necessary.

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

Occupational Safety and Health: 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. In June the government expanded social security coverage to local and 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.

According to Department of Occupational Safety and Health statistics, as of July, 111 workers died, 3,668 acquired a nonpermanent disability, and 140 acquired permanent disability in work-related incidents.

The Department of Labor of the Ministry of Human Resources enforces wage, working condition, and occupational safety and health standards. The government did not effectively enforce the law. The number of labor enforcement officers was insufficient to enforce compliance. Department of Labor officials reported they sought to conduct labor inspections as frequently as possible. Nevertheless, many businesses could operate for years without an inspection. Inspectors have the

authority to conduct unannounced inspections and initiate sanctions.

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

Employers did not respect laws on wages and working hours. The Malaysian Trades Union Congress reported that 12-, 14-, and 18-hour days were common in food and other service industries. In June a court ordered Goodyear Malaysia Berhad to provide 185 migrant workers more than 5 million ringgit (\$1.2 million) in unpaid wages, shift allowances, annual bonuses, and pay increases. The lawyer representing the migrant workers submitted pay slips to the court showing some migrants worked up to 229 hours a month in overtime, exceeding the legal limit of 104 hours.

In February the government introduced the Worker's Minimum Standards of Housing and Amenities Act as an emergency ordinance during the state of emergency compelling employers and centralized accommodation providers to provide lodging with sufficient living space and amenities for migrant workers to effectively control the spread of COVID-19. The legislation expanded this authority to include housing and local government agencies, the Ministry of Trade and Industry, and the Ministry of Domestic Trade and Consumer Affairs in order to enforce fines and penalties up to 200,000 ringgit (\$48,000), three years' jail time, or both, against employers that failed to adhere to regulations.

In September Minister of Human Resources Saravanan announced that the government had found 49 workers' hostels "unfit for human habitation" and ordered them closed, causing the relocation of 2,942 workers. As of August 24, the ministry had inspected 23,993 employers and 129,668 staff quarters covering the accommodation of 804,204 migrant workers and close to 1.2 million workers. The violations included "failure to comply with building capacity, operating without permission, failure to provide entry and exit route and nonadherence to social distancing."

Migrant workers often worked in sectors where violations were common. They performed hazardous duties 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 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; did not provide sufficient time off; sexually assaulted workers; and harassed and threatened workers, including with deportation.

Informal Sector: As of 2019 more than one million workers were considered to be in the nonagricultural informal sector. This included any enterprise not registered with the Companies Commission of Malaysia or other professional body and included more than one million self-employed or micro businesses, such as in-home workers, street vendors, and small workshops. More than half of informal workers were male, and more than three-quarters were in the cities.

Reports indicated that COVID-19 led to an increase in the number of self-employed “gig” employees. Estimates were as high as 30 percent of the workforce. There are no specific regulations, laws, or guidelines to protect the welfare of gig workers, except for the provisions under the Self-Employment Social Security Act 2017 that require self-employed individuals to register and contribute.