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## U.S. Department of State

### Malaysia Country Report on Human Rights Practices for 1998

Released by the Bureau of Democracy, Human Rights, and Labor, February 26, 1999.

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#### MALAYSIA

Malaysia is a federation of 13 states with a parliamentary system of government based on periodic multiparty elections in which the ruling National Front coalition has held power since 1957. Opposition parties actively contest elections, but face obstacles in competing with the long-entrenched ruling coalition. Opposition and independent members hold roughly 12 percent of the seats in the Federal Parliament. An opposition party controls one state government. The Constitution provides for an independent judiciary; however, government action, constitutional amendments, and legislation have undermined judicial independence and increased executive influence. The impartiality of the judiciary continued to deteriorate.

The Royal Malaysian Police have primary responsibility for internal security matters. The police report to and are under the effective control of the Minister of Home Affairs. At yearâs end, the Prime Minister held the Home Affairs portfolio. Some members of the police committed serious human rights abuses.

Malaysia is an advanced developing country. Although the economy is largely market-based, the Government takes an active role in economic development and industrialization, and maintains price controls on certain basic commodities. Manufacturing accounts for 44.2 percent, services 44.8 percent, and agriculture 11 percent of gross domestic product (GDP). Principal manufactured products include semiconductors, consumer electronics, electrical products, textiles, and apparel. Palm oil exports and production of natural rubber, cocoa, and tropical timber also are significant. Per capita GDP in 1997 was approximately \$4,431. Anticipating increasing unemployment as a result of the economic downturn, the Government has indicated that it plans to repatriate or redeploy an estimated 2 million foreign unskilled

workers--one-quarter of the labor force.

The Government's previous record of respect for the human rights of its citizens worsened in a number of areas. In a late March mass deportation of Indonesian illegal alien detainees, police used excessive force, resulting in a number of deaths and injuries. Some detainees injured in the deportation did not receive medical care. Police killed roughly 80 suspects in the course of apprehension, some under questionable circumstances. Police on occasion tortured, beat, and otherwise abused suspects, detainees, and ordinary citizens. Poor conditions of detention posed a serious threat to the life and health of illegal alien detainees. Police continued to arrest and detain many persons without trial, including former Deputy Prime Minister Anwar Ibrahim and a number of his allies. (Anwar subsequently was charged and is on trial; his associates were released.) Police beat Anwar while he was in detention. Prolonged pretrial detention is a problem. A prominent opposition party leader was imprisoned on questionable sedition and publications charges. The judiciary refused to stay a libel suit against a United Nations special rapporteur, despite the U.N.'s assertion of the rapporteur's immunity and referral of the matter to the International Court of Justice. The trial of a prominent human rights activist on charges arising from her criticisms of conditions in alien detention camps continued. A Western journalist continued to appeal a 1997 conviction for contempt of court stemming from an article that raised questions of possible judicial favoritism. These cases and other factors led to serious doubts over the independence and impartiality of the judiciary. Authorities infringed on citizens' privacy rights. Harsh government statements about critics and police threats of possible detention or investigation stifled freedom of expression. Government pressure and intimidation led to a high degree of press self-censorship. The editors in chief of two of the country's leading dailies and a television operations director were removed, apparently because of government pressure. The Government attacked the foreign press for its allegedly biased reporting on Malaysia. A government crackdown on opposition meetings and on demonstrations at which citizens called for political reform restricted freedom of assembly. The Government continued to restrict freedom of association. Religious freedom is subject to some restrictions, in particular the right of Muslims to practice beliefs other than Sunni Islam. The right of Muslims to change their religion faced many practical obstacles. The Government continued to impose long-term restrictions on movement without due process hearings. Government restrictions prevent opposition parties from competing effectively with the ruling coalition. Nongovernmental organizations (NGOs) came under increasing criticism from senior government officials, who ascribed seditious or treasonous motives to NGO critics. The Government also amended legislation in order to facilitate the disbandment of NGOs. Societal discrimination and violence against women, and sexual abuse of children remain problems. Malaysia is a source, destination, and transit country for the trafficking of women and girls for sexual exploitation. Longstanding policies give preferential status to the ethnic Malays and other indigenous people in business, education, and other areas. Some discrimination against indigenous people and ethnic minorities, and some restrictions on worker rights persisted. Child labor persists, although the Government has taken vigorous action against it.

## **RESPECT FOR HUMAN RIGHTS**

### **Section 1 Respect for the Integrity of the Person, Including Freedom From:**

#### **a. Political and Other Extrajudicial Killing**

There were no reports of political killings. However, police committed a number of extrajudicial killings.

On March 26, riot police conducted a mass deportation of Indonesian illegal alien detainees (see Section 2.d.). At the Semenyih detention camp, detainees from the Indonesian province of Aceh violently resisted deportation and killed a police officer in the ensuing struggle. After the death of the police

officer, police responded with force and killed an unknown number of detainees (Police stated that 8 detainees died, while NGOs and the Western press reported that the number of dead was at least 24). A leaked police photograph that appeared in the Western press showed that some of the dead persons were handcuffed. It is not known when the handcuffs were placed on these persons. Press reports from Indonesia indicated that a large number of Acehnese injured during the rioting in Malaysian detention camps, including some with gunshot wounds or injuries from severe beatings, did not receive medical care before their deportation. Police have denied any misconduct and are not investigating officers' actions during the riot. (The police did investigate the leak to the Western press of the photograph showing handcuffed victims, and prosecuted the police photographer responsible.) After the violence, the Deputy Home Affairs Minister stated that security personnel would no longer treat illegal aliens "softly."

The press reported that police killed approximately 80 alleged criminals in the course of apprehension during the year. Some of these killings appeared to be justified; but others were hard to explain based on public reports. For example, on January 28, police shot and killed a group of seven suspects (with none wounded) in two cars who allegedly were planning to rob a supermarket. On March 21, police shot and killed three suspected kidnapers (with none wounded) in a car while the victim, in the same car, was unharmed (a fourth suspect was shot and killed separately). Relatives of one of the alleged kidnapers claimed that the deceased had been an acquaintance of the victim and that police had shot the wrong man. On October 3, police killed five alleged kidnapers in a house, including a woman who was 8 months pregnant. On October 4, police shot and killed six men in a van who allegedly were involved in the smuggling of drugs and firearms. The leader of the ethnically Indian political party called on the police to conduct a thorough inquiry into the last two shootings and questioned whether suspects had been given a chance to surrender or explain. In the March kidnaping case, police investigated and found no misconduct. None of the other cases are known to be under investigation.

After approximately 40 police lethal shootings from January to March, the president of a prominent Malaysian human rights organization in an April press article questioned whether police had become too "trigger-happy" and were acting as "judge, jury, and executioner." He called for the establishment of a mechanism to review each use of lethal force by police. The Prime Minister called the charge of police being trigger-happy "grossly unfair," and the Inspector General of Police stated that the human rights group was trying "to protect criminals." Subsequently, a police official said that if criticism by an NGO "causes people to lose confidence in the police or question the law," police would investigate the NGO under the Societies Act (see Section 2.b.). Following the April article, lethal police shootings sharply decreased for several months. Later in the year, after the controversy surrounding the lethal shootings of a total of 11 suspects on October 3-4, the number of incidents again dropped steeply. The police have not accepted the suggestion to establish a mechanism to review the use of lethal force.

There were numerous allegations that inhuman conditions of detention caused the deaths of illegal aliens (see Section 1.c.).

In July four soldiers who beat to death an illegal alien during a June 1997 raid were acquitted of charges of culpable homicide not amounting to murder. The Prime Minister said in August, that several officers of the police field force would be disciplined for their conduct during a conflict in Bakong, Sarawak that led to an Iban village chief being shot and killed in December 1997. The police have not announced what disciplinary actions were taken.

#### b. Disappearance

There were no reports of politically motivated disappearances.

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

No constitutional provision or law specifically prohibits torture, although laws that prohibit "committing grievous hurt" encompass torture; however, some police tortured and abused persons, and reports of instances of abuse were worse than in previous years.

Police continued to abuse detainees. There were instances in which police officers subjected criminal suspects and illegal alien detainees to physical and psychological torture during interrogation and detention. During the trial of former Deputy Prime Minister Anwar Ibrahim, senior police officers testified that police had institutionalized techniques to subject some detainees to coercive and abusive treatment. A senior officer said that police simply did not consider whether such tactics were legal. In some cases authorities have investigated police officials for such abuses; however, because the Government does not release information on the results of the investigations routinely, whether those responsible for abuses are punished is not always known.

When former Deputy Prime Minister Anwar Ibrahim was arraigned on criminal charges following 9 days of Internal Security Act (ISA) detention (see Section 1.d.) without access to family or attorneys, he stated that police had beaten him into unconsciousness during his first day of detention. Eyewitnesses reported that Anwar's face, arms, and neck were bruised badly. Anwar stated that after the beating he had suffered unclear vision and faulty balance. Police investigated Anwar's claims and submitted a report to the Attorney General in November. The Attorney General later acknowledged that police caused some of Anwar's injuries, but did not identify those responsible.

Other figures associated with Anwar's case also alleged police mistreatment. During Anwar's trial, the two authors of a poison pen letter against Anwar alleged that police had used coercive and abusive tactics against them to force retractions of the letters' allegations. (Police admitted to these charges, but no officers were charged for misconduct.) Two men convicted of "gross indecency" for allegedly having been sodomized by Anwar, later recanted their confessions, and gave largely consistent descriptions of physical and psychological torture at the hands of police. In November a lawyer for a business associate of Anwar alleged that prosecutors threatened his client with a death sentence on firearms charges unless he agreed to fabricate evidence against Anwar. Following this the Attorney General instructed prosecutors that all future plea bargain negotiations should be recorded in writing. The businessman's trial on firearms charges that carry a mandatory death sentence was still pending at year's end. There were other credible reports of torture and abuse as well.

In late September, police cracked down on demonstrations in support of political reform, breaking up many such gatherings and making many hundreds of arrests. Riot police often forcibly dispersed peaceful demonstrators, using truncheons, water cannon, and tear gas (see Section 2.b.).

From January to April there were regular press reports of police brutality. After April press reports of such incidents dwindled to just a handful for the entire rest of the year. The press reports described beatings of those in custody, of those being arrested, and of ordinary citizens who for some reason angered police officers. NGOs also reported alleged incidents of police brutality. In March a police officer was charged for causing grievous hurt to a man in a private dispute. At year's end, this case was still pending. Also in March three policemen were charged with raping a woman whom they had lured to their quarters. The case against the policemen was given a discharge not amounting to acquittal when the court learned that the woman had returned to Indonesia and was unable to testify. In August five police officers were charged with assaulting two men in a bar. The case was still pending at year's end.

Criminal law prescribes caning as an additional punishment to imprisonment for those convicted of

some nonviolent crimes such as narcotics possession, criminal breach of trust, and alien smuggling. Judges routinely include caning in sentences of those convicted of such crimes as kidnapping, rape, and robbery. The caning, which is carried out with a 1/2-inch-thick wooden cane, commonly causes welts, and sometimes causes scarring. In theory even children can be caned. For example, in July a 15-year-old boy was sentenced to 10 strokes of the cane for a drug offense. The sentence was commuted.

Prison conditions generally meet minimum international standards. Prisons meet basic human needs, including medical care, sanitation, nutrition, and family access. Overcrowding is an increasingly serious problem. In May the prisons director-general urged courts to expedite processing to help ease overcrowding. At that time the director-general stated that prisons were holding 26,548 prisoners, while planned capacity was only 20,000. "Security" prisoners (see Section 1.d.) are detained in a separate detention center.

Prison guards have been accused and convicted of criminal wrongdoing, mostly in nonviolent narcotics cases. In September the family of Lim Guan Eng, an opposition leader convicted of sedition (see Section 2.a.), alleged that Lim was forced to sleep on a damp concrete floor, had no clean water to drink, had no opportunity to exercise, and did not have adequate reading materials. Lim's family also alleged that a bright light shone in Lim's cell at all times. The prisons director-general denied some of the allegations, confirmed others, and stated that Lim was being treated the same as any other prisoner in accordance with minimum U.N. guidelines, as well as with Malaysian prison regulations, which date from the colonial era.

The Government holds many illegal aliens under inhuman conditions. Access to illegal alien camps is restricted and details are hard to prove. However, the volume and consistency of allegations of inadequate food, poor medical care, poor sanitation, and abuse by guards make credible the charge that detention conditions pose a serious threat to life and health. There were numerous allegations that such inhuman conditions caused the deaths of an unknown number of illegal aliens.

The Government has an agreement with the International Committee of the Red Cross (ICRC) providing for visits to certain categories of prisoners and has not posed any objection to such visits. However, the ICRC has not visited for several years. Other NGOs and the media generally are not allowed to monitor prison conditions. Access to illegal alien detention camps is restricted and the Government in some cases eve