



The State Department web site below is a permanent electro information released prior to January 20, 2001. Please see [y](#) material released since President George W. Bush took office. This site is not updated so external links may no longer func [us](#) with any questions about finding information.

NOTE: External links to other Internet sites should not be c endorsement of the views contained therein.



## 1999 Country Reports on Human Rights Practices

Released by the Bureau of Democracy, Human Rights, and Labor  
U.S. Department of State, February 25, 2000

---

### MALAYSIA

Malaysia is a federation of 13 states and two federal territories with a parliamentary system of government based on periodic multiparty elections in which the ruling National Front coalition has held power for more than 40 years. Opposition parties actively contest elections, but face serious obstacles in competing with the long-entrenched ruling coalition. However, in November elections opposition parties won roughly 25 percent of the seats in the Federal Parliament, and an opposition party also won control of two state governments. The Constitution provides for an independent judiciary; however, government action, constitutional amendments, legislation, and other factors undermine judicial independence and strengthen executive influence over the judiciary. The impartiality of the judiciary continued to deteriorate during the year.

The Royal Malaysian Police have primary responsibility for internal security matters. The police report to and are under the effective control of the Home Minister. Some members of the police committed human rights abuses.

Malaysia is an advanced developing country with an estimated per capita gross domestic product (GDP) of \$3,745 and an unemployment rate of 3.0 percent. Following nearly a decade of strong economic growth averaging over 8 percent annually, it was hit hard by the 1997 regional financial and economic crisis. After contracting by 7.5 percent in 1998, the economy began to recover during the year, posting an estimated 4.8 percent growth rate. During 1998 the Government adopted stimulative fiscal and monetary policies to promote economic recovery and established institutions to recapitalize distressed financial institutions and to remove nonperforming loans from the banking system. It also enacted selected capital controls to eliminate offshore trading in the local currency (ringgit) and to insulate the domestic economy from the effects of short-term, speculative capital flows. The Government takes an active role in the development of the export-oriented economy. Manufacturing accounts for 27.9 percent, services for 52.2 percent, agriculture for 9 percent, and construction and mining for 10.9 percent of 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.

There continued to be serious problems in the Government's human rights record in certain areas. Police committed a number of extrajudicial killings, although fewer than in previous years. Police on occasion tortured, beat, or otherwise abused prisoners, detainees, and demonstrators. The former chief of police admitted to having beaten the handcuffed and blindfolded former Deputy Prime Minister Anwar Ibrahim in 1998. For political reasons, Anwar was charged with obstruction of justice in 1998 and convicted in April. Improper conduct by the police and prosecutors, along with many questionable rulings by the judge, denied Anwar a fair opportunity to defend himself. At year's end, Anwar was being tried on a charge of sodomy and being held without bail. Police continued to arrest and detain many persons without trial or charge. Prolonged pretrial detention is a serious problem. Detained criminal suspects are denied access routinely to legal counsel prior to being charged formally. An Inter-Parliamentary Union (IPU) delegation found that prison conditions were not in accord with international norms. Conditions of detention of illegal alien detainees continued to pose a threat to life and health; the trial of a prominent human rights activist on charges arising from her criticisms of such conditions continued. A Western journalist was jailed after losing an appeal of a 1997 conviction for contempt of court stemming from an article that raised questions of judicial favoritism. The Attorney General practiced politically motivated, selective prosecution. Many observers expressed serious doubts about the independence and impartiality of the judiciary. The courts defied an International Court of Justice (ICJ) ruling that a United Nations Special Rapporteur was immune from several libel suits. Government restrictions, pressure, and intimidation led to a high degree of press self-censorship. The Government cracked down on newsstand sales of an opposition party newspaper. A U.N. Special Rapporteur reported that the Government systematically curtailed freedom of expression. Proliferating slander and libel suits threatened to stifle freedom of speech. Authorities infringed on citizens' privacy rights. The Government placed some restrictions on freedom of assembly and some peaceful gatherings. The Government continues to restrict significantly freedom of association. The Government continued to prohibit students from participating in some political activities. Religious freedom is subject to some restrictions, in particular the right of Muslims to practice teachings other than Sunni Islam. In addition the right of Muslims to change their religion was hindered by many practical obstacles. The Government continued to impose some restrictions on freedom of movement. Government restrictions and policies prevent opposition parties from competing effectively with the ruling coalition. The Election Commission's lack of independence prevents it from properly implementing and monitoring elections. The Government passed legislation to form a National Human Rights Commission; however, opposition and nongovernmental organization (NGO) leaders were skeptical of its potential independence and effectiveness. The Government continued to criticize harshly human rights NGO's. Despite government efforts, societal violence and discrimination against women remain problems. Malaysia is a source, transit, and destination country for trafficking in women and girls for the purpose of forced prostitution. Sexual abuse of children occurs, although it is punished severely. Indigenous people face discrimination and often are exploited, especially in regard to land issues. Longstanding policies give preferences to ethnic Malays in many areas, and ethnic minorities face discrimination. Some restrictions on worker rights persist. 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.

The press reported 11 incidents of police killings in the course of apprehension with a total of 18 persons killed. Reports of police killings decreased significantly shortly after a change in senior police personnel in January (see Section 1.c.). However, some cases still raised concerns. In January a bank teller was killed in a police shoot-out. Police personnel announced later that they were investigating the case; however, the results of the investigation were not disclosed. Also in January, an opposition figure in Sabah alleged that police brutality led to the death from renal failure of a murder suspect. Police denied the allegation, and there was no report of any investigation. In January the Bar Council called on the police to implement a standard procedure to investigate every lethal shooting by police; however, the police did not implement such a procedure. In March a suspected kidnaper fell to his death from a 4th floor window at Selangor state police headquarters. Police said that the suspect threw himself from the window while being questioned. No investigation into this death was reported.

In February a customs officer was detained after a man was shot and killed during a high-speed chase in Sarawak. In July the customs officer was convicted of manslaughter and fined roughly \$1,580 (6,000 ringgit). In August two police officers were detained in connection with the death of a suspected drug trafficker in Sabah. Police claimed that the trafficker died after falling and hitting his head on a stone. At year's end there were no reports of further developments. In September a police agent was charged with culpable homicide not amounting to murder after he shot a man seated in his car. In February the acting inspector general of police said that police investigations into two previous shooting incidents had shown that police conduct in each incident was justified. The families of the victims in the two shooting incidents said that they plan to sue the police. In October a man asked police authorities to investigate the death of his son in prison. The man said that his son previously had been beaten in prison and that he did not believe that his son really had died of natural causes, as claimed by police officials. Police responded that the prisoner had died of heart disease in a hospital emergency room after prison guards had found him unconscious in his cell. There were no reports of investigations into any other police killings.

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

A spate of questionable police killings of suspects in the course of apprehension in 1998 led the president of a leading human rights NGO to question publicly whether police sometimes were acting as "judge, jury, and executioner." In February a group of 119 domestic NGO's called for an independent commission to look into these and other police killings. The Government did not form such a commission. In October the Deputy Home Minister informed Parliament that police had shot and killed 387 persons over the past 5 years.

## 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, at times some police tortured, beat, and otherwise abused prisoners, detainees, and ordinary citizens. The authorities investigated some police and other officials for such abuses; however, the Government does not routinely release information on the results of investigations, and whether those responsible are punished is not always known.

Police continued to abuse detainees. Police sometimes subjected criminal suspects and illegal alien detainees to physical and psychological torture during interrogation and detention. During the 1998 trial of former Deputy Prime Minister Anwar Ibrahim, senior police officers testified that the police had institutionalized techniques to subject some "national security" detainees to coercive and abusive treatment. A senior police officer said that police did not consider the legality of such tactics. During the year, police instituted mandatory community relations and ethics courses to address public concerns over police misconduct.

In February former Inspector General of Police Tan Sri Rahim Noor admitted before a Royal Commission of Inquiry that in September 1998 he personally had beaten the handcuffed and blindfolded former Deputy Prime Minister Anwar Ibrahim while the latter was detained by police (see Section 1.d.). The beating badly bruised Anwar's face, neck, and arms, and reportedly temporarily left him with impaired balance and unclear vision. Rahim said that Anwar had provoked him. The Royal Commission found Rahim culpable in the beating of Anwar. Police subsequently charged Rahim with attempted assault and his trial is scheduled for March 2000. If convicted, he faces a maximum sentence of 3 1/2 years in prison.

Prime Minister Mahathir formed the Royal Commission after a long police internal investigation, the results of which were announced by Attorney General Tan Sri Mohtar Abdullah in January, established that police had been responsible for the beating of Anwar (however, the police investigation failed to identify a culprit). The Commission found no other members of the police culpable or complicit in the beating of Anwar or in the subsequent cover-up. In April the Malaysian Bar Council expressed shock that the Royal Commission had recommended that no action be taken against senior police officers who failed to report or arrest Rahim after the beating. Anwar's supporters called on the Prime Minister, who (at the time) oversaw the police as Home Minister, to take responsibility for Anwar's beating.

In February a fashion designer, Mior Abdul Razak bin Yahya, swore in an affidavit that police had threatened and abused him after he was detained in September 1998. Mior said that because of police threats and coercion he had confessed falsely to having had sexual relations with the former Deputy Prime Minister. In 1998 two other alleged homosexual partners gave consistent descriptions of how police used psychological and physical abuse to force similar false confessions from them. Police have not been investigated or punished for misconduct in any of these cases. In 1998 lawyers for former Deputy Prime

Minister Anwar Ibrahim made public allegations of another lawyer, who represented a business associate of Anwar. The associate's lawyer had alleged that prosecutors threatened his client with a firearms charge that carried a mandatory death sentence unless the client agreed to fabricate evidence against Anwar. In February the businessman was sentenced to 42 months imprisonment under an amended charge. In August the sentence was reduced on appeal to time served.

In March opposition activist Abdul Malek bin Hussin filed a police report accusing police of torturing him in 1998 while he was under detention without charge under the Internal Security Act (see Section 1.d.). Malek alleged that police had, among other abuses, beaten him unconscious and forced him to drink their urine. The police have not responded publicly to Malek's allegations.

There were several press reports of others who alleged police torture or cruel, inhumane, or degrading treatment while in custody. For example, in December ten murder suspects alleged in court that police had humiliated and beaten them after they refused to confess. There were no reports of investigations into these or any other similar allegations.

During the year, riot police several times forcibly dispersed peaceful demonstrators, using truncheons, water cannons, and tear gas (see Section 2.b.).

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 kidnaping, rape, and robbery. Some state Islamic laws, which bind only Muslims (see Section 1.e.), also prescribe caning. The caning, which is carried out with a 1/2-inch-thick wooden cane, commonly causes welts, and sometimes causes scarring. Male criminals age 50 and above and women are exempted from caning. According to the provisions of the Child Act passed in October, male children may be given up to ten strokes of a "light cane."

An Inter-Parliamentary Union (IPU) report issued in February, stemming from a late 1998 investigation of the case of imprisoned opposition Parliamentarian Lim Guan Eng (see Section 1.e.) stated that the conditions of Lim's imprisonment did not comply with the U.N. Standard Minimum Rules (Treatment of Prisoners) and the U.N. Body of Principles for the Protection of All Persons under any Form of Detention or Imprisonment. The report cited portions of the Minimum Rules that concern light, ventilation, and proper bedding, and Principle 6 of the Body of Principles, which prohibits torture, or cruel, inhuman, or degrading treatment. However, the delegation that drafted this report did not visit Lim in prison, and therefore could not make direct observations. The Government said that Lim was detained under the same conditions as other prisoners and in accord with the colonial-era Prison Rules (1952) and the Prisons Act (1995), which, the Government contended, met the standards of the U.N. Minimum Rules. In April Deputy Home Minister Ong Ka Ting told Parliament that the Government had completed a review of prison rules and made amendments that would improve the management of prisoners. Ong said that the amendments would be promulgated after the approval of the Attorney General. In November Deputy Home Minister Datuk Onk Ka Ting said that a mattress would soon be issued to every prisoner. There were no other developments reported by year's end.

Credible reports by former prisoners indicate that guards at some prisons regularly beat prisoners convicted of criminal offenses.

Prison overcrowding is a serious problem. In August the prisons director general said that the Government plans to build a new prison and expand others. He said that the country's 35 prisons hold 27,400 prisoners; total designed capacity is 20,000. "Security" prisoners (see Section 1.d.) are detained in a separate detention center.

The Government holds many illegal aliens under inhuman conditions. NGO's, former detainees, and others make credible allegations of inadequate food, poor medical care, poor sanitation, and abuse by guards. Detention conditions are so bad that they pose a serious threat to life and health. There were many allegations that such inhuman conditions caused the deaths of an unknown number of illegal aliens. In July, after 3 days without adequate supplies of water, 192 illegal aliens escaped from the Lenggeng detention center. Testimony during the trial of NGO activist Irene Fernandez (see Section 2.a.) described past inhuman conditions at illegal alien detention camps.

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 NGO's 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 even prevents representatives of foreign embassies from visiting their nationals in the camps.

#### d. Arbitrary Arrest, Detention, or Exile

Suspects in some crimes (called "seizable offenses") may be arrested without warrants; suspects in other crimes ("nonseizable offenses") may be arrested only based on a warrant from a magistrate. Suspects in some crimes ("bailable offenses") may present bail at the police station according to a schedule. Bail is not available for other crimes ("nonbailable offenses") and sometimes also is denied in other circumstances (e.g., great risk of flight). Police may hold suspects for 24 hours without charge. Police may request a magistrate to extend the period of remand without charge for up to 2 weeks. After this extension, the police, if they wish to hold the suspect must charge him and seek an order of detention from a magistrate. In some cases, police have released suspects under remand and quickly rearrested them on new but similar charges. In general, police practice is in accord with these legal provisions.

Police may deny remand prisoners access to legal counsel and routinely do so. During this period of remand, police also may question suspects without giving them access to counsel. Police justify this practice as necessary to prevent interference in ongoing investigations. Judicial decisions have upheld this practice. Defendants' advocates say the lack of access to counsel seriously weakens defendants' legal rights.

Crowded, understaffed courts and the legal safeguards and appeals available to the accused often result in lengthy pretrial detention, sometimes lasting several years. In 1998 the prisons director general said that roughly half of the prison population consisted of prisoners who had not yet been sentenced. Most of these prisoners either have been convicted and are awaiting sentence or are in the midst of their trials. Detainees awaiting trial constitute much less than half of all detainees.

Three laws permit the Government to detain suspects without judicial review or the filing of formal charges: The 1960 Internal Security Act (ISA), the Emergency (Public Order and Prevention of Crime) Ordinance of 1969, and the Dangerous Drugs Act (Special Preventive Measures) of 1985. The press reported one ISA detention during the year: In February police detained a computer technician for alleged involvement in the falsification of official documents. Some opposition and NGO leaders contended that the computer technician might have been involved in the political reform movement.

According to the Home Ministry, in late 1998 223 persons were being detained under the ISA. No later figures are available. During the year, police detained 1375 persons under the Dangerous Drugs Act (Special Preventive Measures). It is not known how many were detained at year's end. The Government has not disclosed how many persons are detained under the Emergency Ordinance.

Enacted more than 30 years ago when there was an active Communist insurgency, the ISA empowers the police to hold for up to 60 days any person who may act "in a manner prejudicial to the security of Malaysia." The Home Minister may authorize further detention for periods of up to 2 years. Those released before the end of their detention period are subject to "imposed restricted conditions" for the balance of their detention periods. These conditions limit their rights to freedom of speech, association, and travel outside the country.

According to the Government, the goal of the ISA is to control internal subversion. In November 1998, the Deputy Home Minister said that in the previous 10 years no person had been detained under the ISA beyond the initial 60-day period for political reasons other than Communist activity. He said that of the 867 persons detained for more than 60 days, 359 were involved in Communist activities, 447 falsified documents or otherwise abetted illegal alien smuggling, 21 were "religious extremists," 9 "leaked intelligence secrets," and 1 was associated with the Free Aceh Movement. He further said that of the 223 persons detained at the time, 131 were for document forgery, 89 for illegal alien smuggling, 2 for deviant Islamic teaching, and 1 for activities associated with the Free Aceh Movement. Some of these detainees (exactly how many has not been disclosed), including the Islamic teachers and the alleged Free Aceh Movement leader, have since been released.

As these figures indicate, the ISA often is used against nonpolitical crimes, including against what the Government considers "deviant" Muslim groups. The Government states that deviant groups pose a danger to national security because of their radical beliefs. The ISA, and the threat of the ISA, also are used to intimidate and restrict political dissent. For example, in 1998 the police detained Anwar Ibrahim and 27 of his followers under the ISA, after a series of largely peaceful antigovernment demonstrations. The Government claimed that the demonstrations threatened national security. By the end of 1998, Anwar and the others either had been released or detained under criminal charges.

Security authorities sometimes wait several days after detention before informing an ISA detainee's family. Even when there are no formal charges, the authorities must inform detainees of the accusations against them and permit them to appeal to an advisory board for review every 6 months. However, advisory board decisions and recommendations are not binding on the Home Minister, are not public, and often are not shown to the detainee. In the past, some ISA detainees have refused to participate in the review process under

these circumstances.

Amendments to the ISA in 1997 sharply circumscribed judicial review of ISA detentions. Although the Bar Council has in the past asserted that detentions under the ISA should be subject to judicial review on both procedural and substantive grounds, the courts have not concurred with this interpretation and review ISA detentions only on technical grounds. Detainees freed on technical grounds nearly always are detained again immediately.

In May the Government announced new procedures for ISA detention. According to press reports, the new amendments stipulated that senior police officials must concur with ISA detentions. Details were not reported. Deputy Minister in the Prime Minister's Department Datuk Ibrahim Ali claimed that the amended procedures would help prevent misuse of the ISA.

Opposition leaders and human rights organizations continue to call on the Government to repeal the ISA and other legislation that deprive persons of the right to defend themselves in court, as they have for years. During the year, several ruling coalition party politicians and organizations also called for the repeal of the ISA. Other ruling coalition parliamentarians called for the ISA to be strengthened. The Government stated that the ISA still was necessary and would not be repealed.

Under the 1969 Emergency Ordinance, which was instituted after intercommunal riots in that year, the Home Minister can issue a detention order for up to 2 years against a person if he deems it necessary to protect public order, or for the "suppression of violence, or the prevention of crimes involving violence." In fact, the Government has used the Emergency Ordinance for other reasons. No emergency ordinance detentions were reported during the year, and the Government has not disclosed the total number of persons now detained under this law.

Provisions of the 1985 Dangerous Drugs Act (Special Preventive Measures) give the Government specific power to detain without trial suspected drug traffickers. The suspects may be held for up to 39 days before the Home Minister must issue a detention order. Once the Ministry has issued an order, the detainee is entitled to a hearing before a court. In some instances, the judge may order the detainee's release. Suspects may be held without charge for successive 2-year intervals with periodic review by an advisory board, whose opinion is binding on the Home Minister. However, the review process contains none of the due process rights that a defendant would have in a court proceeding. The police frequently detain suspected narcotics traffickers under the special preventive measures after the traffickers are acquitted of formal charges--often as they leave the courtroom. During the year, the Government detained over 1,300 persons under this law. It is not known how many were detained at year's end.

Immigration laws are used to detain possible illegal aliens without trial or hearing. The detainees are not accorded any administrative or legal hearings and are released only after their employers prove their legal status. Those who can produce legal documents normally are released immediately; those who cannot prove their legal status often are held for extended periods before deportation. Illegal aliens are kept in detention centers that are separate from prisons (see Section 1.c.).

Law enforcement authorities also used the Restricted Residence Act to restrict movements

of criminal suspects for an extended period. The act allows the Home Ministry to place criminal suspects under restricted residence in a remote district away from home for 2 years. The Ministry is authorized to issue the banishment orders without any judicial or administrative hearings. Human rights activists have questioned the need for this law, which was passed more than 60 years ago under very different circumstances, and have called for its repeal. The Government has continued to justify the act as a necessary tool and has used it in the recent past primarily against vice and gambling offenses. In July the Terengganu state chief of police warned publicly that operators of illegal gambling machines would be banished under the act if they did not cease their activities. In August Director-General of the Anticorruption Agency (ACA) Datuk Ahmad Zaki Husin proposed using the act to banish officials suspected of corruption. After the Bar Council expressed concerns over the proposal, Zaki clarified that the Restricted Residence Act might be used only for "syndicated graft." In August the Deputy Prime Minister warned "get-rich-quick" scheme operators that they might face banishment under the act. The Government has not disclosed how many persons are subject to the Restricted Residence Act and no accurate estimate is available.

In 1997 the Malaysian Bar Council expressed its concern about 44 prisoners held "at the pleasure of the Sovereign" for inordinate periods, often well exceeding the maximum sentences for their original crimes. In one case, a prisoner had been held for 37 years. Most of these "forgotten prisoners" committed their crimes as minors or while of unsound mind. In 1998 the Attorney General stated that the Government had expedited hearings on the cases. No results of these hearings have been reported.

Section 396 of the Criminal Procedure Code allows the detention as a material witness of a person whose testimony is necessary in a criminal case if that person is likely to abscond. In August an Indonesian woman was released after being detained for over a year as a material witness, though she herself was accused of no crime.

The Government does not use forced exile.

#### e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary; however, since 1988, government action, constitutional amendments, legislation restricting judicial review, and other factors have eroded steadily judicial independence and strengthened executive influence over the judiciary. A number of high-profile cases continued to cast doubts on judicial impartiality and independence, and to raise questions of arbitrary verdicts, selective prosecution, and preferential treatment of some litigants and lawyers. Members of the bar, NGO's, and other observers (including those who attended the September Commonwealth Law Conference held in the country) continued to express serious concern about the deterioration of the independence and overall fairness of the judiciary.

In April the ICJ ruled that U.N. Special Rapporteur on the Independence of Judges and Lawyers Datuk Param Cumaraswamy, because of his status as a U.N. Special Rapporteur, was immune from several Malaysian libel suits. Several large companies, prominent businessmen, and one prominent lawyer had brought suits for libel and slander against Param and former Malaysian Bar Council secretary general Tommy Thomas. The suits stemmed from an article in an international legal journal that alleged that certain plaintiffs and their lawyers, enjoyed improper preferential treatment in the courts. In judgments that

were widely thought to be politically motivated and improperly influenced by favoritism, the courts had rejected Param's claim of immunity. In May the Prime Minister said that the Government would abide by the ICJ's decision; however, in October a court defied the ICJ and ruled that Param would have to defend himself. Similar decisions were handed down in the other three suits. The U.N. expressed its regret over the court's decisions, and in December asked the Government to reimburse it for legal expenses. Param currently is appealing the rulings. The case against Tommy Thomas, who had no claim to immunity, was settled out of court in 1998. After Thomas told reporters that insurers had forced the settlement (which included a large cash payment and a humiliating apology) on him, he was charged with contempt of court and convicted in December 1998. In November an appeals court reserved judgement on the appeal.

In 1996 the Bar Council filed a complaint with the legal profession disciplinary board against one of the plaintiffs in the Param case. The Bar Council charged the lawyer Datuk V. Kanagalingam, with improper manipulation of the court system on behalf of a corporate client. Kanagalingam sued the Bar Council over the complaint and won an award of \$160,000 (600,000ringgit). In July the Bar Council lost its final appeal of Kanagalingam's lawsuit. Widely circulated photos have shown Kanagalingam on overseas vacations with the Chief Justice and, separately, with the Attorney General. Human rights activists called on the Chief Justice and the Attorney General to explain these apparent conflicts of interest. The Attorney General said that he had nothing to hide and had a right to take vacations with friends. The Chief Justice made no public response. In September an Asian Wall Street Journal reporter being sued for libel alluded to the photos in a proposed amendment to his defense statement. He said that Kanagalingam had "cultivated inappropriately close relations" with the Chief Justice. The reporter also claimed to have evidence that Kanagalingam had partially drafted a high court judge's decision in a case Kanagalingam had argued before the judge (the judge, who since has been made an appeals court judge, has not responded publicly). The judge in the libel case rejected the reporter's proposed amendment to his statement of defense. After the substance of the amendment was reported in a newspaper, Kanagalingam threatened to lodge contempt charges against the reporter.

In November a judge granted an injunction preventing the Bar Council from calling an extraordinary meeting to discuss declining confidence in the judiciary. The judge said that the plaintiff, a private lawyer, made a convincing prima facie case that the holding of such a meeting would constitute contempt of court and sedition.

The cases against former Deputy Prime Minister Anwar Ibrahim and some of his associates, Lim Guan Eng, Irene Fernandez (see Section 2.a.), and Murray Hiebert (see Section 2.a.) also have raised questions about judicial independence and impartiality. Nonetheless, the Courts do not rule exclusively in favor of the Government. The courts dismissed several cases against opposition figures during the year.

High courts have original jurisdiction over all criminal cases involving serious crimes and most civil cases. Civil suits involving automobile accidents and landlord-tenant disputes are heard by sessions courts. Magistrate's courts hear criminal cases in which the maximum term of sentence does not exceed 12 months. Juvenile courts try offenders under age 18. The Special Court tries cases against the King and sultans. The Court of Appeal has appellate jurisdiction over high court and sessions court decisions. The Federal Court hears appeals of court of appeal decisions.

Islamic religious laws administered by state authorities through Islamic courts bind ethnic Malays and other Muslims in some matters. In 1997 the Government announced that it would harmonize Islamic law at the federal level and appoint an Islamic law federal attorney general. However, the Government has not been able to obtain the necessary agreement of all the states and the proposal has not been implemented, though it is still under discussion.

Indigenous people in Sarawak and Sabah also have a system of customary law to resolve matters such as land disputes between tribes.

Penghulu (village head) courts may adjudicate minor civil matters, but these are rarely used.

The military has a separate system of courts.

The secular legal system is based on English common law. Trials are public, although judges may order restrictions on press coverage. For example, in the corruption trial of former Deputy Prime Minister Anwar, the judge often restricted press coverage of defense testimony and remarks that might embarrass senior government leaders. However, the judge generally did not restrict press coverage of testimony and remarks that might embarrass Anwar.

Defendants have the right to counsel, bail is sometimes available, and strict rules of evidence apply in court. Witnesses are subject to cross-examination. The defense in both ordinary criminal cases and special security cases is not entitled to a statement of evidence before the trial. In general, limited pretrial discovery in criminal cases hobbles defendants' ability to defend themselves.

Defendants enjoy the presumption of innocence and may appeal court decisions to higher courts. In criminal cases, defendants also may appeal for clemency to the King or local state rulers as appropriate. A single judge hears each criminal trial. There are no jury trials.

Some lawyers expressed concern that a 1997 amendment to the Criminal Procedure Code could erode defendants' presumption of innocence. Before the 1997 amendment, the prosecution was required to prove its case beyond a reasonable doubt or the defendant would receive a summary dismissal without having to present the defense case. Now, after the amendment, the prosecution only needs to prove a prima facie case and the defense must be called. In August a man was convicted of murder after electing to enter no defense. The judge ruled that the prosecution had proven a prima facie case and, when the man chose to offer no defense, the judge convicted him and sentenced him to death.

In 1998 Parliament passed amendments to the Courts of Judicature Act (1964) that limited the rights of defendants to appeal in some circumstances. The Government stated that these amendments would expedite the hearing of cases in the upper courts. The president of the Bar Association said in 1998 that the amendments imposed too many restrictions on appeals.

The Attorney General may restrict the right to a fair trial in criminal cases by invoking the Essential (Security Cases) Regulations of 1975. These regulations governing trial

procedure normally apply only in firearm cases. In cases tried under these regulations, the standards for accepting self-incriminating statements by defendants as evidence are less stringent than in normal criminal cases. Also, the authorities may hold the accused for an unspecified time before making formal charges. The Attorney General has the authority to invoke these regulations in other criminal cases if the Government determines that the crime involves national security considerations, but such cases are rare. There were no reported cases involving this restriction during the year.

Even when the Essential Regulations are not invoked, defendants and defense lawyers lack legal protections against interference. For example, police can during a trial call in and interrogate witnesses who have given testimony not helpful to the prosecution. Human rights advocates accuse police of using this tactic to intimidate witnesses. One instance of this practice led the Bar Council in July to issue a statement of concern. Police also have used raids and document seizures to harass defendants. Selective prosecution, i.e., prosecution based on political rather than legal considerations, is a serious problem in the legal system. According to the law, the decision to prosecute a case rests solely with the Attorney General. In August the Chief Justice publicly reminded magistrates and judges not to question the Attorney General's sole discretion to prosecute. Opposition leaders and some NGO's credibly accuse the current Attorney General of sometimes acting at the direction of Prime Minister Mahathir. In April the Prime Minister publicly denied that he interferes in the decisions of the Attorney General and in September reiterated that the Government does not practice selective prosecution.

However, in practice, the Attorney General uses his power to prosecute selectively. In May the Attorney General warned that those accusing the Government of selective prosecution could be charged with sedition or criminal defamation. The Bar Council criticized the Attorney General's statement and stated that it showed "a lack of respect or understanding of the concept of democracy and the rule of law." At year's end no one had been charged with sedition or criminal defamation on these grounds.

Contempt of court charges also have restricted the ability of defendants and their attorneys to defend themselves. Attorney Zainur Zakaria, after raising a legal issue on behalf of his client Anwar Ibrahim, was charged with contempt in 1998. Zainur's appeal still is pending. The Bar Council expressed concern over Zainur's case and other contempt of court cases several times during the year. In March the Bar Council prepared a draft contempt of courts act to spell out what would constitute contempt. In April the Chief Justice said that there was no need for a contempt of courts act because judges do not abuse their power. In August Deputy Minister in the Prime Minister's Department Datuk Ibrahim Ali said that the Government would study the Bar Council's proposal. At year's end the Government had not passed or considered such a bill.

Following a number of high-profile corruption cases, the Government amended the Anticorruption Act in 1997. The new law, which came into effect in January 1998, gives the Attorney General new powers that impinge on the presumption of innocence and requires accused persons to prove that they acquired their wealth legally.

Under the Evidence Act, the testimony of children is accepted only if there is corroborating evidence. This poses special problems for molestation cases in which the child victim is the only witness. Some judges and others have recommended that the Evidence Act be amended to accept the evidence of children and that courts implement

special procedures to hear the testimony of children.

Islamic courts do not give equal weight to the testimony of women. Many NGO's have complained that women do not receive fair treatment from Islamic courts, especially in matters of divorce.

Former Deputy Prime Minister Anwar Ibrahim is a political prisoner. In 1998, after a political conflict, Prime Minister Mahathir Mohammad removed Anwar as Deputy Prime Minister. Later the same year, after a large, peaceful demonstration in which he called for Mahathir's resignation, Anwar was detained for alleged sodomy. While in detention, Anwar was beaten by then-Inspector General of Police Rahim Noor (see Section 1.c.). For several days, Anwar was denied medical treatment for the injuries he received at the hands of Rahim. Presumably to avoid bringing a visibly injured Anwar to court, police changed Anwar's status to detention without charge under the Internal Security Act. Anwar's status subsequently was changed again to criminal detention. Anwar later was tried and convicted on four counts of corruption. He now is being tried on a single count of sodomy.

During Anwar's corruption trial, the judge made several questionable rulings that greatly limited Anwar's ability to defend himself against what clearly were politically-motivated charges. For example, the judge sentenced one of Anwar's attorneys to 3 months' imprisonment for contempt after the attorney raised in court charges of prosecutorial misconduct. The judge greatly restricted the scope of Anwar's defense (on occasions during the trial the judge explicitly said that he did not care if there was a conspiracy to bring down Anwar) and tolerated improper activities by the police and prosecutors. The judge allowed prosecutors to amend the charges in the middle of the trial, which is permitted under national law but in this case clearly was unfair to Anwar. Anwar was denied the ability to rebut evidence of sexual misconduct presented by prosecution witnesses when the judge, at the end of the prosecution's case, allowed prosecutors to amend the charges, and then expunged the record of all evidence of sexual misconduct. Since his arrest, Anwar has been denied bail on questionable legal grounds.

Anwar now is being tried on a separate charge of sodomy. At the beginning of the trial, prosecutors changed the dates of the alleged acts of sodomy, allegedly because the defense had discovered that the apartment building where the sodomy allegedly took place had not been completed by the original dates. Despite testimony detailing how police had coerced a confession from an alleged homosexual partner, on July 26 the judge ruled that the prosecution had proven beyond a reasonable doubt that this confession had been voluntary. On August 4, another witness admitted that police had couched part of his testimony. On August 18, the lead police investigator materially contradicted his testimony (in order to make it consistent with the amended dates of the alleged offense); the next day the judge ruled that the policeman had not lied. At year's end, the sodomy trial still continued.

In August political prisoner Lim Guan Eng was released after completing his sentence. Lim had been convicted on charges under the Sedition and Printing Presses and Publications Acts. The charges stemmed from Lim's questioning, in a speech and in a pamphlet, the justice of detaining for 3 years a 15-year-old victim of statutory rape while allowing her rapists, including, allegedly, the former chief minister of Malacca, Rahim Thamby Chik, to go free. In November shortly before elections were held, the alleged

rape victim retracted her charges against Rahim Thamby Chik, stating that she was coerced into fabricating them. The woman's grandmother, who had accompanied the woman when she made the charges, questioned the woman's motives for recanting and continued to assert that Rahim had been guilty of statutory rape.

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

The law provides for these rights; however, authorities infringed on citizens' privacy rights. Provisions in the security legislation (see Section 1.d.) allow the police to enter and search without a warrant the homes of persons suspected of threatening national security. Police also may confiscate evidence under these acts. In some cases each year, police use this legal authority to search homes and offices, seize books and papers, monitor conversations, and take persons into custody without a warrant.

The law permits the Home Ministry to place criminal suspects under restricted residence in a remote district away from home for a 2-year period (see Section 1.d.).

The Government bans membership in unregistered political parties and in unregistered organizations (see Section 2.b.).

A clause in the 1997 Anticorruption Act empowers the Attorney General to authorize the interception of mail and the wiretapping of telephones. Such information would be admissible as evidence in a corruption trial.

Certain religious issues pose significant obstacles to marriage between Muslims and adherents of other religions (see Section 2.c.).

Muslim couples must take premarital courses. Women's activists have complained that the courses, as implemented, perpetuate gender discrimination by misinforming women of their rights in marriage (see Section 5).

Singaporean newspapers and magazines may not circulate in Malaysia (see Section 2.a.); however, these publications are easily available on the Internet.

### Section 2 Respect for Civil Liberties, Including:

#### a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press; however, some important legal limitations exist, and the Government restricts freedom of expression and intimidates most of the print and electronic media into practicing self-censorship.

The Constitution provides that freedom of speech may be restricted by legislation "in the interest of security (or) public order." For example the Sedition Act prohibits public comment on issues defined as sensitive, such as racial and religious matters. In practice, the Sedition Act, the Official Secrets Act, criminal defamation laws, and some other laws have been used to restrict or intimidate dissenting political speech.

In February the U.N. Special Rapporteur on Freedom of Opinion and Expression issued a report stating that freedom of opinion is curtailed systematically in Malaysia. The Special

Rapporteur said that the Internal Security Act, the Sedition Act, and the Printing Presses and Publications Act were used to suppress or repress expression and curb peaceful assembly. He further stated that defamation laws "appear to be having a very chilling effect." The Government stated that the Special Rapporteur's report was "baseless and distorted."

The Prime Minister and other senior officials continued to ascribe seditious or treasonous motives to critics of government policies. Although many persons still criticized the Government publicly, the Government's statements made many persons more cautious in exercising their rights of free speech.

In August Deputy Prime Minister Datuk Seri Abdullah Badawi warned that political parties that raise sensitive issues and cause an "undesirable situation" would be charged under the Sedition Act. However, government and ruling party officials sometimes make statements on sensitive racial and religious issues with no fear of being charged with sedition. For example, on the same day that the Deputy Prime Minister threatened to invoke the Sedition Act, he stated that voting for the opposition would be "disastrous" for ethnic Malays.

In September a United Malays National Organization (UMNO--the dominant component of the ruling National Front coalition) official lodged a police report charging the chief minister of the opposition-controlled state of Kelantan with sedition. The chief minister allegedly had said that the state's populace no longer held the royal family in high regard. In September police announced that they had questioned 10 members of the opposition Islamic party about this case. At year's end, there were no reports of further developments.

In March the Prime Minister said that slanderous statements had become a "security problem" and claimed that some statements advocated violence and assassination. Police later said that they were monitoring all slanderous statements, including news reports that amounted to incitement. It was unclear from the Prime Minister's and police officials' statements whether security concerns were confined to the advocating of violence or whether these concerns also encompassed legitimate criticism of the Government.

In March UMNO formed a legal panel to identify slanderous and libelous statements and to take legal action against them. The panel subsequently sued several government critics for public statements and statements reported in the press. Deputy Minister in the Prime Minister's Department Datuk Ibrahim Ali, the chairman of the panel, warned that those who made allegations against the Government or the ruling party also might face prosecution for criminal defamation. In a separate statement in May, Datuk Ibrahim Ali said that the ruling party had identified 40 to 50 individuals from the opposition and academia who often make defamatory statements. He reportedly said that UMNO wanted to ensure that the critics did not get away "scot free." Government opponents accused the Government of using the panel to stifle legitimate dissent. In June UMNO secretary general Tan Sri Khalil Yaakob said that the panel had countered opposition slander successfully.

During the question and answer period after a February speech in London to Malaysian students studying in the United Kingdom, Prime Minister Mahathir told a student that the student could be sued for defamation because he suggested that Mahathir apologize to Anwar Ibrahim and resign. Mahathir later denied that he intended to intimidate the

student. The student was never sued.

Aside from the UMNO legal panel, many other government officials, opposition figures, and private citizens filed multimillion-dollar lawsuits for libel and slander. In May the Bar Council stated that the proliferation of multimillion-dollar libel and slander lawsuits "would end up stifling freedom of speech."

Police detained four persons under the ISA in 1998 for "cyber rumor-mongering." Police accused the four of spreading false reports of rioting and potential violence against Chinese Malaysians via the Internet. The four later were charged under a section of the Penal Code that prohibits statements that cause fear or alarm. At year's end, the four still were being tried. Several times during the year, government leaders blamed critics on the Internet for "spreading lies" and "sowing hatred." However, Energy, Communications, and Multimedia Minister Datuk Leo Moggie said on several occasions that the Government had no plans to censor the Internet.

The Official Secrets Act (OSA) also restricts freedom of expression. The Bar Council and other NGO's in the past have called for a review of certain provisions of the OSA that grant considerable discretion to the authorities. In August opposition National Justice Party leader and former Anwar aide Ezam Nor said publicly that Anwar had stored abroad documents that corroborated charges of corruption against senior government leaders. After the remarks, police investigated a possible violation of the OSA. Anwar and the NJP official later said that none of the documents involved national security. Opposition leaders accused the Government of using the OSA to cover up corruption. No charges were filed by year's end.

The Printing Presses and Publications Act of 1984 limits press freedom. Under the act, domestic and foreign publications must apply annually to the Government for a permit. The act was amended in 1987 to make the publication of "malicious news" a punishable offense, expand the Government's power to ban or restrict publications, and prohibit court challenges to suspension or revocation of publication permits. Government power over license renewal and other policies create an atmosphere that inhibits independent or investigative journalism and results in extensive self-censorship.

The English and Malay mainstream press provide generally laudatory, uncritical coverage of government officials and policies, and usually give only limited and selective coverage to political views of the opposition or political rivals. Editorial opinion almost always reflects government positions on domestic and international issues. Chinese-language newspapers are much freer in reporting and commenting on sensitive political and social issues, but are not immune to government pressure. However, self-censorship and biased reporting in the print media was not uniform and the English-, Malay-, and Chinese-language press all, at times, provided balanced reporting on sensitive issues.

The Government often conveys its displeasure with press reporting directly to a newspaper's board of directors or chief editors. In addition leading political figures in the ruling coalition, or companies controlled by them, own most major newspapers, thus limiting the range of views. At times, the susceptibility of the press to government pressure has a direct and public impact on operations. For example, in 1998 the editors of two of the country's largest daily newspapers and a television operations director were removed, apparently because of government displeasure. The removals apparently

stemmed from political rivalries within the ruling party.

A petition signed by 581 journalists from 11 newspapers and released on May 3, World Press Freedom Day, urged the Government to repeal the Printing Presses and Publications Act. The petition stated that government controls on the press had resulted in self-censorship and diminished the credibility of the mainstream press. The Bar Council issued a statement in support of the journalists' petition. The leader of the youth wing of UMNO said that he hoped that the Government would review existing laws regulating the press. The journalists' petition also called for the formation of an independent media council to regulate the press. Deputy Prime Minister and Home Minister Datuk Seri Abdullah Badawi said in May that the Government would study the proposal for a media council, but the Government gave no sign that it plans to amend or scrap the act.

The Government continued to prosecute human rights activist Irene Fernandez under the Printing Presses and Publications Act for charges that she made in 1995 of mistreatment of detainees at illegal alien detention centers. Fernandez's supporters accuse the Government of purposely prolonging the trial, one of the longest in the country's history, to harass Fernandez. As of year's end, the trial still continued (see Section 5).

The Government also sometimes directly restricts the dissemination of information that it deems embarrassing or prejudicial to national interests. In June the Government stated that it no longer would disclose publicly the readings of an air pollution index. In August Minister of Science, Technology, and Environment Datuk Law Hieng Ding said that the decision was made so as not to "drive away tourists." In February the Government forbade all state health departments from commenting on the outbreak of a deadly virus. The Government later restricted reporters' access to sites of the outbreak. However, the issue was widely reported.

Publications of opposition parties, social action groups, unions, and other private groups actively cover opposition parties and frequently print views critical of government policies. The circulation of the Islamic opposition party's twice-weekly newspaper, Harakah, now rivals that of mainstream newspapers. However, the Government retains significant influence over these publications by requiring annual renewal of publishing permits and limiting circulation only to members of the relevant organization. Senior government leaders publicly warned Harakah several times during the year not to print "slanderous" remarks and to limit distribution to party members. Harakah was also the target of several ruling party-sponsored libel suits. In December the Home Ministry issued a show cause letter to Harakah's publisher asking him to explain why Harakah should not be banned for violating the terms of his permit. Acting on a Home Ministry directive, police officers cracked down on newsstands that distributed Harakah to the public and confiscated many copies. Harakah stated that it would abide by the Home Ministry directive and at year's end the newspaper was no longer openly sold. There were no cases of denial of renewal requests during the year.

Some legal magazines and illegal (i.e., lacking publishing permits) publications also frequently print criticism of the Government. In May police seized over a thousand copies of illegal antigovernment magazines at a printing company and charged the company owner for violating the Printing Presses and Publications Act.

The Communications and Multimedia Act (CMA), which came into force on April 1,

requires certain Internet and other network service providers to obtain a license from CMA. Details of the implementation of this act were unclear at year's end.

There were instances of violence against journalists. In May demonstrators protesting the conviction of former Deputy Prime Minister Anwar Ibrahim attacked a car carrying television reporters from a television station that is widely perceived as progovernment. Those responsible for the attack later were arrested and charged. In July a group of supporters of the Islamic opposition reportedly verbally abused a television cameraman and demanded that he turn over his videocassettes. There were no reports of arrests in the case.

The foreign press continues to be a target of government criticism for allegedly biased reporting. Senior government officials often accused the foreign press of bias and malicious motives. In February several government ministries announced plans to boycott three foreign publications that were said to criticize Malaysia overzealously.

In September Far Eastern Economic Review correspondent Murray Hiebert lost his appeal of a 1997 conviction for contempt of court. Hiebert, who had not been free to leave Malaysia for over 2 years pending his appeal, chose to forgo another appeal to the country's highest court and served his 6-week sentence (reduced to roughly 1 month after time off for good behavior). The contempt charges stemmed from a 1997 article, in which Hiebert described a civil suit brought by the wife of a prominent judge, Gopal Sri Ram, against the International School of Kuala Lumpur. (The judge's wife had alleged in the suit that the school had discriminated unlawfully against her son by dropping him from a school debating team after charges that the son had acted improperly.) Hiebert's article noted, among other things, the unusual speed with which the courts had disposed of the lawsuit. The Court of Appeals upheld the contention that Hiebert had "scandalized the court." Hiebert's case, the first in which a journalist has been sentenced to jail for contempt in the ordinary course of his duties, raised serious questions of freedom of the press and of judicial impartiality.

The electronic media is restricted more tightly than the print media. Radio and television are almost uniformly laudatory of the Government. News on the opposition is restricted tightly and reported in a slanted fashion. In July the Deputy Information Minister said candidly that government television and radio channels would not broadcast the views of opposition parties. He said that opposition parties were welcome to use private news stations or apply for broadcasting licenses of their own. In fact the two private television stations have close ties to the ruling coalition and are unlikely to provide a forum for the opposition parties, and it is unlikely that the Government would grant the opposition a broadcasting license. In January the chief minister of the opposition-controlled state of Kelantan, complained that after several years the Government still had not approved a license application for a state radio station. Every other state has such a station.

In March a private television station announced that it would revamp its news programming. The government-influenced print media shortly before had published a letter criticizing the station's reporting of the trial of Anwar Ibrahim.

A government censorship board censors films for profanity, nudity, sex, violence, and certain political and religious content. Television stations censor programming in line with government guidelines. The Government bans certain books for political and

religious reasons or because of sexual or profane content. Some foreign newspapers and magazines are banned (see Section 1.f.) and, infrequently, foreign magazines or newspapers are censored, most often for sexual content. However, the increased prevalence of the Internet is undermining such restrictions. The Government maintains a "blacklist" of local and foreign performers, politicians, and religious leaders who may not appear on television or radio broadcasts.

The Government generally restricts remarks or publications that might incite racial or religious disharmony; it also attempts to restrict the content of sermons at government-affiliated mosques. Occasionally state governments ban certain Muslim clergymen from delivering sermons (see Section 2.c.).

In December Prime Minister Mahathir said that the Government should find ways to prevent the opposition from "spreading lies" at mosques. In December Deputy Prime Minister Abdullah also instructed the Religious Affairs Department to conduct background checks on religious speakers.

In two additional incidents that occurred in December, Selangor state government officials announced that they were investigating mosque committee members with links to the opposition, and Johor state government officials said that they had identified several "political" religious leaders who had criticized the Government. In Selangor, officials threatened to expel opposition sympathizers from mosque committees, and in Johor state officials threatened "stern action." At year's end, no action had been taken in either case.

In the past, the Government generally had respected academic freedom in the areas of teaching and publication. Academics are sometimes publicly critical of the Government. However, there is self-censorship among public university academics whose career advancement and funding depend on the Government. Private institution academics also practice self-censorship due to fear that the Government may revoke licenses for their institutions. Legislation also imposes limitations on student associations and student and faculty political activity (see Section 2.b.). A university vice chancellor must approve campus demonstrations.

The Government was increasingly intolerant of teachers and students who expressed dissenting views. Several senior government leaders warned that some teachers were "poisoning the minds" of their students and that students should not be involved in partisan politics. Then-Education Minister Datuk Seri Najib Tun Abdul Razak and other senior government officials said on several occasions that teachers who opposed the Government and students who took part in antigovernment activities faced disciplinary actions, including dismissal and expulsion. In August an education ministry official said a disciplinary panel had received reports from several states concerning teachers who had "incited" their students against the Government. In September an education ministry official said that the Ministry had "acted against" several teachers involved in antigovernment activities.

The Government has long said that students should be apolitical and used that position as a pretext for denying opposition parties access to student forums. According to student leaders, students who sign antigovernment petitions sometimes are expelled or fined. In fact the Government enforces this policy selectively and does not refrain from acquainting students and teachers with government views on political issues. In May the Government

announced that 33,870 students had attended a 1-day seminar "to improve understanding of national policies."

In February the University of Malaya declined to renew the contract of Professor Chandra Muzaffar. Chandra, a well-known supporter of political reform and long-time government critic, charged that the University had fired him for political reasons. The University stated that it had declined to renew Chandra's contract for economic and personnel reasons. In June the High Court agreed to hear Chandra's application to quash the University's decision.

In 1997 the Government prohibited academics from making any public statements or publishing any writings on Malaysia's air pollution crisis. The Government appears to have feared that unauthorized remarks on the air pollution crisis might harm the country's image and hurt tourism. Academics and others openly protested this order. The gag order remains in effect.

#### b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of peaceful assembly; however, the Government places significant restrictions on this right. These rights may be limited in the interest of security and public order, and the 1967 Police Act requires police permits for all public assemblies except for workers on picket lines. The decision to grant a permit theoretically rests with the district police chief; however, in practice senior police officials and political leaders influence the grant or denial of some permits. Police grant permits easily to government and ruling coalition supporters; however, they use a more restrictive policy with government critics, although the police do grant permits for many opposition meetings.

Opposition leaders frequently alleged that police issue permits for public assemblies in an unfair manner that discriminates against the opposition. Various state and local police departments rebutted these allegations by providing statistics that indicated that most requests for permits are granted; however, in certain sensitive cases political considerations clearly led to the denial of permits. For example, in February the police denied a permit for a large opposition rally to protest the raising of road tolls on the basis that it would interfere with repairs and renovations at the planned venue. However, a ruling coalition component party, the Malaysian Chinese Association, held a large dinner at the same venue just 1 day before the planned antitoll rally. In March police forcibly prevented opposition leader Lim Kit Siang from addressing a group of farmers living in an area afflicted by a deadly virus.

Police, especially early in the year, had a clear policy barring large "reformasi" gatherings and street demonstrations. However, later in the year, especially in the period prior to the election, police allowed many opposition political gatherings.

In April thousands of persons assembled in downtown Kuala Lumpur and in front of the courtroom to protest the conviction of Anwar Ibrahim on charges of corruption (see Section 1.e.). Riot police beat and arrested some of these demonstrators. In some instances, police dispersed demonstrators with no prior warning. In other cases, they waited for up to 45 minutes before moving in with tear gas, water cannons, and truncheons. In the ensuing fracas sometimes violence broke out.

Police arrested hundreds of demonstrators, including peaceful demonstrators, for illegal assembly. Police also dispersed other peaceful "reformasi" demonstrations earlier in the year and made many arrests. On September 18 and 19, supporters of Anwar held demonstrations in several cities throughout the peninsula. The largest one took place on September 19 in Kuala Lumpur, where up to 10,000 demonstrators gathered at the national mosque. After demonstrators ignored orders to disperse, police fired tear gas canisters and chemical-laced water from a water cannon. Some demonstrators then responded by throwing rocks, iron bars, and other objects at police. Police arrested an unknown number of protesters and beat others with batons. Some domestic press reports stated that the demonstrators initiated the violence. Government-controlled media on September 20 reported that three policemen were injured. In contrast, foreign journalists gave consistent accounts of the way that police started the fracas that led to violence.

At the April, September, and other, smaller opposition pro-Anwar demonstrations throughout the year, police arrested hundreds of demonstrators, including many peaceful demonstrators. Many of these demonstrators later were acquitted, a handful were convicted, and some cases still were pending at year's end. Among those arrested were many opposition party leaders. Police detained them under the Police Act for allegedly participating in an illegal assembly and under the Penal Code for allegedly causing a riot. All were released on bail and still were awaiting trial at year's end.

In February the U.N. Special Rapporteur on Freedom of Opinion criticized the Government's use of various laws to curb peaceful assembly (see Section 2.a.).

In July five social activists were arrested for illegal assembly when they tried to prevent police from demolishing a squatter settlement. The case still is pending.

In August the secretary general of UMNO accused supporters of the Islamic opposition party of disrupting several ruling coalition meetings.

In January three members of the opposition Malaysian People's Party said that police had detained them illegally in December 1998. The police stated that the three were only brought in for questioning.

In 1997 police detained 55 Islamic opposition party members who demonstrated in protest of an Israeli team's participation at an international cricket championship. The case against the demonstrators still is pending.

Government and opposition candidates campaign actively. Previous restrictions on freedom of assembly during campaign periods (including bans on rallies and required lists of times and places for proposed discussion sessions) were not implemented strictly during the year. Opposition parties reported some harassment but generally were able to campaign vigorously in the Sabah state elections held in March, and in national elections held in November.

The Constitution provides for the right of association; however, the Government places significant restrictions on this right. For example, certain statutes limit this right. Under the Societies Act of 1966, only registered, approved organizations of seven or more persons may function. The Government sometimes refuses to register organizations, or may impose conditions when allowing a society to register. For example, the Government

has not allowed Amnesty International to set up a branch in the country, and it also prohibits the Communist Party and affiliated organizations (see Section 1.f.). The Government also has the power to revoke the registration of an existing society for violations of the act, a power it has enforced selectively against political opposition groups. This threat of possible deregistration inhibits political activism.

To avoid the burdensome requirements of the Societies Act, many NGO's register as companies under the Companies Act or as businesses under the Registration of Businesses Act. Amendments to the Companies Act passed in 1998 empowered the Registrar of Companies to refuse registration of a proposed company if he is satisfied that the company is likely to be used for any purpose prejudicial to national security or the public interest. The Registrar also can cancel the registration of an existing company and disband it on the same grounds. Opposition parties and NGO activists charged that the sweeping powers granted to the Registrar of Companies were designed to stifle criticism. The Government denied such charges and stated that financial irregularities were the amendments' main target. Government claims were undercut somewhat by later police statements that alluded threateningly to the status of certain NGO's under the Companies or Societies Acts.

In May the Government announced that it was planning amendments to the Registration of Businesses Act to enable the Government to track the activities and movements of organizations registered under the act. Minister of Domestic Trade and Consumer Affairs Datuk Megat Junid said that the amendments were necessary because some NGO's registered under the act were operating as "semi-political" organizations. Megat said that the Government feared that "after registering under the Registration of Businesses Act, NGO's would not do business but instead raise issues threatening national security with the sponsorship, perhaps, of outsiders." At year's end, the Government still had not tabled these amendments in Parliament.

NGO activists believe that recent changes in law and government investigations are a prelude to an attempt to deregister several NGO's. In May Deputy Home Minister Datuk Abdul Kadir told Parliament that the Government had deregistered 981 societies under the Societies Act since 1966. Details were not reported. No human rights NGO has been deregistered in recent years.

In February the Registrar of Societies rejected an application to form a new political party, the Socialist Party of Malaysia. The Registrar said that information on the application form was incomplete. Supporters of the new party said that the denial was politically motivated and filed an appeal.

The Bar Council often was the target of government criticism. In March Deputy Minister Datuk Ibrahim Ali said that the Bar Council should not question the appointment of judges. In May Ali said the Bar Council should stop meddling in government affairs. In June government leaders threatened to pass legislation making the Attorney General the head of the Bar Council. In the past, the Government has threatened to legislate an expansion of the membership of the Bar Council to include government lawyers and legal professors. Some members of the bar fear that such a measure would dilute the Council's independence. So far, no such measures have been implemented.

The Universities and University Colleges Act also affects freedom of association. This act

mandates university approval for student associations and prohibits student associations, as well as faculty members, from engaging in political activity. In 1998 six students were suspended for their role in the opposition victory in a by-election. Restrictions are not enforced as vigorously on students who participate in proruling coalition political activities. A university vice chancellor must approve campus demonstrations. Many students, NGO's, and opposition political parties called for the repeal or amendment of the act. A number of ruling coalition organizations and politicians also supported reexamination of the act, but the Government stated the act is still necessary.

### c. Freedom of Religion

The Constitution provides for freedom of religion; however, the Government places some restrictions on this right. Islam is the official religion; however, the practice of Islamic beliefs other than Sunni Islam is restricted severely. Religious minorities, which include large Buddhist, Christian, Hindu, and Sikh communities, generally worship freely, although with some restrictions. Government funds support an Islamic religious establishment, and it is official policy to "infuse Islamic values" into the administration of the country. The Government imposes Islamic religious law on Muslims only in some matters and does not impose Islamic law beyond the Muslim community. Adherence to Islam is considered intrinsic to Malay ethnic identity and therefore Islamic religious laws administered by state authorities through Islamic courts bind all ethnic Malays (and other Muslims) in some matters. The Government also grants funds to non-Islamic religions, but to a more limited degree.

According to government census figures, in 1991 59 percent of the population was Muslim; 18 percent practiced Buddhism; 8 percent Christianity; 6 percent Hinduism; 5 percent Confucianism, Taoism, or other religions that originated in China; 1 percent animism; and 0.5 percent other faiths, including Sikhism and the Baha'i faith. The religious practices of the remainder were not stated.

For Muslims, particularly ethnic Malays, the right to leave the Islamic faith and adhere to another religion is a controversial question. The legal process of conversion is unclear; in practice, it is very difficult for Muslims to change religions. Persons who wish to do so face severe obstacles. In March the country's highest court ruled that secular courts have no jurisdiction to hear applications by Muslims to change religions. According to the ruling, the religious conversion of Muslims is solely the jurisdiction of Islamic courts. The ruling makes conversion of Muslims nearly impossible in practice.

In 1998 the Government stated that "apostates" (i.e., those who wish to leave or have left Islam for another religion) would not face government punishment as long as they did not defame Islam after their conversion.

The Government generally respects non-Muslims' right of worship; however, state governments carefully control the building of non-Muslim places of worship and the allocation of land for non-Muslim cemeteries. Approvals for such permits sometimes are granted very slowly. In September after objections by representatives of non-Muslim religions, the Government agreed to revise proposed guidelines governing the establishment of non-Muslim places of worship. In July the Malaysian Consultative Council of Buddhism, Christianity, Hinduism, and Sikhism (MCCBCHS), an NGO representing minority religions, protested the planned implementation of the Ministry of

Housing and Local Government guidelines. The MCCBCHS specifically complained that the guidelines required an area to have at least 2,000 to 5,000 adherents of a particular non-Muslim faith for a non-Muslim place of worship to be approved. No such requirement exists for Muslim places of worship. The group also complained that, under the guidelines, the state Islamic council must approve the setting up of all non-Muslim places of worship. There were no further reports of the status of the revision of the proposed guidelines.

During the controversy over the proposed new guidelines on non-Muslim places of worship, the MCCBCHS and the Federal Territory Counseling and Service Center separately urged the Prime Minister to create a national non-Muslim religious council.

In December the press reported that the new opposition Islamic party administration of the state of Terengganu planned to introduce a special tax on non-Muslims. Non-Muslims expressed strong opposition to this proposal. State government leaders said that the press had distorted their plans. No special tax was imposed by year's end.

After a violent conflict in Penang between Hindus and Muslims in 1998, the Government announced a nationwide review of unlicensed Hindu temples and shrines. Implementation is not vigorous and in June the leader of the ruling coalition's ethnic Indian-based political party complained that Hindu temples and shrines had returned only 800 of 30,000 registration forms.

Proselytizing of Muslims by members of other religions is prohibited strictly; proselytizing of non-Muslims faces no obstacles. The Government discourages, and in practical terms forbids, the circulation in peninsular Malaysia of Malay-language translations of the Bible and distribution of Christian tapes and printed materials in Malay. However, Malay-language Christian materials can be found. Some states have laws that prohibit the use of Malay-language religious terms by Christians, but the authorities do not always enforce them actively. The distribution of Malay-language Christian materials faces few restrictions in east Malaysia. Visas for foreign Christian clergy are restricted severely.

The Government opposes what it considers deviant interpretations of Islam, maintaining that the "deviant" groups' extreme views endanger national security. In the past, the Government has imposed restrictions on certain Islamic sects, primarily the small number of Shi'a. The Government continues to monitor the activities of the Shi'a minority. In 1998 the Government stated that it was monitoring the activities of 55 religious groups believed to be involved in deviant Islamic teachings. In May authorities said that the banned Al-Arqam sect was attempting to reconstitute itself.

The Government periodically has detained members of what it considers Islamic deviant sects without trial or charge under the ISA. After release, such detainees are subject to restrictions on their movement and residence. In 1997 10 persons, 2 of whom were over 75 years old, were detained under the ISA for spreading Shi'a teachings. All of those detained have now been released and at year's end there were no religious detainees or prisoners. The Government generally restricts remarks or publications that might incite racial or religious disharmony. This includes some statements and publications critical of particular religions, especially Islam. The Government also restricts the content of sermons at mosques. The Government periodically warns against those who deliver

sermons in mosques for "political ends" and, occasionally, state governments ban certain Muslim clergymen from delivering sermons at mosques. In July the Negeri Sembilan state government banned a state religious department officer from preaching sermons because the officer allegedly had given a political speech during a sermon. In February the state of Selangor lifted a ban on a former mufti (the highest state Muslim leader) of Selangor. He allegedly had called the Prime Minister an apostate (see Section 2.a.). In December Prime Minister Mahathir said that ways should be found to prevent the opposition from "spreading lies" at mosques. Also in December, Deputy Prime Minister Datuk Seri Abdullah Badawi directed the religious affairs department to conduct background checks on religious speakers. Abdullah said "we need to find out whether the speakers disseminated wrongful information which may have influenced civil servants to stop supporting the Government." Also in December, Selangor state government officials announced that they were investigating mosque committee members with links to the opposition. Officials threatened to expel opposition sympathizers from mosque committees. At year's end, no action had been taken. Also in December, Johor state officials said that they had identified several "political" religious leaders who had criticized the Government. The state government threatened "stern action," but at year's end no action had been taken.

For Muslim children religious education according to a government-approved curriculum is compulsory. There are no restrictions on home instruction.

In August a court reinstated three primary school students who had been expelled for wearing turbans in 1997. In September Hindus protested a school's prohibition on students' applying sacred ash to their foreheads.

In July the Government announced a plan to take control of state religious schools (under the Constitution religion is a state matter). The chief minister of the opposition-controlled state of Kelantan rejected the plan. In response, federal Education Minister Datuk Seri Najib said that the Government would find a way to take over Kelantan's religious schools. In October the Government announced that religious schools could choose to be absorbed wholly or partially into the federal school system beginning in 2000. At year's end, the plan had not yet been implemented and its implications were unclear.

As part of its campaign to infuse Muslim values, in 1998 the military services forbade the sale of alcoholic beverages on all military installations, including sale to non-Muslims. The ban on alcohol reportedly is not always enforced.

In January the Selangor state government announced the formation of a government interreligious consultative council that included representatives of all major religions. The council's stated objectives were to prevent interreligious conflict, to promote interreligious understanding, and to address moral and social problems jointly.

The Government has a comprehensive system of preferences for ethnic Malays and members of a few other groups known collectively as "bumiputras," most of whom are Muslim.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

Citizens generally have the right to travel, live, and work where they please; however, the Government restricts these rights in some circumstances. The East Malaysian states of Sabah and Sarawak have the right to control immigration into them and to require citizens from peninsular West Malaysia and foreigners to present passports or national identity cards for entry. In 1998 the Court of Appeal ruled that Sabah and Sarawak, despite their autonomy, still are bound by the federal Constitution in all matters. Thus, the court voided Sabah's expulsion of a West Malaysian attorney who had been involved in several lawsuits against the state government. In May the Sabah state government filed an appeal of the ruling. The Federal Government regulates the internal movement of provisionally released ISA detainees (see Section 1.d.). The Government also uses the Restricted Residence Act to limit movements of those suspected of some criminal activities (see Section 1.d.).

The Government generally does not restrict emigration.

Citizens must apply for the Government's permission to travel to Israel. Travel to Jerusalem for a religious purpose is allowed explicitly.

The Government has not ratified the 1951 U.N. Convention Relating to the Status of Refugees and rejects customary international law. The Government does not recognize the principle of first asylum; however, it sometimes grants temporary refuge to asylum seekers. In September Foreign Minister Datuk Seri Syed Hamid Albar said, "we allow people for temporary stay and when that stay is over they have to go back. We have never granted anybody refugee status." In 1998 the Government forcibly returned several hundred Acehnese, despite representations from the U.N. High Commissioner for Refugees (UNHCR) and the international community, and evidence that the Acehnese might face persecution upon return to Indonesia. The Government continues to refuse to acknowledge that any Indonesian illegal aliens, including Acehnese, have a claim to refugee status. However, there were no incidents of deportation, harassment, and detention of Acehnese persons during the year.

The Government did not restrict the access of undetained asylum seekers to the UNHCR office and cooperated in the resettlement of some refugees. However, the Government only infrequently granted the UNHCR and other humanitarian organizations access to detained aliens. There were some forced expulsions of asylum seekers and refugees.

### Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

By law citizens have the right to change their government through periodic elections; however, while votes generally are recorded accurately, there are some irregularities that affect the fairness of elections, and in practice opposition parties cannot compete on equal terms with the governing coalition (which has held power at the national level since 1957) because of severe restrictions on campaigning, freedom of association, freedom of assembly. Nevertheless, opposition candidates campaign actively. In the November elections, the opposition roughly doubled its strength to 25 percent of federal parliamentary seats and an opposition party won control of two state governments (the opposition won control of one state government in the 1995 elections). Prime Minister Mahathir has held power since 1981.

Malaysia has a parliamentary system of government. National elections are required at

least every 5 years and have been held regularly since independence in 1957. The Malay-based United Malay National Organization (UMNO) party dominates the ruling National Front coalition, which has ruled Malaysia continuously since independence. Since 1969 the National Front coalition always has maintained a two-thirds majority in Parliament, which enables the Government to amend the Constitution at will. Over the years, power increasingly has been concentrated in the executive branch, i.e., the Prime Minister.

The lack of equal access to the media was the most serious problem encountered by the opposition in the November elections (see Section 2.a.). Government officials frankly stated that government television and radio would not carry reporting on the opposition. The country's two private television stations also had virtually no impartial reporting on the opposition. The mainstream English-language and Malay-language newspapers also carried slanted coverage of domestic politics. In addition opposition parties encountered difficulties in placing paid advertisements in newspapers; however, a few opposition advertisements did appear, after editing by the newspapers, in English- and Chinese-language newspapers.

Opposition leaders credibly stated that the Election Commission, which is responsible for holding and monitoring elections, did not carry out its duties impartially. The Election Commission is nominally independent but widely perceived by the opposition to be under the control of the Government. In June Deputy Prime Minister and Home Minister Datuk Seri Abdullah Badawi said that there was no need to consult the opposition on the appointment of a new election commission chairman. Opposition leaders said that Prime Minister Mahathir's remark in June that the Government would "not entertain" an opposition demand for a long campaign period in upcoming elections demonstrated the lack of independence of the Election Commission (supposedly the Commission has the sole power to set the length of the campaign period). After the election, several government officials publicly disputed opposition claims that the Election Commission was biased.

Opposition leaders also complained that local government officials who serve as election officers are not always neutral. For example in July the opposition National Justice Party filed a complaint with the Election Commission accusing a district officer in the state of Perak of participating in an UMNO party event. The Election Commission later announced that it completed its investigation but did not reveal its findings. After the election, there were some complaints about irregularities during the counting of ballots. At year's end, these complaints were not substantiated, and there is no evidence that the conduct of election officers significantly affected the results of the election; however, the Government did not permit international monitoring or adequately allow for domestic NGO monitoring efforts.

Opposition parties and some NGO's also alleged that defective voting rolls led to some fraudulent votes. In the Sabah state elections in March, opposition leaders accused the ruling coalition of employing "phantom" voters (illegal aliens and other fraudulently documented voters). NGO's analysis of the voting roll used in the November national elections also revealed irregularities, such as dead persons on the rolls, multiple voters registered under single identity card numbers, and other anomalies; however, there is no evidence that these irregularities significantly affected the results in more than a handful of races. After the election, an election monitoring NGO renewed its calls for a national reregistration exercise to produce a clean electoral roll.

"Postal votes," or absentee ballots by police and military personnel and their spouses, also are a concern. The Government, citing security concerns, does not allow party agents to monitor absentee ballot boxes placed on military and police installations. Opposition parties question the rationale for such security restrictions. Opposition parties and NGO's have raised credible allegations of improper manipulation of postal votes, including statements by former military personnel that their ballots were filled out by others or under they eye of commanding officers. In the November elections, the Election Commission changed some procedures to allow better monitoring by Election Commission officers. Opposition parties continue to call for monitoring of postal votes by party agents. Election Commission officials estimated before the November election that roughly 235,000 postal votes would be cast. No count of the actual number of postal votes was published by year's end.

The anonymity of balloting also is a potential concern. Ballots are marked with a serial number that could be matched against a voter's name. While there is no evidence that the Government has ever traced individual votes, some opposition leaders allege that the potential to do so has a chilling effect on some voters, particularly civil servants.

Gerrymandering dilutes the votes of some citizens. The Constitution states that parliamentary constituencies should have roughly equal numbers of eligible voters, although the same section states that greater weight should be given to rural constituencies. In practice these guidelines often are ignored. For example in Sabah constituencies are weighted strongly against the state's large Christian population. Nationwide the constitutional provision giving greater weight to rural constituencies greatly dilutes the voting power of urban residents. Finally, the single member, winner-take-all system diminishes the political power of the minority ethnic Indians. Because of the changing dynamics of ethnic politics, ethnic gerrymandering of parliamentary constituencies, used against the opposition in the past, is believed to no longer be as great an advantage to the ruling coalition.

Other government measures hamper the opposition's ability to compete with the incumbent ruling coalition. For example the Government on several occasions issued oblique public warnings to civil servants, including teachers (see Section 2.a.) not to support the opposition. An application to form a new political party was rejected (see Section 2.b.). Students face certain restrictions on political activity (see Section 2.b.). Government leaders routinely and openly threaten to cut off federal funds beyond the constitutionally mandated minimum to constituencies that elect opposition representatives. Ruling coalition Members of Parliament receive a government allocation totaling in aggregate roughly \$25 million (95 million ringgit). Opposition Members of Parliament receive no such funds. In July a government minister told Parliament that the money only was given to ruling coalition Members of Parliament because it came from the Government.

The opposition has complained in the past about restrictions on public assemblies during the campaign period (see Section 2.b.). In the period prior to the November elections, police did not implement vigorously restrictions and the opposition held many large rallies. The opposition also has stated that the short official campaign period gives an advantage to the incumbent ruling coalition. However, de facto campaigning began long before the November elections and there is little evidence that the short official campaign period had much practical effect.

In August Prime Minister Mahathir stated that the ruling coalition's failure to win a two-thirds majority in Parliament in 1969 had resulted in widespread rioting and said that if a "weak government" were elected, "the peace of the country could not be guaranteed." Opposition leaders complained that these statements were a threat to instigate violence if the ruling coalition should lose the two-thirds majority in the upcoming elections (which did not happen). Opposition leader Lim Kit Siang called on the Government to pledge to accept the results of the upcoming election. The Government made no response.

Prime Minister Mahathir said in June that he expected upcoming elections to be "the dirtiest ever." For different reasons, the opposition expressed similar fears. The Government did not respond to the opposition's call for an election code to ensure that the upcoming elections would be free, fair, and clean. A group of NGO's formed an independent elections watch organization. The Election Commission stated that the NGO's were free to do so, but the election watch organization was accorded no special privileges. (The law does not provide for monitoring of polling stations except by political party agents.) In June the Government publicly rejected the idea of foreign observers. The Government also rejected opposition calls for foreign observers in Sabah state elections in March. (The last time that foreign observers monitored elections was in 1990.) After the election, the Prime Minister continued to allege that the opposition engaged in dirty tactics, including slander. At year's end, the election results still were not gazetted officially and it was unclear if the ruling coalition or the opposition parties would, as allowed by law, appeal the results of any parliamentary races.

Opposition parties filed objections to the results of 17 of 48 seats contested in the Sabah state elections in March. In July and August, courts rejected the first of two of these petitions. In October a third petition was dropped. The other petitions still were pending at year's end.

In the past, within the ruling UMNO party there had been active political debate. "No-contest" rules for leadership positions and generally increased intolerance of dissent limited but did not eliminate UMNO's role as a vehicle for public debate. After the removal of Deputy Prime Minister Anwar in 1998, intolerance of dissent within UMNO increased. In 1998 an extraordinary UMNO Assembly approved a series of measures designed to limit independent grassroots initiatives. During the year, there were no contests for leadership positions in UMNO.

Over the years, Parliament's function as a deliberative body has deteriorated. Legislation proposed by the Government rarely is amended or rejected. Legislation proposed by the opposition is never given serious consideration. Opposition opportunities to hold legislation up to public scrutiny have diminished. The Parliament in 1995 amended its rules to strengthen the power of the Speaker and curb parliamentary procedures heavily used by the opposition. The amendments empowered the Speaker to ban unruly members for up to 10 days, imposed limits on deputies' ability to pose supplementary questions and revisit nongermane issues, and established restrictions on the tabling of questions of public importance. Further measures in 1997 and 1998 limited even more severely members' opportunities to question and debate government policies. Nonetheless, government officials often face sharp questioning in Parliament, although this is not always reported in detail in the mainstream press.

State assemblies also limit debate. For example in December the speaker of the Penang

state assembly refused to allow an independent assemblyman to ask which constituencies had received the largest budget allocations for road repairs. The speaker said that the question was "prejudicial to the public interest." After the 1969 intercommunal riots, the Government abolished elected local government in favor of municipal committees and village chiefs appointed by state governments. Some politicians and NGO activists have advocated reintroduction of local government. Even some ruling party municipal officials have noted that local bodies are simply "rubber stamps" for the Government. Because of racial and political factors (non-Malays are more concentrated in urban areas), the Government is not expected to reintroduce elected local government soon.

Women face no legal limits on participation in government and politics; however, they remain underrepresented due to social and other factors. At year's end, 2 of 28 cabinet ministers were women. Women hold 20 of 193 seats in the elected lower house of Parliament and 18 of 69 seats in the appointed upper house. Women also hold some high-level judgeships. In 1998 the Minister of National Unity and Social Development stated that the country would not achieve its goal of 30 percent female representation in the Government by 2005. The Minister stated that the 1998 rate of participation (defined as the percentage of female representatives in Parliament and in state assemblies) was 6 to 7 percent. The Islamic opposition party does not allow female candidates. In the past, it has supported female candidates of other parties.

Ethnic minorities are represented in cabinet-level positions in government, as well as in senior civil service positions. Nevertheless, the political dominance of the Malay majority means in practice that ethnic Malays hold the most powerful senior leadership positions. Non-Malays fill 9 of the 28 cabinet posts. An ethnic Chinese leader of a component party of the ruling coalition holds executive power in the state of Penang.

#### Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of NGO's, including the Bar Council and other public interest groups, devote considerable attention to human rights. The Government generally tolerates their activities but often does not respond to their inquiries or press statements. Government officials harshly criticize domestic NGO's for collaborating with foreigners, including international human rights organizations. However, at year's end, no group had been banned or decertified. Public apathy and racial divisions (non-Malays had dominated most human rights NGO's) have limited the effectiveness of NGO's in past years. However, public discontent over the 1998 removal of Deputy Prime Minister Anwar has given some impetus to NGO agendas among the Malay community.

In 1998 the Government amended the Companies Act to grant the Registrar of Companies wide powers to block or disband organizations deemed prejudicial to national security or the national interest. In May the Government announced that it was planning to table amendments to the Registration of Businesses Act to enable the Government to track the activities and movements of organizations registered under the act (see Section 2.b.).

The Government generally does not allow international human rights organizations to form branches; however, it generally does not restrict access by representatives of international human right organizations. A February report issued by the IPU on prison conditions (see Section 1.c.) notes that, while the Government welcomed the December

1998 investigative mission, the IPU delegation was not able to make important appointments and was not allowed to meet privately with Lim Guan Eng. Several foreign human rights observers have attended sessions of Anwar's two trials.

In July Parliament passed legislation to form a National Human Rights Commission. The Commission's functions and powers would include promoting awareness of human rights, helping the Government to draft laws and regulations concerning human rights, advising the Government on acceding to human rights treaties, inquiring into human rights complaints, inspecting places of detention, and hearing witnesses and receiving evidence on human rights questions. At year's end, the 20 members of the Commission had not yet been appointed. The Government pledged that the Commission would be independent, but opposition leaders were skeptical. The legislation creating the Commission defines human rights as "the fundamental liberties provided for" in the federal Constitution and restricts the application of the Universal Declaration of Human Rights to those provisions consistent with the Constitution. Opposition leaders and NGO's, including the Bar Council, criticized the definition as too narrow. At year's end, it was unclear how these provisions would be implemented.

In February the U.N. Special Rapporteur on Freedom of Opinion and Expression issued a report stating that freedom of opinion is curtailed systematically in Malaysia (see Section 2.a.).

A February IPU report stated that the conditions of imprisonment of opposition Member of Parliament Lim Guan Eng did not comply with international standards (see Section 1.c.).

#### Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution provides for equal protection under the law and prohibits discrimination against citizens based on religion, race, descent, or place of birth. Although neither the Constitution nor laws explicitly prohibit discrimination based on sex or disabilities, the Government has tried to eliminate discrimination against women and promote greater public acceptance of the disabled. Government policies give preferences to ethnic Malays in housing, home ownership, the awarding of government contracts, educational scholarships, and other areas.

#### Women

Reports of rape are common in the press and among women's rights groups and NGO's, although the Government has not released comprehensive statistics. In December a women's NGO issued a report that stated that the incidence of rape had increased since 1993 and that more than 50 percent of rape victims are age 16 or younger. Many hospitals have set up crisis centers where victims of rape and domestic abuse can make reports without going to a police station. NGO's and political parties also cooperated in providing counseling for rape victims. Nonetheless, cultural attitudes and a perceived lack of sympathy from the largely male police force lead many victims not to report rapes. Some rapists receive heavy punishments, including caning, but women's groups complain that some rapists receive inadequate punishments.

Spousal abuse is a serious problem that has drawn considerable government, NGO, and press attention. Awareness of the severity and prevalence of this problem is growing. In 1997 (the last year for which comprehensive statistics have been published), police investigated 5,730 cases of spousal abuse, made 800 arrests, and charged 693 suspects, of whom 495 were tried and 198 were sentenced. The Malaysian Chinese Association Public Services and Complaints Department reported that the number of domestic violence complaints that it had received in the first 3 months of the year was roughly double that of the same period of the previous year. Whether this signifies a rise in the overall rate of domestic violence is unclear.

The 1996 Domestic Violence Act addresses spousal abuse. However, women's groups criticized the act as inadequate and called for amendments to strengthen it. Obtaining a restraining order against an abusive spouse is a lengthy and cumbersome procedure. Moreover, enforcement of the order is split between the police and the Welfare Department so that violations often go unpunished.

Although the Government, NGO's, and political parties have formed shelters and offer other assistance to battered spouses, activists assert that support mechanisms remain inadequate. Police responses to complaints of domestic violence are more professional and sensitive than in previous years, but problems remain and cultural attitudes are still an impediment.

Domestic violence complaints are rare in Islamic (Shari'a) courts (six cases in 1997). Some Islamic law experts have urged Muslim women to become more aware of the provisions of Islamic law that prohibit spousal abuse and provide for divorces on grounds of physical cruelty. Nonetheless, Islamic law generally (each state has a separate code) prohibits wives from disobeying lawful orders of their husbands. These provisions often present an obstacle to women pursuing claims, including charges of abuse, against their husbands.

Spousal rape is not a crime. Theoretically a man who raped his wife could face charges of assault, but women's rights activists cannot remember any man being convicted in such circumstances.

A 1998 International Labor Organization (ILO) study estimated that there were roughly 40,000 to 140,000 prostitutes in 1998. The Government heatedly disputed this estimate and the police stated that they would investigate NGO's that might have provided information that formed the basis of the study. Sex tourism is not legal and the level of such activity is not high.

A women's rights NGO stated in 1998 that the economic downturn was forcing more women into prostitution. The NGO cited government statistics showing an upturn in the number of arrests for prostitution. A government source disputed this claim, saying that the increase in arrests was due to more vigorous enforcement. In February the press reported a 1998 study by the national population and family development board that showed that the economic downturn had dampened the demand for prostitution.

Malaysia is a source, transit, and destination country for trafficking in women for sexual purposes (see Section 6.f.).

In August the Ministry of Human Resources issued a Code of Practice designed to prevent and eradicate sexual harassment in the workplace. Women's groups welcomed the code but noted that further public education on sexual harassment was still necessary. The Code of Practice has no legal effect and earlier plans for a sexual harassment law apparently have been abandoned. Women's rights activists said that a law on sexual harassment would be more effective than a code of practice. Deputy Human Resources Minister Datuk Dr. Affifuddin Omar responded that the Government preferred social engineering rather than a "big brother approach" to the problems of sexual harassment. In addition there are still many cultural obstacles to women who try to pursue sexual harassment charges. The Ministry of Human Resources stated in 1998 that it had received reports of only six sexual harassment cases in the first 6 months of that year (the most recent statistics available) and only a total of about 30 since 1996.

Women are still victims of legal discrimination. The cultural and religious traditions of the major ethnic groups also heavily influence the condition of women in society. In family and religious matters, Muslim women are subject to Islamic law. Polygyny is allowed and practiced to a limited degree. Islamic inheritance law varies by state, but generally favors male offspring and relatives. However, one state, Negeri Sembilan, provides for matrilineal inheritance. The number of women obtaining divorces under the provisions of Islamic law that allow for divorce without the husband's consent, while small, is increasing steadily.

There were increasing complaints about the treatment of women by Islamic courts. An April press report described complaints by NGO's and women's groups of rude and insensitive treatment by staff and officers of Islamic courts. In May the women's wing of UMNO stated that it would act to help accelerate and improve the handling of women's problems by Islamic courts.

Muslim couples must take premarital courses. Women's activists have complained that the courses, as implemented, perpetuate gender discrimination by misinforming women of their rights in marriage (see Section 1.f.).

Non-Muslim women are subject to civil (secular) law. Changes in the Civil Marriage and Divorce Act in the early 1980's increased protection of married women's rights, especially those married under customary rites. Nonetheless, many statutes, such as the Women and Girls Protection Act still provide for paternalistic or discriminatory treatment of women. The Guardianship of Women's and Infants Act was amended in July to give mothers equal parental rights. Four states extended the provisions of the amended bill to Muslim mothers. Women's groups urged all states to do the same. In June the Land and Cooperative Development Ministry announced that it was considering amending the Group Settlement Act to give wives of settlers a stake in the land awarded to their husbands.

Government policy supports women's rights and the Government has undertaken a number of initiatives to promote equality for women. Specifically the Government promotes the full and equal participation of women in education and the work force. Women are represented in growing numbers in the professions, but women's groups argue that the level of participation is still disproportionately low. In the scientific and medical fields, women make up more than half of all university graduates and the total intake of women into universities increased from 29 percent in 1970 to one-half of the student

population in recent years. In August National Unity and Social Development Minister Datin Paduka Zaleha Ismail said that the rate of participation of women in the labor force (30 percent in 1970) would be 52 percent by the end of 2000. The proportion of women in the civil service has risen from roughly 33 percent in 1990 to roughly 41 percent and women occupy some high-ranking civil service positions. In April Malaysian Trade Union Congress President Zainal Rampak urged trade unions to fulfill the ILO policy of filling 30 percent of leadership positions with women (current statistics were not disclosed).

## Children

The Government has demonstrated a commitment to children's rights and welfare; it spends roughly 20 percent of the national budget on education. The Government provides free compulsory education for children through the age of 15. Actual attendance at primary school is nearly universal (99 percent). Secondary school attendance also is high (82 percent). A variety of programs provide low cost health care for most children. An office in the Ministry of National Unity and Social Development oversees children's issues.

In October the Parliament passed a new Child Act. The Act stipulates heavier punishments for child abuse, molestation, neglect, and abandonment. The act also mandated the formation of a children's court, which, the Government stated, would better protect the interests of children.

The Government recognizes that sexual exploitation of children and incest are problems. In 1997 police announced a special effort to prosecute the crime of incest, which is in particular a problem in rural areas. Child abuse receives wide coverage in the press. The Government sternly prosecutes cases of child abuse and child molesters receive heavy jail sentences and caning. The Ministry of National Unity and Social Development reported that in 1997 there were 1,117 reported cases of child abuse, while from January through August 1998 there were 600 cases. In August a Malaysian physician who studies child abuse said publicly that the sexual abuse of children was common in Malaysia. Child labor also is a problem (see Section 6.d.).

Female genital mutilation (FGM) is widely condemned by international health experts as damaging to physical and psychological health; however, extreme forms of FGM are not practiced in the country. Many Malay girls receive a tiny ritual cut to the clitoris. Almost all Malay women, including Muslim women's activists, do not believe that this constitutes mutilation or reduces a woman's future capacity for sexual pleasure.

Statutory rape occurs and is prosecuted. However, Islamic law provisions that consider a Muslim girl an adult after she has had her first menstruation sometimes complicate prosecution of statutory rape. Such a girl can be charged with "khalwat" or "close proximity" (the charge usually used to prosecute premarital or extramarital sexual relations) even if she is under the age of 18 and her partner is an adult. Moreover Shari'a courts sometimes are more lenient with males who are charged with "close proximity." Thus, Shari'a sometimes punishes the victims of statutory rape. However, in many cases Muslim men are charged and punished for statutory rape under secular law.

Child prostitution exists. However, child prostitutes often are treated as delinquents rather

than victims. In 1998 the Minister of National Unity and Social Development stated that 150 to 160 underage girls are detained "each year" for involvement in immoral activities and sent to rehabilitation centers. Authorities prosecute traffickers in child prostitution vigorously. Statistics for apprehension of traffickers are not available (see Section 6.f.).

### People with Disabilities

The Government does not discriminate against physically disabled persons in employment, education, and provision of other state services. However, few public facilities are adapted to the needs of the disabled, and the Government has not mandated accessibility to transportation or public buildings for the disabled. In August Minister of National Unity and Social Development Zaleha said that only 10 percent of residential and commercial buildings were "disabled-friendly". In September Minister Zaleha announced a cabinet decision to require that 10 percent of houses in all new housing projects be disabled-friendly. In December Zaleha reportedly said that "all buildings" would be made accessible to the disabled within 2 years.

Special education schools exist, but they are not sufficient to meet the needs of the disabled population. The Government and the general public are becoming more sensitive to the needs of the physically disabled. The Government has taken many initiatives to promote public acceptance of the disabled, to make public facilities more accessible to disabled persons, and to increase budgetary allotments for programs aimed at aiding them.

In August an NGO representing the disabled said that the disabled make up 7 percent of the population. The NGO urged the Government to increase its support for the disabled. Disabled persons do not enjoy explicit legal protection against discrimination. In August the parents of a disabled child sued a private international school for discrimination after the school refused to enroll their child. A court ruled that the school must accept the disabled child.

### Indigenous People

Indigenous groups and persons (i.e., the descendants of the original inhabitants of peninsular Malaysia and the Borneo states) generally enjoy the same constitutional rights as the rest of the population. However, in practice federal laws pertaining to indigenous people vest almost total power in the minister responsible for indigenous people (currently the Minister of National Unity and Social Development) to protect, control, and otherwise decide issues concerning them. As a result, indigenous people, particularly in peninsular Malaysia, have very little ability to participate in decisions.

Under the 1954 Aboriginal People's Act (amended in 1974), indigenous people in peninsular Malaysia (known as Orang Asli) who had been granted land on a group basis had no right to own land on an individual basis or to receive titles to land. The Social Development Ministry announced in 1996 that state governments, which make decisions affecting land rights, had agreed to issue titles to Orang Asli. Amendments were drafted to enable Orang Asli to hold titles on an individual basis. Surveying and transfer of title apparently has proceeded very slowly. In July Minister Zaleha said that no Orang Asli had yet been given individual land titles on this basis.

The uncertainty surrounding Orang Asli land ownership makes them vulnerable to

exploitation. There were many reports of Orang Asli who had been cheated, misled, or otherwise exploited by land developers. In some cases, the Orang Asli have sued. Finance Minister Tun Daim Zainuddin announced in May that a total of 314,715 acres of land would be gazetted and reserved for Orang Asli. The Federal Government urged the states to follow up on Daim's announcement. The leader of a leading Orang Asli NGO welcomed the announcement, but urged the Government to proceed quickly. This NGO pointed out that the total area of land actually gazetted and reserved for Orang Asli had declined, not increased, since 1990.

The indigenous people in peninsular Malaysia, who number roughly 100,000, are the poorest group in the country; however, according to government officials, Orang Asli gradually are catching up to other citizens in their standard of living, and the percentage of Orang Asli who lead a nomadic lifestyle has dropped to less than 40 percent. Government development projects for the Orang Asli are announced from time to time.

In east Malaysia, although state law recognizes the right of indigenous people to land under "native customary rights," the definition and extent of these lands are in dispute. Indigenous people in the state of Sarawak continued to protest the alleged encroachment by state and private logging and plantation companies onto land that they consider theirs because of customary rights. Laws allowing condemnation and purchase of land do not require more than perfunctory notifications in newspapers to which indigenous people may have no access. The net result is that many indigenous people are deprived of their traditional lands with little or no legal recourse. In July the Government announced that it was scaling back the large Bakun Dam project in Sarawak, which would have resettled many residents.

In September after a long-simmering feud with neighboring villagers, four plantation company workers were killed in the state of Sabah. Allegedly, indigenous residents, angered over the plantation company's repeated encroachments on what the residents regarded as their native land, killed the workers.

#### National/Racial/Ethnic Minorities

The Government implements extensive preferential programs designed to boost the economic position of the Malay majority, which remains poorer on average than the Chinese minority. Such preferential programs and policies limit opportunities for non-Malays in higher education, government employment, business permits and licenses, and ownership of land. According to the Government, these programs have been instrumental in ensuring ethnic harmony and political stability. Ethnic Indian Malaysians continue to lag behind in the country's economic development. A small component party of the ruling coalition proposed in August to abolish ethnic quotas. The Government rejected the proposal.

#### Section 6 Worker Rights

##### a. The Right of Association

By law most workers have the right to engage in trade union activity and approximately 11 percent of the work force belong to 544 trade unions. Exceptions include certain limited categories of workers labeled "confidential" and "managerial and executive," as

well as defense and police officials. Within certain limitations, unions may organize workplaces, bargain collectively with employers, and associate with national federations. In April the Government reiterated that it discourages foreign workers from joining unions and that labor laws adequately protect the rights of foreigners. In practical terms, foreigners are not allowed to join trade unions (see Section 6.e.).

The Trade Unions Act prohibits interfering with, restraining, or coercing a worker in the exercise of the right to form trade unions or in participating in lawful trade union activities. However, the act restricts a union to representing workers in a "particular establishment, trade, occupation, or industry or within any similar trades, occupations, or industries," contrary to ILO guidelines. The Director General of Trade Unions may refuse to register a trade union and, in some circumstances, may also withdraw the registration of a trade union. When registration has been refused, withdrawn, or canceled, a trade union is considered an unlawful association. The Government justifies its overall labor policies by positing that a "social compact" exists wherein the Government, employer, and worker are part of an overall effort to create jobs, train workers, boost productivity and profitability, and ultimately provide the resources necessary to fund human resource development and a national social safety net. Trade unions from different industries may join in national congresses, but the congresses must register as societies under the Societies Act (see Section 2.b.).

In January the Trade Unions Department reported that in 1998 it had issued notices to 206 trade unions threatening them with deregistration for failing to submit reports of their accounts. A leading trade union leader said that he was "puzzled" by the Trade Union's Department statement and would seek further clarification. Also in February, the Human Resources Minister said publicly that union members' complaints against union leaders were increasing. In February the Human Resources Minister said that the Government would amend the Trade Unions Act to make all principal officers of a union liable if the union commits any wrongdoing (now only the secretary general is liable). There were no reports that these amendments were adopted. Some trade unionists claim that unions that defy government policies face more intense scrutiny, potentially leading to deregistration. However, there were no reports that unions were deregistered.

In September Malaysian Trade Union Congress (MTUC) leader Zainal Rampak said that the MTUC was fed up with delays in registering new unions, and that new unions often faced delays of several years in registering. Zainal called on the Government to amend the Industrial Relations Act to allow automatic union recognition.

In April the MTUC called on the Government to ratify ILO Convention 87, which provides for the freedom to join a union. At year's end, the Government had not ratified the Convention.

Government policy discourages the formation of national unions in the electronics sector; the Government believes that enterprise-level unions are more appropriate for this sector. In 1997 the MTUC dropped its longstanding objection to this practice, stating that it would be better for the workers to have the in-house unions "than none at all." However, in February MTUC secretary general G. Rajasekaran said that a national union for electronics workers was still on the MTUC agenda.

Even in-house unions sometimes face difficulties. For example, an electronics company

was picketed by workers several times during the year. Workers called on the company to end litigation and conclude a collective bargaining agreement that has been pending for 10 years. Workers claimed that the company had refused to meet union officials, even though the Department of Trade Unions recognized the union.

Unions maintain independence both from the Government and from political parties, but individual union members may belong to political parties. Although union officers by law may not hold principal offices in political parties, individual trade union leaders have served in Parliament. Trade unions are free to associate with national labor congresses, which exercise many of the responsibilities of national labor unions, although they cannot bargain for local unions. In 1997 longtime labor leader Zainal Rampak joined the ruling party, and in 1998 was appointed to the Senate. Some union leaders are concerned that the MTUC, under Zainal's leadership, is losing its independence.

Although strikes are legal, the right to strike is restricted severely. The law contains a list of "essential services" in which unions must give advance notice of any industrial action. The list includes sectors not normally deemed essential under ILO definitions.

The Industrial Relations Act of 1967 requires the parties to notify the Ministry of Human Resources that a dispute exists before any industrial action (strike or lockout) may be taken. The Ministry's Industrial Relations Department then may become involved actively in conciliation efforts. If conciliation fails to achieve settlement, the Minister has the power to refer the dispute to the Industrial Court. Strikes or lockouts are prohibited while the dispute is before the Industrial Court. The Industrial Relations Act prohibits employers from taking retribution against a worker for participating in the lawful activities of a trade union. Where a strike is legal, these provisions would prohibit employer retribution against strikers and leaders. Although some trade unions question their effectiveness, it is not possible to assess fully whether these provisions are being enforced effectively, given the limited number of cases of alleged retribution.

Strikes are extremely rare. In January the Deputy Human Resources Minister said that the (1997 and 1998) economic downturn was "not affecting industrial harmony" and noted that the country still seldom had strikes.

In April 500 taxi drivers in the state of Penang held an informal strike to protest stricter government enforcement of a rule requiring meters. In May a group of truck drivers blocked the country's main north-south highway to protest road rules.

There are two national labor organizations. The MTUC is a federation of mainly private sector unions. CUEPACS is a federation of civil servant and teacher unions. Public servants have the right to organize at the level of ministries and departments. There are three national joint councils representing management and professional civil servants, technical employees, and nontechnical workers. In May various trade unions representing port workers announced plans to form a federation potentially including 12,000 workers. There were no reports of further developments.

In 1998 the Government announced plans to include foreign workers in the national workers compensation scheme. Exclusion of foreign workers from this scheme had been a longstanding concern of the ILO. In August Human Resources Minister Lim Ah Lek said that the Cabinet would soon receive the final report on extending the compensation

scheme to foreign workers. There were no reports of further developments.

Enterprise unions can associate with international labor bodies and do so.

#### b. The Right to Organize and Bargain Collectively

Workers have the legal right to organize and bargain collectively, and collective bargaining is widespread in those sectors where labor is organized. The law prohibits antiunion discrimination by employers against union members and organizers. Charges of discrimination may be filed with the Ministry of Human Resources or the Industrial Court. Critics say that the Industrial Court is slow in adjudicating worker complaints when conciliation efforts by the Ministry of Human Resources fail. However, other critics point out that the Industrial Court almost always sides with the workers in disputes. In August the press reported an MTUC survey that indicated that employers often ignore with impunity Industrial Court judgments.

Companies in free trade zones (FTZ's) must observe labor standards identical to those in the rest of the country. Many workers in FTZ companies are organized, especially in the textile and electrical products sectors. The ILO continues to object to legal restrictions on collective bargaining in "pioneer industries." c. Prohibition of Forced or Compulsory Labor

The Constitution prohibits forced or compulsory labor, and the Government generally enforces this prohibition; however, trafficking in women for the purpose of forced prostitution is a problem (see Section 6.f.). In theory certain laws allow the use of imprisonment with compulsory labor as a punishment for persons who express views opposed to the established order or who participate in strikes. The Constitutional prohibition renders these laws without effect.

The Constitutional prohibition also applies to forced and bonded labor by children; however, trafficking in girls for the purpose of forced prostitution is a problem. Bonded labor is rare, and there were no cases reported during the year.

#### d. Status of Child Labor Practices and Minimum Age for Employment

The Children and Young Persons (Employment) Act of 1966 prohibits the employment of children younger than the age of 14. The act 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. In no case may children work more than 6 hours per day, more than 6 days per week, or at night. Child labor occurs in certain sectors of the country. A 1993 joint report by the International Confederation of Free Trade Unions and the Asian and Pacific Regional Organization put the child work force at 75,000. However, government officials maintain that this figure is outdated, since it was based on a nationwide survey of child labor undertaken in 1980, which estimated that more than 73,400 children between the ages of 10 and 14 were employed full time. There is no reliable recent estimate of the number of child workers. Most child laborers work in the urban informal sector in food businesses, night markets, and small-scale industries, as well as on rubber and palm oil plantations. Government officials do not deny the existence of child labor but maintain that foreign workers largely have replaced child labor and that the Government vigorously enforces child labor

provisions. Forced and bonded labor by children is prohibited and generally is rare; however, occasional trafficking in girls for the purpose of forced prostitution is a problem (see Section 6.c.and 6.f.).

e. Acceptable conditions of work

There is no national minimum wage, but the Wage Councils Act provides for a minimum wage in those sectors or regions of the country where a need exists. Under the law, workers in an industry who believe that they need the protection of a minimum wage may request that a wage council be established. Few workers are now covered by minimum wages set by wage councils and the Government prefers to let market forces determine wage rates. Minimum wages set by wage councils generally do not provide for a decent standard of living for a worker and family. However, prevailing wages, even in the sectors covered by wage councils, are higher than the minimum wages set by the wage councils and often do provide a decent living. In May Human Resources Minister Datuk LIM Ah Lek said that the Government was not against a minimum wage, but that it was not ready to set the amount at \$316 (1,200ringgit) per month (as proposed by some unions). MTUC President Zainal Rampak subsequently again called on the Government to introduce a minimum wage.

Under the Employment Act of 1955, working hours may not exceed 8 hours per day or 48 hours per workweek of 6 days. Each workweek must include one 24-hour rest period. The act also sets overtime rates and mandates public holidays, annual leave, sick leave, and maternity allowances. The Labor Department of the Ministry of Human Resources enforces these standards, but a shortage of inspectors precludes strict enforcement.

Plantation workers generally receive either piecework or daily wages. Many NGO's and union officials proposed a monthly wage for plantation workers. The Government stated that it would study the idea, but at year's end, had taken no action.

Legal and illegal foreign workers from Indonesia, the Philippines, Burma, Thailand, India, Bangladesh, and other countries constitute about 20 percent of the workforce. These workers, who occupy a wide range of menial jobs in the agricultural, industrial, and service sectors, are not allowed to join trade unions. The MTUC stated in December that foreign workers should be unionized. In February the Government reiterated that it did not "encourage" foreign workers to join unions and that labor laws were adequate to protect foreign workers' interests.

Significant numbers of contract workers, including numerous illegal immigrants, work on plantations and in other sectors. Working conditions on plantations for these laborers compare poorly with those of direct-hire plantation workers, many of whom belong to the national union of plantation workers. Moreover, immigrant workers in the construction and other sectors, particularly if they are illegal aliens, generally do not have access to the system of labor adjudication. Government investigations into this problem have resulted in a number of steps to eliminate the abuse of contract labor. For example, besides expanding programs to regularize the status of immigrant workers, the Government investigates complaints of abuses, endeavors to inform workers of their rights, encourages workers to come forward with their complaints, and warns employers to end abuses. Like other employers, labor contractors may be prosecuted for violating the labor laws.

In 1993 Parliament adopted an Occupational Safety and Health Act (OSHA), which covers all sectors of the economy, except the maritime sector and the military. The act established a national Occupational Safety and Health Council, composed of workers, employers, and government representatives, to set policy and coordinate occupational safety and health measures. It requires employers to identify risks and take precautions, including providing safety training to workers, and compels companies that have more than 40 workers to establish joint management-employee safety committees. The act requires workers to use safety equipment and to cooperate with employers to create a safe, healthy workplace. Trade unions maintain that relatively few committees have been established and, even in cases where they exist, that they meet infrequently and generally are ineffective.

Employers or employees that violate the OSHA are subject to substantial fines or imprisonment for up to 5 years. There are no specific statutory or regulatory provisions that provide a right for workers to remove themselves from dangerous workplace conditions without arbitrary dismissal.

#### f. Trafficking in Persons

The Constitution prohibits slavery; however, this provision has not been invoked in cases of human trafficking. The Protection of Women and Girls Act explicitly prohibits trafficking and other forms of exploitation of women and girls and forms the legal basis for prosecuting trafficking cases.

Malaysia is a source, transit, and destination country for trafficking in women and girls for sexual exploitation. In 1998 the Deputy Home Minister stated that 2,250 foreign prostitutes had been arrested in Malaysia. Police believe that the overwhelming number of prostitutes in the country are foreigners from Indonesia, the Philippines, Burma, Thailand, and China. These women often work as karaoke hostesses, "guest relations officers," and masseuses. Russian women work in smaller numbers as prostitutes. Malaysian women are trafficked for sexual purposes mostly to Singapore, Macau, Hong Kong, and Taiwan, but also to Japan, Australia, Canada, and the United States. According to police and Chinese community leaders, Malaysian women who are victims of traffickers are almost exclusively ethnic Chinese, though ethnic Malay and ethnic Indian women work as prostitutes domestically. Police and NGO's believe that Chinese criminal syndicates are behind most of the trafficking (both incoming and outgoing) of women of all nationalities. The Deputy Home Minister stated in 1997 that 4,200 Malaysian girls and young women were reported missing in 1997. Political parties and NGO's estimate that a portion of these women and girls were victims of traffickers.

A few government officials may provide bogus documents illicitly to traffickers (although no specific cases were reported), but the Government investigates and punishes those involved in such cases. The Government assists underage girls and has rescued some kidnaped women. Police often raid venues of prostitution. For example, Selangor state police said that they had raided 1,230 suspected "vice dens" during the year. However, NGO's and women's rights activists complain that police have no coherent policy to protect victims of trafficking. Rather than prosecute traffickers, police generally arrest or deport individual women for prostitution. In 1998 the press quoted an anonymous police official as saying that Malaysia had become a "safe haven" for traffickers. A police spokesman asked for official comment responded by questioning whether press reporting

on trafficking in women was in the national interest.

Authorities prosecute traffickers in child prostitution vigorously. Statistics for apprehension of traffickers are not available.

[end of document]

---

[1999 Report East Asia and the Pacific Index](#) | [Table of Contents](#) | [1999 Report Homepage](#) | [Human Rights Reports Index](#)