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2009 Human Rights Report: Malaysia

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

2009 Country Reports on Human Rights Practices

March 11, 2010

Malaysia is a federal constitutional monarchy with a population of approximately 28.3 million. It has a parliamentary system of government headed by a prime minister selected through periodic, multiparty elections. The United Malays National Organization (UMNO), together with a coalition of political parties known as the National Front (BN), has held power since independence in 1957. The most recent national elections, in March 2008, were conducted in a generally transparent manner and witnessed significant opposition gains. On April 3, Najib Razak was sworn in as prime minister. Civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens; however, there were problems in some areas. Significant obstacles prevented opposition parties from competing on equal terms with the ruling coalition. Some deaths occurred during police apprehensions and while in police custody. The nonprofessional People's Volunteer Corps (RELA) reportedly abused refugees, asylum seekers, and illegal immigrants. Other problems included police abuse of detainees, overcrowded immigration detention centers (IDCs), use of arbitrary arrest and detention using the Internal Security Act (ISA) and three other statutes that allow detention without trial, and persistent questions about the impartiality and independence of the judiciary. The government continued to pursue the prosecution of a prominent opposition leader on politically motivated charges. The government also arrested other opposition leaders, journalists, and Internet bloggers apparently for political reasons. The civil courts continued to allow the Shari'a (Islamic law) courts to exercise jurisdiction in cases involving families that included non-Muslims. Additionally, the criminal and Shari'a courts utilized caning as a form of punishment. The government continued to restrict freedom of press, association, assembly, speech, and religion. Trafficking in persons remained a serious problem. Longstanding government policies gave preferences to ethnic Malays in many areas. Some employers exploited migrant workers and ethnic Indian-Malaysians through forced labor. Some child labor occurred in plantations.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

There were no known politically motivated killings by the government or its agents; however, during the year local media reported that police killed 50 persons while apprehending them, down from 82 such killings in 2008.

On January 20, Kugan Ananthan, an ethnic Indian in police detention since January 15 for car theft, died. The initial postmortem listed fluid in the lungs as the cause of death. A second postmortem examination conducted by a family-appointed pathologist revealed massive injuries consistent with being beaten to death. On January 23, the attorney general classified Kugan's death as murder. Initially, 11 police officers were transferred to desk duty pending an investigation; however, on October 1, only police constable Navindran Vivekanandan, the sole ethnic Indian among the 11 police officers, was charged for the lesser crime of voluntarily causing grievous hurt to extort a confession. Navindran pled not guilty and was released on bail. A sessions court scheduled the criminal case against Navindran for February 13, 2010. Kugan's family members also filed a civil suit against the government for his death in custody, and that case was pending in the civil courts.

On July 15, Teoh Beng Hock, a political aide to a Selangor State legislative assemblyman, was taken to the Malaysian Anticorruption Commission (MACC) as a witness concerning allegations against his supervisor. On July 16, Teoh's body was found on the roof of the building wing adjacent to the MACC offices. Official postmortem examinations ruled that he died on July 16 from internal injuries sustained from a fall. Teoh had been questioned for more than eight hours. On November 21, Teoh's body was exhumed for a second autopsy. The public inquest into the cause of Teoh's death continued at year's end.

On July 16, police arrested R. Gunasegaran, who died in custody at the Sentul police station approximately two to three hours after his arrest. An initial autopsy found that Gunasegaran died of a drug overdose. Several witnesses claimed he was beaten in police custody. At his family's request, the high court ordered a second postmortem examination and an inquest into his death. The inquest into the cause of his death was pending at year's end.

On November 8, police shot and killed five ethnic Indian youths ages 17 to 24. The police described them as members of a criminal gang who fired first; however, an outcry, particularly in the ethnic Indian community, questioned the police's "shoot-to-kill" tactics. The police denied using such tactics and defended the officers' right to defend themselves. At year's end there had been no known official inquiry into the matter.

On April 9, the high court sentenced police Chief Inspector Azilah Hadri and police Corporal Sirul Azhar Umar to death, for the 2006 murder of Altantuya Shaaribu. Their appeals were pending at year's end. In October 2008 the court acquitted political analyst Razak Baginda of abetting her murder. Altantuya's father filed a civil suit against the government, Razak Baginda, and the two police officials for 100 million ringgit (approximately \$28.6 million). The civil case was pending at year's end.

b. Disappearance

There were no reports of politically motivated disappearances.

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

No law specifically prohibits torture; however, laws that prohibit "committing grievous hurt" encompass torture. There were some allegations of beatings and mistreatment by RELA and immigration officials in IDCs, which continued to be administered by the Immigration Department and was supplemented by RELA for part of the year.

On January 15, seven police officers from Brickfields police district in Selangor State were charged with committing an act of "criminal intimidation" and "voluntarily causing hurt to extort confession" against B. Prabakar, who had been arrested in December 2008 in connection with a robbery. Prabakar alleged that the police beat him with a rubber hose, splashed boiling water on him, asked him to stand on a chair with a cloth around his neck, and threatened to hang him. The case

was pending at year's end.

On December 6, police arrested S. Isai Kumar after a female relative lodged a police report against him. He was held for 10 days during which he alleged police stripped him nude, photographed him, assaulted him, and denied him food and medical attention during a four-day period at the Seremban police headquarters. He claimed police forced him to admit to robbery and criminal intimidation. He was released and police told him the report against him was false.

In May 2008, in response to the April 2008 beating of a Pakistani detainee by immigration officials at Lenggeng IDC, a commissioner from the Malaysian Human Rights Commission (SUHAKAM) investigated and found "evidence of torture." No further investigation was known to have been conducted.

Persons detained under the ISA commonly suffered beatings, physical and mental abuse, and other mistreatment. For example according to Amnesty International, Sanjeev Kumar, detained under the ISA in July 2007, was paralyzed and mentally unstable at the time of his release in September 2008.

In August 2008 according to press reports, two police officers from Perak State abused a 10-year-old boy while questioning him for theft. There was no information available about an investigation into this report.

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. The law prescribes up to six strokes of the cane for both illegal immigrants and their employers. Judges routinely included caning in sentences of those convicted of such crimes as kidnapping, rape, and robbery. The caning was carried out with a half-inch-thick wooden cane that could cause welts and scarring. The law exempts men older than 50 and all women from caning. Male children 10 years of age and older may be given up to 10 strokes of a "light cane."

Some states' Shari'a laws also prescribe caning; there are no exemptions for women under Shari'a. In Shari'a caning, a smaller cane is used, and the caning official cannot lift the cane above his shoulder, thus reducing the impact. Additionally, the subject is fully covered with a robe so that the cane will not touch any part of the flesh. Local Islamic officials claimed that the idea is not to injure but to make offenders ashamed of their sin so that they will repent and not repeat the offense. Between July and September, there were four instances in which a Shari'a court sentenced persons to be caned.

On July 20, the Kuantan Shari'a High Court (Pahang State) sentenced Kartika Sari Dewi Shukarno to a 5,000 ringgit (approximately \$1,400) fine and six strokes of a cane for consuming alcohol at a hotel in Pahang State in July 2008. Kartika was the first Muslim woman to be sentenced to caning. Kartika, who pled guilty, did not appeal the sentence. By year's end the Shari'a court had not scheduled a date for the caning.

In mid-September the same Shari'a high court judge sentenced a male foreign citizen to six strokes of the cane and prison for an alcohol offense and also sentenced the Muslim waitress who served Kartika to six strokes and a fine.

In September the Selangor Shari'a High Court sentenced a couple to fines and six strokes of the cane each for the offense of "khalwat" or close physical proximity after the couple were found attempting to have unmarried sex.

Prison and Detention Center Conditions

Prison overcrowding, particularly in facilities near major cities, remained a serious problem. In December the Home Ministry reported that the country's 31 prisons held 32,130 prisoners in locations designed to hold 32,600. According to the International Centre for Prison Studies, in mid-2008 women made up 8.3 percent of the total prison population. Local and

international nongovernmental organizations (NGOs) estimated most of the country's 16 IDCs were at or beyond capacity, with some detainees held for a year or more.

NGOs and international organizations involved with migrant workers and refugees made credible allegations of inadequate food, water, medical care, poor sanitation, and prisoner abuse in the IDCs. According to the home affairs minister, all detention centers had their own standard operating procedures that were in line with international quality standards. An NGO with access to the IDCs claimed that overcrowding, deficient sanitation, and lack of medical screening and treatment facilitated the spread of disease. During the year the government allowed local NGOs with mobile medical clinics into the IDCs.

In 2008 SUHAKAM identified poor medical care as the principal reason why 1,300 detainees had died over the previous six years in IDCs, prisons, and jails. On October 1, SUHAKAM Commissioner Siva Subramaniam reiterated these statistics, noting that this was a rate of 18 deaths per month since 2003. Most of the deaths were reportedly due to communicable diseases that thrive in unsanitary and overcrowded detention facilities. Siva recommended that the IDCs observe better health standards to prevent the spread of disease.

The government does not permit prison visits by the International Committee of the Red Cross. The authorities generally did not permit NGOs and the media to monitor prison conditions. The government approved visits by SUHAKAM officials on a case-by-case basis.

The UN High Commission for Refugees (UNHCR) received access to registered refugees and asylum seekers detained in IDCs and prisons. Historically, prison and IDC officials denied the UNHCR access to unregistered asylum seekers in detention; however, since April, IDCs scheduled UNHCR visits to interview unregistered potential refugees. Through these interviews, the UNHCR secured the release of 3,645 refugees from IDCs during the year.

d. Arbitrary Arrest or Detention

The constitution stipulates that no person may be incarcerated unless in accordance with the law. However, the law allows investigative detention to prevent a criminal suspect from fleeing or destroying evidence while police conduct an investigation. Four laws, most notably the ISA, also permit preventive detention to incarcerate an individual suspected of criminal activity or to prevent a person from committing a future crime. Such laws severely restrict, and in some cases eliminate, access to timely legal representation and a fair public trial.

Role of the Police and Security Apparatus

The approximately 100,000-strong Royal Malaysia Police force is under the command of the inspector general of police (IGP), who reports to the home affairs minister. The IGP is responsible for organizing and administering the police force. The government has some mechanisms to investigate and punish abuse and corruption. There were NGO and media reports that security forces acted with impunity during the year.

Several NGOs conducted local surveys on government corruption and identified the police as among the country's most corrupt government organizations. During the year a Home Affairs Ministry survey noted that 70 percent of respondents had bribed police officers under duress. Reported police offenses included accepting bribes and theft. Unlike in past years, there were no known accusations of rape against police personnel.

Punishments included suspension, dismissal, and demotion. Police officers are subject to trial by the civil courts. Police representatives reported that there were disciplinary actions against police officers during the year.

The government continued to focus police reform efforts on improving salaries, quarters, and general living conditions of police officers. However, the status of other reforms, including the formation of an independent police complaints and

misconduct commission, remained pending at year's end. NGOs complained that the government's reform efforts lacked transparency.

The police training center continued to include human rights awareness training in its courses. SUHAKAM conducted human rights training for police once during the year.

Security forces failed to prevent or respond to some incidents of societal violence. Minority groups complained of perceived police unwillingness to take appropriate action on August 28 to disperse a group of Muslims protesting the relocation of a Hindu temple to their residential area and of the government's immediate closing of a candle light vigil held in response by members of the Hindu community (see section 2.b.).

In recent years the Home Ministry relied primarily upon RELA to conduct raids and detain suspected illegal migrants. However, during the year NGOs and international organizations reported that RELA involvement and authority in immigration matters was reduced and that by August 1, the government had removed all RELA personnel from the IDCs. The government announced that RELA members would begin assisting the police in combating crime.

As of August 31, RELA had 586,644 members. On September 2, RELA announced plans to recruit 200,000 more members by year's end. As of December 31, RELA had increased its membership to 682,749. Although RELA's role in immigration was reduced, the government took steps to increase its overall role, specifically in assisting police with criminal matters. NGOs remained concerned that inadequate training left RELA members ill-equipped to perform their duties.

Reported abuses by RELA members included beatings, extortion, theft, pilfering items from homes, destroying individuals' UNHCR and other status documents, and pillaging refugee settlements. However, these reports were limited primarily to January through March, and unlike in previous years, there were no reports of rape involving RELA members. Reported incidents of abuse by RELA decreased over the course of the year.

In September 2008 the high court ordered RELA member Mohamed Tahir Osman to pay Maslinda Ishak, detained during a 2003 raid, 100,000 ringgit (\$28,600) damages for taking a photograph of her when she was forced to relieve herself in the truck used to transport detainees. On August 25, the Court of Appeal ordered the government to pay the fine, finding that it was vicariously liable for Tahir's acts. Tahir had earlier pled guilty for invasion of privacy and was sentenced to four months' imprisonment.

The government did not release information on how it investigated complaints against RELA members or how it administered disciplinary action. The Public Protection Authorities Act of 1948 and a 2005 Amendment to Essential Regulations give RELA members legal immunity for official acts committed in good faith.

Arrest and Detention

The law permits police to arrest individuals for some offenses without a warrant and hold suspects for 24 hours without charge. A magistrate may extend this initial detention period for up to two weeks. Although police generally observed these provisions, a 2005 police commission report noted that police sometimes released suspects and then quickly rearrested them and held them in investigative custody. Local NGOs asserted that this practice continued. The law gives an arrested individual the right to be informed of the grounds for his arrest by the police officer making the arrest. Police must inform detainees that they are allowed to contact family members and consult a lawyer of their choice.

Police often denied detainees access to legal counsel and questioned suspects without giving them access to counsel. Police justified this practice as necessary to prevent interference in ongoing investigations, and judicial decisions generally upheld the practice. The 2005 report stated that an "arrest first, investigate later" mentality pervaded some elements of the

police force and recommended that detention procedures be reviewed to prevent abuse. On some occasions law enforcement agencies did not promptly allow access to family members.

The law allows the detention of a person whose testimony as a material witness is necessary in a criminal case if that person is likely to flee. Bail is usually available for those accused of crimes not punishable by life imprisonment or death. The amount and availability of bail is determined at the judge's discretion. When bail is granted, accused persons usually must surrender their passports to the court.

Crowded and understaffed courts often resulted in lengthy pretrial detention, sometimes lasting several years. On December 16, Chief Justice Tun Zaki Azmi stated there were 900,000 cases pending in the lower courts and 91,000 in the higher courts.

Four preventive detention laws permit the government to detain suspects without normal judicial review or filing formal charges: the ISA, the Emergency (Public Order and Prevention of Crime) Ordinance, the Dangerous Drugs (Special Preventive Measures) Act, and the Restricted Residence Act.

The ISA empowers police to arrest without a warrant and hold for up to 60 days any person who acts "in a manner prejudicial to the national security or economic life of Malaysia." During the initial 60-day detention period in special detention centers, the ISA allows for the denial of legal representation and does not require that the case be brought before a court. The home minister may authorize further detention for up to two years, with an unlimited number of two-year extensions to follow. In practice the government infrequently authorized ISA detention beyond two two-year terms. However, in one case the government detained an ISA detainee for approximately seven years. Some of those released before the end of their detention period were subject to "imposed restricted conditions." These conditions limit freedom of speech, association, and travel inside and outside the country.

Even when there are no formal charges, the ISA requires that authorities inform detainees of the accusations against them and permit them to appeal to a nonjudicial advisory board for review every six months. However, advisory board decisions and recommendations are not binding on the home minister, not made public, and often not shown to the detainee.

The Bar Council and several human rights NGOs have called for the repeal of the ISA, which does not allow judicial review of ISA decisions in any court, except for issues of compliance with procedural requirements.

On April 3, his first day in office, Prime Minister Najib announced that his office would conduct a comprehensive review of the ISA. Since the announcement, the Home Affairs Ministry has held closed meetings with numerous groups, including political parties and NGOs, to review the act.

On April 3, the government released 13 ISA detainees, including V. Ganabatirau and R. Kengadharan, two of the five detained Hindu Rights Action Force (HINDRAF) leaders. On May 13, the government released another 13 detainees, including M. Manoharan, P. Uthayakumar and K. Vasantha Kumar, the three remaining HINDRAF detainees. On September 16, the government released another five ISA detainees, allegedly from the Jemaah Islamiya terrorist organization. At year's end there were nine persons in detention under the ISA, including four citizens and five foreigners. According to the Home Ministry, six were allegedly involved in militant activities, including terror suspects Mas Selamat Kastari and Samsuddin Sulaiman, and the remaining three were detained for forging documents.

In July 2008 authorities arrested political opposition leader Anwar Ibrahim for alleged consensual sodomy with a former aide. In August 2008 prosecutors charged Anwar in court under the penal code for "consensual carnal intercourse against the order of nature," which carries a potential sentence of 20 years in jail. The court released Anwar on bail.

On August 11, Anwar filed an application for judicial review to disqualify the government's prosecution team on grounds of alleged bias, conflict of interest, and prosecutorial misconduct. On September 16, the trial court dismissed Anwar's petition. Anwar also challenged a certificate from the prosecution, needed before the trial can begin, which he claimed omitted facts in his favor. On November 6, the Court of Appeals rejected Anwar's application to obtain documents and DNA samples that he claimed were exculpatory. Despite official affirmations that Anwar's arrest and prosecution were not politically motivated, senior government officials made repeated public comments prejudicial to the case. The case was pending at year's end.

The government's appeal of the Kuala Lumpur High Court's 2007 decision to award former ISA detainee Abdul Malek Hussin 2.5 million ringgit (approximately \$715,000) for his arrest and torture in 1998 remained pending at year's end.

Under the Emergency Ordinance, the home minister may issue a detention order for up to two years against a person if he deems it necessary for the protection of public order, "the suppression of violence, or the prevention of crimes involving violence." A local NGO reported that in 2008 more than 1,000 individuals were detained under the Emergency Ordinance and other preventive measures. The authorities used the Emergency Ordinance on suspected organized crime figures.

On January 15, the police in Miri, Sarawak, detained Bunya Sengok, Marai Sengok, and his wife Melati Bekeni under the Emergency Ordinance for their alleged involvement in a series of robberies. Family members asserted that they were arrested in a dispute with a development consortium over ancestral land. SUHAKAM condemned the use of the ordinance in this case. On March 19, police released Melati Bekeni, but Marai Sengok and Bunya Sengok were flown to Johor and ordered detained for two years under the ordinance at the Simpang Renggam Detention Center.

Provisions of the Dangerous Drugs Act give the government specific power to detain suspected drug traffickers without trial for up to 39 days before the home affairs minister must issue a detention order. Once the Home Affairs Ministry issues the detention order, the detainee is entitled to a hearing before a court, which has the authority to order the detainee's release. Authorities may hold suspects without charge for successive two-year intervals with periodic review by an advisory board, whose opinion is binding on the minister. However, the review process contains none of the procedural rights that a defendant would have in a court proceeding. Police frequently detained suspected narcotics traffickers under this act after courts acquitted them of formal charges. According to the National Antidrug Agency, the government detained 1,176 persons under the preventive detention provisions of the act during the first 11 months of the year, compared with 1,115 persons during all of 2008.

The Restricted Residence Act allows the home affairs minister to place individuals under restricted residence away from their homes. These persons may not leave the residential district assigned to them, and they must present themselves to police on a daily basis. As under the ISA, authorities may renew the term of restricted residence every two years. The minister is authorized to issue the restricted residence orders without any judicial or administrative hearings. The government continued to justify the act as a necessary tool to remove suspects from the area where undesirable activities were being conducted.

e. Denial of Fair Public Trial

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

The constitution does not directly vest judicial powers in the courts but rather provides that Parliament confers judicial powers. The constitution also confers certain judicial powers on the attorney general, including the authority to instruct the courts on which cases to hear, the power to choose venues, and the right to discontinue cases. The attorney general

controlled and directed all criminal prosecutions and assumed responsibility for sessions court judge and magistrate judicial assignments and transfers. The Judicial Appointments Commission, created in December 2008, makes appointments of judges to the high court, Court of Appeal, and the Federal Court. Session and magistrate court judges report to the Attorney General's Office. The prime minister's recommendation, done in conjunction with the commission, determined senior judge appointments, subject to concurrence by the Conference of Rulers, the traditional Malay rulers of nine states.

Members of the bar, NGO representatives, and other observers expressed serious concern about significant limitations on judicial independence, citing a number of high-profile instances of arbitrary verdicts, selective prosecution, and preferential treatment of some litigants and lawyers.

In May 2008 a royal commission, which had been formed to investigate the 2002 videotape of a purported conversation in which a senior lawyer and senior judge discussed arrangements for assigning cases to "friendly" judges, released its findings and determined that former prime minister Mahathir, UMNO Secretary General Tengku Adnan, and former chief justice Eusoff Chin among others were involved in manipulating judicial appointments and improperly influenced the promotion of judges. On June 16, in a written reply to opposition Democratic Action Party (DAP) parliamentarian Karpal Singh's question on why there was no follow-up on the commission's findings, a minister in the Prime Minister's Department explained that the cases were closed for lack of evidence.

Sessions courts hear minor civil suits and criminal cases. High courts have original jurisdiction over all criminal cases involving serious crimes. Juvenile courts try offenders below age 18. A special court tries cases involving the king and the sultans. The Court of Appeal has appellate jurisdiction over high court and sessions court decisions. The Federal Court, the country's highest court, reviews Court of Appeal decisions.

Indigenous groups in the states of Sarawak and Sabah have a system of customary law to resolve matters such as land disputes between tribes. Although rarely used, penghulu (village head) courts may adjudicate minor civil matters.

Shari'a, administered by state authorities through Islamic courts, bind all Muslims, most of whom are ethnic Malays. The laws and the degree of their enforcement varied from state to state.

The armed forces have a separate system of courts.

Trial Procedures

English common law is the basis for the secular legal system. The constitution states that all persons are equal before the law and entitled to equal protection of the law. Trials are public, although judges may order restrictions on press coverage. Juries are not used. Defendants have the right to counsel at public expense if requested by an accused individual facing serious criminal charges. Strict rules of evidence apply in court. Defendants may make statements for the record to an investigative agency prior to trial. Limited pretrial discovery in criminal cases impeded defendants' ability to defend themselves. Defendants confronted witnesses against them and presented witnesses and evidence on their behalf, although judges sometimes disallowed witness testimony. Government-held evidence was not consistently made available. Attorneys are required to apply for a court order to obtain documents covered under the Official Secrets Act. Defendants are presumed innocent until proven guilty and may appeal court decisions to higher courts. The law limits a defendant's right to appeal in some circumstances. The government stated that the limits expedite the hearing of cases in the upper courts, but the Bar Council declared that they impose excessive restrictions on appeals.

In firearm and certain national security cases, a lower standard for accepting self-incriminating statements by defendants as evidence is in effect. Regulations also allow the authorities to hold an accused for an unspecified time before making formal charges.

In criminal cases police sometimes used tactics that impaired a defendant's due process rights. For example, police used raids and document seizures to harass defendants.

Shari'a courts do not give equal weight to the testimony of women. Many NGOs complained that women did not receive fair treatment from Shari'a courts, especially in matters of divorce and child custody.

Political Prisoners and Detainees

The government released P. Uthayakumar, M. Manoharan, R. Kenghadharan, Ganabatirau, and T. Vasantha Kumar, key leaders of HINDRAF, who were arrested and detained under the ISA for organizing protests in 2007 against the alleged marginalization of ethnic Indians.

Civil Judicial Procedures and Remedies

The structure of the civil judiciary mirrors that of the criminal courts. A large case backlog often resulted in delayed provision of court-ordered relief for civil plaintiffs. The government and government officials can be sued in court for alleged violations of human rights.

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

Various laws prohibit arbitrary interference with privacy rights; however, authorities infringed on citizens' privacy rights in some cases. Provisions in the security legislation allow police to enter and search without a warrant the homes of persons suspected of threatening national security. Police also may confiscate evidence under these provisions. Police used this legal authority to search homes and offices; seize computers, books, and papers; monitor conversations; and take persons into custody without a warrant. The government monitored e-mails sent to Internet blog sites and threatened to detain anyone sending content over the Internet that the government deemed threatening to public order or security.

The Federal Islamic Development Department's (JAKIM) guidelines authorize JAKIM officials to enter private premises without a warrant if they deem swift action necessary to conduct raids on premises where it suspects Muslims are engaged in offenses such as gambling, consumption of alcohol, and sexual relations outside marriage.

In corruption investigations, after a senior police official involved in the investigation submits a written application, the law empowers a deputy public prosecutor to authorize interception of any messages sent or received by a suspect. Information obtained in this way is admissible as evidence in a corruption trial. Security forces have broad authority to install surreptitiously surveillance devices on private property. In addition, public prosecutors may authorize police to intercept postal and telecommunications messages if a prosecutor judges these likely to contain information regarding a terrorist offense. Intercepted communications from such efforts are admissible in court.

The law permits the Home Ministry to place criminal suspects under restricted residence in remote districts away from their homes for two years.

The government bans membership in unregistered political parties and organizations.

Certain religious issues posed significant obstacles to marriage between Muslims and adherents of other religions.

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, in practice the government restricted freedom of expression and intimidated journalists into practicing self-censorship. According to the government, it imposed restrictions on the media to protect national security, public order, and friendly relations with other countries.

The law provides that legislation "in the interest of security (or) public order" may restrict freedom of speech. For example, the Sedition Act prohibits public comment on issues defined as sensitive, such as racial and religious matters. The government used the ISA, the Sedition Act, the Official Secrets Act, the Printing Presses and Publications Act, criminal defamation laws, and other laws to restrict or intimidate political speech. Nevertheless, individuals frequently criticized the government publicly or privately. However, on some occasions the government retaliated against those who criticized it.

In addition, the election law makes it an offense for a candidate to "promote feelings of ill will, discontent, or hostility." Violators could be disqualified from running for office.

On March 17, opposition DAP parliamentarian Karpal Singh was charged under the Sedition Act for comments at a February 6 media conference that the sultan of Perak could be sued for his role in the removal of a state's chief minister. Singh's comments followed Sultan Azlan Shah's decision to dismiss the opposition Perak chief minister and appoint the federal ruling party chief minister. According to the Sedition Act, any act that provokes hatred, contempt, or disaffection against a state ruler is considered sedition, a crime punishable by up to three years in prison or a fine of up to 5,000 ringgit (approximately \$1,400) or both. The case was pending at year's end.

On March 29, the government suspended two opposition political party newspapers, *Harakah* of the opposition Islamic Party of Malaysia (PAS) and *Suara Keadilan* of the Peoples Justice Party. The Home Ministry asserted that these newspapers repeatedly published stories that were "wrong, sensational, and sensitive in nature." On April 3, the day he took office, Prime Minister Najib lifted the sanctions against both newspapers.

In 2007 the sessions court sentenced HINDRAF leader P. Uthayakumar under the Sedition Act for publishing a letter addressed to British Prime Minister Gordon Brown. The case was still pending at year's end.

The government directly and indirectly censored the media by using the Printing Presses and Publications Act, which requires domestic and foreign publications to apply annually to the government for a permit, making publication of "malicious news" a punishable offense and empowering the home affairs minister to ban or restrict publications believed to threaten public order, morality, or national security. It also prohibits court challenges to suspension or revocation of publication permits. According to the government, these provisions ensured that the media did not disseminate "distorted news" and were necessary to preserve harmony and promote peaceful coexistence in a multiracial country. During the year the ministry continued to review, censor, and confiscate many foreign publications. Since 2000 the Home Ministry banned a total of 397 books whose titles contained words that could "jeopardize public order" or were obscene. Three out of the 22 books banned during the year included *The Jewel of Medina*, *The Trouble With Islam Today*, and *Ibrahim and Sarah*. Home ministry officials added that individuals involved in the printing, importing, publishing, selling, and distributing of these banned titles can be charged under the Printing, Presses, and Publishing Act of 1984, which carries a jail term of up to three years and a fine up to 20,000 ringgit (approximately \$5,700).

Parties in the ruling coalition owned or controlled a majority of shares in two of the three major English and all Malay daily newspapers. Businesspersons well connected to the government and ruling parties owned the third major English-language newspaper and all four major Chinese-language newspapers.

Journalists were subject to harassment and intimidation due to their reporting. For example, on November 14, the Home Ministry issued a warning letter to the Tamil-language daily *Tamil Nesan* over its reporting on the killing of five suspected armed robbers by the police. The ministry accused the newspaper of playing up racial sentiments in its coverage of the

police shooting in which all five suspects--all Malaysian Indians--were killed (see section 1.a.). Unlike in past years there were no instances of journalists being subject to arrest.

Criminal defamation is punishable by a maximum of two years in jail, a fine, or both. This, along with the government power over annual license renewal and other policies, inhibited independent or investigative journalism and resulted in extensive self-censorship. Nonetheless, the English-, Malay-, and Chinese-language press sometimes provided alternative views on sensitive issues, as did bloggers.

The government continued to censor the media by controlling news content, requiring the annual renewal of publishing permits, and limiting circulation to an organization's members only. Printers often were reluctant to print publications that were critical of the government for fear of reprisal. However, publications of opposition parties, social action groups, unions, and other private groups actively covered opposition parties and frequently printed views critical of government policies.

Radio and television stations were as restricted as the print media and were predominantly supportive of the government. News of the opposition was tightly restricted and reported in a biased fashion. Opposition party leaders alleged that during the seven by-elections held since the March 2008 national election the mainstream media provided minimal coverage of their candidates, intensely negative reporting about their parties' senior figures, and extensive reporting on the ruling party candidates.

The Internet and television faced no such restrictions, and PAS, among others, continued daily Internet television broadcasts.

Television stations censored programming in line with government guidelines. The government banned some foreign newspapers and magazines and occasionally censored foreign magazines or newspapers, most often for sexual content. The government maintained a "blacklist" of local and foreign performers, politicians, and religious leaders who were not allowed to appear on television or broadcast on radios.

On May 13, the Internet news portal *Malaysiakini* reported that Media Prima, which has control over the country's four free private television stations, had video footage of Perak Assembly Speaker V. Sivakumar being dragged from the speaker's chair on May 7. However, according to *Malaysiakini*, senior managers of Prima Media directed their staff not to broadcast the footage or video of the subsequent arrests of nearly 100 individuals, including opposition parliamentarians and state representatives. The footage subsequently was shown on television and was available on the Internet.

On July 5, Florence Looi, host and producer of the program *Point of View*, asked her guests to rate the performance of Prime Minister Najib Razak during his first 100 days in office. One of her guests, an editor with the online news portal *Malaysian Insider*, rated the performance as poor. On July 13, online news portal *Merdeka Review* reported that the program's private television station, NTV7, which is a Media Prima station, canceled the show and reassigned Looi to field reporting. NTV7 also reportedly issued Looi a warning letter accusing her of having "breached editorial policy." On July 15, the Center for Independent Journalism issued a statement expressing concern about Looi's reassignment and calling the warning letter unjustified.

The government generally restricted remarks or publications, including books, that it judged might incite racial or religious disharmony.

Internet Freedom

Although there were no government restrictions on access to the Internet, during the year the government blocked access to some Web sites and arrested several prominent bloggers for comments that were critical of the government. Internet

access was widely available, except in East Malaysia, where the Internet was often not available beyond urban centers. According to International Telecommunication Union statistics for 2008, approximately 55.8 percent of the country's inhabitants used the Internet.

Criminal defamation and preventive detention laws generated some self-censorship from local Internet content sources such as bloggers, Internet news providers, and NGO activists. In September 2008 police detained Raja Petra Kamaruddin, a blogger and critic of the ruling government, under the ISA for writing seditious articles in his blog, which the government claimed posed a threat to national security. He was released in November 2008 after the high court ruled that his detention was unconstitutional. On April 23, the court issued an arrest warrant for Raja Petra after he failed to appear at his criminal sedition trial. These charges arose from his April 2008 article "*Let's Send the Altantuya Murderers to Hell*," which he posted on Internet news portal, *Malaysia Today*, which alleged that then deputy prime minister Najib was involved in the 2006 death of a Mongolian model. On May 26, the court issued a second warrant of arrest after Raja Petra's failure to turn up for his criminal defamation trial arising from his June 2008 sworn his statutory declaration implicating Prime Minister Najib's wife, Rosmah Mansor, in the murder of Altantuya Shaaribu. In his blog, Raja Petra wrote that he was in self-imposed exile. On November 13, the sessions court granted Raja Petra a discharge not amounting to an acquittal in his criminal defamation suit because police could not locate him. However, the government retained the right to charge him upon his return.

On March 14, the Sessions Court Kuala Lumpur charged six persons under the Communications and Multimedia Act, for insulting the Sultan of Perak on blogs or other internet postings. The blogs related to the Perak political crisis following the takeover by the BN on February 5. One blogger pled guilty and was fined 10,000 ringgit (approximately \$2,850). The remaining five pled not guilty and at year's end their trials were pending.

The Communications and Multimedia Act requires certain Internet and other network service providers to obtain a license. Previously the government stated that it did not intend to impose controls on Internet use but that it would punish the "misuse" of information technology. The act permits punishment of the owner of a Web site or blog for allowing content of a racial, religious, or political nature that a court deems offensive.

On September 4, online news portal *Malaysia Today* reported that the Malaysian Communications and Multimedia Commission (MCMC) directed *Malaysiakini* to remove from its Web site two videos showing Muslim protestors desecrating a severed cow-head during an August 28 demonstration (see section 2.b.). On September 10, seven officers from the MCMC entered *Malaysiakini's* offices demanding the original tapes of the August 28 protest. The MCMC team copied hard drives, photographed the hard drives' serial numbers, and questioned *Malaysiakini* staff. The MCMC stated the investigation was the result of the offensive videos posted on *Malaysiakini's* Web site.

On October 1, the Ministry of Information, Communication, and Culture denied allegations that the MCMC had abused its power in its Internet crackdown. The MCMC allegedly had closed down certain Web sites in September and used strong-arm tactics against *Malaysiakini*. Denying the allegation, the ministry claimed there was a technical disruption, which resulted in the Web sites being temporarily inaccessible.

Academic Freedom and Cultural Events

The government placed some restrictions on academic freedom, particularly the expression of unapproved political views, and enforced restrictions on teachers and students who expressed dissenting views. The government continued to require that all civil servants, university faculty, and students sign a pledge of loyalty to the king and the government. Opposition leaders and human rights activists claimed that the government used the loyalty pledge to restrain political activity among civil servants, academics, and students.

Although faculty members sometimes were publicly critical of the government, there was clear self-censorship among public university academics whose career advancement and funding depended on the government. Private institution academics practiced self-censorship as well, fearing that the government might revoke the licenses of their institutions. The law also imposes limitations on student associations and on student and faculty political activity.

The government has long stated that students should be apolitical, and it used that assertion as a basis for denying political parties access to student forums. According to student leaders, academic authorities sometimes expelled or fined students who signed antigovernment petitions. School authorities did not restrain propagation of government views on controversial issues on school campuses.

During the year the government censored and banned at least one film for profanity, nudity, sex, violence, and certain political and religious content. On September 30, the home ministry announced a ban on the movie *Bruno*, because it contained sexually explicit scenes, vulgar language, nudity, and belittled Christianity. Although the government allowed art-house foreign films at local film festivals, sexual content was manually censored at the time of showing by blocking the screen until the concerned scene was over.

The youth wing of the PAS protested against singers and groups it considered obscene and not in accordance with Islamic values. The government responded by canceling or placing conditions on performances by some international performers. The PAS-led Kedah State government continued its policy of issuing entertainment licenses to female artists only for concerts for female audiences. The state government also maintained a blanket ban on rock, reggae, pop, and dangdut (an Indonesian style of music) concerts, which it claimed could have a "negative impact" on youth.

On August 26, the Ministry of Information, Communications, and Culture initially announced that Muslims were banned from attending a Black Eyed Peas' concert in Kuala Lumpur because it was sponsored by the Guinness Brewing Company. On September 1, the Ministry reversed the decision and allowed Muslims to attend. The band performed, but alcohol sales were restricted to fenced-off areas with signs warning that Muslims were not permitted to enter.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The constitution states that all citizens have "the right to assemble peaceably and without arms"; however, the government placed significant restrictions on this right through use of the Public Order Ordinance and the Police Act. The ordinance restricts public assemblies that could damage security and public order, while the act requires police permits for all public assemblies except for workers on picket lines. The act defines a public assembly as a gathering of five or more persons.

The decision to grant a permit rests with the district police chief; however, senior police officials and political leaders influenced the granting or denial of some permits. Police granted permits routinely to government and ruling coalition supporters but used a more restrictive approach with government critics, opposition parties, NGOs, and human rights activists.

During the year there were several reports that the government used tear gas and chemically laced water cannons to breakup rallies.

On May 5, police arrested Wong Chin Huat, a political scientist and activist with Coalition for Free and Fair Elections, under the Sedition Act. Wong promoted a demonstration entitled "1BlackMalaysia," a play on Prime Minister Najib's "1Malaysia" campaign promoting racial and religious harmony in Malaysia, to protest the BN's takeover of the Perak State government. On May 7, police arrested 69 persons for illegal assembly for participating in the demonstration. They were released the following day.

On May 7, in response to the arrests, a group of Wong's supporters held a candlelight vigil at the Brickfield's police station where Wong had been detained. Authorities arrested 14 members of the group for illegal assembly. Police arrested five lawyers from the Bar Council, who had gone to the police station to render legal assistance, on the same charge. Wong, the five lawyers, and the 14 others were released on May 8. The police subsequently dropped all charges.

On August 1, the NGO Abolish ISA Movement, backed by the opposition coalition People's Alliance (PR), organized an anti-ISA rally in Kuala Lumpur. According to local media reports, approximately 25,000 protesters participated. Police used tear gas and chemically laced water to disperse the protesters. Police arrested more than 600 persons, but all were released the following day.

On August 28, 50 Muslim residents from Selangor protested the relocation of a Hindu temple to their residential area by carrying a severed cow's head to the front gate of the Selangor State government office. The protesters took turns stepping on the cow-head and threatened bloodshed in the name of Islam if the government relocated the temple to their neighborhood. On September 9, the sessions court charged six persons with sedition as well as the charge of wounding the Hindu religion because they had desecrated a cow, an animal sacred to Hindus. All six pled not guilty and were released on bail. The six were then brought to a magistrate's court to face a charge of participating in an illegal assembly, under the Police Act. The judge released all six on bail. The case was pending at year's end.

On September 4, Police Inspector General Tan Sri Musa Hassan issued a warning against attending a candlelight vigil scheduled for September 5 in protest of the August 28 demonstration, stating that the assembly was illegal and action would be taken against those who took part. On September 5, police arrested 16 persons for attempting to join the peaceful protest. On September 6, the police released all 16 without pressing criminal charges.

At year's end the cases of the nine persons arrested for participating in an assembly marking International Human Rights Day 2007 and the 17 members of the Coalition for Clean and Fair Elections who had been arrested in 2007, were still pending.

Freedom of Association

The constitution provides for the right of association; however, the government placed significant restrictions on this right, and certain statutes limit it. Under the Societies Act, only registered organizations of seven or more persons may function as societies. The government sometimes refused to register organizations or imposed conditions when allowing a society to register. The government prohibited the Communist Party and its affiliated organizations from registering because they allegedly posed a national security threat. In August 2008 the government approved the registration of the Socialist Party of Malaysia, which it had blocked since 1999. The government has the power to revoke the registration of an existing society for violations of the act. Unlike in prior years, the government did not use this power against political opposition groups.

Some human rights and civic society organizations expressed difficulty in obtaining government recognition as an NGO; as a result some NGOs were registered as companies, which presented legal and bureaucratic obstacles to raising money to support their activities. Some NGOs also reported that the government monitored their activities.

The Universities and University Colleges Act also restricts freedom of association. This act mandates university approval for student associations and prohibits student associations and faculty members from engaging in political activity. Many students, NGOs, 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 maintained that the act still was necessary. In December 2008 Parliament amended the act to allow students to be members of organizations outside the university.

c. Freedom of Religion

The constitution provides for freedom of religion; however, the constitution and the government placed some restrictions on this right. The constitution defines all ethnic Malays as Muslims at birth and stipulates that Islam is the "religion of the Federation." The government significantly restricted the practice of Islamic beliefs other than Sunni Islam. Article 11 of the constitution states, "Every person has the right to profess and practice his religion," but it also gives state and federal governments the power to "control or restrict the propagation of any religious doctrine or belief among persons professing the religion of Islam."

Civil courts continued to cede authority to Shari'a courts on cases concerning conversion from Islam and certain areas of family law involving disputes between Muslims and non-Muslims. Shari'a courts ordered some Muslims attempting to convert to other religions to undergo mandatory religious reeducation classes.

On March 11, K. Patmanathan converted from Hinduism to Islam and changed his name to Mohammed Ridzuan Abdullah. On April 12, he converted his three children, ages 12, 11, and one, to Islam without his Hindu wife's knowledge or consent. A Shari'a court in Perak State awarded custody of the children to Patmanathan. Although on April 24 the high court granted his wife, Indira Ghandi, interim custody of the three children pending the court's decision, Patmanathan still had custody of their youngest child. On April 22, the cabinet decided that when one spouse converts to another faith, the children of the couple should be brought up in the common faith at the time of the marriage. The cabinet further stated that the proper venue for settling such disputes is the civil courts not the Islamic courts. Muslim NGOs and PAS condemned the cabinet decision, claiming that it contradicted both the federal constitution and Islam. On June 29, the Conference of Rulers asked for the views of the respective state religious councils on child conversion issues. Because Islam is considered a state matter and the sultans are the head of Islam in their respective states, their decision effectively negated the cabinet decision. At year's end the situation remained unresolved.

Non-Muslims, who constitute approximately 40 percent of the population and include large Buddhist, Christian, Hindu, and Sikh communities, were free to practice their religious beliefs with few restrictions. According to the government, it allocated 428 million ringgit (approximately \$125.9 million) to build Islamic places of worship and 8.1 million ringgit (\$2.4 million) to build Christian, Buddhist, Hindu, and other minority religions' places of worship between 2005 and the end of 2008.

The Registrar of Societies, under the Home Ministry, registers religious organizations. Registration enables organizations to receive government grants and other benefits. The government did not recognize some religious groups such as Al Arqam, which was declared deviant and banned in 1994; as such these groups sometimes registered themselves under different names as businesses under the Companies Act.

The government maintained that views held by "deviant" groups endangered national security. According to the JAKIM Web site, the government identified and prohibited to Muslims 56 deviant teachings. They included Ahmadiyya, Islamailiah, Shi'a, and Baha'i teachings. The government asserted that "deviationist" teachings could cause divisions among Muslims. Religious authorities, with the consent of a Shari'a court, arrested and detained members of groups deemed "deviationist" in order to "rehabilitate deviants" and return them to the "true path of Islam."

The religious affairs minister stated that members of these groups were subject to prosecution, detention under the ISA, or rehabilitation. Neither the government nor religious authorities provided data on the number of persons subjected to prosecution or rehabilitation.

The government continued to monitor the activities of the Shi'a minority, and state religious authorities reserved the right to detain Shi'a followers under the ISA as members of a "deviant sect."

The Selangor Islamic Affairs Department continued efforts to stop the spread of the banned al-Arqam Islamic group. The Home Ministry continued to investigate the group as a "threat to national security." Authorities closely monitored the group.

On September 16, the Selangor Islamic Religious Department arrested Abdul Kahar Ahmad, a self-proclaimed prophet, for alleged deviant teachings. The Selangor Shari'a High Court issued a detention order against Abdul Kahar. On September 24, Abdul Kahar pleaded guilty to five charges of deviationist teachings, including blasphemy and spreading false belief and he asked those who followed his teachings to repent. On October 21, the court sentenced him to 10 years' imprisonment, a fine of 16,500 ringgit (approximately \$4,710), and six strokes of the cane.

The government generally respected non-Muslims' right of worship; however, state governments have authority over the building of non-Muslim places of worship and the allocation of land for non-Muslim cemeteries. State authorities sometimes granted approvals for building permits very slowly. Minority religious groups reported that state governments sometimes blocked construction using restrictive zoning and construction codes.

In practice Shari'a, as interpreted in the country, does not permit Muslims, born into Islam, to convert to another religion. Shari'a courts routinely denied requests to convert from Islam.

The law strictly prohibits non-Muslims from proselytizing Muslims; proselytizing of non-Muslims faced no legal obstacles.

According to the Malaysian Consultative Council of Buddhists, Christians, Hindus, Sikhs, and Taoists, the government continued to restrict visas for foreign clergy under the age of 40 to inhibit "militant clergy" from entering the country. While representatives of non-Muslim groups did not sit on the immigration committee that approved visa requests for clergy, the committee asked the consultative council for its recommendations.

Religious education is compulsory for Muslim children and follows a government-approved curriculum. Muslim civil servants are required to attend Islamic religious classes taught by government-approved teachers.

The government generally did not ban distribution in peninsular Malaysia of Malay-language translations of the Bible, Christian tapes, and other printed materials, but it restricted distribution and required "Not for Muslims," be stamped on all Malay-language materials. The distribution of Malay-language Christian materials faced few restrictions in the eastern states of Sabah and Sarawak. During the year the government banned books and publications on Islam alleged to undermine the faith of Muslims.

The government generally restricted remarks or publications that might incite racial or religious disharmony. This included some statements and publications critical of religions, especially Islam. The government also restricted the content of sermons at mosques. In recent years both the government and the opposition party PAS have attempted to use mosques in the states they control to deliver politically oriented messages. Several states attempted to ban opposition-affiliated imams from speaking at mosques.

Some religious minorities have complained that the government undermined their rights in deference to the status of Islam.

Maintaining that the use of Allah as the translation for God by Christians and in Christian literature could confuse the country's Muslims and draw them to Christianity, the government banned the use of the word Allah in the *Catholic Herald* in 2007. Ten of the country's 13 states issued fatwas (an edict issued by a religious authority) prohibiting the use of Allah as a translation for God in non-Islamic contexts. During the year customs officials confiscated 15,000 Malay-language Bibles for use of the word Allah. On December 31, in response to a suit by the *Catholic Herald*, the high court ruled

against the government's ban on non-Muslims' use of Allah. The government noted that it would appeal the decision. Earlier, on December 16, the government approved *The Herald's* publishing permit for 2010.

According to some women's rights advocates, women were subject to discriminatory interpretations of Shari'a and inconsistent application of the law from state to state.

In addition to the existing restrictions on personal attire imposed upon Muslim women working in retail outlets and restaurants requiring headscarves and allowing only faces and hands to be exposed, the Kelantan municipal council forbade Muslim women working in food outlets and business premises from wearing high heels and lipstick while at work.

The states' religious police continued to conduct raids on private homes, nightclubs, and other locations during the year to search for Muslims engaged in offenses such as gambling, consumption of alcohol, dressing immodestly, and engaging in sexual relations outside marriage. The government provided no statistics regarding the raids.

On September 13, PAS Youth Deputy Chief Azman Shapawi announced the party's plan to ban the sale of alcohol in Muslim majority areas in PR-held states. The announcement drew criticisms and widespread attention. On September 15, PR's leader Anwar Ibrahim and Selangor Chief Minister Khalid Ibrahim reiterated that the state government was not planning to ban the sale of alcohol.

Societal Abuses and Discrimination

Political rhetoric using religion raised tensions among different religious groups but did not result in violence. No reliable estimate of the country's Jewish population was available, and there were no locally based Jewish communities or synagogues. There were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2009 International Religious Freedom Report* at www.state.gov/g/drl/rls/irf/.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice, although there were some restrictions. The eastern states of Sabah and Sarawak controlled immigration and required citizens from peninsular Malaysia and foreigners to present passports or national identity cards for entry. The government provided some cooperation to the UNHCR and generally did not impede other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, stateless persons, and other persons of concern.

By law anyone entering the country without appropriate documentation is considered illegal and faces mandatory imprisonment for a maximum of five years, a fine not to exceed 10,000 ringgit (approximately \$2,850), or both, and mandatory caning not to exceed six strokes. In June the government stated that it had sentenced 47,914 migrants to be caned for immigration offences since amendments to its Immigration Act came into force in 2002, and at least 34,923 migrants had been caned between 2002 and 2008, according to the country's prison department records.

The government regulated the internal movement of provisionally released ISA detainees. The government also used the Restricted Residence Act to limit movements of those suspected of criminal activities.

Citizens must apply for government permission to travel to Israel.

The constitution provides that no citizen may be banished or excluded from the country. In June 2008, however, Chin Peng, the former leader of the communist insurgency, lost his bid to return to Malaysia when the Court of Appeal upheld

an earlier ruling compelling him to show identification papers proving his Malaysian citizenship, forcing him to continue to live in exile in Thailand.

Protection of Refugees

The country is not a party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, and its laws do not provide for the granting of asylum or refugee status. The government has not established a system for providing protection to refugees. The government did not grant refugee status or asylum. In practice the government did not provide protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The government generally did not deport individuals registered by the UNHCR and being processed for resettlement to third countries.

The government continued to deport some refugees and asylum seekers but allowed certain refugees and persons of concern to remain, pending resettlement to other countries. The government generally did not distinguish between asylum seekers and illegal immigrants and detained them in the same immigration detention centers. Beginning in April the government provided preferential treatment to those individuals carrying a UNHCR card.

There were an estimated three million foreign nationals in the country, of whom one million were illegal and undocumented. Of this latter group, approximately 90 percent were from Burma with Chin and Rohingya being most numerous, and sizeable groups of Kachin, Karen, and Mon. Additionally, 61,000 Filipino Muslims who fled the Moro insurgency in the 1970s were reportedly living in the country.

During the year the UNHCR registered 75,617 persons of concern in the country, 17,951 of whom were children and more than 90 percent were Burmese. The majority of illegal migrants worked in construction, restaurants, plantations, and garment factories, as well as the sex industry.

The government provided access to health care for refugees with UNHCR cards at a discounted foreigner's rate; however, the costs generally were beyond their means. Mobile clinics run by NGOs existed, but access was limited.

Refugees had no access to formal education and although there were schools run by NGOs and ethnic communities, opportunities for schooling were limited by a lack of resources and qualified teachers.

In recent years there were many reports from NGOs, international organizations, and civil society groups alleging that immigration officials were involved in the trafficking of Burmese refugees from IDCs to Thailand, where some refugees were sold into slavery (see section 6, Trafficking in Persons). NGOs and international organizations reported that since April, allegations of abuse of power by RELA decreased. However, RELA continued to conduct raids targeting illegal migrant communities and detained refugees and asylum seekers along with allegedly illegal migrants. According to local NGOs and international organizations, IDCs now allow those with the UNHCR documents access to the UNHCR while in detention. Refugees with UNHCR cards occasionally were arrested during the raids but were released after the authorities were satisfied with the documents. Since April the authorities also provided UNHCR access to potential refugees without UNHCR registration cards as well as to all Burmese detainees in the IDCs to verify whether they were asylum seekers.

Although most asylum seekers traveled to Kuala Lumpur for determinations, the UNHCR conducted mobile registrations in areas with high concentrations of refugees because the UNHCR did not maintain a presence at the country's border. During the year the UNHCR listed 10,267 persons as asylum seekers and 65,350 as refugees, approximately 92 percent of whom were Burmese citizens.

During the year the UNHCR submitted 10,228 refugees to third countries for resettlement consideration. Third countries accepted and resettled 7,202 refugees as of December 22. The remaining refugees remained at risk of detention and deportation by immigration officials.

During the year UNHCR staff members conducted numerous visits to various prisons and IDCs located throughout the country to provide counseling and support to its persons of concern and ensure legal representation.

NGOs reported that detention facilities were overcrowded, unsanitary, and lacked adequate medical facilities (see section 1.c.).

Stateless Persons

Citizenship is derived from one's parents (*jus sanguinis*). NGO estimates of the number of stateless persons ranged from several thousand to as many as 30,000. A foreign government estimated that approximately 10 to 20 percent of the 60,000 illegal immigrants and persons of concern living in Sabah were stateless children born in Sabah. Government officials denied stateless persons access to education, health care, and the right to own property.

Some persons were stateless because the government refused to register their birth due to inadequate proof of their parents' marriage. Interfaith marriages not recognized by the government sometimes resulted in undocumented, *de facto* stateless children.

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

The law provides citizens the right to change their government peacefully, and citizens formally exercised this right in practice through periodic elections based on universal suffrage; however, while votes generally were recorded accurately, there were irregularities that affected the fairness of elections, and this right was abridged in practice.

Elections and Political Participation

Opposition parties were unable to compete on equal terms with the governing BN coalition, led by the ethnic Malay UMNO party, which has held power at the national level since independence in 1957, because of significant restrictions on campaigning, freedom of assembly and association, and access to the media. Nevertheless, opposition candidates campaigned actively, and in the most recent national elections, held in March 2008, the opposition parties captured 82 of 222 parliamentary seats and 198 of 505 state assembly seats, winning control of five out of 13 state governments, and capturing 49 percent of the popular vote nationwide. For the first time since 1969, the opposition's electoral success denied the ruling coalition a two-thirds majority in Parliament, blocking the government's ability to amend the constitution at will. The opposition parties won seven of the eight local by-elections since the March 2008 general election.

On February 5, the BN coalition regained control of Perak, one of the five states won by the opposition PR coalition, when three PR state legislative assembly members declared support for the BN. The Sultan of Perak dismissed the opposition-controlled state government and appointed a BN state government. The ousted PR chief minister, Mohammad Nizar Jamaluddin, filed a suit challenging the constitutionality of the sultan's action. On May 11, the high court ruled in favor of Mohammad Nizar, declaring that the sultan could not dismiss the chief minister because the chief minister and the executive council were answerable to the state assembly and no one else. On May 22, the Court of Appeal overturned the high court decision and ruled in favor of the sultan. At year's end Nizar's appeal of the Court of Appeal's decision was pending.

On May 7, the Perak state assembly met for the first time since the BN political takeover on February 5. Both the BN and PR attempted to present their own chief minister and their own assembly speaker. Each side attempted to set the agenda

and pass motions without the participation of the other side. The stalemate ended when plainclothes police entered the chambers and dragged away PR Speaker V. Sivakumar. After the police removed Sivakumar, the BN took control of the assembly. Outside the assembly building, police arrested 64 PR supporters, including five members of Parliament (MPs) and five state representatives from outside Perak. Most were released the same day. The BN maintained control of Perak while these issues were pending in the courts.

In September 2008 police detained MP Teresa Kok, a senior Selangor State cabinet minister, and senior member of the opposition Democratic Action Party, under the ISA for "causing tension and conflict among races." Kok was released after seven days in detention. Subsequently, in October 2008 the Malay-language newspaper *Utusan* published a fictional article condoning the assassination of a female Chinese politician who supported anti-Malay policies. Kok filed a lawsuit against the newspaper in December 2008, claiming the article was a veiled smear campaign against her that endangered her life. At year's end the lawsuit was pending. On October 1, an anonymous person left a death threat against Kok in a comment region on her blog.

Political parties could not operate without restriction or outside interference. The lack of equal access to the media was one of the most serious problems for the opposition in the March 2008 national elections and in the subsequent by-elections. Opposition leaders also claimed that the election commission was under government control and lacked the independence needed to carry out its duties impartially. There were numerous opposition complaints of irregularities by election officials during the campaign; however, most observers concluded that they did not substantially alter the results. NGOs and opposition party leaders lodged allegations of illegally registered "phantom" voters, reportedly brought in from other districts to vote in tightly contested districts; inflated voter rolls; nonregistered voters using fictitious names or the names of dead voters still listed on the voter rolls; and noncitizens registered to vote.

The constitution states that parliamentary constituencies should have approximately equal numbers of eligible voters; however, in practice the numbers varied significantly. For example, the Putra Jaya constituency had 6,606 voters, while in Kuala Lumpur, the Seputih constituency had 76,891 voters. In Perak, Gopeng had 74,344 voters compared with Lenggong, with only 23,223 voters. Each of these constituencies had one MP.

Over the years power increasingly has been concentrated in the prime minister, and Parliament's function as a deliberative body has deteriorated. Parliament rarely amended or rejected government-proposed legislation and did not give legislation proposed by the opposition serious consideration. Parliamentary procedures allow the speaker of parliament to suspend members, establish restrictions on tabling questions, edit written copies of members' speeches before delivery, and severely restrict members' opportunities to question and debate government policies. With the increased number of opposition MPs since 2008, government officials often faced sharp questioning in Parliament, and the press reported in greater detail than in the past.

Under the Local Government Act, elections of public officials were confined to state assemblies and the federal Parliament. All local and city officials have been appointed by the central government since the 1969 race riots. Some politicians and NGO activists advocated the reintroduction of local government elections. Some ruling party municipal officials noted that local bodies were simply "rubber stamps" for the government.

Women faced no legal limits on participation in government and politics. At the end of September, two of the 32 cabinet ministers were women. Women held 23 of the 222 seats in the lower house and 17 of the 68 Senate seats.

In practice the political dominance of the Malay majority meant that ethnic Malays held the most powerful senior leadership positions. Non-Malays filled 10 of the 32 ministerial posts and 18 of the 40 deputy minister positions.

Section 4 Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials often engaged in corrupt practices with impunity. The media reported numerous cases of alleged official corruption, and there was a broadly held perception of widespread corruption and cronyism within the governing coalition and in government institutions. In December 2008 the government passed legislation replacing the Anticorruption Agency with the MACC, which went into effect in January.

On November 23, in response to a high court ruling that witnesses be questioned only between the hours of 8:30 a.m. and 5:30 p.m., MACC Director of Investigations Datuk Mohd Shukri Abdull directed investigators to ensure they started and stopped their interviews during office hours. On December 17, the Court of Appeal ruled that interrogations outside office hours were permissible.

On September 24, Transparency International reported that 70 percent of citizens believed the government was ineffective in fighting corruption.

On May 28, the government declassified an independent audit on the Port Klang Free Zone project that revealed that the construction cost had escalated from 1.1 billion ringgit (approximately \$314 million) in 2001 to an estimated 12.5 billion ringgit (\$3.57 billion). Credible observers alleged that a revolving door of individuals in politics, government, and the private sector led to a lack of appropriate checks and balances and a general misuse of funds. On October 7, the government announced a special task force to determine misconduct or criminal behavior on the part of individuals or entities involved in the project and to recommend actions against them. On December 9, government authorities arrested and charged the former general manager of the Port Klang Authority, Phang Oi Choo, the chief operating officer, Stephen Abok, and the architect, Bernard Tan Seng Swee. On December 14, a fourth individual, Law Jenn Dong, an engineer, was also arrested and charged.

In November the MACC director general stated the agency arrested 605 persons during the year, including 282 civil servants.

Civil servants who refused or failed to declare their assets faced disciplinary actions and were ineligible for promotion.

The Official Secrets Act prohibits the dissemination of classified information. Documents concerning national security, defense, and international relations were often categorized under the act. However, critics accused the government of using the act to prevent dissemination of materials and stifle dissent.

There is no law designed to facilitate citizens' requests for government statistics or other information collected and compiled by the government. Individual MPs were allowed to request and obtain such information on an ad hoc basis, some of which was then made available to the public.

Section 5 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. In some cases government officials were somewhat cooperative and responsive to their views.

The government cooperated with some international organizations during the year. The government provided increased cooperation to the UNHCR to resettle refugees in third countries.

SUHAKAM was generally considered a credible monitor of some aspects of the human rights situation. However, SUHAKAM is not empowered to inquire into allegations relating to ongoing court cases and must cease its inquiry if an allegation under investigation becomes the subject of a court case. On September 9, SUHAKAM commemorated its 10th

anniversary. Forty-two NGOs boycotted the event, claiming frustration over SUHAKAM's failure to proactively protect and promote human rights. The NGOs also stressed the government's failure to make SUHAKAM transparent, independent, and effective. In his opening remarks, SUHAKAM Chairman Abu Talib Othman stated that SUHAKAM was an advisory body with limited power and explained that the public needed to "vote the right people" into Parliament in order for the SUHAKAM Act to be amended to give it enforcement power.

SUHAKAM commissioners traveled throughout the country to educate community leaders, including police officials, on the importance of human rights. Commissioners also made several visits to prisons throughout the country to monitor conditions. They repeatedly noted that a major unresolved challenge was the slow government response to their reports on major topics that touched on fundamental liberties.

Section 6 Discrimination, Societal Abuses, and Trafficking in Persons

The constitution provides for equal protection under the law and prohibits discrimination against citizens based on sex, religion, race, descent, or place of birth. However, the constitution also provides for the "special position" of ethnic Malays and the indigenous groups of the eastern states of Sabah and Sarawak (collectively, bumiputras), and discrimination based on this provision persisted.

Women

The penal code states that rape is punishable by a prison term of up to 30 years, caning, and a fine. The government enforced the law effectively. A September 2007 amendment to the Penal Code criminalized marital rape. On August 5, a sessions court in Pahang state sentenced a man to the maximum five years in jail, in what was believed to be the first successful prosecution under the amended law.

The courts may decide the minimum jail term for a man convicted of statutory rape of a girl age 15 years or less. The law also prohibits a person in authority from using his position to intimidate a subordinate into having sexual relations.

Violence against women remained a problem. Reports of rape and spousal abuse drew considerable government, NGO, and press attention. Under the Domestic Violence Act, anyone who willfully contravenes a protection order by using violence against a protected person may be punished by imprisonment of up to one year and a maximum fine of 2,000 ringgit (approximately \$570). In extreme cases involving "grievous hurt" inflicted using a deadly weapon, the maximum imprisonment increases to 20 years. Women's groups criticized the act as inadequate and called for amendments to strengthen it. In their view the act failed to protect women in immediate danger because it requires that separate reports of abuse be filed with both the Social Welfare Department and the police, causing delay in the issuance of a restraining order. Cases also require visible evidence of physical injury, despite its interpretation to include sexual and psychological abuse.

Many government hospitals had crisis centers where victims of rape and domestic abuse could make reports without going to a police station. NGOs and political parties also cooperated to provide counseling for rape victims, but cultural attitudes and a perceived lack of sympathy from the largely male police force resulted in many victims not reporting rapes. According to the Ministry of Women, Family, and Community Development (MWFCD) and a leading women's NGO, only 10 percent of rape cases were reported to police. Women's groups noted that courts were inconsistent in punishing rapists.

Although the government, NGOs, and political parties maintained shelters and offered other assistance to battered spouses, activists asserted that support mechanisms for victims of domestic violence remained inadequate. There was a sexual investigations unit at each police headquarters to help victims of sexual crimes and abuse. Women's rights activists claimed that police needed additional training in handling domestic abuse and rape cases.

Some Shari'a experts urged Muslim women to become more aware of the provisions of Shari'a that prohibit spousal abuse and provide for divorce on grounds of physical cruelty. Provisions in state Shari'a laws, however, generally prohibit wives from disobeying the "lawful orders" of their husbands and presented an obstacle to women pursuing claims against their husbands in Shari'a courts. Muslim women were able to file complaints in civil courts.

Prostitution is not a criminal offense, although soliciting is. NGOs and international organizations estimated that 50,000 to 150,000 women were involved in prostitution. From January to October, 7,810 women from 21 countries were detained for involvement in prostitution. Muslims engaged in prostitution face penalties under Shari'a for engaging in sexual relations out of wedlock. Authorities routinely arrested foreign prostitutes, usually as illegal immigrants or for violating the terms of their nonimmigrant visas. Financially benefiting from the prostitution activities of others is illegal, and the Attorney General's Office prosecuted offenders.

A government voluntary code of conduct provides a detailed definition of sexual harassment, which is meant to raise public awareness of the problem, but women's groups advocated passage of a separate law on sexual harassment. The Malaysian Employers Federation opposed any attempt to legislate against sexual harassment in the workplace, arguing that government-imposed policies would unduly restrict the management of labor relations. On December 15, the Human Resources Ministry announced that there had been 276 reported cases of sexual harassment since 1999, of which 271 had been resolved.

Couples and individuals generally had the right to decide the number, spacing, and timing of their children. Contraceptives such as the birth-control pill and condoms were permitted and were locally available. The great majority of births were attended by skilled medical personnel, and women generally had access to postpartum care. Women and men generally had equal access to diagnostic and treatment services for sexually transmitted infections.

Women's rights advocates asserted that women faced discriminatory treatment in Shari'a courts due to prejudicial interpretations of Islamic family law.

On August 24, the NGO coalition Joint Action Group for Gender Equality (JAG) issued a press statement stating that the conviction of Kartika Shukarno for drinking alcohol illustrated discrimination against Muslim women in the country (see section 1.c.).

In October 2008 the National Fatwa Council issued a fatwa prohibiting girls from acting and dressing like boys. This "tomboy" fatwa claimed such activity was a violation of the tenets of Islam and encouraged homosexual conduct. Sisters In Islam noted that this fatwa was only directed at women and was an example of the sexism and discrimination against women in the country.

The law allows polygyny, which a few Muslim men practiced. Islamic inheritance law generally favors male offspring and relatives. A small but steadily increasing number of women obtained divorces under the provisions of Shari'a that allow for divorce without the husband's consent.

Non-Muslim women are subject to civil law. The Guardianship of Women and Infants Act gives mothers equal parental rights. Four states extend the provisions of the act to Muslim mothers, and women's groups continued to urge the other states to do the same.

The government undertook a number of initiatives to promote equality for women and the full and equal participation of women in education and the work force. For example, the Women's Ministry developed programs and workshops to encourage women to enter the business community and operate small- and medium-sized enterprises.

Women experienced some economic discrimination in access to employment. On December 28, the human resource minister announced that there were 3.8 million women compared with 7.2 million men in the labor force. In May SUHAKAM reported that women continued to be discriminated against in the workplace in terms of promotion and salary. The percentage of women at the decision-making level in government was less than 20 percent and was lower than that in the private sector. Women were routinely asked their marital status during job interviews. In September 2008 the Kedah State government announced that women entertainers could perform only in front of all-female crowds. The JAG condemned the state government for infringing gender-equality rights protected by the constitution.

Children

Citizenship is derived from one's parents (see section 2.d.). Parents must register a child within 14 days of birth. The authorities require citizens to provide their marriage certificate and both parents' Malaysian Government Multipurpose Card. Noncitizens must provide passport or travel documents. Parents applying for late registration must prove the child was born in the country. The authorities do not enter the father's information for a child born out of wedlock unless there is a joint application by the mother and the person claiming to be the father. The authorities do not register children born to illegal immigrants or asylum seekers. Asylum seekers who register a birth risked arrest as illegal immigrants. The UNHCR registered children born to refugees. Marriages between Muslims and non-Muslims were officially void. Couples in such marriages had difficulty registering births that recognize the father due to the invalidity of the marriage. Children without birth certificates are stateless and denied entry into both public and private schools. Stateless children (like noncitizens) were required to pay higher medical fees, which caused hardship in many cases.

Although primary education is compulsory, there was no enforcement mechanism governing school attendance.

The government recognized that sexual exploitation of children and, particularly in rural areas, incest were problems. The law provides for six to 20 years' imprisonment and caning for individuals convicted of incest. The testimony of children is accepted only if there is corroborating evidence. This posed special problems for molestation cases in which the child victim was the only witness.

Statutory rape occurred and was prosecuted. According to the MWFCD, most victims were below 15 years of age. However, Islamic law provisions that consider a Muslim girl an adult after her first menstruation sometimes complicated prosecution of statutory rape. Such a girl may be charged with khalwat, an offense under Shari'a, even if she is under the age of 18 and her partner is an adult. Shari'a courts sometimes were more lenient with males charged with khalwat, although in many cases Muslim men were charged and punished for statutory rape under civil law.

Child prostitution existed, but child prostitutes often were treated as delinquents or illegal immigrants rather than victims.

Sabah had a problem of street children. Estimates ranged from a few hundred to 15,000 children born in the country to illegal immigrant parents, some of whom were deported. These children lacked citizenship and access to government-provided support and often resorted to menial labor, criminal activities, and prostitution to survive. Child trafficking remained a problem (see below).

Trafficking in Persons

The Antitrafficking in Persons Act 2007 prohibits all forms of trafficking in persons. However, persons were trafficked to, from, through, and within the country. The government can also use other laws, such as the Child Act, the Immigration Act, and the Restricted Residence Act, to arrest and detain traffickers.

Trafficking in persons was a serious problem. The country was a destination, and to a lesser extent, a source and transit point for men and women trafficked for the purposes of sexual exploitation and forced labor. Foreign trafficking victims, mostly women and girls from Burma, Mongolia, the People's Republic of China (PRC), Indonesia, Cambodia, Thailand, the Philippines, and Vietnam, were trafficked to the country for commercial sexual exploitation. Many economic migrants, mostly from Nepal, Burma, the PRC, Vietnam, Thailand, the Philippines, Cambodia, Pakistan, Bangladesh, and Indonesia, working as domestic servants or laborers in the construction, factories, and oil-palm and rubber plantations and logging companies, faced exploitative conditions that met the definition of involuntary servitude.

Foreign trafficking victims experienced involuntary confinement, confiscation of travel documents, debt bondage, physical abuse, and forced drug use. The government had not yet reconciled its antitrafficking and passport laws with Memoranda of Understanding (MOUS) with nearby countries that allow employers to confiscate foreign workers' passports and travel documents, which is a contributing factor to trafficking. It remained common practice for employers to confiscate passports. Some female sex trafficking victims said that they were lured to the country by promises of legitimate employment but were forced into prostitution upon their arrival.

According to the police, the Bar Council, SUHAKAM, and victims, many foreigners found to be involved in prostitution may have been trafficking victims. Foreign embassies, NGOs, and government authorities reported that police and NGOs rescued and repatriated more than 880 trafficking victims during the year. The police referred the 327 women rescued from commercial sexual exploitation to the government-operated trafficking shelter; 68 of the women were certified as trafficking victims. Although the Antitrafficking Act indicates that victims of trafficking should be identified, the government has not yet developed or implemented procedures to identify victims of trafficking among the migrant worker population. Some foreign governments expressed concern about the lack of legal protections in place for foreign workers, particularly those subjected to involuntary servitude. Some unidentified victims, including children, were routinely processed as illegal migrants and held in prisons or illegal migrant detention centers prior to deportation. A small number of Malaysian women and girls were trafficked for sexual purposes, mostly to Singapore, Macau, Hong Kong, and Taiwan, but also to the United Kingdom, Japan, Australia, and Canada. According to police and ethnic Chinese community leaders, female citizens who were victims of trafficking were usually ethnic Chinese, although ethnic Malay and Indian women also were exploited as prostitutes.

Trafficking of Malaysians domestically also remained a problem. Women from rural areas, indigenous groups, such as the Orang Asli, and ethnic Indians were particularly vulnerable to domestic trafficking for sexual and labor exploitation. The Malaysian Trade Union Congress (MTUC) estimated a significant number of workers, foreign and domestic, worked in conditions equating to involuntary servitude; however, reliable data was unavailable to provide credible estimates.

According to a United Nations Children's Fund report released in September, trafficking of children for sexual exploitation, pornography, and cheap labor occurred. Contributing factors were the large numbers of refugees, migrants, and stateless children who are vulnerable to exploitation, and inadequate laws to protect the rights of these groups.

There were credible reports of Malaysian immigration officials' involvement in the trafficking of Burmese refugees along the Thai border. Immigration officials allegedly received 700 ringgit (approximately \$200) per person. Several local NGOs estimated immigration officials handed over a significant number of Burmese refugees transported to the border to traffickers. Traffickers demanded ransom, ranging from 1,000 ringgit (\$300) for children to 1,900 ringgit (\$560) for adults, in exchange for freedom and transportation back to Malaysia. Informed sources estimated 20 percent of the victims were unable to pay the ransom and were sold for the purposes of labor or sexual exploitation. Some reports indicated traffickers sold small children not freed by ransom to child-beggar syndicates in the region.

Police and NGOs believed that criminal syndicates were behind most trafficking of migrant workers. Employment agencies were also believed to be heavily involved in trafficking migrant workers.

Since its passage, the government convicted five individuals under the Antitrafficking Act. The first successful prosecution was in December 2008 when Indian citizen Punitha Raja pled guilty to sexually exploiting her maid into prostitution and was sentenced to eight years in prison. The government stated that police and prosecutors were still learning how to use the new law, so a number of cases continued to be prosecuted under immigration or labor laws.

The government's multiagency council prepared a five-year action plan to combat trafficking. Since February the police arrested 173 persons under the act and charged 23. At year's end 17 cases were pending in court and 36 were under investigation. More than 80 percent of the cases involved sex trafficking. On July 20, five immigration officials were arrested under the Antitrafficking Law for their involvement in the trafficking of Burmese refugees. By year's end prosecutors had charged one of the officers.

Under the Antitrafficking Act, any person convicted of trafficking an adult is subject to a maximum imprisonment term of 15 years and a possible fine. A person convicted of trafficking a child receives a minimum sentence of three years and maximum of 20. Any person profiting from the exploitation of a trafficked person may serve a maximum of 15 years and pay a minimum fine of 50,000 ringgit (approximately \$14,706) and maximum of 500,000 ringgit (\$147,058).

The government assisted some underage persons exploited as prostitutes and rescued some trafficked women and girls. In addition to a women's shelter and a children's shelter in Kuala Lumpur, the government opened a new women's shelter in Sabah State on July 15. At year's end the government had two shelters for female victims and one shelter for child victims of trafficking. The government was renovating a facility near Kuala Lumpur International Airport with a capacity of 600 persons to serve as a shelter for male victims. The Antitrafficking Act mandates placement of potential victims of trafficking into approved shelters to permit enforcement officers to investigate their trafficking claims. However, shelter space was inadequate to hold all identified victims. Victims in government-run shelters did not have access to rehabilitative or counseling services. The law requires victims to participate in the prosecution of their traffickers; however, in practice very few did. The law requires that, after providing evidence in a trafficking investigation, victims be turned over to immigration for deportation. Victims typically were deported within 90 days, although a significant number remained for six months or longer. Police continued to work with NGOs and occasionally referred foreign trafficking victims to shelters operated by NGOs. Police participated in NGO and foreign-funded antitrafficking seminars.

The government initiated consultations, seminars, and training workshops to disseminate implementation procedures for enforcing the country's antitrafficking law. The Home Ministry initiated and launched an antitrafficking campaign utilizing radio, television, and print media to increase public awareness of trafficking issues.

The Department of State's annual *Trafficking in Persons Report* can be found at www.state.gov/g/tip.

Persons with Disabilities

Neither the constitution nor other laws explicitly prohibit discrimination based on physical or mental disabilities, but the government promoted public acceptance and integration of persons with disabilities.

The government did not discriminate against persons with disabilities in employment, education, access to health care, or in the provision of other state services. A public sector regulation reserves 1 percent of all public-sector jobs for persons with disabilities. The government did not mandate accessibility to transportation for persons with disabilities, and few older public facilities were adapted for such persons. New government buildings were generally outfitted with a full range of facilities for persons with disabilities.

A code of practice serves as a guideline for all government agencies, employers, employee associations, employees, and others to place suitable persons with disabilities in private sector jobs.

Special education schools existed but were not sufficient to meet the needs of the population with disabilities.

The government undertook initiatives to promote public acceptance of persons with disabilities, make public facilities more accessible to such persons, and increase budgetary allotments for programs aimed at aiding them. Recognizing that public transportation was not "disabled-friendly," the government maintained its 50 percent reduction of the excise duty on locally made cars and motorcycles adapted for persons with disabilities. The Ministry of Human Resources was responsible for safeguarding the rights of the disabled.

In July 2008 Parliament passed the Persons with Disabilities Act. The act recognizes the rights of the disabled to enjoy the benefits of public transport, housing, education, employment and health care. However, there is no penalty for those who do not comply with its provisions. For example, there are by-laws to compel new buildings to provide access for disabled persons but also loopholes that allow local authorities to exempt compliance. Critics called the act a "toothless tiger."

National/Racial/Ethnic Minorities

The law and government policy provide for extensive preferential programs designed to boost the economic position of ethnic Malays or bumiputras, who constituted a majority of the population. Such programs limited opportunities for nonbumiputras in higher education, government employment, business permits and licenses, and ownership of land. Businesses were subject to race-based requirements that limited employment and other economic opportunities for nonbumiputra citizens. According to the government, these programs were necessary to ensure ethnic harmony and political stability.

Despite the government's stated goal of poverty alleviation, these race-based policies were not subject to upper income limitations and appeared to contribute to the widening economic disparity within the bumiputra community. Ethnic Indian citizens, who did not receive such privileges, remained among the country's poorest groups. Another goal of this policy is for bumiputras to hold 30 percent of the nation's wealth. According to several studies, the program reached or exceeded this target; however, official government figures placed bumiputra equity at 18.9 percent. The government did not respond to public requests to make its methodology available.

In 2006 the minister of higher education stated that the nation's 17 public universities employed few nonbumiputra deans. At the Universiti Malaya, 19 of 20 deans were bumiputras; in many other universities, deans were exclusively bumiputras. They also accounted for more than 90 percent of the country's almost 1.15 million civil servants at the end of the year. The percentage has steadily increased since independence in 1957.

On April 22, Prime Minister Najib announced that the government had lifted the 30 percent bumiputra equity requirement for 27 service subsectors including health, social, tourism, business, and computer services. Given the narrow scope of these subsectors, observers considered the announcement a minor adjustment to the entrenched pro-Malay economic policies.

Indigenous People

Indigenous people (the descendants of the original inhabitants of the peninsular region of the country and the Borneo states, such as the Penan) generally enjoyed the same constitutional rights as the rest of the population. However, in practice federal laws pertaining to indigenous people of the peninsular region, known as the Orang Asli, vested considerable authority in the non-Orang Asli minister for rural development to protect, control, and otherwise decide issues

concerning this group. As a result indigenous people in peninsular Malaysia had very little ability to participate in decisions that affected them. The government did not effectively protect indigenous persons' civil and political rights.

The Orang Asli, who numbered approximately 141,000, constituted the poorest group in the country. Government statistics in 2007 categorized approximately 77 percent of Orang Asli households as living below the poverty level. In apparent contradiction to the 2007 statistics, in September 2008 the Department of Orang Asli Affairs (JHEOA) claimed that fewer than 10,000 of the 28,000 Orang Asli households lived below the poverty line. A government-sponsored national advisory council monitored the development of Orang Asli, but only five of the council's 17 members were Orang Asli. In addition, only one Orang Asli held a management position in the government's Department of Orang Asli Affairs. Under its ninth economic plan covering the years 2006–10, the government allocated slightly more than 377.8 million ringgit (approximately \$108 million) for development projects for the Orang Asli. These focused on improving health, preschool education, infrastructure, and economic activities. The plan included an additional 100 million ringgit (\$28.6 million) for development of lands inhabited by the Orang Asli and another 20 million ringgit (\$5.7 million) to curb inflationary pressures. JHEOA reported that the dropout rate among primary school children had improved from 30 percent to 20 percent since 2008. Moreover, the number of students who drop out between primary and secondary school declined from 50 percent to 30 percent during the same timeframe. In 2008 approximately 600 Orang Asli students went on to college or university.

Under the Aboriginal People's Act, Orang Asli were permitted to live on designated land as tenants at-will, but they did not possess land rights. Observers reported that over the years, the total area of land reserved for Orang Asli had decreased, and some land previously set aside as Orang Asli reserve was rezoned for development. Although the Orang Asli were given the authority to reside on the land, these rights were often undocumented. This led to confrontations between the Orang Asli and logging companies. While the government continued development in these areas, the Orang Asli struggled for their land rights. In November 2008 the government announced it would grant land ownership rights of 125,000 acres of rural land currently belonging to state governments to 20,000 Orang Asli households.

The uncertainty surrounding Orang Asli land ownership made them vulnerable to exploitation. Logging companies continued to encroach on land traditionally held by Orang Asli as well as indigenous groups in the Borneo states. Indigenous people in Sabah and Sarawak continued to protest encroachment by state and private logging and plantation companies onto land that they considered theirs under native customary rights.

Laws allowing condemnation and purchase of land do not require more than perfunctory notifications in newspapers, to which indigenous persons may have no access. In past years this deprived some indigenous persons of their traditional lands with little or no legal recourse.

The 2007 petition filed by the Semalai, an Orang Asli group, to the high court to review a Pahang State government-ordered eviction from an area the Semalai claimed as their traditional land remained pending at year's end. In 2007 a suit was filed against authorities who allegedly tore down an Orang Asli church in Gua Musang. On July 15, the high court declared that the Orang Asli had the right to their land and to practice the religion of their choice under the Federal Constitution. The government appealed the judgment, and the case remained pending at year's end.

The Penan, an indigenous community of Sarawak, used native customary rights to establish land ownership and stewardship. Each group of Penan maintained its own foraging area, which was passed down from one generation to another. Customary native lands were not always well demarcated. Indigenous rights groups alleged that Abdul Taib Mahmud, the chief minister of Sarawak, leased Penan and other indigenous groups' customary land to logging companies and land developers in exchange for political favors and money. Local observers claimed that logging companies harassed and sometimes threatened vocal Penan leaders and land rights activists. The Sarawak Penan Association continued urging the state government to delineate the Penan's native customary land boundaries, revoke timber licenses

that overlapped their land, stop issuing provisional leases for plantations, and halt all logging and plantation development activities on their land. The Penan tribe was among the poorest groups in the country and lived below the poverty line.

On August 20, hundreds of Penan armed with spears and blowpipes set up blockades in the Borneo interior to protest against logging and plantations on their ancestral land. On September 17, the police tore down the blockades and subsequently denied using any force in the removal of the blockades.

On August 20, in a separate incident, police arrested 17 persons from the Penan and other indigenous groups for demonstrating against a proposed dam, which would require a large-scale relocation of indigenous groups.

A credible international NGO reported that workers from two logging companies, including one owned by the chief minister's family, regularly sexually abused Penan women and girls, resulting in several pregnancies. On September 9, Minister of Women, Family, and Community Development Shahrizat Jalil confirmed that Penan girls had been raped and molested by timber company workers. On September 10, the minister announced that the timber company was identified and police would take further action. On October 1, the Penan Support Group, a coalition of 35 NGOs, released a joint press statement questioning the government's sincerity in investigating the alleged rape and sexual abuse of Penan girls and women in Sarawak. Subsequently, Deputy Commissioner of Police for Sarawak Hamza Taib said no further action would be taken on three of the cases due to lack of evidence, while the fourth was still pending as police had yet to identify the victim or witnesses.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

Although there are no laws that prohibit homosexual conduct, laws against sodomy and "carnal intercourse against the order of nature" exist and were enforced sporadically. Religious and cultural taboos against homosexual conduct were widespread. For example, during the year a Health Ministry official stated that homosexual activity and masturbation helped to spread the H1N1 infection.

Other Societal Violence or Discrimination

The government's response to HIV/AIDS was generally nondiscriminatory, although stigmatization of AIDS sufferers was common. In December 2008 the deputy prime minister announced that the premarital courses required for Muslims by the Federal Religious Council would include mandatory HIV screening. Non-Muslims were encouraged to participate but it was not compulsory. He attributed the need for this screening to the rising rate of HIV infection among women. According to the health minister, there were approximately 3,100 new cases during the year.

Section 7 Worker Rights

a. The Right of Association

By law most workers have the right to form and join trade unions, but the Trade Unions Act (TUA) and the Industrial Relations Act (IRA) restrict this right. Other laws also may restrict freedom of association. For example, the penal code requires police permission for public gatherings of more than five persons. Trade unions represented 9 percent of the labor force, a slight increase from 8.9 percent in 2008.

Those restricted by law from joining a union include public sector workers categorized as "confidential, managerial, and executive," as well as defense and police officials. However, according to the International Trade Union Confederation (ITUC), the 2007 amendments to the IRA made it more difficult for workers to form unions because the director general and the minister also have absolute authority to determine designations of workers' status as "confidential," "managerial," or "executive," leading to possible systemic abuse by employers. In theory foreign workers can join a trade union;

however, the Immigration Department barred foreign workers from holding trade union offices, and most foreign workers' contracts banned them from joining a trade union.

The TUA prohibits interfering with, restraining, or coercing a worker in the exercise of the right to form trade unions or participation 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." In addition, the director general of trade unions has broad discretion to refuse to register a trade union and to withdraw the registration of an existing trade union based on provisions outlined in the act. When registration is refused, withdrawn, or canceled, a trade union is considered an unlawful association; there were no reports of any such actions during the year.

MTUC officials continued to express frustration about delays in the settlement of union recognition disputes. While the IRA requires that an employer respond to a union's request for recognition within 21 days of application, it was not uncommon for such applications to be refused and unions to go unrecognized for one to four years. If an employer does not respond to the union application within 21 days, the union must submit a written appeal to the director general of trade unions within 14 days. If the union fails to submit the appeal within the stipulated period, the union automatically is not recognized. The act denies the right of unions and individuals to hold strikes protesting the lack of recognition of their union.

Trade unions from different industries, except for those in the electronics sector, may join in national congresses, but such congresses must register separately as societies under the Societies Act.

Government policy inhibited the formation of national unions in the electronics sector, the country's largest industry, because it has "pioneer status," which affords certain investment incentives. The government stated that establishment of national unions in the electronics sector would impede foreign direct investment and negatively affect the country's international competitiveness in the sector; government leaders stated that enterprise-level unions were more appropriate for the electronics industry. According to MTUC officials, 150,000 electronics workers were unable to organize, and only eight in-house unions existed in the electronics industry.

Unions maintained independence from both the government and political parties, but individual union members may belong to political parties. Although by law union officers may not hold principal offices in political parties, individual trade union leaders have served in Parliament. Trade unions were free to associate with national labor congresses, which exercised many of the responsibilities of national labor unions, although they cannot bargain on behalf of local unions.

Trade unions were permitted to affiliate with international trade union organizations, such as global union federations and the ITUC, subject to the approval of the director general of trade unions.

Although private-sector strikes are legal, the right to strike is severely restricted. Strikes or lockouts are prohibited while the dispute is before the industrial court. 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 International Labor Organization definitions. MTUC officials said that requirements imposed by the authorities were so stringent that it was almost impossible to strike. According to MTUC officials, there were no strikes during the year. Employees in the public sector do not have the right to collective bargaining.

The IRA requires the parties to notify the Ministry of Human Resources that a dispute exists before any industrial action 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. The IRA prohibits employers from taking retribution against a worker for participating in the lawful activities of a trade union.

However, some trade unions questioned the effectiveness of the provisions. The IRA limits worker compensation to a maximum of two years from the time the employee is laid off.

b. The Right to Organize and Bargain Collectively

Workers have the legal right to organize and bargain collectively, and collective bargaining was widespread in those sectors where labor was organized.

There are two national labor organizations. The MTUC is a society of trade unions in both the private and government sectors and is registered under the Societies Act. As such, the MTUC does not have collective bargaining or industrial action rights but provides technical support for affiliated members. The other national organization is the Congress of Unions of Employees in the Public and Civil Service (CUEPACS), a federation of public employee unions registered under the TUA.

CUEPACS is an umbrella organization that included 127 distinct civil servant unions with approximately 300,000 members out of one million civil servants, represented by an estimated 160 unions. Teacher unions accounted for 140,000 of CUEPACS' 300,000 members. CUEPACS held talks with the government through three National Joint Councils (NJC) that represent three types of workers: managerial and professional, scientific and technological, and general (all other types of workers, such as clerical and support staff). The government established the NJC system to have NJCs serve as aggregating, intermediary negotiating bodies between the government and the various unions served by CUEPACS. NJC members are elected from constituent unions. While an individual civil service union may approach the government directly on narrow issues that affect only that particular union or its members, broader issues that affect the entire civil service flow up to CUEPACS and then to one of the NJCs, depending on the type of civil servants involved.

Government regulations limited CUEPACS' negotiating power and virtually eliminated its right to organize strikes. CUEPACS sought a minimum wage for civil servants; however, by year's end the government had no plans to institute a minimum wage for public or private sector workers.

The government limited collective bargaining agreements in companies designated as having pioneer status. The MTUC continued to object to legal restrictions on collective bargaining in pioneer industries.

Charges of discrimination against employees engaged in organizing union activities may be filed with the Ministry of Human Resources or the industrial court. Critics alleged that the industrial court was slow to adjudicate worker complaints when conciliation efforts by the Ministry of Human Resources failed.

The government holds that issues of transfer, dismissal, and reinstatement are internal management prerogatives; therefore, they are excluded from collective bargaining.

Companies in export processing zones must observe labor standards identical to those in the rest of the country. Although the electronics sector's pioneer status inhibits organizing, many companies had "in-house unions"; however, these were seen as controlled by management and were not allowed to affiliate with national union umbrella bodies.

c. Prohibition of Forced or Compulsory Labor

The constitution prohibits forced or compulsory labor; however, there were reports that such practices occurred. Although the Malaysian Passport Act 1966 criminalizes possession of someone else's passport "without legal authority," the existence of MOUs that allow for employer retention of employee passports appear to provide sufficient legal authority to satisfy this exception in the passport law. The law therefore does not effectively prevent employers from holding

employees' passports, and it was common practice for employers to do so, thereby making employees more vulnerable to being victims of human trafficking and forced labor. Rights groups complained that this practice effectively made some foreign workers captives of the hiring company. Recruiting agents required fees that sometimes made foreign workers vulnerable to debt bondage. Some companies used debt bondage to force some foreign workers to accept harsh working conditions, threatening imprisonment and deportation. Following a series of cases of poor treatment, including an incident when employers abandoned 2,000 workers at Kuala Lumpur's airport, in October 2008 the government imposed a ban on issuing new work permits for guest workers from Bangladesh. Indebted to their employers due to excessively high recruitment fees and without their passports, these workers were effectively forced to work long hours, accept lower wages than promised, allow wage deductions, and live in poor housing. Forced labor conditions reportedly occurred in some palm oil and rubber plantations, factories manufacturing computer components, garment production, restaurants, and in domestic households.

Some of the estimated 220,000 to 280,000 foreign women employed as household workers were subjected to physical abuse and forced to work under harsh conditions, and some child household employees worked in conditions amounting to forced labor. A number of domestic workers were not paid or were paid below the agreed salary. Several of the abused women reported their employers beat them, forced them to sleep on kitchen floors, and fed them only the scraps from a meal.

Although Malaysia and Indonesia concluded a MOU in 2006 that, among other things, called for domestic workers to be paid directly, receive compensation for personal injury, and be given time off in lieu of overtime, it remained a common practice for employers to deposit wages with recruiting agencies as repayment for debts. During the year the two countries were negotiating a new MOU that would address minimum salaries, provide domestic workers with one day off per week, and remove language allowing employers to confiscate worker passports.

On June 18, a court charged Hau Yuan Tyung with three counts of abusing her Indonesian maid, Siti Hajar. Tyung allegedly scalded Siti Hajar with boiling water as well as tortured and starved her. If convicted, Yuan Tyung could face imprisonment for up to 20 years. She was granted bail of 15,000 ringgit (approximately \$4,285) on the condition she report to the police station once a month as well as surrender her passport.

On September 19, the Indonesian ambassador announced that the Embassy would only renew passports of domestic workers if employers agree to pay a minimum monthly salary of 500 ringgit (\$145).

On October 26, Mautik Hani, 26, an Indonesian woman working as a maid in Selangor died from injuries sustained allegedly at the hands of her employer, A. Murugan. On October 20, police found Hani in a locked bathroom in Murugan's house. Her arms and legs were bound, she had bruises all over her body, a broken back and wrist, and a serious wound to her right leg that exposed bone. She appeared to have been locked in the bathroom for two days without food. Police arrested and charged Murugan with murder. On November 3, he pled not guilty to the charges. The case was pending at year's end.

d. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits the employment of children younger than age 14 but permits some exceptions, such as light work in a family enterprise, work in public entertainment, work performed for the government in a school or in training institutions, or work as an approved apprentice. In no case may a child work more than six hours per day, more than six days per week, or at night.

Most child laborers worked informally in palm-oil plantations and the agricultural sector, helping their parents in the field; however, only adult members of the family received a wage. Child labor in urban areas often was found in family food

businesses, night markets, and small-scale industries. Government officials did not deny the existence of child labor in family businesses but maintained that foreign workers had largely replaced child labor and that child labor provisions were vigorously enforced.

e. Acceptable Conditions of Work

No national minimum wage provision was in effect, as the government preferred to allow market forces to determine wages. Prevailing market wages generally provided a decent standard of living for citizens, although not for all migrant workers. Wage councils, established by a 1947 act to provide a recommended minimum wage for sectors in which the market wage was deemed insufficient, had little impact on wages in any sector. According to MTUC officials, the wage councils had not met since 1996, and their recommended wages have long been obsolete.

Plantation workers generally received production-related payments or daily wages. Under a 2003 agreement, plantation workers received a minimum wage of 350 ringgit (approximately \$100) per month. Proponents of the agreement said that productivity incentives and bonuses raised the prevailing wage to 700 ringgit (\$200). Labor activists and human rights NGOs reported that debt bondage was practiced in some plantations, where whole families of ethnic Indians and migrant workers were placed into forced labor conditions.

Under the Employment Act, working hours may not exceed eight hours per day or 48 hours per workweek of six days. Each workweek must include a 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 is responsible for enforcing the standards, but a shortage of inspectors precluded strict enforcement.

Illegal foreign workers employed by licensed outsourcing companies and provided to factories on an as-needed basis have no legal protection under the law and limited legal options for recourse in cases of abuse.

Foreign migrant laborers, legal and illegal, often worked under difficult conditions, performed hazardous duties, had their pay withheld by employers, and had no meaningful access to legal counsel in cases of contract violations and abuse.

Foreign workers, particularly if they were illegal aliens, generally did not have access to the system of labor adjudication. However, the government investigated complaints of abuses, attempted to inform workers of their rights, encouraged workers to come forward with their complaints, and warned employers to end abuses. Like other employers, labor contractors may be prosecuted for violating the law. According to the results of a survey conducted during the year by the Federation of Malaysian Manufacturers, the average monthly wage of foreign workers engaged in the manufacturing sector was 581 ringgit (approximately \$166). Migrant workers may bring employment disputes to industrial court. However, this mechanism was seldom used. It is time consuming and, once their work visa terminated, migrants require "special passes" to stay in the country. These passes are valid for one month and cost 100 ringgit (approximately \$29) to renew. Renewal is subject to the discretion of director general of immigration. Migrants holding special passes were not allowed to work.

The Workmen's Compensation Act covers both local and foreign workers but provides no protection for foreign household workers. According to the government, foreign household workers are protected under the Employment Act with regard to wages and contract termination. However, these workers are excluded from provisions of the act that would otherwise ensure that they received one rest day per week, an eight-hour workday, and a 48-hour workweek.

Employers sometimes failed to honor the terms of employment and abused their household workers. Household workers must be ages 25 to 45 for admission into the country, according to Immigration Department officials. They were not allowed to bring family members into the country while employed. The terms of the contract for Indonesian domestic workers, who made up approximately 90 percent of all foreign household workers, were often vague and open to abuse.

The typical contract provided for a monthly salary of 450 to 600 ringgit (approximately \$130 to 170) but did not specify the number of working hours per day. NGOs reported that many Indonesian household workers were required to work 14 to 18 hours a day, seven days a week. The contract for Filipina household workers included more-comprehensive protections, but both groups suffered from a lack of education concerning their legal rights.

Some workers alleged that their employers subjected them to inhuman living conditions, withheld their salaries, confiscated their travel documents, and physically assaulted them.

An NGO reported that in 2007 a labor-outsourcing company recruited foreign workers to work at a foreign-owned electronics plants in the country. Each worker paid approximately 5,000 ringgit (approximately \$1,400) and signed a contract guaranteeing work for 27 months at a salary of 800 ringgit (\$225) per month. Their passports were allegedly confiscated and they were taken to a dormitory near the plant. For 10 months they worked at the plant, earning approximately 875 ringgit (\$250) per month. In November 2008 work at the plant slowed, and several workers were returned to the outsourcing company. The outsourcing company then reportedly sent them to work in restaurants, a glove factory, a poultry farm, a frozen fruit plant—all in contradiction to their contracts. During this time the employers allegedly withheld their pay. Some obtained legal counsel and filed a civil claim against the outsourcing company. The civil trial was pending at year's end.

Another NGO reported that between 2005 and 2007, a foreign-owned microchip manufacturing plant hired 80 foreign workers, through two foreign recruiting agencies. These workers were promised a minimum salary of 700 ringgit (approximately \$200) per month. After three months of training, the manufacturing plant allegedly reduced their pay to half of the guaranteed minimum. In May 2008 several workers complained and demanded to speak to management. The manufacturing plant reportedly called the police and threatened to have the workers arrested. Those workers who refused to return to work were repatriated to their home countries. On July 4, eight workers filed a civil case against the company, which was pending at year's end.

Workers have the right to take legal action against abusive employers. According to NGOs the courts generally sided with employees and ruled that employers must pay all back salary and compensate plaintiffs for injuries, but long delays in court proceedings and rulings often precluded aggrieved foreign workers from seeking redress through the court system.

Mechanisms for monitoring workplace conditions were inadequate. Private, for-profit labor agencies, themselves often guilty of abuses, were often responsible for the resolution of abuse cases. Bilateral labor agreements with Indonesia do not provide adequate protections for household workers.

The Occupational Safety and Health Act covers all sectors of the economy except the maritime sector and the armed forces. 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 cooperate with employers to create a safe, healthy workplace. Employers or employees who violate the act are subject to substantial fines or imprisonment for up to five years, although the MTUC complained that some employers flouted the rules with impunity. There are no specific statutory or regulatory provisions that provide a right for workers to remove themselves from dangerous workplace conditions without arbitrary dismissal.