



2008 Human Rights Report: Malaysia

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

[2008 Country Reports on Human Rights Practices](#)

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Malaysia is a federal constitutional monarchy with a population of approximately 26.9 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 currently known as the National Front, has held power since independence in 1957. The most recent national elections, in March, were conducted in a generally transparent manner and witnessed significant opposition gains. The opposition complained of the ruling coalition's exploitation of the powers of incumbency and domination of the mainstream media. 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. The government abridged citizens' right to change their government. Some deaths occurred during police apprehensions and while in police custody. Reported abuses by members of the People's Volunteer Corps (RELA) included rape, beatings, extortion, theft, pilfering homes, destroying UN High Commissioners for Refugees (UNHCR) and other status documents, and pillaging refugee settlements. Other problems included police abuse of detainees, overcrowded immigration detention centers, 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 arrested a prominent opposition leader on politically motivated charges of consensual sodomy. The government also arrested other opposition leaders, journalists, and Internet bloggers apparently for political reasons. The government continued to detain without trial five leaders of an ethnic Indian civil rights group. The civil courts continued to allow the Shari'a (Islamic law) courts to exercise jurisdiction in cases involving families that included non-Muslims. The government continued to restrict freedom of press, association, assembly, speech, and religion. Trafficking in persons remained a problem. There were credible allegations of immigration officials' involvement in the trafficking of Burmese refugees. Longstanding government policies gave preferences to ethnic Malays in many areas. Some employers exploited through forced labor migrant workers and ethnic Indian-Malaysians. 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

The government or its agents did not commit any politically motivated killings; however, local media reported that police killed 82 persons while apprehending them, up from 16 such killings in 2007. Local nongovernmental organizations (NGOs) also reported that seven persons died in police custody, down from 11 such deaths in 2007.

The trial of police chief inspector Azilah Hadri and police corporal Sirul Azhar Umar for the 2006 murder of Altantuya Shaaribu remained ongoing at year's end. On October 31, the court acquitted political analyst Razak Baginda of abetting her murder.

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 torture by RELA and immigration officials in immigration detention centers (IDC), which continued to be administered by the Immigration Department and supplemented by RELA.

On April 20, following the beating of a Pakistani detainee by immigration officials at Lenggeng IDC, the other detainees requested to speak with the camp commandant regarding alleged abuses. When the promised meeting did not occur, the detainees set fire to two buildings. On May 15, a Malaysian Human Rights Commission (SUHAKAM) commissioner confirmed he found evidence of torture at the Lenggeng IDC following an April visit to the facility. Witnesses alleged immigration officers and RELA volunteers routinely beat detainees as a form of punishment, including striking the soles of their feet, using electrical shock, burning them with cigarettes, and intimidating other prisoners into participating in the beatings.

In September authorities released Sanjeev Kumar, who was detained under the ISA in July 2007. Local NGOs alleged that authorities tortured him during interrogations lasting 15 hours and denied sufficient medical treatment after he complained about injuries he allegedly sustained under torture. A SUHAKAM commissioner confirmed that Sanjeev Kumar, whose left arm and leg were paralyzed, did not receive proper medical treatment. As a result of the beatings, Sanjeev remained partially paralyzed and wheelchair-bound.

On August 6, two police officers from Perak State allegedly abused a 10-year-old boy while questioning him for theft. The police officers allegedly choked him, slapped him, and melted plastic over him with the intent to burn his genitals. Neither the boy's parents nor a legal representative was present during his interrogation. Perak's police chief stated a police investigation into the allegations was ongoing at year's end.

On July 28, authorities charged a police officer with the rape of a student while in the Putra Heights police station in Kuala Lumpur.

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. Some state Shari'a laws also prescribed caning, carried out with a half-inch thick wooden cane that commonly caused welts and at times scarring. The law exempts men older than 50 and women from caning. Male children 10 years of age and older may be given up to 10 strokes of a "light cane."

Prison and Detention Center Conditions

Prison overcrowding, concentrated in facilities near major cities, remained a serious problem. In July the Home Ministry reported that the prisoner population at the country's 29 prisons was 28 percent above capacity. Local and international 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.

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 UNHCR received access to registered refugees and asylum seekers detained in IDCs and prisons, but prison and IDC officials denied the UNHCR access to unregistered asylum seekers in detention. During the year the UNHCR staff members conducted numerous visits at various prisons and IDCs located throughout the country to provide counseling and support to its persons of concern and ensure legal representation. 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 RM10,000 (approximately \$2,941), or both, and mandatory caning not to exceed six strokes.

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 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 Royal Malaysia Police is under the command of the inspector general of police, who reports to the home minister. The inspector general is responsible for organizing and administering the police force. The government has some mechanisms to investigate and punish abuse and corruption. There were 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. Additional data indicated 73 percent of those surveyed perceived the government's anticorruption efforts as "ineffective or very ineffective." Reported police offenses included accepting bribes, theft, and rape. 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. During the year, the police accompanied demonstrators and allowed them to forcibly disrupt a Bar Council forum on religious conversions.

The Home Ministry relied primarily upon RELA to conduct raids and detain suspected illegal migrants. In November the home minister announced that RELA members would undergo police and military training to expand their capabilities and become a "respected organization."

Reported abuses by RELA members included rape, beatings, extortion, theft, pilfering homes, destroying UNHCR and other status documents, and pillaging refugee settlements. In January RELA members allegedly looted a makeshift Burmese refugee camp, taking anything of value, including money, cell phones, blankets, and crafts made and sold by the refugees to earn money; burned the camp down; and detained 23 persons and took them to IDCs.

In May RELA detained a foreign diplomat even though he presented his diplomatic identity card. RELA officials held him for two hours until the diplomat's embassy intervened and validated his credentials.

On September 12, the High Court ordered RELA member Mohamed Tahir Osman to pay a woman detained during a 2003 raid RM100,000 (approximately \$29,400) as damages for taking a photograph of her when she was forced to relieve herself in the truck used to transport the detainees.

The government did not release information on how it investigated complaints against RELA members or how it administered disciplinary action.

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. The law allows an arrested individual the right to be informed of the grounds of 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 commission 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. In May the de facto law minister reported there were 903,000 pending civil cases in the lower courts and more than 91,000 cases in the high court. Other sources estimated there were approximately 10,000 criminal cases backlogged in lower courts and 900 in high court.

On September 6, immigration officials released Rajeswari, a Malaysian citizen, from the Lenggeng IDC after 11 months detention. Immigration authorities arrested the six-month pregnant woman on suspicion that she was an undocumented Sri Lankan migrant when she was unable to present her identity card (MyKad), unable to remember her MyKad number, and spoke only basic Malay. Authorities allegedly refused to confirm her citizenship status even

though she provided her address and the name of the elementary school she attended. The law requires citizens to carry their MyKad at all times.

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 periods to follow. In practice the government infrequently authorized ISA detention beyond two two-year terms. However, in one case, the government has detained the longest-held ISA detainee for approximately seven years. Some of those released before the end of their detention period are 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 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 July 16, authorities arrested political opposition leader Anwar Ibrahim for alleged consensual sodomy with a former aide and held Anwar overnight for questioning. The Bar Council and other civil society groups objected to the police use of intimidating tactics to arrest Anwar one hour before Anwar was due at the police station for voluntarily arranged questioning. On July 28, the police reportedly questioned and briefly detained a medical doctor who found no evidence of sodomy when examining the complainant, which the Bar Council described as "very troubling." On August 7, 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, and the case remained ongoing at year's end.

Despite official affirmations that Anwar's arrest and prosecution were not politically based, senior government officials made repeated public comments prejudicial to the case. Government officials also highlighted the charges during a late-August by-election, which resulted in Anwar's election to parliament. Civil society groups, including human rights organizations, and international Muslim figures raised concerns over the political motivation of the government's prosecution of Anwar; they drew parallels between Anwar's arrest during the year with Anwar's arrest in 1998 and subsequent conviction for sodomy, which was overturned on appeal in 2004.

On September 12, police detained Raja Petra Kamaruddin, a blogger and critic of the ruling government, under the ISA. On September 23, the home minister ordered Raja Petra to be detained for two years, claiming that his writings posed a threat to national security by creating racial tension and insulting Islam. On November 7, the High Court ruled Raja Petra's detention was unconstitutional and the judge ordered his release from ISA detention. The judge ruled that the home minister's decisions regarding ISA detention could not be "unfettered and arbitrary," which allowed the court to consider whether the minister's ISA detention order was in "accordance with the act." The judge ruled that Raja Petra's detention was invalid because none of his alleged infractions fell under the scope of the ISA. The government appealed the ruling, and the appeal remained pending at year's end.

On October 17, police detained for 19 hours human rights activist Cheng Lee Whee, from the local NGO SUARAM. Police claimed she was "spreading information that could cause fear among the people" against the police. Cheng alleged that police abused their power when they used water cannons and the Federal Reserve Unit (special riot police) to forcibly evict residents of the Kampung Baru Plentong Tengah squatter settlement. She was questioned and released on bail the following day after police failed to obtain a three-day remand order against her from the magistrate's court because of "insufficient evidence."

The government's appeal of the Kuala Lumpur High Court's 2007 decision to award former ISA detainee Abdul Malek Hussin RM2.5 million (approximately \$735,000) for his arrest and torture in 1998 remained pending at year's end.

In December the home minister stated that there were approximately 46 persons in detention under the ISA. According to a local NGO, the 46 detainees included 29 suspected of involvement with terrorist groups, five ethnic Indian civil rights activists, and 12 held for falsification of documents or other offenses. According to SUARAM, authorities had not formally charged any of these detainees with a criminal offense.

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 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.

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 minister must issue a detention order. Once the Home 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 Anti-Drug Agency, the government detained 805 persons under the preventive detention provisions of the act during the first eight months of the year, compared with 798 persons during all of 2007.

The Restricted Residence Act allows the home 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 judicial

assignments and transfers. Session and magistrate court judges report to the Attorney General's Office. The prime minister's recommendation determined senior judge appointments, subject to concurrence by the Council 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.

On May 9, the 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 May 22, the attorney general announced his office would investigate the allegations, but there was no progress in the investigations at year's end.

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 laws, 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 continued to hold five political prisoners at year's end, claiming that the men were security threats to the country. The prisoners' families and lawyers had regular access to them. The government detained an opposition member of Parliament (MP) for one week.

P. Uthayakumar, M. Manoharan, R. Kenghadharan, Ganabatirau, and T. Vasantha Kumar, leaders of the Hindu Rights Action Front (HINDRAF), remained in ISA detention at year's end for organizing protests in 2007 against the alleged marginalization of ethnic Indians. Although Manoharan remained in detention, in March he was elected to the Selangor State assembly.

On September 12, 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." Police officials claimed Kok created religious tension by organizing a petition to lower the loudspeaker volume for the Muslim call of prayers (azan); made a statement that 30 percent of the Selangor Islamic Department's allocation for religious funding be given to non-Islamic religious groups; and opposed the use of Jawi, the Malay language written in Arabic script, on street signs. Prior to her arrest, the UMNO-owned Malay language newspaper, Utusan, pursued a two-week campaign highlighting these allegations against her. She was the first female MP and the most senior politician since 1998 to be detained under the ISA. Upon her release Deputy Inspector General of Police Ismail Omar stated the "police's investigations offered no reason to continue her detention." Subsequently, in October Utusan published a fictional article condoning the assassination of a female Chinese politician who supported anti-Malay policies. Teresa Kok filed a lawsuit against the newspaper in December, claiming the article was a veiled smear campaign against her that endangered her life.

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.

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 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. In February SUARAM listed 57 books banned by the government. Among the banned books was a Tamil-language book, March 8, which discussed the 2001 Kampung Medan racial clashes between Malays and Indians. In August the Home Ministry banned Muslim Women and the Challenge of Extremism, a book published by a local NGO, for "containing twisted facts on Islam that could undermine the faith of Muslims."

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 arrest, harassment, and intimidation due to their reporting. For example, Tan Hoon Cheng, a journalist for the Chinese-language paper *Sin Chew*, reported on a speech by Ahmad Ismail, a local UMNO party leader, in which he described Malaysian-Chinese as "squatters" and "immigrants." On September 12, police detained Tan under the ISA because "her life was threatened," according to the home minister. The public reaction, including the Malaysian Chinese Association's threat to leave the ruling National Front coalition, forced the government to release her within 18 hours of her detention.

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. Following the March general election, the mainstream press increased its coverage of the opposition's views and the number of articles critical of government policy. The media also asked government officials more difficult questions regarding policy issues than prior to the general election.

On November 24, the High Court acquitted Irene Fernandez, human rights activist, of her 2003 conviction for "publishing false news" in a memorandum to journalists and the government on the abuse, detention, and treatment of migrant workers in IDCs in 1995.

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 national election the mainstream media provided minimal coverage for their candidates, intensely negative reporting about their party's senior figures, and extensive reporting on the ruling party candidates.

Internet television faced no such restrictions, and the Islamic Party of Malaysia (PAS) 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.

The government generally restricted remarks or publications, including books, 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. Internet subscriptions totaled approximately 14.9 million at the end of June 2007. Criminal defamation and preventive detention laws generated some self-censorship from local Internet content

sources such as bloggers, Internet news providers, and NGO activists.

Raja Petra and Syed Azidi Syed Aziz were the first individuals to be charged under the Sedition Act 1948 for Internet postings.

On May 6, police arrested Raja Petra for sedition. On July 17, authorities charged Raja Petra with three counts of criminal defamation over a statutory declaration, published on his Web site, which linked the deputy prime minister to Altantuya Shaaribu's 2006 murder. The court released Raja Petra on RM10,000 (approximately \$2,940) bail. Later, Raja Petra posted the examining doctor's statutory declaration and medical report relating to the ongoing sodomy case against opposition leader Anwar Ibrahim. On August 23, police raided Raja Petra's house and confiscated his computer and other materials. From August 27 through September 11, the government blocked access to Raja Petra's Web site, Malaysia Today.

On September 11, the energy, water, and communications minister announced the government would no longer block access to any Web sites or blogs in the country, including that of Malaysia Today. The minister stated there were other "harsher" laws in the country, including the ISA, to "control the irresponsible dissemination of information over the Internet and to bring those irresponsible Web sites and blogs to book."

On September 19, blogger Syed Azidi Syed Aziz, also known as "Kickdafella," was arrested under the Sedition Act for posting allegedly seditious statements on his website, including urging people to fly the national flag upside down as a sign of protest towards certain government policies. Police released him three days later.

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 23, the police summoned Whee Meng Chee, a Malaysian university student attending school overseas, to the commercial crime headquarters for questioning for releasing a YouTube video making a parody of the national anthem. He was released on the same day, and police continued the investigation at year's end.

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.

The government censored and banned films for profanity, nudity, sex, violence, and certain political and religious content. Among films banned during the year was the short film *Fitna*, which the government claimed insulted Islam.

The youth wing of the PAS protested against singers and groups it considered obscene and not in line with Islamic values. The government responded by cancelling or placing conditions on performances by some international performers. On September 2, the Kedah State government, led by PAS, issued a directive on September 2 stating that the government would issue entertainment licenses to female artists only for concerts for female audiences. The state government also instituted 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.

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.

On November 9, police detained 23 individuals during a rally commemorating the first anniversary of the 2007 HINDRAF protest because the group did not obtain a permit. Among those detained were a MP, state assembly persons, and journalists. Participants alleged that police used excessive force while attempting to detain persons.

On November 23, nine persons were arrested for unlawful assembly in relation to an anti-ISA rally organized by the Abolish-ISA Movement. Seven individuals were arrested during the event and another two individuals, opposition MP Salahuddin Ayub and PAS Vice President Mohamad Sabu, were detained at the police station while visiting the seven arrested earlier.

At year's end the cases continued of the 31 HINDRAF demonstrators, 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.

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 it allegedly posed a national security threat. On August 19, 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 during the year.

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 raise money to support their activities. Some NGOs also reported that the government monitored their activities.

On October 15, the home minister declared HINDRAF an illegal organization being used for unlawful purposes and posing a threat to public order and morality. On October 23, police arrested 10 persons when they attempted to submit a letter at the Prime Minister's Office urging the release of those detained under the ISA. A six-year-old remained overnight at the police station when her mother, one of the detained, refused to accept bail. The government claimed that the 10 had been part of an illegal assembly for having gathered near the entrance of a government building. All were released the next day.

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, 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 and stipulates that Islam is the official religion. 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.

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 RM428 million (approximately \$125.9 million) to build Islamic places of worship and RM8.1 million (\$2.4 million) to build Christian, Buddhist, Hindu, and other minority religions' places of worship between 2005 and the end of the year.

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; as such these groups sometimes registered themselves 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, Islamailah, 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." According to the government, it did not detain anyone under the ISA for "deviationist" religious reasons during the year.

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.

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 law 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.

Lina Joy reportedly left the country rather than pursue her conversion case in a Shari'a court, following the 2007 decision by the Federal Court to uphold a 2005 lower court decision that the civil courts did not have jurisdiction.

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. In May the Hindu Endowment Board claimed the government refused to approve permit extensions and rejected new applications for priests and temple musicians, requiring existing visa holders to apply for extensions on a monthly basis. In December the human resource minister said Indians should stop relying on foreign priests and that the government was prepared to arrange the training of ethnic Indian youths to become temple priests.

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 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. As of September the government banned an additional 15 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 particular 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. On July 4, a Sikh group representing more than 100,000 Sikhs joined the Catholic archbishop's lawsuit against the Internal Security Ministry's February 12 directive to the Catholic Church to stop using the word "Allah",

which the ministry considered exclusive to Islam, in its weekly publication, The Catholic Herald. The case remained pending at year's end.

On July 16, the Home Ministry issued a letter to the Catholic archbishop, as publisher of The Catholic Herald, demanding an explanation for allegedly publishing material that breached the publishing permit by analyzing the August by-elections. In August the ministry issued a warning letter to Herald, demanding an explanation for articles that allegedly did not "focus" exclusively on religion and a report that allegedly degraded Islam, entitled America and Jihad-where do they stand? In December the government renewed the printing permit but prohibited the paper's publication in Malay, the country's official language.

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, in June the Kelantan municipal council issued a directive forbidding 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 similar 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.

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 2008 International Religious Freedom Report at www.state.gov/g/drl/irf/rpt.

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.

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, 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.

HINDRAF Chairman Waytha Moorthy was briefly detained following the large November 2007 HINDRAF-organized demonstration. After his release he traveled overseas to raise awareness of ethnic Indian marginalization. Citing a fear of arrest if he returned to the country, Moorthy remained overseas in self-imposed exile, following the December 2007 ISA detentions of five other HINDRAF leaders. In March the government revoked his passport.

Protection of Refugees

The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and 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. 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 centers. Detention facilities were overcrowded and lacked adequate medical facilities. Local human rights NGOs alleged immigration officials abused detainees and provided inadequate food.

Local NGOs estimated there were 100,000 asylum seekers, refugees, and stateless persons in peninsular Malaysia, of which there were an estimated 70,000 Burmese refugees, including ethnic Chin, Mon, and Rohingya. An estimated 61,000 Filipino Muslims who fled the Moro insurgency in the 1970s were reportedly living in the country. As of August 1, the UNHCR registered 41,405 persons of concern in the country, of which 11,172 were children and more than 88 percent were Burmese.

During the year there were widespread 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 5, Trafficking in Persons).

Throughout the year RELA continued to conduct raids on refugee camps and detained refugees and asylum seekers along with allegedly illegal migrants. According to local NGOs, those without the UNHCR documents were not given access to the UNHCR while in detention and were thereby deprived of their right to seek asylum. Refugees with UNHCR cards were usually safe from arrest by police, although police still arrested asylum seekers occasionally, as they did not always recognize the UNHCR documents.

In June, the government, at the request of the Chinese embassy, deported two Chinese nationals, who identified themselves as Muslims, to China.

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. From January to September, the UNHCR listed 8,891 persons as asylum seekers and 42,308 as refugees, approximately 88 percent of whom were Burmese citizens.

By the beginning of September, the UNHCR had submitted 5,849 refugees to third countries for resettlement consideration. Third countries accepted and resettled 4,885 refugees. The remaining refugees remained at risk of detention and deportation by immigration officials.

In July the government approved an allocation of RM50 million (approximately \$14,705,882) for its operation to

repatriate 100,000 to 150,000 illegal immigrants in Sabah State to their country of origin. Informed sources reported less than 20,000 were deported by year's end.

The immigration law provides for six months in prison and up to six strokes of the cane for immigration violations. In practice delays in processing travel documents led to the detention of many illegal immigrants in camps for more than a year. Authorities caned at least six registered refugees, including a minor, compared with 32 in 2007.

NGOs reported that IDC conditions remained poor, largely due to inadequate funding for food, medical care, and infrastructure maintenance.

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 National Front 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 on March 8, 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. For the first time since 1969, the opposition's electoral success denied the ruling coalition a two-third majority in Parliament, blocking the government's ability to amend the constitution at will.

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 encountered by the opposition in the March national elections and in the subsequent by-election. Opposition leaders also claimed that the election commission (EC) was under government control and lacked the independence needed to carry out its duties impartially. In February the EC announced that it would use indelible ink for the March 8 general election as a measure to ensure a fair election. However, the EC reversed its decision on March 4, four days before election day, attributing the cancellation to police reports alleging that an unknown entity purchased indelible ink from abroad with the intention of creating "confusion and suspicion as to the voters' status." A subsequent investigation provided no evidence that the ink was compromised. 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.

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, government officials often faced sharp questioning in Parliament, and the press reported in greater detail than in the past. For example, during the year the government initiated 30-minute live telecasts of parliament's daily question-and-answer period.

Under the Local Government Act, elections of public officials were confined to state assemblies and the federal Parliament. Some politicians and NGO activists advocated the reintroduction of local government elections, which the government abolished after the 1969 race riots. Some ruling party municipal officials noted that local bodies were simply "rubber stamps" for the government. The coalition of opposition parties controlled the state governments of Perak, Selangor, Penang, Kedah, and Kelantan.

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 nine of the 32 ministerial posts and 18 of the 37 deputy minister positions.

Government Corruption and 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. There was a broadly held perception of widespread corruption and cronyism within the governing coalition and in government institutions. The Anti-Corruption Agency (ACA), the primary government agency for combating corruption, employed approximately 1,800 staff members nationwide. In December the government passed legislation replacing the ACA with the Malaysian Anti-Corruption Commission.

In December the ACA director general stated the agency arrested 585 people during the year, including 271 civil servants. The ACA arrested the director general of immigration for allegedly accepting bribes in exchange for authorizing visa for more than 4,000 Bangladeshi workers, a group vulnerable to labor exploitation. The ACA also arrested the deputy director general for allegedly accepting bribes in exchange for authorizing social visas for Chinese women, a group vulnerable to commercial sex exploitation, to work as "guest relations officers," a euphemism for prostitutes. Both individuals were removed from their positions along with six other officials.

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

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 4 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 some 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. 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. During the year the International Coordinating Committee for the Promotion and Protection of Human Rights (ICC) noted SUHAKAM's failure to comply with the Paris Principles, which are the international standards for an independent and effective human rights body. The ICC notified the government of its concern over SUHAKAM's ability to operate independently, free from government restrictions. The ICC recommended establishing a clear and transparent appointment and dismissal process for commissioners and increasing commissioners' tenures from the current two-year tenure. The ICC also found that SUHAKAM lacked genuine pluralism in the composition of its commission.

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 5 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. Government policies and legislation gave preferences to bumiputras in housing, home ownership, awarding of government contracts and jobs, educational scholarships, and other areas. Nonbumiputras regularly complained about these preferences, arguing that government subsidies for disadvantaged persons should be dispensed without regard to race.

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. According to the police, 1,651 rapes were reported during the first half of the year. Spousal rape is not a crime, although a husband may be charged for causing harm to his wife while attempting to force sexual relations with her.

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 RM2,000 (approximately \$588). 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 fails 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 while some rapists received heavy punishments, including caning, other rapists received inadequate punishments.

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 a criminal offense. NGOs and international organizations estimated 50,000–150,000 women were involved in prostitution. According to the government, police detained 6,357 foreign and 1,004 local prostitutes, including 442 under-age girls, during 8,893 antivice operations between 2003 and 2008. Muslims engaged in prostitution could 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.

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

The law allows polygamy, and Muslim men practiced polygamy in limited numbers. Islamic inheritance law generally favors male offspring and relatives. There was a small but steadily increasing number of women obtaining 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. In 2007 there were 3.8 million women compared with 6.8 million men in the labor force. Women were routinely asked their marital status during job interviews. In September the Kedah State government announced that women entertainers could perform only in front of all-female crowds. The Joint Action group for Gender Equality condemned the state government for infringing gender equality rights protected by the constitution.

Children

The government demonstrated a commitment to children's rights and welfare; however, some government policies limited those rights and protections. For example, the law allows use of a "light cane" to administer a maximum of 10 strokes to male children between the ages 10 and 18.

Parents must register a child within 14 days of birth. The authorities require citizens to provide their marriage certificate and both parents' MyKad. 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 risk arrest as illegal immigrants. The UNHCR registers children born to refugees. Marriages between Muslims and non Muslims are void. Couples in such marriages have 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) are required to pay higher medical fees, which caused hardship in many cases.

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

The government recognized that sexual exploitation of children and incest were problems. Incest in particular was a problem in rural areas. 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 MWFCDC, 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, or close physical proximity, an offense under Shari'a law, 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.

Trafficking in Persons

The 2007 Antitrafficking in Persons Act went into force in February. It prohibits all forms of trafficking in persons; however, there were reports that 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 were kept compliant through involuntary confinement, confiscation of travel documents, debt bondage, physical abuse, and/or forced drug use. The government has not yet reconciled its new antitrafficking law with preexisting laws and regulations that allow, or even require, Malaysian 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. According to news reports, female victims said that they were lured to the country by promises of legitimate employment but were forced into prostitution upon their arrival in the country.

According to police, the Bar Council, and SUHAKAM, many foreigners found to be involved in prostitution were possible trafficking victims. Foreign embassies, NGOs, and government authorities reported that police and NGOs rescued and repatriated more than 100 trafficking victims during the year. The rescues did not lead to a significant number of arrests and prosecutions of traffickers. The police referred the 79 women and at least four minors rescued from commercial sexual exploitation to the government-operated trafficking shelter; 20 of the women were certified as trafficking victims. All of the potential and confirmed victims were legal migrants. The government has not developed or implemented proactive procedures to identify victims of trafficking among the migrant worker population.

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. NGOs estimated that fewer than 100 Malaysian women were trafficked abroad during the year and that the number had declined in recent years.

Trafficking of Malaysians domestically 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.

On February 25, the High Court ruled that an undocumented migrant worker could not receive compensation for loss of income on the basis that such workers did not have legal status in the country.

There were credible reports of Malaysian immigration officials' involvement in the trafficking of Burmese refugees along the Malaysia-Thai border. Immigration officials allegedly received RM700 (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 RM1,000 (\$300) for children to RM1,900 (\$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 of the trafficking. Employment agencies were also believed to be heavily involved in trafficking migrant workers.

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 RM50,000 (approximately \$14,706) and maximum of RM500,000 (\$147,058). The government initiated prosecution of six trafficking-in-persons cases involving commercial sex exploitation. In December the government obtained its first trafficking conviction. The court sentenced the trafficker to eight years in prison. However, the government did not prosecute offenders of labor trafficking, which is a significant form of trafficking in persons in the country. The government established an interagency antitrafficking council that included representatives from 11 government organizations and three local NGOs.

The government assisted some underage persons exploited as prostitutes and rescued some trafficked women and girls. In March the MWCDF opened two trafficking victims' shelters and began assisting foreign victims of sex trafficking. During the year police continued a referral system to place foreign trafficking victims in shelters operated by NGOs and certain foreign embassies. However, shelter space in private shelters remained inadequate to hold all identified victims, and authorities transferred those whom shelters could not accept to immigration detention facilities for deportation processing. 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 Women's Ministry and other government organizations began to develop public awareness programs and recruit local NGOs to share outreach best practices.

The State Department'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.

National/Racial/Ethnic Minorities

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

Despite the government's stated goal of poverty alleviation, these race-based policies are not subject to upper income limitations and appeared to contribute to the broadening 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.

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, vest 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 140,000, 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, the Department of Orang Asli Affairs claimed in September that less 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 RM377.8 million (approximately \$111.1 million) for development projects for the Orang Asli. These focused on improving health, preschool education, infrastructure, and economic activities. The plan included an additional RM100 million (\$29.4 million) for development of lands inhabited by the Orang Asli and another RM20 million (\$5.9 million) to curb inflationary pressures. In September 2007 the Director General of the Department stated that the

dropout rate among Orang Asli children was 36 percent in secondary schools, an improvement over the 50 percent dropout rate reported in 2006.

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. In September the Department of Orang Asli reported that as of 2006, 20,000 hectares of land was set aside for the Orang Asli. In November the government announced it would grant land ownership rights of 50,000 hectares 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 and other 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.

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. In 2007 SUHAKAM urged the government to ensure the availability of necessities for the Penan through poverty eradication and income generation programs. The state government had not responded to either group's recommendations by year's end.

On September 13, approximately 150 persons from the Indigenous Peoples Network of Malaysia (IPNM) staged a protest in Kuala Lumpur to urge the government to honor its 2007 commitment to uphold the UN Declaration on the Rights on Indigenous People. Specifically, the IPNM called for the establishment of an Orang Asli native court, repeal of laws that marginalized indigenous people, and an end to the government's practice of leasing native customary rights land without consulting native communities. The government dismissed their demands, claiming some NGOs with hidden agendas influenced the indigenous groups.

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, another 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 in June 2007. 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 is passed down from one generation to another. Customary native lands are 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 logging companies harassed and sometimes threatened vocal Penan leaders and land rights activists.

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. The NGO urged the government to investigate the claims. Although the Marudi District deputy superintendent promised to investigate the allegations, Sarawak's deputy chief minister initially dismissed the claims, stating that unless given

evidence and specific details of the allegations, it would be a waste of time to investigate them. However, on October 7, following continued public outrage, he announced police would investigate the allegations. National police headquarters conducted the investigations, which remained pending at year's end.

Other Societal Abuses and Discrimination

Although there are no laws that prohibit homosexuality, laws against sodomy and "carnal intercourse against the order of nature" exist and were enforced sporadically. Religious and cultural taboos against homosexuality were widespread.

The government's response to HIV/AIDS was generally nondiscriminatory, although stigmatization of AIDS sufferers was common. On December 18, the deputy prime minister announced mandatory HIV screening, starting in 2009, for all Muslims prior to being married. He attributed the need for this screening to the rising rate of HIV infection among women. According to the government, more than 82,000 HIV/AIDS cases had been identified since 1986, with over 1,500 new cases identified during the year.

Section 6 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 Malaysian Penal Code requires police permission for public gatherings of more than five persons. Trade unions represented only 8.9 percent of the labor force, a decrease from 9.3 percent in 2005.

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), recent 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. The International Labor Organization (ILO) Committee on Freedom of Association found many provisions of the Trade Unions Act violate the principles of freedom of association, and the amendments made in 2007 were done "without consideration" of the ILO's recommendations or without consultation with the MTUC and other labor organizations.

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. Under the amendments, 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 amendments also deny the right of unions and individuals to hold strikes protesting the nonrecognition 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 ILO 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 eight lunchtime pickets or one-day work slowdowns but 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 Trade Unions Act.

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 holds 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 has sought a minimum wage for civil servants; however, by year's end the government had announced no plans to institute a minimum wage for public or private sector workers.

The government placed limits on 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, including by children; however, there were reports that such practices occurred. The law allows for employers to confiscate employees' passports, and it was common practice for employers to do so as a means to prevent employees seeking jobs elsewhere. Rights groups complained that the law 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 the government imposed a ban on issuing new work permits for guest workers from Bangladesh. Some observers believed that the government used this incident as a justification to limit the flow of foreign workers. 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, and in domestic households.

Some of the estimated 320,000 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 forced them to sleep on kitchen floors and fed them only the scraps from a meal.

Although Malaysia and Indonesia concluded a Memorandum of Understanding (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. Under terms of the MOU, domestic workers have to surrender their passports to their employers to ensure they will not run away. On November 27, the court found Yim Pek Ha guilty of three counts of causing grievous harm to Nirmala Bonet, a domestic worker from Indonesia, in 2004. Yim was sentenced to three 18-year concurrent terms for burning Nirmala with boiling water and a hot iron that resulted in severe disfigurement.

Child labor occurred in certain areas of the country.

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 was often 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 for more than 15 years, 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 RM350 (approximately \$100) per month. Proponents of the agreement said that productivity incentives and bonuses raised the prevailing wage to RM700 (\$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.

In March a Hong Kong-based manufacturing company agreed to pay compensation to all the workers whose contracts were changed, where passports were confiscated, and who were paid lower salaries than originally promised. The company's action followed a public campaign highlighting the poor working conditions of 1,300 Vietnamese contract workers hired in 2007 to work in the company's garment factory in Penang. The 84 workers, who had been deported by immigration officials at the request of the company for allegedly leading a strike, were also paid compensation. The government did not play a significant role in resolving this case.

In August, following an investigative news report, a foreign-based company announced it had found major workers' rights violations at one of its Malaysian contract facilities. According to the company, 1,200 workers at the local factory were subjected to squalid living conditions and garnished wages. It also found that the local company that owned the factory also withheld the passports of foreign workers, many of whom paid fees to agents in their home countries to obtain the factory jobs. The government rejected reports that the foreign workers were mistreated and that their wages were garnished. The human resources minister said the company did not breach any labor laws.

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 RM581 (approximately \$172).

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. Only household workers ages 25 to 45 were allowed 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 RM450-RM600 (approximately \$132-176) 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.

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 that 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.