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Malaysia

Country Reports on Human Rights Practices - [2005](#)

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Malaysia is a federal constitutional monarchy with a population of approximately 25.6 million. It has a parliamentary system of government headed by a prime minister selected through periodic multiparty elections. The National Front, a coalition of political parties dominated by the United Malays National Organization (UMNO), has held power since 1957. The most recent national elections, in March 2004, were conducted in a generally transparent manner, but the opposition complained of the ruling coalition's exploitation of the powers of incumbency. The civilian authorities generally maintained effective control of the security forces.

The country's human rights performance improved during the year; nevertheless, problems remained. The following human rights problems were reported:

- abridgement of citizens' right to change their government
- incomplete investigation of detainee deaths and prisoner abuse
- overcrowded prisons
- detention of persons without trial or adequate access to legal representation
- lengthy confinement of immigrants in detention camps in poor and overcrowded conditions
- corporal punishment (caning) of illegal migrants and other prisoners
- restrictions on freedom of the press
- restrictions on freedom of assembly and association
- increased constraints on the ability of Muslims to change their religion
- violence against women
- treatment of trafficking victims as illegal migrants
- ethnic discrimination
- minimal labor law protection for household workers

There was a major trend toward greater public and government oversight of the police. The government partially addressed prison overcrowding by building new prisons. While freedom of expression remained subject to significant constraints, the media increased criticism of government policies and officials, exposure of government corruption, and coverage of contentious debates among elected officials. The government granted the Office of the United Nations High Commissioner for Refugees (UNHCR) unfettered access to detainees of possible interest to the UNHCR as well as to facilities at immigrant detention centers.

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 nongovernmental organizations (NGOs) reported that police killed nine persons while apprehending them, up from seven such killings in 2004. Local NGOs also reported that eight persons died in police custody during the year, up from two such deaths in 2004.

The criminal procedure code (CPC) empowers magistrates and public prosecutors to investigate deaths of persons in police custody and to charge those responsible under the penal code. However, by the end of 2004, inquests had been initiated for only 6 of the 80 custodial death cases recorded since 2000. In August the police deputy inspector general stated that investigations into 30 of the deaths had been completed during the year and that the remaining 50 cases were being investigated. At year's end no prosecutions were initiated as a result of the investigations, and no investigation results had been released.

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. Unlike in 2004, there were no reports of torture by police. According to the government, every report of abuse of prisoners is investigated; however, the government routinely did not release information on the results of internal police investigations, and whether those responsible for abuses were punished was not always known.

In January 2004, 31 persons released from detention under the Internal Security Act (ISA) claimed that police subjected them to physical and mental abuse during the initial 60 days of their incarceration.

In November several female Chinese nationals alleged police mistreatment after they were wrongly accused of possessing falsified Chinese passports. They claimed that police stole their money while in detention and forced at least one of them to strip naked in front of a policewoman while a male officer watched. Also in November a member of parliament publicized a surreptitiously filmed video of a detained Malaysian woman forced to strip naked, hold her ears, and do squats in front of a policewoman. Police authorities later confirmed that such squats were standard police procedure to find detainees' hidden contraband. Many NGOs denounced this treatment as degrading. The prime minister established an independent commission to conduct a public investigation of the incident and recommend changes to police processing of detainees. The commission's investigation continued at year's end.

In May 2004 the international NGO Human Rights Watch (HRW) stated that some prisoners were subjected to sexually humiliating questioning and were made to stand semi-naked for long periods. The government denied these allegations.

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 Immigration Act prescribes up to six strokes of the cane for both illegal immigrants and their employers. In August 2004 Deputy Prime Minister Najib Razak stated that all arrested illegal immigrants would be prosecuted and punished before being deported. In August the minister of home affairs reiterated the government's position on caning of illegal immigrants, stating that all adult males under 50 years of age in this group faced caning prior to deportation.

Judges routinely included caning in sentences of those convicted of such crimes as kidnapping, rape, and robbery. Some state Shari'a (Islamic) laws, which bind only Muslims, also prescribe caning (see section 1.e.). The caning, carried out with a half-inch-thick wooden cane, commonly causes welts and at times scarring. Males older than 50 and women are exempted from caning. Male children 10 years of age and older may be given up to 10 strokes of a "light cane" (see section 5).

Prison and Detention Center Conditions

Prison overcrowding remained a serious problem. To alleviate overcrowding, the government opened three new prisons during 2004 and 2005. Government statistics indicated that overcrowding in prisons declined to 21 percent during the first 6 months of the year, compared with 46 percent during the same period in 2004. However, the government also declared that 6 prisons near major cities still experienced overcrowding above 50 percent. A commissioner from Suhakam, the Human Rights Commission of Malaysia, disputed the government's aggregate statistics, stating in May that the country had more than 45 thousand prisoners in a prison system with an intended capacity of 30 thousand.

Children have the right to remain with their imprisoned mothers until the age of three years if the mother's incarceration is scheduled to end within three months, and they may stay beyond that age with approval of the director general of prisons.

NGOs and international organizations involved with migrant workers and refugees made credible allegations of inadequate food and medical care, poor sanitation, and abuse by guards in the 15 government detention camps for illegal immigrants. Immigrant detainees were not medically screened prior to placement in the camps. An NGO with access to the camps claimed that overcrowding and deficient sanitation sometimes facilitated the spread of disease. During the year local NGOs were allowed into the camps with mobile medical clinics.

The government does not have an agreement with the International Committee of the Red Cross permitting visits to prisoners. NGOs and the media generally were not permitted to monitor prison conditions. However, in June 2004 the government invited the media to inspect Kamunting prison in response to allegations that ISA detainees were abused. During the year Suhakam officials visited various prisons and immigration detention camps at different times.

In March the government granted the UNHCR "blanket access at any time" to any of the country's immigration detention camps. During the remaining months of the year, UNHCR staff members conducted hundreds of visits at various prisons and immigration detention facilities located throughout the country.

d. Arbitrary Arrest or Detention

The law allows investigative detention, designed to prevent a criminal suspect from fleeing or destroying evidence while police conduct an investigation. Several laws also permit preventive detention, either 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, accused citizens' access to timely legal representation and a fair public trial.

On August 30, the attorney general banned the use of police-obtained confessions in the prosecution of criminal cases unless the public prosecutor explicitly allowed the confession. He claimed that the new directive should significantly reduce accusations of police abuse in obtaining confessions and force the police to become more proactive and thorough in their criminal investigations. He also stated that his directive was in line with police commission recommendations. A deputy public prosecutor claimed that the directive would enable speedier trials, since judges would no longer need to rule on the admissibility of confessions.

Role of the Police and Security Apparatus

Modeled on the British system, the Royal Malaysia Police is under the command of the inspector general of police (IGP), who reports to the minister of internal security. For the past several years, the prime minister has also served as the minister of internal security. The IGP is responsible for organizing and administering the police force. Police functions generally are divided into five areas: enforcement of law and order, maintenance of national peace and security, prevention and detection of crimes, arrest and prosecution of offenders, and gathering of security intelligence. The police force consisted of approximately 93 thousand officers.

On April 29, a police commission formed in February 2004 to suggest ways to improve the police published a report with 125 recommendations for legal and procedural reform. It proposed that the CPC be amended to require a detailed report from the police to a magistrate within a week of a custodial death, followed by an autopsy within 24 hours and an independent inquest within a month.

The commission noted a rising incidence of police corruption and stated that it was endemic due to "the generally poor quality of senior supervising officers and poorly enforced supervisory system." The commission reported that disciplinary actions were initiated against 1,216 police personnel for corruption and other offenses during 2004, compared with 1,138 in 2003. Police offenses noted in the report included accepting bribes, theft, and rape; punishments included suspension, dismissal, and demotion. The report cited the strict monitoring effort aimed at improving the public image of the police force as the reason for the increase in the number of personnel sanctioned. The commission stated, "the war against corruption must be accorded the highest priority" and recommended enhanced internal anticorruption procedures, regular job rotations and tenure limitations, and education and training about the debilitating impact of corruption on the police force and society. The government disclosed that disciplinary actions were taken against 299 police personnel during the first 7 months of the year.

Following publication of the commission report, the prime minister assumed the chairmanship of a task force established to examine various elements of the commission report and recommend specific government actions to address the problems highlighted in the report. Recommendations based on the task force's analysis had not been completed or publicized by year's end.

During the latter half of the year, the government focused its initial reform efforts on improving the salaries, quarters, and general living conditions of police officers. In September, for example, the Public Works Department presented police leaders with designs for 27 thousand units of new living quarters.

In July 2004 the IGP directed the commander of the police training center to include human rights awareness training in its courses. Such human rights education continued during the year as part of the training program for new recruits.

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, the police commission reported that police sometimes released suspects and then quickly rearrested them and held them in investigative custody. 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. Judicial decisions generally upheld this practice. The commission stated that an "arrest first, investigate later" mentality pervaded some elements of the police force, and it recommended that detention procedures be reviewed to prevent abuse.

Four laws permit the government to detain suspects without normal judicial review or the filing of 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 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 this initial 60-day detention period in special police holding centers, suspects have not always been given access to counsel. Upon the recommendation of an advisory board, the internal security minister may authorize further detention for up to two years, with an unlimited number of two-year periods to follow. 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. Since 1960 more than 10,500 persons have been arrested under the ISA, of whom more than 4,100 were detained beyond the initial 60-day detention period and 2 thousand were subjected to restriction orders.

Even when there are no formal charges, the ISA requires that the authorities inform detainees of the accusations against them and permit them to appeal to an advisory board for review every six months. However, advisory board decisions and recommendations are not binding on the internal security minister, are not public, and often are not shown to the detainee. In past years local human rights NGOs claimed that police at times intimidated and harassed family members of ISA detainees to prevent them from taking legal action against the police.

The 1988 amendments to the ISA circumscribed judicial review of ISA detentions. The Bar Council has asserted that ISA detentions should be subject to full judicial review; however, the courts do not concur with this interpretation and limit their review to procedural issues. Detainees freed by judicial order nearly always were immediately detained again. Following several successful procedural challenges to ISA detentions, in 2003 the Federal Court ruled that the courts should not intervene in matters of national security and public order.

In July the deputy minister of internal security stated that there were 112 persons in detention under the ISA, of whom 82 had been detained for more than 2 years. Three ISA detainees were subsequently released. The 109 remaining ISA detainees at year's end included 71 suspected of involvement with terrorist groups, 22 held for forging currency, and 16 held for falsification of documents or other offenses. The

group included 21 foreigners and 2 women. According to Suaram, a local human rights NGO, none were formally charged with a criminal offense. Among those detained were members of the opposition Islamic Party (PAS), including Nik Adli, son of the PAS spiritual leader.

There were no reports of political detainees.

Opposition leaders and human rights organizations continued to call on the government to repeal the ISA and other legislation that deprived persons of the right to counsel and trial, but the government stated that the ongoing threat of terrorist activity in the country underscored the continued need for the ISA.

Under the Emergency Ordinance, the internal security 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." In September local NGOs called for abolition of the ordinance, citing a 2004 Suhakam study that found more than one thousand detainees held under the measure at the Simpang Renggam detention facility. They stated that the ordinance was being used to detain alleged criminals when police lacked sufficient evidence to support a traditional prosecution. For example, in October a high court judge acquitted eight men of murder charges, citing insufficient evidence of their link to the crime. The men were immediately rearrested under the Emergency Ordinance. The police commission recommended repeal of the ordinance, stating "it has outlived its purpose and in some instances has facilitated the abuse of some fundamental liberties."

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 internal security minister must issue a detention order. Once an order is issued, the detainee is entitled to a court hearing, which may order the detainee's release. Suspects may be held 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 the traffickers were acquitted of formal charges. According to the National Anti-Drug Agency, the government detained 2,295 persons under the act during the first 11 months, compared with 1,897 persons during the same period in 2004.

The 1933 Restricted Residence Act allows the minister of internal security to place individuals under restricted residence away from their homes. These persons may not leave the residential district assigned to them by the government, and they must present themselves to police on a daily basis. As under the ISA, the term of detention may be renewed 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. In September 2004 the deputy minister of internal security told the press that 140 persons had been placed on restriction during the year. The police commission recommended repeal of the act, stating that "restricting residence is not practical and action can in any case be taken under other laws."

Immigration laws were used to detain illegal immigrants, who were often held for several months before deportation due to delays in processing. Illegal immigrants were kept in detention camps that were separate from prisons. No codified legal distinction is made between illegal workers, refugees, and trafficking victims (see sections 1.c. and 2.d.).

Crowded and understaffed courts often resulted in lengthy pretrial detention, sometimes lasting several years.

The CPC allows the detention of a person whose testimony as a material witness is necessary in a criminal case, if that person is considered likely to flee.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government generally respected this provision in practice. However, constitutional provisions, legislation restricting judicial review, and other factors limited judicial independence and strengthened executive influence over the judiciary.

The government limited judicial independence significantly through a 1988 constitutional amendment that provided judicial powers would be conferred by parliament rather than being vested directly in the courts. The amendment also conferred 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 has control and direction of all criminal prosecutions under the CPC and has assumed responsibility for judicial assignments and transfers. Since 1988 senior judges have been appointed based on the recommendation of the prime minister.

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

Minor civil suits are heard by sessions courts. High courts have original jurisdiction over all criminal cases involving serious crimes. Juvenile courts try offenders below age 18. The 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.

Trial Procedures

The secular legal system is based on English common law. Trials are public, although judges may order restrictions on press coverage. Defendants have the right to counsel, bail is usually available, and 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 are presumed innocent and may appeal court decisions to higher courts. The 1964 Judiciary Court Act 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 the act imposes too many restrictions on appeals.

The Essential (Security Cases) Regulations restrict the right to a fair trial by lowering the standard for accepting self-incriminating statements by defendants as evidence in firearm and certain national security cases. The regulations also allow authorities to hold the accused for an unspecified time before making formal charges.

Even when the Essential Regulations were not invoked, police sometimes used other tactics to limit the legal protections of defendants. For example, during a trial police may summon and interrogate witnesses who have previously given testimony that was not helpful to the prosecution. Human rights advocates accused police of using this tactic to intimidate witnesses. Police also have used raids and document seizures to harass defendants.

Contempt of court charges also restricted the ability of defendants and their attorneys to defend themselves; however, the use of such charges appeared to be decreasing.

Certain provisions of the Anticorruption Act impinge on the presumption of a public office holder's innocence. A 1997 amendment to the act requires that accused persons prove that they acquired monetary and other assets legally. Failure to satisfy the court's demand for a satisfactory explanation can result in imprisonment of up to 20 years and a fine. In practice few such cases have been brought.

Shari'a laws are administered by state authorities through Islamic courts and bind all Muslims, most of whom are ethnic Malays. These laws and the degree of their enforcement vary from state to state. In 2002 the government established a committee to recommend ways to harmonize Shari'a throughout the country; however, any recommendations must be adopted by individual state legislatures. Efforts to harmonize state Shari'a with federal laws have also proven difficult. Shari'a courts do not give equal weight to the testimony of women. Many NGOs also complained that women did not receive fair treatment from Shari'a courts, especially in matters of divorce and child custody (see sections 2.c. and 5).

In July approximately 70 members of the Sky Kingdom religious group were arrested in the state of Terengganu and charged with violating a state *fatwa* (Islamic edict) that banned support of "deviant" religious teachings. In August a judge postponed a hearing in the case after no Shari'a lawyer agreed to represent the group. The Sky Kingdom members remained free on bail, pending their hearing.

Indigenous peoples in Sarawak and Sabah have a system of customary law to resolve matters such as land disputes between tribes. Additionally, *penghulu* (village head) courts may adjudicate minor civil matters, but these were rarely used.

The military has a separate system of courts.

Political Prisoners

There were no reports of political prisoners.

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

The law prohibits such actions; 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 (see section 1.d.). Police also may confiscate evidence under these provisions. Police used this legal authority to search homes and offices, seize books and papers, monitor conversations, and take persons into custody without a warrant.

The Anticorruption Act empowers a deputy public prosecutor to authorize the interception of any messages sent or received by a suspect through any means of communication, once a written application has been received from a senior police official involved in an official investigation. Information obtained in this way is admissible as evidence in a corruption trial.

The law permits the Internal Security Ministry to place criminal suspects under restricted residence in a remote district away from their homes for two years (see section 1.d.).

The government bans membership in unregistered political parties and organizations (see section 2.b.).

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

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The law provides for freedom of speech and of the press; however, some important legal limitations exist. In practice the government restricted freedom of expression, and journalists practiced self-censorship. According to the government, restrictions were imposed to protect national security, public order, and friendly relations with other countries.

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

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, and during the March 2004 national elections both the election commission chairman and the prime minister warned candidates not to violate the amended law. No one was charged under the provision.

Under the penal code, criminal defamation is punishable by a maximum of two years in jail, a fine, or both. The Centre for Independent Journalism, a local NGO, claimed that the threat of imprisonment and large monetary judgments for criminal defamation reinforced self-censorship. In September, immediately following a complaint filed by state-owned oil company Petronas, police initiated an investigation of *Malaysiakini*, the country's largest independent Internet news organization. Petronas accused *Malaysiakini* of criminal defamation for publishing a former Petronas executive's allegations of financial malfeasance within the company. A police investigation of *Malaysiakini* was underway at year's end.

Print journalism was dominated by eight daily newspapers--two each in English and Malay and four in Chinese. Parties in the ruling coalition owned or controlled a majority of shares in each of the English and Malay dailies and in two of the Chinese dailies. Politically well-connected tycoons owned the other two Chinese-language newspapers. Self-censorship and biased reporting in the print media, while common, were not uniform; the English-, Malay-, and Chinese-language press sometimes provided balanced reporting on sensitive issues. The mainstream press increasingly printed editorials and interviews with opposition leaders that included criticism of government policy. Observers believed this indicated the government had relaxed its interpretation and enforcement of press restrictions.

The Printing Presses and Publications Act limits press freedom. Under the act, domestic and foreign publications must apply annually to the government for a permit. The act makes publication of "malicious news" a punishable offense, empowers the government to ban or restrict publications, and prohibits court challenges to suspension or revocation of publication permits. According to the government, these provisions ensured that "distorted news" was not disseminated to the public. Government power over annual license renewal and other policies created an atmosphere that inhibited independent or investigative journalism and resulted in extensive self-censorship. Government officials continued to argue that the act helped to preserve harmony and promote peaceful coexistence in a multiracial country. In November the deputy internal security minister stated that during the first nine months of the year, the Home Affairs Ministry had inspected more than a million foreign publications to assess whether their content threatened national security, public order, or morality. During that time the ministry blocked 8,812 (mostly English-language) titles and confiscated more than 431 thousand copies of books, newspapers, magazines, and comic books.

In August, in response to public health concerns about heavy haze blanketing large sections of the country, the government for the first time began to publicize daily air pollution index readings for the entire country. Publication of such information was previously banned because the government viewed it as prejudicial to the country's image.

At year's end the appeal of human rights monitor Irene Fernandez was pending. In 2003 she was sentenced to 12 months' imprisonment for malicious publication of false material regarding abuse and torture of migrant workers at detention camps.

Publications of opposition parties, social action groups, unions, and other private groups actively covered opposition parties and frequently printed views critical of government policies. However, the government retained significant influence over these publications by requiring the annual renewal of publishing permits and limiting circulation only to organization members. In the past the PAS newspaper *Harakah* was the target of several ruling party-sponsored libel suits. *Harakah* was the only major Malay- or English-language print media forum for opposition views, and its circulation rivaled that of mainstream newspapers. Under government stricture, *Harakah* has been limited to publishing twice monthly instead of twice a week.

Most major newspapers had online editions, which generally fell outside government regulations since they are not required to have publication permits. However, in July police raided the home of the editor of *Malaysia Today*, an independent Internet news provider, and seized two computers after *Malaysia Today* published corruption allegations against royal family members in the state of Negri Sembilan.

Printers, who also must have their permits renewed annually, often were reluctant to print publications that were critical of the government.

Radio and television stations were restricted more tightly than the print media and were almost uniformly supportive of the government's news coverage and commentary. News of the opposition was tightly restricted and reported in a biased fashion. In the period before the March 2004 elections, opposition representatives said they were unable to have their views heard and represented on the country's television and radio stations. Following a government-approved acquisition in October, a large domestic media company became the sole owner of the country's four privately held free-to-air television stations.

Broadcasting licenses permit only Malay-language news from 8:00 to 9:00 p.m., except on a ministry of information channel. In 2004 one of the new stations appealed the terms of its license agreement and began broadcasting the 8:00 p.m. news in English. The appeal was denied, and the English broadcasts ceased. Internet television faced no such restrictions. PAS continued daily Internet television broadcasts that began in 2001.

The government censored books and films for profanity, nudity, sex, violence, and certain political and religious content. Television stations censored programming in line with government guidelines. Some foreign newspapers and magazines were banned, and, infrequently, foreign magazines or newspapers were censored, most often for sexual content. However, the Internet provided a means to bypass such restrictions. The government maintained a "blacklist" of local and foreign performers, politicians, and religious leaders who were not allowed

to appear on television or radio broadcasts. The government continued to try to block the production, distribution, and sales of unauthorized video compact discs and digital video discs, especially those with pornographic or sensitive political content.

The Communications and Multimedia Act (CMA) requires certain Internet and other network service providers to obtain a license. In the past the government stated that it did not intend to impose controls on Internet use but noted that it would punish the "misuse" of information technology under the CMA. During the year the government did not use licensing provisions under the CMA to interfere with Internet access or to restrict Internet content.

The CMA also 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. In September, in an attempt to avert possible police action against them, two bloggers lodged police reports against an anonymous writer who posted racist remarks on their blogs.

The government generally restricted remarks or publications that might incite racial or religious disharmony; it also attempted to restrict the content of sermons at mosques in the states controlled by the governing coalition. Some state governments banned certain Muslim clergymen from delivering sermons. The Religious Affairs Department continued to conduct background checks on all clergymen. The government also cracked down on the distribution and sale of the opposition party's video compact discs and audiocassettes. In June the government confiscated an edition of the weekly Chinese-language newspaper *Epoch Times* that was produced in Indonesia and contained comments supportive of the China-based Falun Gong movement. The government banned two later editions of the newspaper, and its importer quickly ceased its distribution. The government provided no official rationale for its actions.

The government placed some restrictions on academic freedom, particularly the expression of unapproved political views, and the government 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 this was intended to restrain political activity among civil servants, academics, and students. According to news reports, two lecturers at Universiti Utara Malaysia were fired during the year for failing to sign the loyalty pledge.

Although academics 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 student and faculty political activity (see section 2.b.).

In August Universiti Kebangsaan Malaysia, a public university, terminated the employment contract of a senior professor who had publicly spoken out against the political, social, and economic policies of the governing coalition.

The government has long stated that students should be apolitical and used that assertion as a basis for denying parties access to student forums. According to student leaders, students who signed antigovernment petitions sometimes were expelled or fined. The government enforced this policy selectively and did not refrain from spreading government views on political issues among students and teachers.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The law provides for freedom of peaceful assembly; however, in practice the government placed significant restrictions on this right. This right may be limited in the interest of security and public order, and the Police Act requires police permits for all public assemblies except for workers on picket lines. Police define 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 have influenced the grant or denial of some permits. Police granted permits routinely to government and ruling coalition supporters but used a more restrictive policy with government critics and human rights activists. In August local news media reported that police in Kuala Terengganu used tear gas and water cannons to break up a gathering of approximately two thousand PAS supporters. The gathering, which police deemed an illegal assembly, was led by PAS state and local party leaders. Several police officers were injured and seven persons were detained.

In September, following a meeting between the IGP and PAS leaders, the IGP directed police to decide within five days whether to approve an application for public assembly. The previous timeframe was 14 days.

In March police arrested six members of the opposition Democratic Action Party (DAP) at a party-sponsored demonstration in Kuala Lumpur's Merdeka Square. Approximately 70 persons attended the event, which commemorated the 40th anniversary of the government's decision to suspend direct elections of local government officials. Before their arrest, DAP party leaders urged the government to restore local government elections. After their release from jail, they claimed they had obtained verbal approval for their public assembly from the city's deputy police chief.

In June police detained 68 protesters outside the Burmese embassy in Kuala Lumpur. The ethnic Burmese demonstrators, who were protesting the detention in Burma of democracy leader Aung San Suu Kyi, were arrested for assembling without a police permit and failure to obey a police dispersal order. Their cases were pending at year's end.

The police commission recommended that sections of the Police Act restricting public assembly be amended. The commission stated that the recent addition to this act of restrictive assembly provisions "spells the end of the freedom of assembly, speech, and association provided

by the constitution."

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 affiliated organizations from registering and has blocked the registration of the Socialist Party of Malaysia since 1999 (see section 1.f.). The government also has the power to revoke the registration of an existing society for violations of the act, a power that it enforced selectively against political opposition groups.

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 argued that the act still was necessary. After repeated requests during prior years, several of the country's 17 public universities agreed to allow Suhakam to monitor campus elections of student representatives in September. This followed previous allegations of scare tactics, discriminatory candidate approval procedures, and irregularities in polling practices. The campus elections proceeded without major incident, in part due to election boycotts by candidates at five major universities. According to Suaram, several universities took disciplinary action against a total of 10 students who had called for free and fair campus elections.

c. Freedom of Religion

The law provides for freedom of religion; however, the government placed some restrictions on this right. Sunni Islam is the official religion, and the practice of Islamic beliefs other than Sunni Islam was significantly restricted. Non-Muslims, which included large Buddhist, Christian, Hindu, and Sikh communities, were free to practice their religious beliefs with few restrictions. The government provided financial support to an Islamic religious establishment and also provided more limited funds to non-Islamic religious communities. State authorities imposed Islamic religious laws administered through Islamic courts on all ethnic Malays (and other Muslims) in some matters but generally did not interfere with the religious practices of the non-Muslim community.

Prime Minister Abdullah has emphasized religious tolerance towards all faiths. During the year the government promoted *Islam Hadhari*, which emphasized tolerance towards other religions and a moderate, progressive interpretation of Islam.

The Registrar of Societies, under the Ministry of Home Affairs, registers religious organizations. Registration enables organizations to receive government grants and other benefits.

Various religious groups were not recognized as such by the government, and they sometimes registered themselves under the Companies Act to operate legally. In June nine Falun Gong members were fined for committing technical violations of the Companies Act, such as failure to provide minutes of the organization's meetings within the required timeframe.

In practice Muslims are not permitted to convert to another religion. In several recent rulings, secular courts have ceded jurisdiction to Islamic courts in matters involving conversion to or from Islam. In September the court of appeal denied the request of a Muslim who had converted to Christianity to change the religion designated on her national identity card. The court ruled that a Shari'a court must first approve a request by a Muslim citizen to convert to another religion. In practice Shari'a courts routinely denied such requests.

In December a high court ruled that it lacked jurisdiction over Shari'a court decisions on matters that concern Islamic law. The case involved the disposition of the remains of a Hindu man who allegedly converted to Islam before his death. The man's Hindu wife struggled with Islamic authorities over which religion should control his burial. As a non-Muslim, the wife had no standing in the Shari'a court to appeal its decision, and Islamic religious authorities buried the man under Muslim rites.

In February the government rejected efforts led by the Bar Council and NGOs to establish a statutory interfaith commission. Proponents sought to foster cooperation among the country's faiths and bolster freedom of religion. The prime minister stated that he preferred "interfaith dialogues" to improve cooperation among the respective followers of the country's religions.

In August the Selangor State Religious Department announced its decision to withhold support for visa applications by foreign Muslim *imams* and religious teachers. Local media reported that the decision was largely targeted at the ethnic Indian Muslim community in an effort to increase the number of "homegrown" *imams*. Ethnic Indian religious leaders expressed concern that some mosques and religious schools might need to be closed.

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. Approvals for building permits sometimes were granted very slowly. In 2003 the minister of housing and local government announced that building permit approvals would no longer be required for construction of places of worship; however, minority religious groups reported that state governments sometimes blocked construction using restrictive zoning and construction codes. In September a Catholic church opened near Kuala Lumpur after more than 10 years of legal delays. Church officials publicly accused the state of intentionally delaying construction of the church by demanding relocation of proposed building sites and revoking previously approved building plans and designs.

Proselytizing of Muslims by members of other religions is strictly prohibited, although proselytizing of non-Muslims faced no obstacles. In

April two foreign citizens were arrested and detained for allegedly distributing Christian religious pamphlets to Muslims. After 10 days in police custody, they were dismissed without charge.

The government discouraged but did not ban distribution in peninsular Malaysia of Malay-language translations of the Bible, Christian tapes, and other printed materials. The distribution of Malay-language Christian materials faced few restrictions in the eastern states of Sabah and Sarawak.

While representatives of non-Muslims do not sit on the immigration committee that approves visa requests from members of the clergy, the Malaysian Consultative Council of Buddhism, Christianity, Hinduism, and Sikhism is asked for its recommendation.

The government continued to monitor the activities of the Shi'a minority, and state religious authorities reserved the right to detain members of what they considered Islamic "deviant sects," i.e., groups that do not follow the official Sunni teachings, under the ISA. According to the government, no individuals were detained under the ISA for religious reasons during the year.

The government is concerned that "deviationist" teachings could cause divisions among Muslims. The government's Islamic Development Department has established written guidelines concerning what constitutes a "deviationist" behavior or belief. State religious authorities, in making their determinations on these matters, have generally followed the federal guidelines. Members of groups deemed "deviationist" may be arrested and detained, with the consent of the Islamic court, in order to be "rehabilitated" and returned to the "true path of Islam." In June the religious affairs minister told parliament that 22 "deviant" religious groups with an estimated 2,820 followers had been detected in the country. The minister stated that the members of these groups were subject to prosecution, detention under the ISA, or rehabilitation. In August the government's Islamic Development Department published a list of 56 religious teachings or schools that were deemed to be "deviationist."

In July 2004 the Federal Court dismissed an appeal by four followers of Ayah Pin, leader of a religious group in Terengganu State known as the Sky Kingdom. The appeal from the four former Muslims sought a statutory declaration that Sky Kingdom followers have the right to practice the religion of their choice. The Federal Court held that their attempt to renounce Islam did not free them from the jurisdiction of the state Shari'a court. In July 70 Sky Kingdom members were arrested at the sect's main compound in Terengganu. In August all nonresidential buildings on the compound were destroyed on the instruction of state officials, who asserted that nonfarming structures had been built on property zoned exclusively for agricultural use. The 50 remaining individuals living on the compound were ordered to vacate their residences. No Shari'a law-qualified lawyers agreed to defend the Sky Kingdom followers, forcing postponement of their August hearings. The Sky Kingdom's leader and one of his four wives remained at large and were sought by religious authorities for supporting "deviant" religious practices.

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 Islamic party PAS have attempted to use mosques in the states they control to deliver politically oriented messages. Several states have attempted to ban opponent-affiliated *imams* from speaking at mosques. Some states also have announced measures including vigorous enforcement of existing restrictions on the content of sermons and replacement of mosque leaders and governing committees.

For Muslim children, religious education according to a government-approved curriculum is compulsory. Muslim civil servants are required to attend Islamic religious classes taught by government-approved teachers.

In family and religious matters, all Muslims are subject to Shari'a. According to some women's rights activists, women were subject to discriminatory interpretations of Shari'a and inconsistent application of the law from state to state. In Kelantan local authorities enforced wearing of headscarves by Muslim women and imposed fines for violators. Since the defeat of the opposition Islamic party PAS in Terengganu in the March 2004 elections, state and local officials have significantly reduced enforcement of dress codes for women. In November the minister of higher education stated that non-Muslim women who attend the International Islamic University of Malaysia in Kuala Lumpur must wear headscarves when attending lectures and during graduation ceremonies.

Efforts by the PAS-led government of Kelantan to implement Shari'a criminal law (see section 5), which would impose Islamic penalties for theft, robbery, illicit sex, drinking alcohol, and the renunciation of Islam, have been challenged in Federal Court, and the cases were pending at year's end.

In January federal religious police raided a nightclub in Kuala Lumpur, detaining approximately 100 young Muslims for drinking and frequenting an establishment where liquor was sold. Non-Muslims were free to remain in the club. The religious affairs minister stated that 28 such raids had been conducted in Kuala Lumpur between 2002 and January.

The government has a legislatively based, comprehensive system of hiring that favored ethnic Malays and members of a few other groups, known collectively as *bumiputras*, or "sons of the soil," most of whom are Muslim (see section 5).

Societal Abuses and Discrimination

Relations among religious groups were generally amicable. No reliable estimate of the country's Jewish population was available, and there was no locally based Jewish community or synagogue in the country. There were no reports of anti-Semitic acts.

For a more detailed discussion, see the [2005 International Religious Freedom Report](#).

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

The law provides for these rights, and the government generally respected them in practice, although there were restrictions in some circumstances. 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. In past years NGOs claimed that some citizens were blacklisted and not permitted to travel outside of the country because they might "tarnish the reputation" of the country, but there was no indication that this practice occurred during the year.

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 some criminal activities (see section 1.d.).

Citizens must apply for government permission to travel to Israel.

The constitution provides that no citizen may be banished or excluded from the country. However, according to the terms of a 1989 peace agreement, Chin Peng, the aged former leader of the communist insurgency in the country, continued to live in exile in Thailand and has been denied permission to return.

Protection of Refugees

The country is not a party to 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. It sometimes granted temporary refuge to asylum seekers. In August, 131 Thai citizens illegally entered the country, ostensibly to escape clashes between security forces and villagers in southern Thailand. The government decided not to return the group involuntarily and granted the UNHCR access to them. One asylum seeker wanted by the Thai government for criminal offenses was returned to Thailand.

The UNHCR listed 33,499 persons as refugees at year's end, of whom 56 percent were Indonesians from Aceh Province and 41 percent were Burmese nationals. The UNHCR received 14,595 new applications for refugee status during the year, down from 20,663 applications in 2004.

At year's end the UNHCR stated that 10,839 persons had active asylum cases pending in the country, of which 76 percent were Burmese nationals. The UNHCR assisted in the resettlement of 672 persons to third countries during the year.

According to the UNHCR, 2,469 persons arrested during the year were identified by the UNHCR as asylum seekers, recognized refugees, or individuals granted "temporary protection." The UNHCR facilitated the release of 1,277 of these individuals from police lockups and immigration detention camps. In August the deputy head of prosecution in the Attorney General's Office issued a directive to drop all charges against persons detained solely for immigration violations if they had been granted UNHCR refugee or asylum-seeker status prior to their arrest. The government released 248 such detainees between August and December, compared with 17 during all of 2004.

The government continued to deport some asylum seekers and refugees but allowed certain asylum seekers and persons of concern to remain, pending resettlement to other countries.

The government generally did not distinguish between asylum seekers and illegal immigrants, detaining them in the same camps. Detention facilities were overcrowded and lacked medical facilities. Local human rights NGOs alleged that detainees were sometimes abused by prison officials and received inadequate food.

The immigration law provides for six months in prison and up to six strokes of the cane for immigration violations. In practice, due to delays in processing travel documents, many illegal immigrants were detained in camps for more than a year (see section 1.d.).

During the year the Prisons Department took over management of the immigrant detention centers from the Immigration Department. NGOs viewed this as a positive step, as the Prisons Department has more institutional expertise in running such facilities.

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 exercised this right in practice through periodic elections; however, while votes generally were recorded accurately, there were irregularities that affected the fairness of elections.

Elections and Political Participation

Opposition parties were unable to compete on equal terms with the governing coalition (which has held power at the national level since independence in 1957) because of significant restrictions on campaigning, freedom of assembly, freedom of association, and access to the media. Nevertheless, opposition candidates campaigned actively, with some success in state and national elections. In the most recent national elections, held in March 2004, opposition parties captured 19 of 219 parliamentary seats and 52 of 505 state assembly seats.

The lack of equal access to the media was one of the most serious problems encountered by the opposition in the March 2004 national elections (see section 2.a.). Opposition leaders also claimed that the election commission was perceived to be under government control and did not carry out its duties impartially. There were numerous opposition complaints of irregularities by election officials during the March 2004

campaign; however, most observers concluded that they did not substantially alter the results. Allegations were lodged of voter rolls being inflated by illegally registered "phantom" voters, who reportedly included voters from other districts brought in to vote in tightly contested districts; of nonregistered voters using fictitious names or the names of dead voters still listed on the voter rolls; and of noncitizens illegally registered to vote. In addition ballots were marked with a serial number that could be matched against a voter's name.

The constitution states that parliamentary constituencies should have approximately equal numbers of eligible voters; however, in practice the numbers varied significantly. The constitution also states that greater weight should be given to rural constituencies. In 2003, following nationwide redistricting, 25 new parliamentary seats were added, primarily in states in which the ruling coalition was strong. The opposition complained that the two states it controlled prior to the March 2004 elections did not get any new seats and that the redistricting was undertaken to weaken the opposition. Observers agreed that the redistricting favored government candidates for parliamentary seats but believed it had less influence on elections for state seats.

The Malay-based UMNO party dominated the ruling National Front coalition. Since 1969 the National Front coalition has maintained at least a two-thirds majority in parliament, which enabled the government to amend the constitution at will.

Over the years power increasingly has been concentrated in the prime minister, and parliament's function as a deliberative body has deteriorated. Legislation proposed by the government rarely was amended or rejected, while legislation proposed by the opposition was not given serious consideration. Parliamentary procedures allow the Speaker to suspend members of parliament, establish restrictions on tabling questions, edit written copies of members' speeches before delivery, and severely restrict members' opportunities to question and debate government policies. Nonetheless, government officials often faced sharp questioning in parliament, and this was reported in the press in greater detail than in the past. Unlike in 2004, no member of parliament was suspended by the Speaker.

After the 1969 race riots, the government abolished elected local government in favor of municipal committees and village chiefs appointed by state governments. 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. Even some ruling party municipal officials noted that local bodies were simply "rubber stamps" for the government.

Women faced no legal limits on participation in government and politics, and the government proposed a plan of action for the advancement of women to redress gender inequalities. In August 2004 the prime minister announced that 30 percent of decision-making posts in government would be allocated to women. At the end of the year, 3 of 33 cabinet ministers were women. Women held 20 of 193 seats in the lower house and 14 of the 61 senate seats filled at year's end.

Ethnic minorities were well represented in cabinet-level positions in government as well as in senior civil service positions. The political dominance of the Malay majority meant, in practice, that ethnic Malays held the most powerful senior leadership positions. Nonetheless, non-Malays filled 10 of the 33 ministerial posts and 20 of 38 deputy minister positions.

Government Corruption and Transparency

There was an extensively held perception of widespread corruption and cronyism within the governing coalition and in government institutions. After taking office, Prime Minister Abdullah publicly denounced corruption, canceled a high-profile project tainted by cronyism, strengthened the Anti-Corruption Agency, proposed the creation of a civil service ethics training institute, and pushed government institutions to be more responsive to the public. The ethics training institute was subsequently established in April 2004. According to the prime minister, 183 civil servants were charged with corruption during the first 9 months of the year, compared with 242 during all of 2004.

In June a UMNO vice president who was also a cabinet minister was suspended from the party for six years for buying votes. In August a former senior UMNO politician was sentenced to 2 years in jail and fined approximately \$10 thousand (35 thousand ringgit) for bribery. Following this court ruling, the NGO Transparency International praised the government's progress in reducing corruption within UMNO. In February 2004 the former managing director of a government-owned steel company and the then federal minister for land and cooperative development were arrested in separate cases on corruption-related charges. Their cases were pending at year's end. In November 2004 UMNO suspended 16 members for possible vote buying in party elections.

There was no law designed to facilitate citizens' requests for government statistics or other information collected and compiled by the government. Individual members of parliament are allowed to request and obtain such information on an ad hoc basis, some of which is 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 NGOs, including the Bar Council and other public interest groups, devoted considerable attention to human rights. The government generally tolerated their activities but often did not respond to their inquiries or press statements. However, under Prime Minister Abdullah there generally has been a more cooperative atmosphere toward human rights NGOs.

The government generally did not encourage international human rights organizations to form domestic branches; however, it usually did not restrict access by representatives of those organizations. The 16 members of the police commission included an official of the opposition political party PAS, the president of the national chapter of Transparency International, the president of the Bar Council, and the executive secretary of Women's Aid Organization, a local NGO.

Suhakam has come to be seen by many analysts as a credible monitor of the human rights situation in the country and a check on police activities that previously lacked oversight. 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 matter of a court case. In its most recent annual human rights report, published during the year, Suhakam focused on the rights of women and children, land rights for native tribes, and provision of adequate housing. In addition the report criticized prison conditions, deaths in police custody, detentions without trial, and some of the government-imposed restrictions on freedom of assembly. The report recommended that marital rape be made illegal, opposed caning, and highlighted the need to implement a national plan of action to counter trafficking in persons.

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.

Analysts acknowledged Suhakam as one of the few institutions in society with any ability to challenge, however tentatively, executive control. Suhakam commissioners repeatedly have 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 peoples 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, educational scholarships, and other areas.

Women

Violence against women remained a problem. Reports of rape and spousal abuse drew considerable government, NGO, and press attention. According to the police commission, there were 3,101 cases of domestic violence reported in 2004, up from 2,555 cases in 2003.

The Domestic Violence Act of 1994 addresses violence against women in the home; however, 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 by requiring separate reports of abuse to be filed with both the Social Welfare Department and the police, causing delay in the issuance of a restraining order against the perpetrator. Women's rights activists also highlighted the fact that, because the act is a part of the penal code, legal protection for victims is limited to cases in which visible evidence of physical injury is present, despite its interpretation to include sexual and psychological abuse. In August the minister of women, family, and community development stated that while the act provided adequate protection for women from a purely legal standpoint, police enforcement had been too lax.

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 as part of a nationwide effort to help victims of sexual crimes and abuse. Police responses and sensitivity to complaints of domestic violence continued to improve, but women's rights activists claimed that police needed additional training in handling domestic abuse and rape cases.

The police commission reported that police abuses of women's rights were largely the result of a lack of adherence to existing laws and the police code of conduct. The commission recommended hiring and training permanent police personnel to work solely on sexual crimes and child abuse cases, rather than continuing to use temporary personnel on assignment from other types of police work. In response to the commission's recommendation and the increasing number of domestic violence cases, police in Kuala Lumpur assigned several female officers to work exclusively on domestic violence cases and provide basic counseling to victims.

Some Shari'a experts have 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. However, provisions in state Shari'a laws generally prohibit wives from disobeying the "lawful orders" of their husbands and present an obstacle to women pursuing claims against their husbands in Shari'a courts. Muslim women were able to file complaints in civil courts.

Spousal rape is not a crime. Theoretically, a man who raped his wife could face charges of assault, although reportedly no man has been convicted under such circumstances. In August 2004 Suhakam and local NGOs called on the government to amend the penal code to include spousal rape as an offense.

Reports of rape were common in the press and among women's rights groups and NGOs. According to the police commission, 1,760 women were raped during 2004, compared with 1,479 in 2003. 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 in providing counseling for rape victims. However, 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 and a leading women's NGO, only 10 percent of rape cases were reported to police. In 2003 the penal code was amended to increase the punishment for rape to include imprisonment for a term of from 5 to 30 years, caning, and a fine. While some rapists received heavy punishments, including caning, women's groups noted that other rapists received inadequate punishments.

Prostitution is illegal and was prosecuted. Statistics were available only for foreigners arrested on immigration charges with suspected involvement in prostitution. During the first 9 months, police arrested 4,678 such persons, compared with 5,783 arrested during all of 2004. Chinese nationals accounted for the largest percentage of such arrests (more than 40 percent). Police were accused of profiling female Chinese nationals as potential prostitutes, following several highly publicized arrests (see section 1.c.).

The country was a source, transit, and destination country for trafficking in women for purposes of prostitution (see section 5, Trafficking).

A government code of conduct provides a detailed definition of sexual harassment and attempts to raise public awareness of the problem, but women's groups advocated passage of a law on sexual harassment in lieu of the voluntary code. 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. Since the code's 1999 introduction, the number of reported incidents of sexual harassment has risen. In September the government published comprehensive sexual harassment guidelines for the country's almost one million civil servants. The guidelines define the various forms of sexual harassment and provide guidance to victims and supervisors in dealing with individual cases of such harassment. In August 2004 the Human Resources Ministry declared that the Employment Act would be amended to include a provision requiring all companies to appoint an officer from among senior management to handle sexual harassment in the workplace. However, no action had been taken by year's end.

Polygyny is allowed and practiced to a limited degree. 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.

Women's rights advocates asserted that women faced discriminatory treatment in Islamic courts due to prejudicial interpretation of Islamic family law and the lack of uniformity in the implementation of such laws among the various states. In addition the country had no female Shari'a court judges. In December, over strongly voiced objections from several members of parliament within the governing coalition as well as NGOs including Suhakam, parliament passed a series of amendments to the 1984 Islamic Family Law Act. The new law standardizes Shari'a-based legal provisions in all states governing polygamy, divorce, and inheritance among Muslims. The law enhances the ability of Muslim men to divorce, take multiple wives, claim a share of an existing wife's property upon taking a further wife, and curtail a wife's ability to dispose of her property.

Non-Muslim women are subject to civil (secular) law. The Guardianship of Women and Infants Act gives mothers equal parental rights. Four states extend the provisions of the bill to Muslim mothers, and women's groups urged 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. In February, for the first time, a woman was appointed chief judge of Malaya, the country's third-highest judicial position. In the scientific and medical fields, women made up more than half of all university graduates and comprised more than 50 percent of university students. According to the national union of bank employees, 65 percent of members were women, but only 1 out of 8 principal banking officials was a woman. Women comprised approximately 10 percent of board members at publicly traded companies during each year from 2000 to 2004, and they accounted for 13.5 percent of senior corporate executives at the end of 2004, compared with 12.3 percent in 2003.

Children

The government has demonstrated a commitment to children's rights and welfare and allocated approximately 25 percent of the national budget to education. The government provides free education for children through age 15. Although primary education is compulsory, there is no enforcement mechanism governing school attendance. Attendance at primary school was 96 percent, while secondary school attendance was 82 percent. A variety of programs provided low cost health care for most children.

The 2001 Child Act prescribes severe punishments for child trafficking, abuse, molestation, neglect, and abandonment. It also mandates the formation of children's courts; during the year these courts were established in each court district. The act allows that a maximum of 10 strokes with a "light cane" be applied to male children between ages 10 to 18.

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 from 6 to 20 years' imprisonment and caning for individuals convicted of incest. The police commission stated that there were 334 cases of incest reported in 2004, up from 254 cases in 2003. Approximately 65 percent of those cases involved children under 15. In September 2004 the local press reported that in a survey of 133 convicted sex predators, 23 percent of the victims of sexual offenses were daughters of the offender. Under the Evidence Act, the testimony of children is accepted only if there is corroborating evidence. This poses special problems for molestation cases in which the child victim is the only witness. Some judges and others recommended that the Evidence Act be amended to accept the testimony of children and that courts implement special procedures to hear the testimony of children.

Statutory rape occurred and was prosecuted. However, Islamic law provisions that consider a Muslim girl an adult after she has had her first menstruation sometimes complicated prosecution of statutory rape. Such a girl may be charged with *khalwat*, or "close proximity" (the charge usually used to prosecute premarital or extramarital sexual relations), even if she is under the age of 18 and her partner is an adult. Thus Shari'a courts sometimes punished the victims of statutory rape. Moreover, Shari'a courts sometimes were more lenient with males charged with *khalwat*. However, in many cases Muslim men were charged and punished for statutory rape under secular law. The police commission stated that 66 percent of all rapes reported in 2004 involved children under 15 years old.

Child prostitution existed, but child prostitutes often were treated as delinquents rather than victims (see section 5, Trafficking).

Child labor occurred in certain areas of the country (see section 6.d.).

Sabah State had a problem of street children. Estimated to number anywhere from a few score to a few hundred, they were born in the country to illegal immigrant parents who had been deported. These children lacked citizenship and access to government-provided support.

Trafficking in Persons

There is no law that specifically and comprehensively criminalizes trafficking in persons. However, the Child Act prohibits all forms of trafficking of children under 18, and the penal code comprehensively addresses trafficking for the purpose of prostitution. The government also uses other laws, such as the Immigration Act, the Restricted Residence Act, and the ISA, to prosecute traffickers.

The country was a source, transit, and destination country for women and girls trafficked for the purpose of sexual exploitation. Women and girls from Thailand and the Philippines were trafficked through the country to destinations such as Australia, Canada, Japan, Korea, and the United States. Young women primarily from Indonesia, China, and Thailand, with smaller numbers from the Philippines and other countries, were trafficked into the country for sexual exploitation. These women often worked as karaoke hostesses, "guest relations officers," and masseuses. In addition some foreign women and girls employed as household servants were held in conditions that amounted to forced labor (see section 6.e.).

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 at least 300 to 400 trafficking victims were rescued and repatriated. There were allegations of corruption among law enforcement personnel, since some trafficking victims were known to pass through two or more ports of entry without travel documents.

A small number of Malaysian women and girls were trafficked for sexual purposes, mostly to Singapore, Macau, Hong Kong, and Taiwan, but also to Japan, Australia, Canada, and the United States. According to police and Chinese community leaders, female citizens who were victims of trafficking were usually ethnic Chinese, although ethnic Malay, ethnic Chinese, and ethnic Indian women worked as prostitutes domestically. Police and NGOs believed that criminal syndicates were behind most of the trafficking. Information from the Ministry of Foreign Affairs and NGOs indicated that fewer than 100 Malaysian women were trafficked to other countries during the year, and that the number has declined in recent years.

Foreign trafficking victims were kept compliant through involuntary confinement, confiscation of travel documents, debt bondage, and physical abuse. During the year there were reports of foreign women escaping from apartments where they were held and forced to serve as unwilling prostitutes. According to news reports, these women said that they were lured to the country by promises of legitimate employment but forced into prostitution upon their arrival in the country. In September authorities rescued eight trafficked Indonesian women forced to work as prostitutes in conditions intended to make them pregnant. According to a senior police official, their babies were sold soon after birth by the traffickers.

The penal code includes extensive provisions that prohibit buying or selling any person, using deceitful means to bring anyone into or out of the country, and wrongfully restraining (defined to include using threats, withholding clothing, or holding a person's passport) any person with the intention to use that person for prostitution. Punishment for these offenses includes a maximum 15-year prison term, caning, and a fine, to be determined at the discretion of the sentencing judge. In 2004 police prosecuted 38 cases under laws that criminalize procuring and brothel operations, respectively; 17 individuals were convicted. During the first 9 months of the year, 28 such cases were prosecuted, but only 2 persons were convicted. During the same period, police arrested 48 individuals under the Restricted Residence Act for allegedly arranging prostitution activities.

On April 7, 40 police officers raided 3 brothels in the state of Johor and rescued 53 trafficking victims. The police raids were done in cooperation with an international NGO and government caseworkers. On October 14, police raided a brothel in Johor and freed 10 trafficking victims. Police arrested the same trafficker apprehended during the April 7 raid.

In January Suhakam published a report that characterized existing trafficking laws as "piecemeal" and called for passage of a comprehensive antitrafficking act. The report also proposed government-funded education programs for border control officials, law enforcement personnel, labor inspectors, and the judiciary.

The government assisted some underage prostitutes and rescued some trafficked women and girls during the year. The Malaysian Chinese Association (MCA), the largest ethnic Chinese political party in the ruling National Front coalition, reported that the number of trafficking victims who sought MCA assistance declined to 39, compared with 56 in 2004. In April diplomatic officials from two neighboring countries stated that cooperation with Malaysian police had improved over prior years in countertrafficking operations and victim assistance.

Police had no comprehensive policy to protect trafficking victims. Police often arrested or deported possible victims for immigration offenses. Police and members of the Bar Council's legal aid bureau advised that this was the fastest way to expedite victims' return to their home countries. Trafficking victims who exhibited signs of physical abuse could be sent to a women's shelter instead of being detained by the police; however, permission from the police to allow victims to reside in a shelter was sometimes difficult to obtain. The Ministry of Women, Family, and Community Development stated that amendments to the Immigration Act, or an entirely new antitrafficking law, would be necessary to permit the government to treat trafficked women as victims rather than as illegal immigrants. The ministry said that, lacking such legislation, it could not legally establish a shelter for trafficked women.

A number of foreign embassies arranged temporary shelter for their respective trafficking victims and assisted in their repatriation.

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, or in the provision of other state services. A public sector regulation reserves 1 percent of all public sector jobs for persons with disabilities. In 2003 the prime minister ordered that all buildings be made "disabled-friendly." However, few public facilities were adapted, and the government has not mandated accessibility to transportation for persons with disabilities. New government buildings were generally outfitted with a full range of facilities for persons with disabilities. The budget for the fiscal year included additional tax benefits for persons with disabilities and their spouses.

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. Suhakam has recommended legislation to address discriminatory practices and barriers facing persons with disabilities, and it organized dialogues among persons with disabilities, government departments, and NGOs to promote awareness of the rights of persons with disabilities.

Special education schools existed but were not sufficient to meet the needs of the population with disabilities. The government undertook many 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 reduced by 50 percent the excise duty on locally made cars and motorcycles adapted for persons with disabilities.

National/Racial/Ethnic Minorities

The law and government policy provide for extensive preferential programs designed to boost the economic position of *bumiputras*. Such programs limited opportunities for *nonbumiputras* in higher education, government employment, business permits and licenses, and ownership of land. According to the government, these programs were necessary to ensure ethnic harmony and political stability. Ethnic Indian citizens, who did not receive such privileges, remained among the country's poorest groups.

In June the government suspended an ethnic Indian deputy minister for three months after he implied racial bias by the government in its decision to withdraw recognition of medical degrees from a university in Ukraine. The university had attracted many ethnic Indian students, who had received government permission to study at the school.

Indigenous People

Indigenous people (the descendants of the original inhabitants of the peninsular region of the country and the Borneo states) 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 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 Orang Asli, who numbered approximately 149,500, were the poorest group in the country. According to government statistics, approximately 77 percent of Orang Asli households were categorized as living below the poverty level. A government-sponsored national advisory council monitored the development of Orang Asli, but only 5 of its 17 members were Orang Asli. In addition, only one Orang Asli held a management position in the government's Department of Orang Asli Affairs. In 2004 the government allocated \$26.3 million (100 million ringgit) for development projects for the Orang Asli. These focused on improving health, preschool education, infrastructure, and economic activities.

The dropout rate among Orang Asli students remained high. Government statistics indicated that 25,354 Orang Asli pupils were registered at the primary school level, while only 7,559 students were registered in secondary schools.

Under the Aboriginal People's Act, the 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 had been re-zoned for development.

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.

In 2002 the high court found that an Orang Asli group, the Temuans, were the rightful owners of land used for the construction of the Kuala Lumpur International Airport and ordered the Selangor state government to give compensation. The federal government, the Selangor state government, and the country's highway authority appealed the decision. On September 19, the court of appeal upheld the high court ruling, which conferred upon the Orang Asli legal recognition of their native ancestral land titles under common law. At year's end the government had taken no action to appeal.

Indigenous people in Sarawak continued to protest encroachment by state and private logging and plantation companies onto land that they consider to be theirs under native customary rights.

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

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. 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.

Section 6 Worker Rights

a. The Right of Association

By law most workers have the right to engage in trade union activity, but as of September only 9 percent of the labor force was represented by the 617 trade unions. Those restricted from joining a union include public sector workers categorized as "confidential" and "managerial and executive," as well as defense and police officials. With certain limitations, unions may organize workplaces, bargain collectively with employers, and associate with national federations. In theory foreign workers can join a trade union; however, the Immigration Department placed conditions on foreign workers' permits that effectively barred them from joining a trade union (see section 6.e.).

The Trade Unions Act prohibits interfering with, restraining, or coercing a worker in the exercise of the right to form trade unions or participation in lawful trade union activities. However, contrary to International Labor Organization (ILO) guidelines, the act restricts a union to representing workers in a "particular establishment, trade, occupation, or industry or within any similar trades, occupations, or industries." The director general of trade unions may refuse to register a trade union and, in some circumstances, may also 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.

Trade unions from different industries may join in national congresses, but such congresses must register separately as societies under the Societies Act (see section 2.b.).

Malaysian Trade Union Congress (MTUC) officials continued to express frustration about delays in the settlement of union recognition disputes. While the Industrial Relations Act 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 1 to 4 years. In the first 9 months there were 54 applications for trade union recognition under the Industrial Relations Act, compared with 101 applications in 2004. According to the Ministry of Human Resources, there were 10 court challenges in 2004 by private companies regarding decisions authorizing the formation of unions.

Government policy inhibited the formation of national unions in the electronics sector, the country's largest industry. The government believed that enterprise-level unions were more appropriate for this sector. According to MTUC officials, 150 thousand electronics workers were unable to organize, and only 8 in-house unions were formed in the electronics industry.

In December 2004 the court of appeal upheld a high court decision that a name change by an in-house union in an electronics company to mirror the company's new name was illegal and not permissible. MTUC officials stated that the ruling placed enterprise unions in a vulnerable situation, since companies could change their names and effectively block the in-house unions from continuing to function.

Unions maintained independence from both the government and political parties, but individual union members may belong to political parties. Although union officers by law may not hold principal offices in political parties, individual trade union leaders have served in parliament. Trade unions 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.

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, a federation of public employee unions registered under the Trade Unions Act.

Although the law grants public servants the right to organize at the level of ministries and departments, the government did not respond to ILO requests for specific information on the numbers and categories of civil servant employees covered or details regarding the collective bargaining agreements reached. There were three national joint councils representing management and professional civil servants, technical employees, and nontechnical workers.

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

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. The government placed limits on collective bargaining agreements in companies designated as having "pioneer status." The ILO continued to object to legal restrictions on collective bargaining in "pioneer" industries.

Charges of discrimination may be filed with the Ministry of Human Resources or the industrial court. Critics alleged that the industrial court was slow in adjudicating worker complaints when conciliation efforts by the Ministry of Human Resources failed. To address the problem of backlogged cases, the number of industrial court chairpersons was increased from 21 to 28. In addition, beginning in September 2004 the court introduced voluntary mediation as a means for faster case settlements, with 66 cases settled through such mediation from September

2004 through February. The industrial court does not enforce its own awards, and unions complained that employers often ignored the court's judgments with impunity.

The government holds that issues of transfer, dismissal, and reinstatement are internal management prerogatives; therefore, they are excluded from collective bargaining, which is not in accordance with ILO standards. The minister of human resources can suspend for up to six months any trade union deemed to be used for purposes prejudicial to or incompatible with security or public order. The government has taken no such action during the past several years.

Although strikes are legal, the right to strike is severely restricted. 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 Ministry of Human Resources statistics, there were 10 minor strikes during the first 9 months of the year. Employees in the public sector do not have the right to collective bargaining.

The Industrial Relations Act 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. Strikes or lockouts are prohibited while the dispute is before the industrial court. The act 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.

Companies in free trade zones (FTZs) must observe labor standards identical to those in the rest of the country. Many workers in FTZ companies were organized, especially in the textile and electrical products sectors.

c. Prohibition of Forced or Compulsory Labor

The constitution prohibits forced or compulsory labor, and the government generally enforced this prohibition. Certain laws allow imprisonment with compulsory labor as punishment for persons who express views opposed to the established order or who participate in strikes. However, these laws were not applied and appear to be constitutionally prohibited.

Some of the estimated 260 thousand foreign women employed as household workers were subjected to physical abuse and forced to work under harsh conditions. The Workmen's Compensation Act and the Employment Act provide a minimum standard of protection to workers. However, in several important respects they do not apply to household employees (see section 6.e.).

The government prohibits forced and compulsory labor by children, and there were no reports that such practices occurred in the formal sector, although some child household employees worked in conditions amounting to forced labor.

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 children work more than six hours per day, more than six days per week, or at night.

Child labor occurred in certain areas of the country. There was no reliable estimate of the number of child workers. Most child laborers worked informally in the agricultural sector, helping their parents in the field. However, only adult members of the family received a wage. In urban areas, child labor could be 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 have largely replaced child labor and that child labor provisions were vigorously enforced.

Mechanisms for monitoring workplace conditions were inadequate, and the resolution of most abuse cases frequently was left to private, for-profit labor agencies that were themselves often guilty of abuses. Bilateral labor agreements with Indonesia do not provide adequate protections for household workers.

e. Acceptable Conditions of Work

There was no minimum wage provision governing all workers, 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, which were established by a 1947 act to provide a recommended minimum wage in those sectors in which the market wage was determined insufficient, had little impact on wages in any sector. According to MTUC officials, the wage councils had not met for more than 14 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 \$92 (350 ringgit) per month. Proponents of the agreement said that productivity incentives and bonuses raised the prevailing wage to nearly \$184 (700 ringgit).

Under the Employment Act, working hours may not exceed 8 hours per day or 48 hours per workweek of 6 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 these standards, but a shortage of

inspectors precluded strict enforcement.

Significant numbers of contract workers, including numerous illegal migrants, worked on plantations and in other sectors. According to statistics from the National Union of Plantation Workers (NUPW), foreign workers made up 50 percent of the plantation work force; however, the true number may have been higher, since illegal immigrants were not counted. Working conditions for these laborers compared poorly with those of direct-hire plantation workers, many of whom belonged to the NUPW.

Work-related accidents were especially high in the plantation sector. According to the Human Resources Ministry, 14 percent of all reported industrial accidents during 2004 occurred on plantations.

Foreign workers in the construction and other sectors, particularly if they were illegal aliens, generally did not have access to the system of labor adjudication. During 2004, in addition to expanding programs to regularize the status of immigrant workers, 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.

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 1 rest day per week, an 8-hour work day, and a 48-hour work week.

Employers sometimes failed to honor the terms of employment and abused their household servants. The terms of the contract for Indonesian household workers were vague and open to abuse. The typical contract provided for a monthly salary of \$100 (380 ringgit) 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, 7 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.

In May 2004 the government signed a Memorandum of Understanding (MOU) with Indonesia with regard to migrant workers; however, the MOU excluded household workers.

Some workers alleged that their employers subjected them to inhuman living conditions, withheld their salaries, and physically assaulted them. However, local NGOs advised that workers have the right to take legal action against abusive employers. According to NGOs, the courts generally have sided with employees and ruled that employers must pay all back salary and compensate plaintiffs for injuries.

Legal and illegal foreign workers from Indonesia, the Philippines, Burma, Thailand, India, Bangladesh, Nepal, Vietnam, and other countries constituted approximately 20 percent of the work force. Illegal foreign workers have no legal protection under the law and have no legal recourse in cases of abuse.

The Occupational Safety and Health Act covers all sectors of the economy except the maritime sector and the military. The act established a national Occupational Safety and Health Council, composed of workers, employers, and government representatives, to set policy and coordinate occupational safety and health measures. It requires employers to identify risks and take precautions, including providing safety training to workers, and compels companies that have more than 40 workers to establish joint management-employee safety committees. The act requires workers to use safety equipment and 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 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.

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