



Freedom in the World - Malaysia (2011)

Capital: Kuala Lumpur

Population:
28,295,000

Political Rights Score: 4 *

Civil Liberties Score: 4 *

Status: Partly Free

Overview

Ethnic and religious tensions were stoked in January 2010 by a series of arson attacks on places of worship that stemmed from a legal dispute over the use of the word Allah by Christians and other non-Muslims. In a sign of stricter enforcement of Islamic law, religious courts carried out caning sentences against three young women who were found guilty of premarital sex. Also during 2010, opposition leader Anwar Ibrahim went on trial for sodomy charges, and the politically fraught case was ongoing at year's end.

Malaya gained independence from Britain in 1957 and merged with the British colonies of Sarawak and Sabah to become the Federation of Malaysia in 1963. The ruling Barisan Nasional (National Front, or BN, known as the Alliance before 1969) won at least a two-thirds majority in 10 of the first 11 general elections after independence, the exception being the 1969 elections, which were nullified following race riots. The BN consists of mainly ethnic parties, dominated by the conservative, Malay-based United Malays National Organization (UMNO).

Racial tensions between the Malay majority and Chinese and Indian minorities have played a central role in Malaysian politics since the country's founding. Independence was premised on a social contract, enshrined in the constitution, that granted citizenship to the non-Malay population in exchange for special rights and privileges, especially in education and economics, for all Malays and other indigenous peoples. After the outbreak of race riots in 1969, in which thousands of Chinese homes and businesses were destroyed and more than 180 people were killed, the government declared an 18-month state of emergency and tightened restrictions on free speech, assembly, and political organizations.

Mahathir Mohamed was one of the key architects of efforts to shift economic power from the Chinese to the Malays, first as education minister and then as prime minister from 1981 to 2003. His development policies transformed Malaysia into a hub for multinational corporations and high-technology exports. At the same time, he stunted democratic institutions, weakened the rule of law by curtailing the press and political opponents, and drew allegations of cronyism with his state-led industrial development. Mahathir criticized conservative Muslim leaders for failing to promote a more modern brand of Islam, and he co-opted Islamist opposition forces by weaving their positions into UMNO's ideology.

In 2003, Mahathir stepped down and handed power to his deputy, Abdullah Ahmad Badawi. The BN won 198 of the 219 seats in the lower house of Parliament in the 2004 elections. However, the threemain opposition parties—the Democratic Action Party (DAP), the Islamic Party of Malaysia (PAS), and the People's Justice Party (PKR)—challenged the results on the grounds that the BN had engaged in vote rigging and other irregularities. Most specific challenges were rejected in court or withdrawn, although allegations of vote buying and problems with the electoral roll were substantiated.

Despite popular mandate, Abdullah achieved little in the way of reform. In 2006, sharp divisions emerged within UNMO as Mahathir launched a series of harsh attacks on Abdullah. Meanwhile, Anwar Ibrahim, a former deputy prime minister who had been controversially removed by Mahathir in 1998, reemerged as a major opposition figure. A series of court rulings during the year that denied certain religious and legal rights for non-Muslims sparked a national debate on constitutional guarantees and the role of Islam in Malaysia. The government took action to suppress press coverage, public discussion, and related activism on ethnic issues by non-Malay

groups, citing the need to prevent national unrest.

During 2007, public frustration skyrocketed in response to government suppression of peaceful protests, the exposure of high-level political corruption cases, a related crackdown on online media, and a crisis involving alleged politicization of the judiciary. Demands for electoral reform in advance of the 2008 general elections—coupled with perceptions of rising crime, corruption, and inflation—triggered the largest antigovernment demonstrations in nearly a decade.

In the March 2008 elections, the BN lost its two-thirds majority in the lower house of Parliament for the first time since 1969, meaning it could no longer amend the constitution unilaterally. The BN managed to secure just 140 of the 222 lower house seats, and Abdullah faced calls for his resignation. Anwar's PKR captured 31 seats, up from only 1 in the 2004 elections, followed by the DAP with 28 and PAS with 23. The opposition parties also won control of five of Malaysia's 13 states, and formed a coalition called the People's Alliance (PR) in the wake of the polls.

Despite claims that he would be able to encourage defections from the BN and form a new government by September 2008, Anwar failed and the PR suffered from defections and infighting. The opposition lost control of the state of Perak in 2009 after a handful of crucial defections in the state assembly, and its attempts to dispute the legality of the power transfer were ultimately rejected by the courts.

Abdullah, discredited by the BN's 2008 electoral setbacks, eventually stepped down as UMNO leader and prime minister. He was succeeded in April 2009 by his deputy, Najib Razak, who pledged to promote unity among the country's racial and religious groups. He promoted this idea through a campaign known as "1 Malaysia," but the program failed to mend ethnic and religious divisions, and generated new political controversy. In December 2010, Anwar was suspended from Parliament for six months after he compared 1 Malaysia to a similar program in Israel, and three of his PKR colleagues received similar punishment for vocally objecting to the suspension.

Religious friction during 2010 included a wave of arson attacks and vandalism in January that struck a dozen churches, two Muslim prayer halls, a mosque, and a Sikh temple. The attacks were apparently touched off by a court ruling in late 2009 that overturned a government ban prohibiting Christians and other non-Muslims from using the word Allah to refer to God. The ruling had not been put into effect at the end of 2010 pending the outcome of the government's appeal.

Political Rights and Civil Liberties

Malaysia is not an electoral democracy. The leader of the party that wins a plurality of seats in legislative elections becomes prime minister. Executive power is vested in the prime minister and cabinet. The paramount ruler, the titular head of state, is elected for five-year terms by fellow hereditary rulers in 9 of Malaysia's 13 states. Mizan Zainal Abidin al-Marhum Sultan Mahmud al-Muktafi Billah Shah was elected to the post in 2006. The upper house of the bicameral Parliament consists of 44 appointed members and 26 members elected by the state legislatures, serving three-year terms. The lower house, with 222 seats, is popularly elected at least every five years.

The ruling BN is a coalition of 13 parties, most with an ethnic or regional base, including the dominant UMNO as well as the Malaysian Chinese Association (MCA) and the Malaysian Indian Congress (MIC). The three main opposition parties—the DAP, PAS, and PKR—formed their own coalition, the PR, after the 2008 elections. Their dramatic electoral gains came despite serious obstacles, such as unequal access to the media and restrictions on campaigning and freedom of assembly, which left them unable to compete on equal terms with the BN. The country's first-past-the-post voting system also increases the power of the largest grouping, and national electoral outcomes have been affected by the malapportionment of constituencies in favor of East Malaysia. Despite winning more than 40 percent of the vote in the 2004 elections, opposition parties collectively captured only 18 out of 219 seats in the lower house. In 2008, the BN won just 51 percent of the vote but secured 140 of 222 lower house seats.

The Election Commission (EC) is frequently accused of manipulating electoral rolls and gerrymandering districts to aid the ruling coalition, and the Registrar of Societies arbitrarily decides which parties can participate in politics.

The government and law enforcement bodies have suffered a series of corruption scandals in recent years, despite the BN's anticorruption campaign pledges. The Malaysian Anti-Corruption

Commission (MACC), the agency tasked with restoring transparency to the government, came under scrutiny itself in July 2009, when opposition DAP official Teoh Beng Hock was found to have fallen to his death from the window of an MACC building. Teoh was being questioned late at night about an investigation into the disbursement of state funds. An inquest into the death was ongoing at the end of 2010. Malaysia was ranked 56 out of 178 countries surveyed in Transparency International's 2010 Corruption Perceptions Index. A Whistleblower Protection Act took effect in December 2010, but it remained unclear whether it would improve transparency.

Freedom of expression is constitutionally guaranteed but restricted in practice. The 1984 Printing Presses and Publications Act gives the government the authority to revoke licenses without judicial review. It also requires that publications and printers obtain annual operating permits, encouraging self-censorship and limiting investigative journalism. During 2010, the government delayed renewing the licenses of three opposition parties' periodicals. Privately owned television stations have close ties to the BN and generally censor programming according to government guidelines. State outlets also reflect government views. In April 2010, the public station TV2 canceled a current-affairs series on the plight of indigenous people displaced by a dam project in Sarawak, which could have generated anger against the ruling coalition ahead of a by-election in the state. Books and films are directly censored or banned for profanity, violence, and political and religious material. In September 2010, political cartoonist Zulkiflee Anwar Ulhaque, known as Zunar, was arrested under the Sedition Act for his new book *Cartoon-o-Phobia*. Although he was released on bail, he faced up to three years in prison if convicted. Other books by Zunar had been banned earlier in the year.

The internet has emerged as a primary outlet for free discussion and for exposing cases of political corruption. The government responded in 2007 with an escalating crackdown, including the first defamation charges against bloggers. Bloggers were also threatened with arrest under the Internal Security Act (ISA), the Official Secrets Act, and the Sedition Act, all of which can draw several years in prison. The BN significantly softened its efforts to curtail online expression immediately after the 2008 elections, but security laws were used to temporarily detain two bloggers. The Malaysian Communication and Multimedia Commission (MCMC), an agency responsible in part for regulating the internet, has become one of the greatest roadblocks for freedom of expression in the country. It has a record of being unnecessarily harsh toward the independent news website *Malaysiakini.com*, which is often critical of the government.

While the BN government continues to articulate the need for a tolerant and inclusive form of Islam, religious freedom is restricted in Malaysia. Ethnic Malays are defined by the constitution as Muslims, and practicing a version of Islam other than Sunni Islam is prohibited. Muslim children and civil servants are required to receive religious education using government-approved curriculums and instructors. Proselytizing among Muslims by other religious groups is prohibited, and a 2007 ruling by the country's highest court effectively made it impossible for Muslims to have their conversions to other faiths recognized by the state; in very rare exceptions, a small number of non-Malays have been allowed to revert to their previous faiths after converting to Islam for marriage. Non-Muslims are not able to build houses of worship as easily as Muslims, and the state retains the right to demolish unregistered religious statues and houses of worship.

The government restricts academic freedom; teachers or students espousing antigovernment views or engaging in political activity are subject to disciplinary action under the Universities and University Colleges Act of 1971. In April 2010, four students were charged for participating in campaigning for a by-election; they challenged the law in court, and appeals were ongoing at year's end.

Freedoms of assembly and association are limited on the grounds of maintaining security and public order. A police permit is required for all public assemblies except picket lines, and the granting of permits is sometimes politically influenced. Demonstrators can be detained under laws including the Sedition Act, the Police Act, and the ISA. The Societies Act of 1996 defines a society as any association of seven or more people, excluding schools, businesses, and trade unions. Societies must be approved and registered by the government, which has periodically refused or revoked registrations for political reasons. Numerous nongovernmental organizations operate in Malaysia, but some international human rights organizations are not allowed to form Malaysian branches.

Most Malaysian workers—excluding migrant workers—can join trade unions, but the law contravenes international guidelines by restricting unions to representing workers in a single or similar trade. The Director General of Trade Unions can refuse or withdraw registration arbitrarily,

and the union recognition process can take from 18 to 36 months. In practice, collective bargaining is limited. Unions in essential services must give advance notice of strikes, and various other legal conditions effectively render strikes impossible.

Judicial independence has been compromised by extensive executive influence. Arbitrary or politically motivated verdicts are not uncommon, with the most prominent case being the convictions of Anwar Ibrahim in 1999 and 2000 for corruption and sodomy. The sodomy conviction was overturned in 2004, and Anwar was released from prison, but the corruption charge was upheld, delaying his return to elected office until 2008. He was again accused of sodomy that year, and the new trial, which began in February 2010, was ongoing at year's end. Anwar's legal troubles have caused uncertainty and leadership struggles within the opposition coalition.

Malaysia's secular legal system is based on English common law. However, Muslims are subject to Sharia (Islamic law), the interpretation of which varies regionally, and the constitution's Article 121 stipulates that all matters related to Islam should be dealt with in Sharia courts. In 2010, a Sharia court carried out caning sentences against three teenage girls convicted of premarital sex.

There is no constitutional provision specifically banning torture, and police have been known to torture prisoners and use excessive force or inhumane tactics in conducting searches. Police reform has been inhibited by resistance at the highest levels of the police force and, according to many, by the attorney general. Individuals may be arrested without a warrant for some offenses and held for 24 hours without being charged. The ISA, in force since 1960, gives the police sweeping powers to hold any person acting "in a manner prejudicial to the security of Malaysia" for up to 60 days, extendable to two years without trial. The law has been used to jail mainstream politicians, alleged Islamist militants, trade unionists, suspected communist activists, ordinary criminal suspects, and members of "deviant" Muslim sects, among others. In 2009, the government released all but nine detainees being held under the ISA. However, 25 people remained under detention at the end of 2010, demonstrating the government's reluctance to end the practice all together.

Although the constitution provides for equal treatment of all citizens, the government maintains an affirmative-action program intended to boost the economic status of ethnic Malays and other indigenous people, known collectively as bumiputera. Bumiputera receive preferential treatment in areas including property ownership, higher education, civil service jobs, and business affairs, and bumiputera-owned companies receive the lion's share of large government contracts.

Foreign household workers are often subject to exploitation by employers. Malaysians officially employ about 220,000 household workers, 90 percent of whom are Indonesian. There are an estimated two million illegal workers in Malaysia. If arrested and found guilty, illegal workers can be caned and detained indefinitely pending deportation. An untrained volunteer reserve of hundreds of thousands of baton-wielding Malaysians, called Rela, has been pursuing illegal foreign workers and refugees since 2005, raising serious concerns among human rights groups.

Despite government initiatives and continued gains, women are still underrepresented in politics, the professions, and the civil service. Violence against women remains a serious problem. Muslim women are legally disadvantaged because their family grievances are heard in Sharia courts, where men are favored in matters such as inheritance and divorce and women's testimony is not given equal weight. In 2010, two women were appointed as Sharia court judges. However, they are barred from handling cases that relate to marriage and divorce. Despite some progress in investigating and punishing sex-trafficking offenses, efforts to combat trafficking have been criticized as inadequate.

**Countries are ranked on a scale of 1-7, with 1 representing the highest level of freedom and 7 representing the lowest level of freedom. Click [here](#) for a full explanation of Freedom in the World methodology.*