

MALAYSIA 2020 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Malaysia is a federal constitutional monarchy. It has a parliamentary system of government selected through regular, multiparty elections and is headed by a prime minister. The king is the head of state, serves a largely ceremonial role, and has a five-year term. The kingship rotates among the sultans of the nine states with hereditary Malay rulers. In 2018 parliamentary elections, the opposition Pakatan Harapan coalition defeated the ruling Barisan Nasional coalition, resulting in the first transfer of power between coalitions since independence in 1957. Before and during the campaign, then opposition politicians and civil society organizations alleged electoral irregularities and systemic disadvantages for opposition groups due to lack of media access and malapportioned districts favoring the then ruling coalition. In February the Pakatan Harapan coalition collapsed, and power transferred to the new Malay-dominated Perikatan Nasional coalition; Muhyiddin Yassin became prime minister.

The Royal Malaysian Police maintain internal security and report to the Ministry of Home Affairs. State-level Islamic religious enforcement officers have authority to enforce some criminal aspects of sharia. Civilian authorities at times did not maintain effective control over security forces. Members of the security forces committed some abuses.

Significant human rights issues included: reports of unlawful or arbitrary killings by the government or its agents; reports of torture and cases of cruel, inhuman, or degrading treatment or punishment by the government; harsh and life-threatening prison conditions; arbitrary detention; problems with the independence of the judiciary; arbitrary or unlawful interference with privacy; restrictions on free expression, the press, and the internet, censorship, site blocking, and criminal libel laws; substantial interference with the rights of peaceful assembly and freedom of association; restrictions on and intolerance of religious freedom; restrictions on freedom of movement; serious acts of corruption; lack of investigation of and accountability for violence against women; trafficking in persons; violence against transgender persons; criminalization of consensual adult same-sex sexual

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activities; and child labor.

The government arrested and prosecuted some officials engaged in corruption, malfeasance, and human rights abuses, although civil-society groups alleged continued impunity.

Section 1. Respect for the Integrity of the Person, Including Freedom from

a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings

There were scattered reports the government or its agents committed arbitrary or unlawful killings, mostly in the prison system. The nongovernmental organization (NGO) Eliminating Deaths and Abuse in Custody Together stated that Dhan Bahdur, a 26-year-old Nepali citizen, died on May 31, five days after he was detained in Kuala Lumpur. The NGO declared police did not properly notify the coroner of the death as required by law and called on authorities to make details of the case public. In August, Home Minister Hamzah Zainudin revealed that 23 detainees, including two children, died in immigration detention centers from January to June. In a 2018 report on custodial deaths, the NGO Lawyers for Liberty described a “broken system that abets the perpetrators of these crimes.”

Investigation by the Criminal Investigation Division within the Royal Malaysian Police into the use of deadly force by a police officer occurs only if the attorney general initiates the investigation or approves an application for an investigation by family members of the deceased. When the attorney general orders an official inquiry, a coroner’s court convenes, and the hearing is open to the public. In such cases, courts generally issued an “open verdict,” meaning that there would be no further action against police.

In July the Malaysian Human Rights Commission (SUHAKAM) urged the release of a September 2019 government report on the Wang Kelian mass grave site found along the Thai border in 2015, in which according to NGOs that investigated, a transnational crime syndicate committed murder, extermination, enslavement, imprisonment, torture, and rape as part of a “widespread and systematic attack”

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against Rohingya migrants.

b. Disappearance

There were no reports of disappearances by or on behalf of government authorities.

In February, SUHAKAM initiated a public inquiry into the 2016 disappearance of Christian converts Pastor Joshua Hilmy and his wife, Ruth Sitepu. Police continued to make little progress in their investigation, citing a lack of information in the case. One witness testified that Pastor Hilmy had previously told him “religious authorities were looking for him” due to his Christian faith, although he had not been threatened. Another testified the couple received threats by phone before their disappearance. SUHAKAM’s inquiry was suspended in March after two of its commissioners tested positive for COVID-19. In February, Susanna Liew, the wife of Pastor Raymond Koh, who disappeared in 2017, initiated civil action against the government and several senior officials for failing to properly investigate her husband’s kidnapping, accusing them of negligence, misfeasance, and conspiracy to injure.

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. More than 60 offenses are subject to caning, sometimes in conjunction with imprisonment, and judges routinely mandated caning as punishment for crimes, including kidnapping, rape, and robbery, and nonviolent offenses, such as narcotics possession, criminal breach of trust, migrant smuggling, immigration offenses, and others.

Impunity was a significant problem in the security forces. Police abuse of suspects in custody and a lack of accountability for such offenses remained a serious problem.

In August the Perikatan Nasional administration withdrew a bill the Pakatan Harapan government had introduced in July 2019 to create an Independent Police Complaints of Misconduct Commission with the power to discipline police misconduct and instead introduced a bill for an Independent Police Conduct

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Commission lacking enforcement powers. The NGO Transparency International Malaysia described the new proposal as a watered-down version of the original, “with no bite.”

According to SUHAKAM, 15 persons died in police lockups and prison from 2019 through September, while more than 55 individuals died in immigration detention centers. The government claimed that deaths caused by police were rare, but civil-society activists disputed this claim.

Civil and criminal law exempt men older than 50, unless convicted of rape, and all women from caning. Male children between the ages of 10 and 18 may receive a maximum of 10 strokes of a “light cane” in a public courtroom.

Some states’ sharia provisions, which govern family issues and certain crimes under Islam and apply to all Muslims, also prescribe caning for certain offenses. Women are not exempt from caning under sharia, and national courts have not resolved conflicts between the constitution, the penal code, and sharia.

Kelantan and Terengganu states allow courts to sentence individuals to public caning for certain civil offenses, although there were no reports of such punishment.

In February, Jasni Ali, an auxiliary police officer at Kota Kinabalu International Airport, accused police of torturing him for two weeks while in custody following his arrest in 2018 for trafficking in illegal immigrants. His lawyer said police assaulted Ali to elicit a confession, and that the abuse stopped only after Ali agreed to give a “cautioned statement” mentioning the facts on which he intended to rely for his defense at trial. Ali said authorities hit him on the face, head and body, kicked him in the stomach and back, spat into his mouth, shoved a mop into his mouth, and applied electricity to his feet, all done while his eyes were blindfolded, his hands handcuffed behind his back, and his pants pulled down to his knees.

In July a high court judge set aside a lower-court decision adding caning to a jail sentence for 27 Rohingya men, six of them teenagers, for arriving in the country without valid permits. The judge declared that because the defendants were not habitual offenders and had not committed any acts of violence, it was “inhumane” to impose caning and that their refugee status afforded them international

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protection from persecution. Earlier, human rights groups had called on the court to drop the caning sentence, calling the punishment cruel and inhumane.

In October the *Malaysian Insight* internet news site, citing accounts from former inmates and watchdogs, reported that “torture by prison staff is rampant” in jails and that prisoners are subjected to sexual attacks. “It’s not like you are punished for some mistake. They will beat you for no reason...they will use batons and their favorite spots are at the stomach, feet, and back,” a former prisoner told media. A transgender former prisoner termed her community the most vulnerable group inside the prison system, forced to provide sex to prison guards in return for safety: “Do we have a choice? No, we don’t. They will ask you to perform all sorts of sex acts. Sometimes it happens three times a day. If we go out and lodge a report, who will believe our stories?” Sevan Doraisamy, executive director of the human rights NGO Suaram, declared that the government must take such complaints more seriously and allow independent investigators from SUHAKAM and the Enforcement Agency Integrity Commission to conduct immediate investigations.

Prison and Detention Center Conditions

Conditions in prisons and detention centers could be harsh and life threatening.

The government as part of its restrictions on movement due to the COVID-19 pandemic, cracked down on migrants, particularly Rohingya, who were put into detention centers for “quarantine.” In May media and human rights groups reported mass arrests and rising numbers of confirmed COVID-19 cases inside the centers.

In August, Suaram reported that custodial deaths in immigration detention “remained serious,” increasing from 24 in 2018 to 55 in 2019.

Physical Conditions: Overcrowding in prisons and immigration detention centers, particularly in facilities near major cities, remained a serious problem. According to the Home Ministry, 20 of the country’s 37 prisons were overcrowded. In Selangor, Kuala Lumpur, and Kelantan, prisons were overcrowded by 45 to 50 percent. According to World Prison Brief, as of December 2019 the country had 75,000 inmates in 52 prisons designed to hold only 52,000.

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On May 29, Suaram listed a “notably higher number” of deaths in immigration detention facilities, with most deaths reported to be attributable to health and medical reasons.

As of October, 8 percent of Malaysia’s COVID-19 positive cases were prison inmates and prison staff. Former deputy defense minister Liew Chin Tong stated that the COVID-19 outbreak was turning prisons into “death traps” exacerbated by overcrowding problems. A Sabah state prison recorded more than 60 percent of inmates testing positive for COVID-19.

Administration: The law allows for investigations into allegations of mistreatment; however, this did not always function in practice. Officers found responsible for deaths in custody did not generally face punishment.

Authorities restricted rights to religious observance for members of all non-Sunni practices of Islam, which the government bans as “deviant.”

Independent Monitoring: Authorities generally did not permit NGOs and media to monitor prison conditions; the law allows judges to visit prisons to examine conditions and ask prisoners and prison officials about conditions. The government’s Enforcement Agency Integrity Commission, the International Committee of the Red Cross, and SUHAKAM monitored prisons on a case-by-case basis.

In August the new government abandoned a 2019 bill to establish an Independent Police Complaints of Misconduct Commission, and instead submitted a much weaker bill. Civil society organizations viewed this as a sign the government was not serious about an independent commission.

The new government did not grant the Office of the UN High Commissioner for Refugees (UNHCR) access to detention facilities where migrant laborers and refugees were being held.

Improvements: Police announced in January a pilot project establishing custodial medical units in five detention facilities as part of an effort to prevent deaths in custody.

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d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention and provides for the right of any person to challenge the lawfulness of his or her arrest or detention in court, and the government generally observed these requirements.

Police may use certain preventive detention laws to detain persons suspected of terrorism, organized crime, gang activity, and trafficking in drugs or persons without a warrant or judicial review for two-year terms, renewable indefinitely. Within seven days of the initial detention, however, police must present the case for detention to a public prosecutor. If the prosecutor agrees “sufficient evidence exists to justify” continued detention and further investigation, a fact-finding inquiry officer appointed by the minister of home affairs must report within 59 days to a detention board appointed by the king. The board may renew the detention order or impose an order to restrict, for a maximum of five years, a suspect’s place of residence, travel, access to communications facilities, and use of the internet. In other cases the law allows investigative detention for up to 28 days to prevent a criminal suspect from fleeing or destroying evidence during an investigation. In August, Suaram reported that 1,032 individuals were detained without trial under security laws.

In November, Home Minister Hamzah Zainudin reported to parliament that 756 children were detained in immigration detention centers. Of these children, 405 were being held without guardians, including 326 children of Burmese nationality. Lawyers for Liberty coordinator Zaid Malek decried the continued detention of children as “inhumane,” stating it was “unfathomable as to why the authorities deem it fit and proper to detain hundreds of migrant and refugee children...in overcrowded detention centers during a worldwide health pandemic.” Immigration law allows authorities to arrest and detain noncitizens for 30 days, pending a deportation decision.

In November student activist Wong Yan Ke was arrested for “obstructing the police from carrying out their duties” by recording a Facebook live video of a raid on the residence of a Universiti Malaya student, in connection with a sedition investigation into a statement made by a student group questioning the role of the king. After being held overnight in a police lockup, Wong was transferred to a

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detention center and released that day. Wong criticized police for his “arbitrary arrest and detention.” The NGO Lawyers for Liberty expressed concern about the arrest, contending that the law “must not be used as a blanket provision to simply arrest anyone who records police conduct.” The charge carries a maximum penalty of one month’s jail, a fine, or both. A court date was set for February 2021.

Arrest Procedures and Treatment of Detainees

The law permits police to arrest and detain individuals for some offenses without a warrant, even outside situations of a crime in progress or other urgent circumstances. To facilitate investigations, police can hold a suspect for 24 hours, which can be extended for a maximum of 14 days by court order under general criminal law provisions. NGOs reported a police practice of releasing suspects and then quickly rearresting them to continue investigative custody without seeking judicial authorization.

Some NGOs asserted that a police approach of “arrest first, investigate later” was prevalent, particularly in cases involving allegations of terrorism. By law a person must be informed of the grounds for arrest by the arresting officer.

Bail is usually available for persons accused of crimes not punishable by life imprisonment or death. The amount and availability of bail is at the judge’s discretion. Persons granted bail usually must surrender their passports to the court.

Police must inform detainees of the rights to contact family members and consult a lawyer of their choice. Nonetheless, police often denied detainees’ access to legal counsel and questioned suspects without allowing a lawyer to be present. Police justified this practice as necessary to prevent interference in investigations in progress, and the courts generally upheld the practice.

While authorities generally treated attorney-client communications as privileged, Malaysian Anticorruption Commission officials may question lawyers who accompanied their clients to nonjudicial commission hearings about their interaction with their clients and the content of their discussions.

Police sometimes did not allow detainees prompt access to family members or other visitors.

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The law allows the detention of a material witness in a criminal case if that person is likely to flee.

Arbitrary Arrest: Authorities sometimes used their powers to intimidate and punish opponents of the government. Activists and government critics were often subjected to late-night arrests, long hours of questioning, and lengthy remand periods, even if they were not ultimately charged with an offense. In July, according to the NGO Center to Combat Corruption and Cronyism (C4), police carried out a late-night arrest of anticorruption and social activist K. Sudhakaran Stanley at his home, which C4 labelled a “chilling” action “aimed at instilling fear and silencing voices that are critical of the administration of this country.”

Pretrial Detention: The International Center for Prison Studies reported that pretrial detainees comprised approximately 27 percent of the prison population in 2018. Crowded and understaffed courts often resulted in lengthy pretrial detention, sometimes lasting several years.

e. Denial of Fair Public Trial

Three constitutional articles provide the basis for an independent judiciary; however, other constitutional provisions, legislation restricting judicial review, and executive influence over judicial appointments limited judicial independence and strengthened executive influence over the judiciary. The judiciary frequently deferred to police or executive authority in cases those parties deemed as affecting their interests.

Members of the Malaysian Bar Council, NGO representatives, and other observers expressed serious concern about significant limitations on judicial independence, citing a number of high-profile instances of arbitrary verdicts, selective prosecution, and preferential treatment of some litigants and lawyers. Representatives of these groups argued that the lines between the executive, the judiciary, and the state were very blurred and that the judiciary needed to exert more independence and objectivity.

In August, Chief Justice Tengku Maimun Tuan Mat issued a show-cause notice to court of appeal judge Hamid Sultan Abu Backer requiring that he explain an affidavit he filed in February 2019 as part of a lawsuit against then chief justice

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Richard Malanjum. In the affidavit Hamid alleged government interference in previous judicial decisions and complicity by judges in sham cases designed to reward government supporters with large settlements. Hamid's request for an open hearing was rejected, which caused Suaram to further question the independence of the judiciary; the hearing has been postponed due to COVID-19 measures.

Many viewed the July 28 conviction of former prime minister Najib Razak, whose government reportedly misappropriated at least \$4.5 billion of the country's state investment fund, in the first of his corruption trials as a victory (see section 4.). NGO leaders stated, however, that the verdict could not be seen as a positive sign of judicial independence. Suaram asserted, "The High Court is the worst place to determine judicial independence as there are very different extremes of judges and everything can be dismantled upon appeal."

Trial Procedures

The constitution provides for a fair and public trial, and the judiciary generally enforced this right. The civil law system is based on British common law and defendants are presumed innocent until proven guilty. Defendants have the right to be informed promptly of the charges against them, to a timely trial, and to be present at their trial. Defendants have the right to communicate with an attorney of their choice or to have counsel appointed at public expense if they face charges that carry the death penalty. Defendants also may apply for a public defender in certain other cases.

According to the Malaysian Bar Council, defendants generally had adequate time and facilities to prepare a defense if they had the means to engage private counsel. Otherwise, defendants must rely on legal aid and the amount of time to prepare for trial is at the discretion of the judge. Authorities provide defendants free interpretation in Mandarin, Tamil, and some other commonly used dialects from the moment charged through all appeals. The right to confront witnesses is limited by provisions allowing the identity of prosecution witnesses to be kept secret from the defense before a trial, which inhibits cross-examination of those witnesses. Defendants may present witnesses and evidence on their behalf. Limited pretrial discovery in criminal cases also impeded the defense. Strict rules of evidence apply in court. Defendants cannot be compelled to testify or confess guilt.

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Defendants may appeal court decisions to higher courts, but only if the appeal raises a question of law or if material circumstances raise a reasonable doubt regarding conviction or sentencing. The Malaysian Bar Council claimed these restrictions were excessive.

In cases related to terrorism or national security, the law allows police to hold persons, even after acquittal, against the possibility of appeal by the prosecution.

Many NGOs complained women did not receive fair treatment from sharia courts, especially in divorce and child custody cases (see section 6).

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

Individuals or organizations may sue the government and officials in court for alleged violations of human rights; however, a large case backlog often resulted in delays in civil actions, to the disadvantage of plaintiffs. The courts have increasingly encouraged the use of mediation and arbitration to speed settlements.

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

Laws prohibit such actions; nevertheless, authorities sometimes infringed on citizens' privacy. Under national security laws, police may enter and search the homes of persons suspected of threatening national security without a warrant. The government monitored the internet and threatened to detain anyone sending or posting content the government deemed a threat to public order or security (see section 2.a.).

Islamic authorities may enter private premises without a warrant to apprehend Muslims suspected of engaging in offenses such as gambling, consumption of alcohol, and sexual relations outside marriage.

The government does not recognize marriages between Muslims and non-Muslims and considers children born of such unions illegitimate.

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In February the Federal Court held that the National Registration Department was not bound by an edict issued by the National Fatwa Committee, a government body responsible for issuing fatwas on issues of national interest, regarding a case in the state of Johor, as that state had not yet gazetted (published) the national fatwa forbidding registration of the father's last name for a Muslim child born or conceived less than six months after the parents' marriage. The Federal Court also held that in this instance the department could decide not to record a surname instead of using the last names "bin Abdullah" or "binti Abdullah," names commonly applied to children declared to be illegitimate, removing a longstanding source of social stigma.

Section 2. Respect for Civil Liberties, Including

a. Freedom of Expression, Including for the Press

The constitution allows restrictions on the freedom of expression "in the interest of the security of the Federation...[or] public order." The government regularly restricted freedom of expression for members of the public, media, and civil society, citing reasons such as upholding Islam and the special status of ethnic Malays, protecting national security, maintaining public order, and preserving friendly relations with other countries. The new ruling Perikatan Nasional coalition has shown a propensity to curb freedom of expression, particularly freedom of the press.

Freedom of Speech: The law prohibits sedition and public comment on issues defined as sensitive, including racial and religious matters or criticism of the king or ruling sultans. The law prohibits speech "with deliberate intent to wound the religious feelings of any person."

In June police questioned anticorruption activist Cynthia Gabriel while investigating a letter she and her NGO C4 published in an online media outlet criticizing the ruling coalition government. Gabriel told media that the police action was "harassment and intimidation," adding, "they are trying to keep us from expressing critical views as politicians focus on grabbing power." In June police also called in lawyer and human rights activist Siti Kassim for questioning after she posted a Facebook comment critical of the Pan-Malaysian Islamic Party, part

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of the ruling coalition, a post police said was “intended to disrupt peace.” Also in June a sessions court charged Malaysian Crime Watch Task Force (MyWatch) chairperson R. Sri Sanjeevan with “spreading false information about the police on social media with the intent to annoy.”

In July the Department of Immigration detained a Bangladeshi national, Md Rayhan Kabir, after he spoke in an al-Jazeera documentary about the treatment of illegal immigrants by the authorities during implementation of the movement control order to curb the spread of COVID-19. Rayhan was deported in August. The immigration authorities investigated six of the Qatar-based al-Jazeera’s Malaysia-based reporters and staff for alleged sedition and defamation, subsequently declining to renew the visas of reporters Drew Ambrose and Jenni Henderson, both Australian nationals.

The new government imposed limits on public gatherings, which slowed the spread of COVID-19, garnering some public support, but it also prevented protests and minimized opportunities for opponents to mobilize against it. While there was backlash against the government’s tight controls from opposition parties, civil society groups, and members of the public, the government’s successful handling of the epidemic and its curbs on criticism largely silenced those voices.

Freedom of Press and Media, Including Online Media: Political parties and individuals linked to the ruling coalition owned or controlled a majority of shares in almost all English and Malay language print and broadcast media, many of which were overtly progovernment. Online media outlets were more independent but were often the target of legal action and harassment.

The previous Pakatan Harapan coalition had opened the space for dissenting views, and journalists and bloggers expressed views and reported stories critical of the government without reprisal. With the change to the Perikatan Nasional government, however, there was a sharp decline in press freedom. One reporter said a communications officer from the prime minister’s office regularly convened journalists in Putrajaya to align messaging and “make the government look as good as possible.”

The government maintained and at times exerted control over news content, both

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in print and broadcast media. The government banned, restricted, or limited circulation of publications it considered a threat to public order, morality, or national security. The government has the power to suspend publication for these reasons and retained effective control over the licensing process.

The government used the COVID-19 pandemic to clamp down on media freedom and freedom of expression. On April 11, the National Security Council instructed police and the Malaysian Communications and Multimedia Commission (communications commission) “to take stern action on news portals that broadcast and publish confusing, inaccurate news,” purportedly to stop the spread of misinformation about the virus. In response the International Federation of Journalists stated: “The government’s ‘stern action’ will hinder the media’s oversight of the government and decrease transparency, ultimately endangering society amid the global [COVID-19] pandemic.”

In June, Attorney General Idrus Harun initiated contempt of court proceedings against online media outlet Malaysiakini and its editor in chief, Steven Gan, because of readers’ comments posted to a June 9 Malaysiakini article. The attorney general stated Malaysiakini facilitated the publication of comments that wrongfully alleged “the judiciary committed wrongdoings, is involved in corruption, does not uphold justice, and compromised its integrity.” Gan went on trial July 13 facing a possible jail term and fine set at the discretion of the courts. Judgment on the case was deferred to an unspecified date.

In a June 3 news release, UN High Commissioner for Human Rights Michelle Bachelet stated that the COVID-19 pandemic had seen a further tightening of censorship in Malaysia, along with reported arrests for spreading discontent or allegedly spreading false information through the press and social media. The press release cited the investigation of Tashny Sukumaran, the Kuala Lumpur correspondent for the *South China Morning Post*, “for alleged improper use of network facilities or services and alleged intentional insult with the intent to provoke a breach of peace for reporting on the detention of undocumented migrants, reportedly despite Ministerial instructions not to act against the correspondent.” The release added that according to official estimates, the communications commission had opened “at least 265 investigation papers in connection with the dissemination of alleged fake news on COVID-19, with 29

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individuals reportedly charged in court.”

Violence and Harassment: Journalists were subject to harassment and intimidation. In response to a documentary on the government’s mistreatment of undocumented migrants during the COVID-19 lockdown, al-Jazeera’s Kuala Lumpur offices were raided and their computers were seized. The government also announced it was investigating the outlet for sedition, defamation, and other violations of the law.

Censorship or Content Restrictions: The government maintained the ability to censor media. The law requires a permit to own a printing press, and printers often were reluctant to print publications critical of the government due to fear of reprisal. Such policies, together with antidefamation laws, inhibited independent or investigative journalism and resulted in self-censorship in the print and broadcast media.

The new ruling coalition rolled back progress in press freedoms. One commentary in *ASEAN Today* concluded in August, “The recent crackdown on prominent journalists and media outlets is meant to send a clear message to others in the field: fall in line or face the consequences.”

The government occasionally censored foreign magazines, newspapers, and news programming, most often due to sexual content.

Government restrictions on radio and television stations mirrored those on print media, and the electronic media predominantly supported the government. Television stations censored programming to follow government guidelines.

The government generally restricted publications it judged might incite racial or religious disharmony. The Ministry of Home Affairs maintained a list of more than 1,700 banned publications as of November. In May the ministry banned the book *Rebirth: Reform, Resistance, and Hope in New Malaysia* for purportedly insulting the national coat of arms. The cover of the book bore artwork that resembled the national coat of arms but which displayed a naked child, two human-faced tigers, and a crocodile at the bottom in place of the national motto.

In February the court of appeal overturned the government’s ban on three books by

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the Islamic Renaissance Front, an organization promoting Islamic reform. The Ministry of Home Affairs originally banned the books in 2017, a decision the high court upheld in 2019.

Libel/Slander Laws: The law includes sections on civil and criminal defamation. Criminal defamation is punishable by a maximum two years' imprisonment, a fine, or both. True statements can be considered defamatory if they contravene the "public good." The government and its supporters used these laws, along with provisions against sedition, to punish and suppress publication of material critical of government officials and policies.

In May police probed former minister Xavier Jayakumar over a video clip of his assertion that the one-day parliamentary sitting in May was "worthless" and "rubbish" as it was "a charade being played by a bunch of traitors and pirates" to safeguard the government's interest. In July social activist Heidy Quah was investigated for defamation over a social media post alleging mistreatment of refugees at immigration detention centers. Neither investigation resulted in criminal charges. Also in July a retiree was fined for posting "insulting" comments about the health minister on social media, even though the court noted that the criticism "was not overboard or malicious in nature."

National Security: Authorities often cited national security laws to restrict media distribution of material critical of government policies and public officials. The government used the COVID-19 pandemic to further this practice.

Nongovernmental Impact: NGOs sympathetic to the current government sought to limit freedom of expression through criminal complaints of allegedly seditious speech. Such NGOs also sometimes attempted to intimidate opposition groups through demonstrations.

In August, the NGO Gagasan Pulau Pinang (Penang Ideas) filed police reports alleging contempt of court against opposition leaders Tony Pua and Liew Chin Tong over their remarks, quoted by an online news portal, on a corruption case involving former finance minister Lim Guan Eng. In September several NGO leaders lodged a police report against opposition leader Anwar Ibrahim for claiming the Perikatan Nasional government had fallen after losing majority

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support from members of parliament. Mohamad Riduwan Md Amin of Penggerak Komuniti Negara Kota Melaka (Malacca Community Movers) said Anwar's claims were seditious in nature and could instigate disharmony and political instability in the country.

Internet Freedom

The government restricted access to the internet. Curtailing internet freedom to combat dissenting political views online, authorities blocked some websites and monitored the internet for messages and blog postings deemed a threat to public security or order.

The government warned internet users to avoid offensive or indecent content and sensitive matters such as religion and race, and it aggressively pursued charges against those criticizing Islam, the country's royalty, or its political leaders. In March federal police arrested at least three individuals for separate social media posts insulting the king.

In June federal police questioned parliamentarian and former deputy minister of women, family, and community development Hannah Yeoh for a post on Twitter questioning the prospects for the national roadmap to fight child marriage under her successor from the Pan-Malaysian Islamic Party. Commenting on police action against her, Yeoh posted, "Nowadays even asking questions is not allowed ...during the Parliament sitting in May we were also not allowed to ask questions."

Sedition and criminal defamation laws led to self-censorship by local internet content sources, including bloggers, news providers, and NGO activists.

The law requires internet and other network service providers to obtain a license and permits punishment of the owner of a website or blog for allowing offensive racial, religious, or political content. The government regards those who post content as publishers, thereby placing the burden of proof on the poster. NGOs and members of the public criticized the law, noting it could cause self-censorship due to liability concerns.

Academic Freedom and Cultural Events

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The government placed some restrictions on academic freedom, particularly the expression of unapproved political views, and enforced restrictions on teachers and students who expressed dissenting views. The government requires all civil servants, university faculty, and students to sign a pledge of loyalty to the king and government. Some politicians and human rights activists claimed the government used the loyalty pledge to restrain political activity among these groups. Although faculty members sometimes publicly criticized the government, public university academics whose career advancement and funding depended on the government practiced self-censorship. Self-censorship took place among academics at private institutions as well, spurred by fear the government might revoke the licenses of their institutions. The law imposes limitations on student associations and on student and faculty political activity. Students remain prohibited from “expressing support or sympathy” for an unlawful society or organization.

The authorities arrested two student leaders of the Universiti Malaya Association of New Youth for sedition and misuse of network facilities regarding a post on social media discussing the scope of the king’s powers. Police orchestrated a raid on the home of the student group’s president and summoned six committee members to police headquarters for further questioning. According to the lawyer representing the student leaders, police also questioned the background, organizational structure, and operations of the student group as a student body of University Malaya. Executive Director of Amnesty International Malaysia Katrina Maliamauy commented, “It is a violation of their right to freedom of expression, especially considering that the Facebook post they made was intended to be part of an academic debate.”

The government censored films for certain political and religious content, not allowing, for example, screening of films in Hebrew or Yiddish, or from Israel. Although the government allowed foreign films at local film festivals, it sometimes censored content by physically blocking screens until the objectionable scene was over. Media censorship rules forbid movies and songs that promote acceptance of gay persons (see section 6). In February the National Art Gallery, under government orders, responded to public criticism and reinstated artworks previously pulled from Ahmad Fuad Osman’s *At the End of The Day Even Art Is Not Important* exhibition that featured nudity and political content. The National

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Art Gallery maintained its right to take down works that touch on the “dignity of any individual, religion, politics, race, culture, and country.”

b. Freedoms of Peaceful Assembly and Association

The constitution provides for the freedoms of peaceful assembly and association but allows restrictions deemed necessary or expedient in the interest of security, public order, or (in the case of association) morality. Abiding by the government’s restrictions did not protect some protesters from harassment or arrest.

Freedom of Peaceful Assembly

The constitution provides citizens “the right to assemble peaceably and without arms”; however, several laws restricted this right. Although the law does not require groups to obtain a permit for assemblies, police frequently placed time, location, and other restrictions on the right to assemble. Authorities banned street protests, and police sometimes confronted civil society and opposition demonstrations with mass arrests.

Protests deemed acceptable by the government usually proceeded without interference. The government restricted the right to freedom of assembly due to concerns about the spread of COVID-19, as well as temporarily closing businesses, schools, and other public places.

On March 1, the day after the appointment of Perikatan Nasional leader Muhyiddin Yassin as prime minister, approximately 100 protesters defied police warnings and rallied against what they termed Muhyiddin’s “backdoor” government. Police were present but did not stop the protest. Activist lawyer Fadia Nadwa Fikri said she was later “singled out” by police for posting a video of the protest and was being investigated for sedition and improper use of network facilities.

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. By law only registered organizations of seven or more persons may legally function. The government often resisted registering organizations deemed particularly unfriendly

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to the government or imposed strict preconditions. The government may revoke registrations for violations of the law governing societies.

The government bans membership in unregistered political parties and organizations.

Many human rights and civil society organizations had difficulty obtaining government recognition as NGOs. As a result, many NGOs registered as companies, which created legal and bureaucratic obstacles to raising money to support their activities. Authorities frequently cited a lack of registration as grounds for action against organizations. Some NGOs also reported the government monitored their activities to intimidate them.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at <https://www.state.gov/religiousfreedomreport/>.

d. Freedom of Movement

The constitution provides for freedom of internal movement, emigration, and repatriation, but these rights were often restricted by federal and state government officials, particularly in eastern Sabah and Sarawak States.

In-country Movement: Sabah and Sarawak States controlled immigration into their areas and required foreigners and citizens from peninsular Malaysia to present passports or national identity cards for entry. State authorities continued to deny entry to certain national leaders to these states. Sarawak maintained its ban on Zakir Naik, a controversial Islamic preacher; Mandeep Karpal Singh, formerly of the fair-election NGO coalition Bersih; current Bersih chair Thomas Fann; former chairs Maria Chin and Ambiga Sreenevasan; Wong Chin Huat, an academic and Bersih resource chair; Jerald Joseph, a SUHAKAM commissioner; and activists Colin Nicholas and Jannie Lasimbang, among others. There were some restrictions on in-country movement by refugees and asylum seekers (see section 2.f.) and some internal travel restrictions related to COVID-19.

Foreign Travel: Travel to Israel is subject to approval and limited to religious

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purposes.

In March in response to the COVID-19 outbreak, the government placed restrictions on entering the country; citizens were required to quarantine upon returning, and there were restrictions on any foreigners entering the country.

In September the country implemented entry and movement restrictions on all foreign nationals from countries reporting more than 150,000 COVID-19 cases at that time through December 31 in response to the pandemic outbreak. Affected travelers include short-term visitors, permanent residents, students, foreign workers, and long-term residents. Foreign nationals were permitted to depart the country.

e. Status and Treatment of Internally Displaced Persons

Not Applicable.

f. Protection of Refugees

The government generally did not impede organizations providing protection and assistance to migrants, refugees, and stateless persons, most of whom lived intermingled with the general public. The government cooperated to a limited extent with UNHCR and other humanitarian organizations in providing protection and assistance to refugees and asylum seekers. As there is no legal framework for dealing with refugees and asylum seekers in the country, UNHCR conducted all activities related to protection, including registration and status determination.

Abuse of Migrants and Refugees, and Stateless Persons: As of August 31, there were 178,140 refugees and asylum seekers registered with UNHCR in the country, of whom 153,430 were from Burma. Of those from Burma, 101,530 were Rohingyas. There were some 24,700 refugees and asylum seekers from 50 countries, including Pakistanis, Yemenis, Syrians, Somalis, Afghans, Sri Lankans, Iraqis, Palestinians, and others. There were some 46,500 children younger than age 18.

Most migrants, refugees, and stateless persons lived in private accommodations and survived on support from UNHCR, NGOs, community-based organizations,

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refugee support networks, or illegal or informal labor. The government held thousands of individuals in immigration detention centers and other facilities. Access to those in detention centers was often significantly limited.

Between April and July, with the rise in public hostility toward migrant foreigners, particularly Rohingyas, over fears they were a burden on public resources and a COVID-19 vector, the government arrested undocumented migrant workers, including children, and held thousands in confined and congested cells at immigration detention centers and other facilities. Access to those in detention centers was often significantly limited. NGOs called the crackdown an “appalling violation of human rights” and noted the mass detention could further spread COVID-19 cases within detention facilities, stressing also that the roundups could discourage many from coming forward voluntarily for testing or treatment. On May 27, the NGO Lawyers for Liberty stated: “Undocumented migrants are not ‘acceptable casualties’ of the COVID-19 pandemic.” In February, UNHCR said that since August 2019, authorities had disallowed visits by its staff to detention centers to meet refugees and asylum seekers, determine those in need of international protection, and advocate for their release.

NGOs and international organizations involved with these populations made credible allegations of overcrowding, inadequate food and clothing, lack of regular access to clean water, poor medical care, improper sanitation, and lack of bedding in the immigration detention centers. In August the Indonesian civil society organization Coalition of Sovereign Migrant Workers accused Malaysian immigration officials of subjecting detained Indonesian migrant workers in Sabah to “systematic torture on an immense scale” in inhuman conditions and without adequate food and water. The group claimed detainees who disobeyed the guards were punched and kicked, then expected to say “thank you, teacher” to the officers; if they did not say thank you when they were hit, they would be hit again. They were also punished by being forced to squat on the floor all day long.

Local and international NGOs estimated most of the country’s 17 immigration detention centers were at or beyond capacity, with some detainees held for a year or longer. The number detained in these centers was not publicly available.

Human rights organizations expressed serious concerns about the lack of access to

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fair legal process and adequate representation during immigration court hearings. The Malaysian Bar Council strongly criticized the immigration courts in detention centers as facilitating a legal process where migrant workers were not provided with a clear understanding of the charges against them in their own language and were effectively denied the right to legal counsel. At court hearings, 15 to 20 migrants were often tried together, grouped by the offense with which they were charged. If found guilty, the cost of deportation generally fell to the detainee, which led to prolonged detention for those unable to pay.

The government on several occasions forcibly expelled boats with refugees and asylum seekers from a country where their lives or freedom could be threatened based on their race, religion, nationality, membership in a particular social group, or political opinion. The NGO Fortify Rights reported that on April 16, the Bangladesh Coast Guard rescued 396 Rohingya from a boat that was adrift for weeks, sustaining up to 60 fatalities; earlier Malaysian authorities had forced it back out to sea. They also reported that on April 16, the Royal Malaysian Air Force and Royal Malaysian Navy forced another boat with more than 200 Rohingya back to sea. On June 8, Defense Minister Ismail Sabri Yaakob reported that authorities had blocked the arrival of 22 boats with foreigners, excluding the boats carrying Rohingya refugees, since May 1.

Access to Asylum: The law does not provide for granting asylum or refugee status, and the government has not established a system for providing protection to refugees.

Migrants, refugees, and stateless persons receive no government support. The government allows UNHCR and NGOs to work with these populations, but government cooperation with UNHCR was inconsistent.

As “illegal immigrants,” refugees and others are subject to deportation at any time. They also face a maximum five years’ imprisonment, a fine, or both, and mandatory caning with a maximum six strokes if convicted of immigration-law violations. In June, 40 Rohingya refugees were sentenced to seven months in jail for arriving in the country by boat without a valid permit. Of them, 27 men were also sentenced to three strokes with a cane. The high court later set aside the caning following an outcry from human rights defenders.

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Freedom of Movement: The government generally tolerated the presence of undocumented refugees and asylum seekers but sometimes detained them for a variety of causes in police jails or immigration detention centers until they could be deported or UNHCR established their bona fides. Some refugees holding UNHCR identification cards nonetheless reported limited ability to move throughout the country because authorities sometimes did not recognize the UNHCR card.

Employment: Although the government does not authorize UNHCR-registered refugees to work, it typically did not interfere if they performed informal work. UNHCR reported the government brought charges, in a few cases, against employers for hiring refugees. Refugees employed in the informal sector were paid lower wages than comparable employees and were vulnerable to exploitation.

Access to Basic Services: The government provided access to health care at a discounted foreigner's rate of 50 percent to UNHCR-registered refugees, but not to persons without UNHCR registration cards. NGOs operated static and mobile clinics, but their number and access were limited. Refugees did not have access to the public education system. Access to education was limited to schools run by NGOs and ethnic communities, and UNHCR estimated no more than 40 percent of refugee children attended school. A lack of resources and qualified teachers limited opportunities for the majority of school-age refugee children. UNHCR staff members conducted numerous visits to prisons and immigration detention centers to provide counseling, support, and legal representation for refugees and asylum seekers.

Temporary Protection: The government provided temporary, renewable residence permits to a group of Syrian refugees. The permit allows for legal residency and conveys work rights, but it must be renewed annually. The migrant rights NGO Tenaganita, however, said the Syrian refugees often were unable fully to access the rights awarded to them through this permit and experienced difficulty accessing health care and academic institutions.

g. Stateless Persons

The National Registration Department did not maintain records of stateless persons. In 2019 UNHCR estimated there were 12,400 stateless persons residing

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in peninsular Malaysia and 450,000 in Sabah. Baseline figures of stateless persons and persons “at risk” of statelessness in the eastern state of Sabah, where approximately 80,000 Filipino Muslim refugees reside, were unavailable.

Citizenship law and birth registration rules and procedures created a large class of stateless children in the migrant and refugee population. When mothers did not have valid proof of citizenship, authorities entered the child’s citizenship as “unknown” on the birth certificate. UNHCR deemed this a widespread problem.

Even if the father is a citizen, the marriage may be considered invalid and the children illegitimate if the mother lacks proof of citizenship; such children were also considered stateless.

Some observers indicated that children born to Muslim refugees and asylum seekers often had an easier time obtaining citizenship than non-Muslim refugees and asylum seekers. For refugees in Muslim marriages, the observers claimed authorities often accepted a UNHCR document or other documentation in lieu of a passport as proof of citizenship.

Persons who lacked proof of citizenship were not able to access government services, such as reduced-cost health care, or own property. The federal government continued, however, to permit stateless children to enroll in public schools if parents were able to prove the child’s father was Malaysian. The minister of education stated there were 2,635 undocumented children in schools nationwide as of October 2019.

On August 5, the Home Ministry granted a prominent 20-year-old e-sports gamer, Muhammad Aiman Hafizi Ahmad, citizenship after taking three years to refuse the first application made on his behalf by his adoptive parents when he was 12 and taking three more years to consider a second application. Born in country to an Indonesian mother and unknown father, Aiman was legally adopted by a Malaysian couple, but his documents described him as stateless. While the constitution allows the government to register anyone younger than age 21 as a citizen, Aiman’s lawyer said the process is “opaque and takes a very long time...the government often rejects applications without reasons,” adding that there were many other stateless persons who were treated as “invisible” and that without

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publicity Aiman's case would have been much more difficult.

Section 3. Freedom to Participate in the Political Process

The law provides citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage. In 2018 the opposition Pakatan Harapan coalition unseated the ruling Barisan Nasional coalition in general elections, marking the first federal transition of power between coalitions since independence in 1957. Prior to the 2018 elections, then opposition political parties were disadvantaged due to the Barisan Nasional government control over traditional media outlets and malapportionment of constituencies, among other issues.

While authorities generally recorded votes accurately, there were irregularities perpetrated by the former Barisan Nasional coalition government that affected the fairness of elections.

The constitution also provides for transfers of power without new legislative elections. This occurred in February when the ruling Pakatan Harapan coalition collapsed, resulting in a transfer of power to the new Perikatan Nasional coalition. The king determined that Perikatan Nasional commanded a parliamentary majority and appointed Muhyiddin Yassin prime minister, in conformity with constitutional parameters. The new coalition sought no popular mandate through a general election during its first eight months in office, and convened three sessions of parliament--one session lasting less than a day in May, when the prime minister permitted no motions, including an attempted vote of no confidence, a second sitting in August focusing on adopting a COVID-19 economic stimulus package, and a third sitting in November and December to consider the budget.

The constitution fixes the number of seats in parliament assigned to each state to the advantage of rural states and regardless of population shifts over time. Moreover, it does not require equal populations in electoral constituencies in any given state. Each constituency elects one member of parliament. The Electoral Commission has established constituencies with widely varying populations, further to the advantage of rural populations. For example the rural district of Igan had 18,000 registered voters, while the urban district of Kapar had more than

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144,000 registered voters. Local and municipal officials are appointed at the state or federal level.

Elections and Political Participation

Recent Elections: The country's most recent general election was held in 2018 amid allegations of partisanship on the part of public institutions, in particular the Election Commission and the Registrar of Societies. A consortium of NGOs released a formal report later in 2018 detailing irregularities in the election, including vote buying, the use of public funds for partisan activity, and allegations of biased behavior by public officials. According to the NGOs, none of which were formally accredited to observe the polls, federal and state governments spent more than five billion ringgit (RM) (\$1.2 billion) on "handouts" after legislatures had been dissolved and lawmakers were ostensibly prohibited from making new financial commitments. The report also alleged that one accredited election observer actively campaigned for the former Barisan Nasional government.

Despite strong objections by opposition political parties and civil society, in 2018 the former Barisan Nasional coalition government approved redrawn parliamentary districts that critics said unfairly advantaged Barisan Nasional through gerrymandering and malapportionment. By law the government was not allowed to redraw the electoral boundaries until 2026 unless members of parliament amended the federal constitution, a process which requires a two-thirds majority vote. Despite alleged electoral irregularities and systemic disadvantages for opposition groups, Barisan Nasional lost the election to Pakatan Harapan, the first transfer of power between coalitions since independence in 1957.

Political Parties and Political Participation: Many opposition candidates were unable to compete on equal terms with the then ruling Barisan Nasional coalition and were subject to restrictions and outside interference during the 2018 election campaign. Registering a new political party remained difficult because of government restrictions on the process.

Participation of Women and Members of Minority Groups: No laws limit participation by women or members of minority groups in the political process, and they did participate. In parliament 33 women hold 14.8 percent of the seats, an

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increase from 10.8 percent in the previous election cycle. Eight out of 14 Federal Court judges are women. In March the number of non-Muslim judges serving on the Federal Court rose to four; the number was previously limited to two. In May, Tengku Maimun Tuan Mat was appointed chief justice, the first woman to ascend to the highest judicial office of the country. In July, Dato' Sri Azalina binti Othman Said was appointed as the first female deputy speaker of parliament.

The political environment was hostile towards women. Attacks on female politicians and women who were critical of the country's politics were common, including sexist remarks in parliament against female members, threats of rape and murder via Facebook and other social media platforms, and stereotyping female political candidates. The advent of the new Perikatan Nasional administration saw reduced female influence in the highest echelons of government, including the position of deputy prime minister previously held by Wan Azizah Wan Ismail.

Nine cabinet positions are held by women, compared with 10 held by women under the Pakatan Harapan administration. A significant portion of female leaders in state agencies were also replaced by men.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials; prior to the February change of government, the government charged several former government officials with corruption, including the former prime minister, although there remained a broadly held perception of widespread corruption and cronyism in government institutions. Media outlets reported numerous cases of alleged official corruption.

The Malaysian Anticorruption Commission is responsible for investigating corruption in both private and public bodies but does not have prosecutorial authority. An auditor general is responsible, per the constitution, for auditing the accounts of the federal and state governments, government agencies, and other public authorities.

Corruption: In the first criminal trial in the country's history involving a former

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prime minister, in July the high court convicted Najib Razak on all seven counts brought against him in the first of five corruption trials tied to the 1Malaysia Development Berhad (1MDB) investment fund scandal. Najib was charged with giving government guarantees on a loan from the country's retirement fund to a subsidiary of the 1MDB, misappropriation of funds, and money laundering. Suits filed against Najib's wife Rosmah Mansor on 19 counts of money laundering and tax evasion remained underway.

In May a sessions court granted Riza Aziz, stepson to Najib, a discharge not amounting to acquittal in relation to five counts of laundering nearly \$250 million from the 1MDB investment fund. As part of the agreement, Riza will return \$108 million in assets. Former attorney general Tommy Thomas, who initiated the charges against Riza and Najib, called it "a sweetheart deal for Riza but terrible for Malaysia." Many members of the legal community condemned the court's decision.

In June the high court acquitted former Sabah chief minister Musa Aman on all 46 criminal charges of corruption and money laundering leveled against him, citing its failure to obtain key banking documents and the unavailability of several witnesses. Musa was charged in 2018 with 35 counts of accepting gratification amounting to RM 243 million (\$63 million). In 2019 he was charged with 16 counts of money laundering involving RM 160 million (\$38.4 million).

According to the Malaysian Anti-Corruption Commission, authorities arrested 867 public officials for corruption and bribery from January 2019 to September 2020.

Financial Disclosure: Cabinet members must declare their assets to the prime minister. Senior civil servants are required to declare their assets to the chief secretary of the government. Junior civil servants must declare their assets to the head of their department. The assets, liabilities, and interests public officials must declare are clearly defined and do not include the assets and incomes of spouses and dependent children, except in the case of members of parliament. Public officials must declare their assets annually, but not upon entering or leaving office. Those who refuse or fail to declare their assets face disciplinary actions and are ineligible for promotion. Such declarations are made public.

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In March, Prime Minister Muhyiddin announced that all elected representatives in the government must declare their assets within three months of the date they were sworn in. In July, the government released information on all declared assets publicly. As of August, 57 of the 70 officials in the Perikatan Nasional government had their monthly income and total asset value listed on the Malaysia Anti-Corruption Commission's portal, which was accessible to the public.

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

Domestic and international human rights groups operated subject to varying levels of government restriction, investigating and publishing their findings on human rights cases; however, the government was not always cooperative or responsive to their views.

Outside the political and human rights fields, the government generally allowed NGOs to function independently, met with representatives from some NGOs, and responded to some NGO requests. The government, however, also took action against some NGOs.

Government Human Rights Bodies: The official human rights commission SUHAKAM is headed by a chairperson and commissioners appointed by the king on the recommendation of the prime minister. Observers generally considered SUHAKAM a credible human rights monitor. It conducted training, undertook investigations, issued reports, and made recommendations to the government. SUHAKAM may not investigate court cases in progress and must cease its inquiries if a case becomes the subject of judicial action. Representatives of SUHAKAM asserted that the Perikatan Nasional coalition was reluctant to engage with them, making implementation of reforms impossible.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

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Women

Rape and Domestic Violence: Rape of women or men is a criminal offense, as are most forms of domestic violence. Rape is punishable by a maximum 20 years' imprisonment and caning. The law does not recognize marital rape as a crime.

Women's groups asserted the courts were inconsistent in punishing rapists. According to the latest statistics from the NGO Women's Aid Organization, there were 1,582 recorded rape cases in 2017, and 5,421 recorded cases of gender-based violence in 2018. There was a lack of investigation into accusations of rape and gender-based violence, and little accountability. After the movement control order to combat COVID-19 was implemented in March, the Ministry of Women, Family, and Community Development experienced a 57 percent spike in calls from women in distress.

In April a police inspector was arrested and suspended for abducting and raping two Mongolian women in Petaling Jaya. He reportedly stopped their taxi at a COVID-19 movement control order roadblock and, finding that they had no valid travel documents, took them forcibly to a hotel where he raped them. He was charged with eight counts of rape, carrying a maximum term of 30 years' imprisonment and caning. He was separately charged with trafficking in persons for the purpose of exploitation through the abuse of power, with a maximum penalty of 20 years' imprisonment and a fine. Initially set for July hearings, both cases were delayed due to the COVID-19 pandemic.

Although the government and NGOs maintained shelters and offered other assistance to victims of domestic violence, activists asserted that support mechanisms remained inadequate. Many government hospitals had crisis centers where victims of rape and domestic abuse could file reports without going to a police station. There is also a sexual investigations unit at each police headquarters to help victims of sexual crimes and abuse, and police sometimes assign psychologists or counselors to provide emotional support. NGOs reported that the government does not take action in cases of domestic violence; victims must keep evidence, gather witness testimony, and ensure their own safety.

The NGO Women's Aid Organization reported that 9 percent of women who have

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ever been in a relationship experience domestic violence and that such violence was “symptomatic of a deeper problem: gender inequality.” In June the NGO stated that inquiries to its domestic-violence hotline had spiked to more than three times levels since February, before the COVID-19 movement control order was carried out. The NGO’s executive director, Sumitra Visvanathan, termed the sharp rise “extremely concerning,” noting that survivors in isolation with their abusers faced circumstances “where it is even easier for the abuser to exert control physically, emotionally, and socially.” In July, SUHAKAM cited the increased risk of violence faced by domestic workers, who were primarily migrant women, “exacerbated by restrictions on their travel and mobility, as well as by language barriers and xenophobia.”

Female Genital Mutilation/Cutting (FGM/C): The law does not prohibit FGM/C, and it was a common practice. While recent data was very limited, a 2012 study by a professor at the Department of Social and Preventive Medicine, University of Malaya, found that more than 93 percent of approximately 1,000 Muslim women surveyed in three of the country’s 13 states had undergone the procedure. Ministry of Health guidelines allow the practice in general but only at government health-care facilities, which was not always the case. Advocates and the international medical community remained concerned that the Health Ministry endorsement legitimizes the harmful practice and contributes to the “medicalization” of FGM. Women’s rights groups said a 2009 fatwa by the National Council of Islamic Religious Affairs declaring the practice obligatory made FGM/C more prevalent. According to an investigation published by local media in 2018, there are no standard procedures for the practice and “in some cases box cutters and stationery store blades are used.” Government officials defended the practice during a UN review in 2018, when a Ministry of Health official stated that the practice was performed only by medical professionals and compared it to immunization programs for female babies. The UN panel urged the country to abolish the practice.

Sisters in Islam reaffirmed its concern with a 2009 fatwa from the Malaysian Islamic Development Department requiring Muslim girls to be circumcised. In conjunction with the International Day of Zero Tolerance to Female Genital Mutilation in February, Sisters in Islam stated: “Even though this fatwa was not

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gazetted, the reality is that in general, fatwas have a strong influence over individuals and communities in their personal decision-making.” Azrul Mohd Khalib of the Galen Center for Health and Social Policy called on the government to ban the practice. “We should prohibit and criminalize the act of female circumcision to protect our infant daughters and girls from harm,” he said.

Sexual Harassment: The law prohibits a person in authority from using his or her position to intimidate a subordinate by any conduct that is sexual in nature. The law classifies some types of workplace sexual harassment as criminal offenses (see section 7.d.). A government voluntary code of conduct provides a detailed definition of sexual harassment intended to raise public awareness of the problem. Observers noted that authorities took claims seriously, but victims were often reluctant to report sexual harassment because of the difficulty of proving the offense and the lengthy trial process.

Reproductive Rights: Married couples have the right to decide the number, spacing, and timing of their children and to manage their reproductive health, but they did not always have the information and means to do so. Family planning services and programs were provided by the Ministry of Health, the National Population and Family Development Board under the Ministry of Women, Family, and Community Development, and the Federation of Reproduction Health Associations.

Sexual and reproductive health services were available at health ministry primary, secondary, and tertiary health care facilities, and included contraception, pregnancy tests, subfertility treatment, pap smears, screening and treatment for sexually transmittable diseases, HPV vaccination, and counseling. Government-run family planning clinics often did not provide contraceptive services to unmarried young people. Birth control pills were available at private pharmacies without prescription but at higher prices than at government clinics.

One-Stop Crisis Centers, an integrated multiagency service in the emergency department of most major public hospitals, provided support to victims of sexual violence.

Sexual health education remained a sensitive topic, with a majority of the

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population viewing abstinence as the only permissible form of contraception. Reproductive awareness activists and NGOs that provided sexual health education were frequently accused of encouraging sin and eliciting sexual behaviors.

Coercion in Population Control: There were no reports of coerced abortion or involuntary sterilization on the part of government authorities.

Discrimination: The constitution prohibits discrimination against citizens based on gender and gives men and women equal property rights although sharia, which deviates from these principles in some areas, was sometimes applied. For instance, Islamic inheritance law generally favors male offspring and male relatives. Sharia also generally requires a husband's consent for divorce, but a small and steadily increasing number of women obtained divorces under sharia without their husband's consent. Non-Muslims are not subject to sharia. Civil law gives non-Muslim mothers and fathers equal parental rights, while sharia favors fathers. Nevertheless, four states--Johor, Selangor, Negri Sembilan, and Pahang--extend equal parental rights to Muslim mothers.

The law requires equal pay for male and female workers for work of equal value. Nonetheless, NGOs reported continued discrimination against women in the workplace in terms of promotion and salary (see section 7.d.).

The law does not permit mothers to transmit citizenship automatically to children born overseas. Children born overseas can only be registered as citizens if the father of the child is a citizen.

Children

Birth Registration: A child born in the country obtains citizenship if one parent is a citizen or permanent resident at the time of birth and the parents are married. Parents must register a child within 14 days of birth. Parents applying for late registration must provide proof the child was born in the country. According to UNHCR, children born to citizen mothers outside the country may only acquire citizenship at the discretion of the federal government through registration at an overseas Malaysian consulate or at the National Registration Department in country. Authorities do not register children born to illegal immigrants or asylum seekers. UNHCR registered children born to refugees (see section 2.d.).

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Education: Education is free, compulsory, and universal through primary school (six years) for citizens and permanent residents, although there was no mechanism to enforce attendance. Public schools are not open to the children of illegal immigrants or refugees, whether registered with UNHCR or not.

Child, Early, and Forced Marriage: The minimum age of marriage is 18 for men and 16 for women. Muslim women younger than 16 may marry with the approval of a sharia court. Indigenous persons are governed by customary laws with no fixed minimum age for marriage. In some cases authorities treated early marriage as a solution to statutory rape. Advocates remained concerned that Rohingya refugee families were resorting to child marriage for their girls to cope with economic hardship.

The federal government launched a national five-year roadmap in January targeting the issue of child marriage. The plan outlined policies to increase access to education and attendance in schools, increase access to health education, address stigma and social norms on child marriage, and ensure laws and guidelines on child marriages are in line with government policies guarding the well-being of children.

Sexual Exploitation of Children: The law outlaws child pornography and states that a child is considered a victim of sexual abuse if he or she has taken part as a participant or an observer in any activity that is sexual in nature for the purposes of a photograph, recording, film, videotape, or performance. Federal police reported approximately 20,000 internet addresses in the country uploading and downloading child pornography. Under the law the minimum age for consensual, noncommercial sex is 16 for both boys and girls. The involvement in making or producing child pornography carries a penalty of up to 30 years' imprisonment and not less than six strokes of a cane; conviction for accessing or possessing child pornography carries a punishment of five years' imprisonment or a fine; conviction for trafficking in persons involving a child for the purposes of sexual exploitation carries a punishment of three to 20 years' imprisonment and a fine.

There is a special court for sexual crimes against children, established to speed up trials that often took years to conclude. Child prostitution existed, and a local NGO estimated in 2015, the last year with reported data, that 5,000 children were

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involved in sex work in Kuala Lumpur and surrounding areas. Authorities, however, often treated children engaged in prostitution as offenders or undocumented immigrants rather than as victims.

The government focused on preventing sexual exploitation of children, including commercial sexual exploitation.

The law provides for six to 20 years' imprisonment and caning for persons convicted of incest.

As of October federal police recorded 1,721 sexual crime cases involving children, while 813 cases were with the special court handling sexual crimes against children.

A child's testimony is acceptable only if there is corroborating evidence, which posed special problems for molestation cases in which the child victim was the only witness.

Displaced Children: Street children were most prevalent in Sabah. Estimates of the street-child population ranged from a few thousand to 15,000, many of whom were born in the country to illegal immigrant parents. Authorities deported some of these parents, leaving their children without guardians. Lacking citizenship, access to schooling, or other government-provided support, these children often resorted to menial labor, criminal activities, and prostitution to survive; those living on the streets were vulnerable to forced labor, including forced begging.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data/reported-cases.html>.

Anti-Semitism

The country's Jewish population was estimated at between 100 and 200 persons, consisting mostly of expatriates and foreigners. Anti-Semitism was a serious

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problem across the political spectrum and attracted wide support among segments of the population.

A 2015 Anti-Defamation League survey found 61 percent of citizens held anti-Jewish attitudes. A newspaper reported in April 2019 the statement in parliament of the then home minister that the number of Israelis entering Malaysia for business and technology-related events dwindled from 33 in 2016 to only three in 2019. Former prime minister Mahathir defended his right to be anti-Semitic in interviews. Restrictions on Israeli citizens from entering Malaysia remain.

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

Persons with Disabilities

The law affords persons with disabilities the right to equal access and use of public facilities, amenities, services, and buildings open or provided to the public. The Ministry of Women, Family, and Community Development is responsible for safeguarding the rights of persons with disabilities.

New government buildings generally had a full range of facilities for persons with disabilities. The government, however, did not mandate accessibility to transportation for persons with disabilities, and authorities retrofitted few older public facilities to provide access to persons with disabilities. Recognizing public transportation was not “disabled friendly,” the government maintained its 50 percent reduction of excise duty on locally made cars and motorcycles adapted for persons with disabilities.

Employment discrimination occurred against persons with disabilities (see section 7.d.).

Students with disabilities attended mainstream schools, but accessibility remained a serious problem. Separate education facilities also existed but were insufficient to meet the needs of all students with disabilities.

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Members of National/Racial/Ethnic Minority Groups

The constitution gives ethnic Malays and indigenous groups, collectively known as *bumiputra*, a “special position” in the country. Government regulations and policies provided extensive preferential programs to boost the economic position of bumiputra, who constituted a majority of the population. Such programs limited opportunities for non-bumiputra (primarily ethnic Chinese and Indians) in higher education and government employment. Many industries were subject to race-based requirements that mandated bumiputra ownership levels. Government procurement and licensing policies favored bumiputra-owned businesses. The government claimed these policies were necessary to attain ethnic harmony and political stability.

Indigenous People

The constitution provides indigenous and nonindigenous people with the same civil and political rights, but the government did not effectively protect these rights.

Indigenous people in peninsular Malaysia, known as Orang Asli, who number approximately 200,000, constitute the poorest group in the country and had very little ability to participate in decisions that affected them. A constitutional provision provides for “the special position of the Malays and natives of any of the States of Sabah and Sarawak” but does not refer specifically to the Orang Asli. This ambiguity over the community’s status in the constitution led to selective interpretation by different public institutions.

The courts have ruled that the Orang Asli have rights to their customary lands under the constitution, but NGOs said the government failed to recognize these judicial pronouncements. The government can seize this land if it provides compensation. There were confrontations between indigenous communities and logging companies over land, and uncertainty over their land tenure made indigenous persons vulnerable to exploitation.

In June, two Orang Asli communities set up blockades at the entrances to their

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villages in Kelantan and Perak States to protest logging activities in the area. In a police report, villagers claimed their village had been “pawned away” by the Kelantan government.

In September the Federal Court ordered the Johor state government to pay RM 5.2 million (\$1.2 million) to the residents of Orang Laut Seletar village as compensation for their ancestral land, after villagers were forced to relocate in 1993 to make way for development. The court also ordered that a separate land area which the villagers now occupied be registered as an Orang Asli settlement. Lawyer Tan Poh Lai, representing the villagers, termed the settlement a “great victory” for the Orang Asli, stating, “This is a recognition that the land they were made to move from was indeed native customary land. This result is an encouragement for all Orang Asli in Malaysia.”

Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation and Gender Identity

All same-sex sexual conduct is illegal. The law states that sodomy and oral sex acts are “carnal intercourse against the order of nature.” In November 2019 the Selangor State sharia court sentenced five men to six to seven months in jail, six strokes of the cane, and a fine for “attempting to have intercourse against the order of nature.” Numan Afifi, an activist for lesbian, gay, bisexual, transgender, and intersex (LGBTI) rights told media the ruling was “a gross injustice” and would cause a “culture of fear.” Religious and cultural taboos against same-sex sexual conduct were widespread (see section 2.a.).

Authorities often charged transgender persons with “indecent behavior” and “importuning for immoral purposes” in public. Those convicted of a first offense face a token fine and a maximum sentence of 14 days in jail. The sentences for subsequent convictions are fines and up to three months in jail. Local advocates contended that imprisoned transgender women served their sentences in prisons designated for men and that police and inmates often abused them verbally and sexually.

In February, Mujahid Yusof Rawa, then the minister for Islamic affairs in the Pakatan Harapan government, said he would ask the communications commission

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to take action against Nur Sajat, a prominent transgender entrepreneur, after she posted pictures of herself on pilgrimage in Mecca. The minister called Nur Sajat's actions an "offense" that could compromise bilateral relations with Saudi Arabia. Noting that photos and videos of Nur Sajat wearing women's garments in Mecca had gone viral on social media, causing "discomfort among Muslims," Mujahid told media he would take "firm steps." The communications commission said it would study the matter but did not announce any action. Images of Nur Sajat's passport and other documents, however, spread on social media, raising concerns among civil society groups about her privacy and safety.

A 2018 survey by a local transgender rights group reported more than two-thirds of transgender women experienced some form of physical or emotional abuse. The local rock band Bunkface released a song in February with the lyric "LGBT can go and die." Facing public criticism, the band defended the line, stating it did not target specific individuals but was responding to the growing LGBTI movement in the country.

State religious authorities reportedly forced LGBTI persons to participate in "treatment" or "rehabilitation" programs to "cure" them of their sexuality. In July, Minister of Religious Affairs Zulkifli Mohamad announced he had given "full license" to Islamic authorities to arrest and "educate" transgender persons to ensure they came "back to the right path."

LGBTI persons reported discrimination in employment, housing, and access to some government services because of their sexuality.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides for limited freedom of association and for certain categories of workers to form and join trade unions, subject to a variety of legal and practical restrictions. The law provides for the right to strike and to bargain collectively, but both were severely restricted. The law prohibits employers from interfering with trade union activities, including union formation. It prohibits employers from retaliating against workers for legal union activities and requires reinstatement of

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workers fired for union activity.

The law prohibits defense and police officials, retired or dismissed workers from joining a union. The law also restricts the formation of unions of workers in similar trades, occupations, or industries. Foreign workers may join a trade union but cannot hold union office unless they obtain permission from the Ministry of Human Resources. In view of the absence of a direct employment relationship with owners of a workplace, contract workers may not form a union and cannot negotiate or benefit from collective bargaining agreements.

The director general of trade unions and the minister of human resources may refuse to register or withdraw registration from some unions without judicial oversight. The time needed for a union to be recognized remained long and unpredictable. Union officials expressed frustration about delays in the settlement of union recognition disputes; such applications were often refused. If a union's recognition request was approved, the employer sometimes challenged the decision in court, leading to multiyear delays in recognizing unions.

Most private-sector workers have the right to bargain collectively, although these negotiations cannot include issues of transfer, promotion, appointments, dismissal, or reinstatement. The law restricts collective bargaining in "pioneer" industries the government has identified as growth priorities, including various high-technology fields. Trade unions in companies granted pioneer status may not negotiate terms and conditions that are more favorable than the provisions stipulated in labor law unless approved by the minister of human resources. Public-sector workers have some collective bargaining rights, although some could only express opinions on wages and working conditions instead of actively negotiating. Long delays continued in the treatment of union claims to obtain recognition for collective bargaining purposes. The government also had the right to compel arbitration in the case of failed collective bargaining negotiations.

Private-sector strikes are severely restricted. The law provides for penal sanctions for peaceful strikes. The law prohibits general strikes, and trade unions may not strike over disputes related to trade-union registration or illegal dismissals.

Workers may not strike in a broad range of industries deemed "essential," nor may they hold strikes when a dispute is under consideration by the Industrial Court.

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Union officials claimed legal requirements for strikes were almost impossible to meet; the last major strike occurred in 1962.

The government did not effectively enforce laws prohibiting employers from seeking retribution for legal union activities and requiring reinstatement of workers fired for trade union activity. Penalties included fines but were seldom assessed and are not commensurate with those of other laws involving denials of civil rights, such as discrimination.

In June, five members of the National Union of Workers in Hospital Support and Allied Services were arrested while conducting a peaceful protest against their employer's alleged union-busting tactics. Union officials claimed the company prevented employees from testing for COVID-19, failed to provide proper personal protective equipment, and withheld the monthly special government allowance worth RM 600 (\$140) for frontline workers. Union officials further accused the company of forbidding union-related discussions between union worksite committees and workers, intimidation, and arbitrary change of working schedules and locations of union workers to decrease their earnings. The five arrested activists were released the following day. In October the magistrate's court dropped the charges against the activists for defying the conditional movement control order by gathering in front of the employer's premises "for social purposes."

Freedom of association and collective bargaining were not fully respected. National-level unions are prohibited; the government allows three regional territorial federations of unions--peninsular Malaysia, Sabah, and Sarawak--to operate. They exercised many of the responsibilities of national-level labor unions, although they could not bargain on behalf of local unions. The Malaysian Trade Unions Congress is a registered "society" of trade unions in both the private and government sectors that does not have the right to bargain collectively or strike but may provide technical support to affiliated members. Some workers' organizations were independent of government, political parties, and employers, but employer-dominated or "yellow" unions were reportedly a concern.

The inability of unions to provide more than limited protection for workers, particularly foreign workers who continued to face the threat of deportation,

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restrictions on the right to strike, and the prevalence of antiunion discrimination created a disincentive to unionize. In some instances companies reportedly harassed leaders of unions that sought recognition. Some trade unions reported the government detained or restricted the movement of some union members under laws allowing temporary detention without charging the detainee with a crime. Trade unions asserted some workers had wages withheld or were terminated because of union-related activity.

In October the court of appeal overturned a high court decision that the dismissal of a trade union leader for issuing a statement highlighting the plight of workers and calling for the CEO's resignation had been illegal. The court of appeal set aside the award to the trade union leader for wrongful termination of RM 210,000 (\$50,300) and instead ordered the trade union leader to pay RM5,000 (\$1,200) to the employer MAS Airlines in costs.

b. Prohibition of Forced or Compulsory Labor

The law prohibits and criminalizes all forms of forced or compulsory labor. Five agencies, including the Department of Labor of the Ministry of Human Resources, have enforcement powers under the law, but their officers performed a variety of functions and did not always actively search for indications of forced labor. NGOs continued to criticize the lack of resources dedicated to enforcement of the law.

The government did not effectively enforce laws prohibiting forced labor in some cases, and large fines as penalties were not commensurate with those for other analogous serious crimes, such as kidnapping.

In 2018 the government established an Independent Committee on Foreign Workers to provide comprehensive reform plans to the government regarding foreign-worker management and labor policy. The committee presented its final report to cabinet in July 2019 with 40 recommendations on streamlining policies related to foreign workers, but the report was not made public. On June 23, former minister of human resources M. Kulasegaran stated that "vested interests" had hijacked government policies on the matter as "not a single recommendation has been implemented to date."

A variety of sources reported occurrences of forced labor or conditions indicative

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of forced labor in plantation agriculture, electronics factories, garment production, rubber-product industries, and domestic service among both adults and children (also see section 7.c.).

Employers, employment agents, and labor recruiters subjected some migrants to forced labor or debt bondage. Many companies hired foreign workers using recruiting or outsourcing companies, creating uncertainty about the legal relationship between the worker, the outsourcing company, and the owner of the workplace, making workers more vulnerable to exploitation and complicating dispute resolution. Labor union representatives noted that recruiting agents in the countries of origin and in Malaysia sometimes imposed high fees, making migrant workers vulnerable to debt bondage.

In July a nonprofit organization filed a formal complaint with a foreign government urging it to ban imports of products from Sime Darby Berhad, a palm oil company, due to reports of forced labor at Sime Darby plantations. Another petition filed in August 2019 accused palm oil company FGV Holdings of forced labor abuse, including deception, physical and sexual violence, intimidation, and the keeping of worker's identity documents. FGV subsequently finalized their action plan on enhancing labor practices in April. NGOs maintained the action plan, however, failed to prove FGV's product was not the result of forced labor.

In July a foreign government discontinued imports of disposable medical gloves made by the world's largest medical glove maker, Top Glove Corp Bhd, in response to findings of forced labor in their manufacturing facilities. In November more than 5,000 Top Glove workers contracted COVID-19 resulting from substandard and overcrowded working and living conditions.

The trial of former deputy prime minister Zahid Hamidi for his role in a fraudulent scheme involving hundreds of thousands of Nepali workers seeking jobs in the country continued as of September. Private companies linked to the then deputy prime minister's brother and brother-in-law reportedly charged Nepali workers more than RM185 million (\$46.3 million) for medical tests and to submit visa applications during the prior five years. These medical and visa-processing services increased the cost tenfold without offering additional protections or benefits. Zahid denied involvement in or knowledge of the scam, but the

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Malaysian Anticorruption Commission charged him in 2018 with 45 counts of corruption, bribery, and money laundering, three of which concern RM three million (\$750,000) he allegedly received in bribes from a company that ran a visa center for Nepali workers. Critics of the former government had long characterized the foreign-worker recruitment system as corrupt.

Nonpayment of wages remained a concern. Passport confiscation by employers increased migrant workers' vulnerability to forced labor; the practice was illegal but widespread and generally went unpunished. Migrant workers without access to their passports were more vulnerable to harsh working conditions, lower wages than promised, unexpected wage deductions, and poor housing. NGOs reported that agents or employers in some cases drafted contracts that included a provision for employees to sign over the right to hold their passports to the employer or an agent. Some employers and migrant workers reported that workers sometimes requested employers keep their passports, since replacing lost or stolen passports could cost several months' wages and leave foreign workers open to questions about their legal status.

Also see the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

c. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits all of the worst forms of child labor. The law prohibits the employment of children younger than 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. There is no minimum age for engaging in light work. For children between the ages of 14 and 18, there was no list clarifying specific occupations or sectors considered hazardous and therefore prohibited.

The government did not effectively enforce laws prohibiting child labor. Those found contravening child labor laws faced penalties that were not commensurate with those for other analogous serious crimes, such as kidnapping.

Child labor occurred in some family businesses. Child labor in urban areas was common in the informal economy, including family food businesses and night

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markets, and in small-scale industry. Child labor was also evident among migrant domestic workers.

NGOs reported that stateless children in Sabah were especially vulnerable to labor exploitation in palm oil production, forced begging, and work in service industries, including restaurants. Although the National Union of Plantation Workers reported it was rare to find children involved in plantation work in peninsular Malaysia, others reported instances of child labor on palm oil plantations across the country. Commercial sexual exploitation of children also occurred (see section 6, Children).

Also see the Department of Labor's *List of Goods Produced by Child Labor or Forced Labor* at <https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods>.

d. Discrimination with Respect to Employment and Occupation

The law does not prohibit discrimination with respect to race, religion, national origin, color, sex, ethnicity, disability, age, sexual orientation, HIV/AIDS status or refugee status in employment and hiring; the director general of labor may investigate discrimination in the terms and conditions of employment for both foreign and local employees. The law prohibits women from working underground, such as in mines, and restricts employers from requiring female employees to work in industrial or agricultural work between 10 p.m. and 5 a.m. or to commence work for the day without having 11 consecutive hours of rest since the end of the last work period.

The director general may issue necessary directives to an employer to resolve allegations of discrimination in employment, although there were no penalties under the law for such discrimination and thus penalties were not commensurate to laws related to penalties for civil rights, such as election interference.

Employers are obligated to inquire into most sexual harassment complaints in a prescribed manner. Advocacy groups such as the Association of Women Lawyers stated these provisions were not comprehensive enough to provide adequate help to victims. In June the industrial court upheld the dismissal of a manager for nonphysical sexual harassment, including using a term of endearment, giving of

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personal gifts, and excessive unwanted attention.

Discrimination in employment and occupation occurred with respect to women; members of national, racial, and ethnic minorities; and persons with disabilities. A code of practice guides all government agencies, employers, employee associations, employees, and others with respect to placement of persons with disabilities in private-sector jobs. Disability-rights NGOs reported that employers were reluctant to hire persons with disabilities. A regulation reserves 1 percent of public-sector jobs for persons with disabilities.

Migrant workers must undergo mandatory testing for more than 16 illnesses as well as pregnancy. Employers may immediately deport pregnant or ill workers. Migrant workers also faced employment discrimination (see sections 7.b. and 7.e.). Employers were unilaterally able to terminate work permits, subjecting migrant workers to immediate deportation.

Women experienced some economic discrimination in access to employment. Employers routinely asked women their marital status during job interviews. The Association of Women Lawyers advocated for passage of a separate sexual harassment bill making it compulsory for employers to formulate sexual harassment policies.

The government reserved large quotas for the bumiputra majority for positions in the federal civil service as well as for vocational permits and licenses in a wide range of industries, which greatly reduced economic opportunity for minority groups (see section 6).

e. Acceptable Conditions of Work

The minimum wage applied to both citizen and foreign workers in most sectors, with the exception of domestic service (see below). The minimum wage rates were less than Ministry of Finance-published poverty income levels in Sabah and Sarawak.

Working hours may not exceed eight per day or 48 per week, unless workers receive overtime pay. The law specifies limits on overtime, which vary by sector, but it allows for exceptions.

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The law protects foreign domestic workers only with regard to wages and contract termination. The law excludes them from provisions that stipulate one rest day per week, an eight-hour workday, and a 48-hour workweek. Instead, bilateral agreements or memoranda of understanding between the government and some source countries for migrant workers include provisions for rest periods, compensation, and other conditions of employment for migrant domestic workers, including prohibitions on passport retention.

The Department of Labor of the Ministry of Human Resources enforces wage, working condition, and occupational safety and health standards. The government did not effectively enforce the law. The number of labor enforcement officers was insufficient to enforce compliance. Department of Labor officials reported they sought to conduct labor inspections as frequently as possible. Nevertheless, many businesses could operate for years without an inspection.

Penalties for employers who fail to follow the law begin with a fine assessed per employee and can rise to imprisonment. Employers can be required to pay back wages plus the fine. If they refuse to comply, employers face additional fines per day that wages are not paid. Employers or employees who violate occupational health and safety laws are subject to fines, imprisonment, or both. Penalties for violations were not commensurate with those for similar crimes.

Employers did not respect laws on wages and working hours. The Malaysian Trade Union Congress reported that 12-, 14-, and 18-hour days were common in food and other service industries.

The Ministry of Human Resources began enforcing amendments to the Worker's Minimum Standards of Housing and Amenities Act on September 1. The measure aimed to provide foreign workers with better accommodation and employee facilities amid the COVID-19 pandemic. Employers and centralized accommodation providers must provide every worker with a single bed measuring not less than 18 square feet, a mattress at least 3.9 inches thick, a pillow, blanket, and a locked cupboard. In addition employers must ensure water, electricity, and basic furniture are supplied, and that amenities, including a bathroom to employee ratio, are observed in the accommodations. Although the punishment for employers was not directly stated in the regulations, Minister of Human Resources

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M. Saravanan on August 27 stated that employers who failed to comply with the standards could face a significant fine for each offense.

Migrant workers often worked in sectors where violations were common, performed hazardous duties, and had no meaningful access to legal counsel in cases of contract violations and abuse. Some workers alleged their employers subjected them to inhuman living conditions and physically assaulted them. Employers of domestic workers sometimes failed to honor the terms of employment and subjected workers to abuse. Employers reportedly restricted workers' movement and use of mobile telephones; provided substandard food; did not provide sufficient time off; sexually assaulted workers; and harassed and threatened workers, including with deportation.

While the government mandated that all workers in businesses permitted to stay in operation must be tested for COVID-19, there were concerns for the labor conditions under which migrant workers were forced to work during the pandemic or risk losing their jobs. The Timber Employees Union of Peninsular Malaysia declared that migrant workers now felt "they're being made to choose between COVID-19 or starvation." The Malaysian Trade Union Congress claimed to have received more than 500 complaints against employers who continued operations despite the movement control order, with some reportedly threatening to terminate employees who refused to come to work, and not providing personal protection equipment.

Occupational health and safety laws cover all sectors of the economy except the maritime sector and the armed forces. The law requires workers to use safety equipment and cooperate with employers to create a safe, healthy workplace, but it does not specify a right to remove oneself from a hazardous or dangerous situation without penalty. Laws on worker's compensation cover both local and migrant workers but provide no protection for migrant domestic workers.

The National Occupational Safety and Health Council--composed of workers, employers, and government representatives--creates and coordinates implementation of occupational health and safety measures. It requires employers to identify risks and take precautions, including providing safety training to workers, and compels companies with more than 40 workers to establish joint

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management-employee safety committees.

According to Department of Occupational Safety and Health statistics, as of October, 174 workers died, 5,705 acquired a nonpermanent disability, and 226 acquired permanent disability in work-related incidents.