

MALAYSIA

Malaysia is a federal constitutional monarchy with a population of approximately 28.3 million. It has a parliamentary system of government headed by a prime minister selected through periodic, multiparty elections. The United Malays National Organization (UMNO), together with a coalition of political parties known as the National Front (BN), has held power since independence in 1957. The most recent national elections, in March 2008, were conducted in a generally transparent manner and witnessed significant opposition gains. In April 2009 Najib Razak was sworn in as prime minister. Security forces reported to civilian authorities.

Some obstacles prevented opposition parties from competing on equal terms with the ruling coalition. Other human rights problems included: some deaths occurred during police apprehensions and while in police custody; police abuse of detainees; overcrowded immigration detention centers (IDCs); arbitrary arrest and detention using the Internal Security Act (ISA) and three other statutes that allow detention without trial; and persistent questions about the impartiality and independence of the judiciary. The government continued to pursue the prosecution of a prominent opposition leader on sodomy charges. The criminal and Sharia courts utilized caning as a form of punishment. The government continued to restrict freedom of press, association, assembly, speech, and religion. Trafficking in persons remained a problem. Longstanding government policies gave preferences to ethnic Malays in many areas. Some employers exploited migrant workers and ethnic-Indian citizens through forced labor. Some child labor occurred in plantations.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

There were no known politically motivated killings by the government or its agents; however, during the year local media reported that police killed 35 persons while apprehending them, down from 108 such killings in 2009. State-influenced print media used a consistent narrative to describe these encounters--suspects stopped by police, tried to attack police; police killed suspect in self-defense; evidence of criminal activity found on suspect's body. Local human rights groups

suggested this pattern was used to justify deaths, usually of ethnic minorities, in police custody.

On April 9, police shot and killed two ethnic Indian brothers, R. Logeswaran and R. Satchithanathan. Police reportedly saw them engaging in suspicious activity and tried to stop their car. The police reported that the brothers attempted to hit police personnel with their car and then opened fire, forcing the police to return fire in self-defense. Police claimed to have found numerous weapons in the vehicle and that the brothers were responsible for several armed robberies. Indian rights groups were critical of the shootings as an example of police "shoot-to-kill" policies. There was no known investigation into the matter.

On April 26, police shot and killed Aminulrasyid Amzah, a 15-year-old ethnic Malay boy they were attempting to stop and question for engaging in suspicious activity. Police alleged that after a high-speed chase, he placed his car into reverse and was attempting to run over the officers when they drew their weapons and fired the deadly shots. Condemnation of the shooting came from all parts of society. Senior government officials, including the prime minister, called for full police cooperation into the investigation. The killing reportedly led to a review of the police standard operating procedures relating to use of deadly force. On May 4, the government created a special eight-member panel to oversee the police investigation. On May 10, police Corporal Jenain Subi was charged for culpable homicide not amounting to murder for the fatal shooting. On September 3, the special panel found that the investigation was fair and transparent. The trial commenced on October 12 and was ongoing at year's end.

On November 13, police shot and killed Muhammad Hanafi Omar, 22, Mohd Shamil Hafiz Shafie, 16, and Mohd Khairul Nizam Tuah, 20, after the three allegedly robbed a gas station in Selangor. According to police, the three were part of a criminal gang that had robbed three gas stations in the days leading up to the shootings. The police reportedly shot and killed them in self-defense after they tried to attack police with machetes. On November 17, local human rights nongovernmental organization (NGO) SUARAM (Voice of the Malaysian People) publicly questioned the police justification. On November 21, the families of the youths lodged a complaint against the police claiming that the shootings were tantamount to executions. There were no known further developments during the year.

The trial of police constable Navindran Vivekanandan for causing grievous hurt in the January 2009 death of Kugan Ananthan, an ethnic Indian in police detention,

continued at year's end. On August 14, Kugan's mother, N. Indra, petitioned the king to intervene in the criminal case, claiming that the evidence implicated additional individuals, although the government only charged one officer.

The inquest into the July 2009 death of Teoh Beng Hock, a political aide to a Selangor State legislative assemblyman, continued at year's end. On August 11, the Attorney General's Chambers (AGC) attempted to introduce a purported suicide note. Critics raised concerns as to the reason for the delayed disclosure and questioned the note's authenticity. Teoh's family asserted that the note contained multiple discrepancies and did not match Teoh's handwriting.

On October 25, the inquest into the July 2009 death in police custody of R. Gunasegaran concluded. The coroner found that the cause of death in Gunasegaran's case could not be conclusively proven.

There were no known developments in the November 2009 police shooting of five ethnic Indian youths ages 17 to 24.

The RM100 million (approximately \$32 million) civil suit instituted by the father of 2006 murder victim, Altantuya Shaaribu, against the government, political analyst Razak Baginda, and the two police officers convicted for the killing continued at year's end.

On June 30, the Kuala Lumpur High Court ordered the government and police to pay RM1.4 million (\$451,600) to Suzana Mohamad Aris, whose husband, Mohamad Anuar Sharip, allegedly was beaten to death while in police custody in 1999. Judge Lee Swee Seng said, "Let the message go forth from this place that any more deaths in police custody is one too many. The basic human right of a detainee to seek medical treatment should be immediately attended to. There should be no more loss of life in police custody as every life is precious."

b. Disappearance

There were no reports of politically motivated disappearances.

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

No law specifically prohibits torture; however, laws that prohibit "committing grievous hurt" encompass torture. Although there were some allegations of

beatings and mistreatment by the nonprofessional People's Volunteer Corps (RELA) and immigration officials in IDCs, the number of such allegations was greatly reduced. IDCs continued to be administered by the Immigration Department and supplemented by RELA.

In January the government charged N. Tharmendran, a former Royal Malaysian Air Force (RMAF) sergeant, for the theft of two fighter-jet engines from the RMAF. On June 17, N. Nagarajah filed a police report on behalf of his son, N. Tharmendran, alleging that he was tortured into confessing to the crime while in military detention. Tharmendran claimed military intelligence officials detained and tortured him for three weeks. He further alleged that army officers forced him to wear a helmet while they used golf clubs and cricket bats to hit his head; that he was stripped to his underwear and forced to stand on a block of ice; threatened with death; and deprived of sleep. Tharmendran filed a petition to cross-examine his alleged attackers during his criminal case. Both the criminal case against Tharmendran and follow-up to his police report continued at year's end.

There were no developments in the January 2009 case alleging that seven police officers committed "criminal intimidation" and "voluntarily caused hurt to extort confession" against B. Prabakar.

On March 12, SUARAM issued a press statement saying four youths ages 15 to 20, detained for being in possession of a stolen bicycle, were "tortured physically and mentally by police during the entire duration of their detention."

There were no known developments during the year concerning the 2008 beating of a Pakistani detainee by immigration officials at Lenggeng IDC.

In the past, persons detained under the ISA commonly suffered beatings, physical and mental abuse, and other mistreatment. For example according to Amnesty International, Sanjeev Kumar, detained under the ISA in 2007, at the time of his release in 2008 was paralyzed and mentally unstable as a result of beatings. However, local NGOs report that treatment of detainees under the ISA has improved in recent years, and there were no reports of mistreatment during the year.

Criminal law prescribes caning as an additional punishment to imprisonment for those convicted of some nonviolent crimes, such as narcotics possession, criminal breach of trust, and alien smuggling. The law prescribes up to six strokes of the cane for both illegal immigrants and their employers. Judges routinely included

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

Some states' Sharia laws also prescribe caning. Although federal law exempts all women from caning, there are no exemptions for women under Sharia law and the national courts have not resolved issues involving conflicts between the constitution, the penal code, and Sharia law. In Sharia caning, a smaller cane is used, and the caning official cannot lift the cane above the shoulder, thus reducing the impact. Additionally, the subject is fully covered with a robe so that the cane will not touch any part of the flesh. Local Islamic officials claimed that the idea is not to injure but to make offenders ashamed of their sin so that they will repent and not repeat the offense.

On February 17, the Home Ministry announced that three Muslim women and four Muslim men found guilty of illicit sex under Sharia law had been caned on February 9. The canings of the women took place in a female prison in Selangor and were administered by government officials. These were the first reported cases of women being caned in the country. Local NGOs condemned the punishments. The Malaysian Bar Council in a press release observed that it was shocking that the government made the announcement only after the punishment had been carried out since the constitution forbids corporal punishment of women. In an earlier case in July 2009, the Kuantan Sharia High Court (Pahang State) sentenced Kartika Sari Dewi Shukarno to a RM5,000 (approximately \$1,400) fine and six strokes of a cane for consuming alcohol at a hotel in Pahang State in 2008. Kartika was the first Muslim woman sentenced to caning, but on April 1, the Sultan of Pahang commuted her caning sentence and reduced the penalty to 20 days of community service at a child daycare center.

During the year Sharia courts sentenced at least five persons to caning for alcohol offenses. In 2009 Sharia courts sentenced persons to caning for alcohol offenses and for khalwat (close proximity by unmarried persons of the opposite sex).

Prison and Detention Center Conditions

Prison overcrowding, particularly in facilities near major cities, remained a serious problem. In December 2009 the Home Ministry reported that the country's 31 prisons held 32,130 prisoners in locations designed to hold 32,600. According to

the International Centre for Prison Studies, in mid-2008, women made up 8.3 percent of the total prison population. Local and international NGOs estimated most of the country's 16 IDCs were at or beyond capacity, with some detainees held for a year or more.

NGOs and international organizations involved with migrant workers and refugees made credible allegations of overcrowding, inadequate food, lack of regular access to clean water, poor medical care, poor sanitation, and lack of bedding in IDCs. An NGO with access to the IDCs claimed that overcrowding, deficient sanitation, and lack of medical screening and treatment facilitated the spread of disease. During the year the government allowed local NGOs with mobile medical clinics into the IDCs. On August 24, the Ministry of Home Affairs' secretary general publicly acknowledged that security measures and living conditions at all the IDCs were seriously deficient and that none met international standards. He added that a five-agency committee had been set up to tackle the problem at IDCs and to upgrade IDC standard operating procedures.

In 2008 the Malaysian Human Rights Commission (SUHAKAM) identified poor medical care as the principal reason why 1,300 detainees had died over the previous six years in IDCs, prisons, and jails. In October 2009, a SUHAKAM commissioner noted that most of the deaths reportedly were due to communicable diseases that thrive in unsanitary and overcrowded detention facilities. The commissioner also recommended that the IDCs observe better health standards to prevent the spread of disease.

Prisoners and detainees are allowed visitors during specified visiting hours, and, provided the religious practices were not derived from one of the 56 sects of Islam the government considers "deviant" and a threat to national security, there were no issues with religious observance. The Prisons Act does not provide a process for prisoners to submit complaints to judicial authorities. It does allow judges to visit prisons to examine conditions and ask prisoners and prison officials about prison conditions. According to local NGOs, because prison authorities reportedly monitor all incoming and outgoing materials, complaints normally would not be sent through prison authorities. When a lawyer is appointed to investigate a claim such documents could be treated as private and confidential under attorney-client privilege.

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

as the government's de facto ombudsman, investigating human rights abuses, including those alleged to have taken place within the prison system.

The UN High Commission for Refugees (UNHCR) had access to registered refugees and asylum seekers detained in IDCs and prisons. Historically, prison and IDC officials denied the UNHCR access to unregistered asylum seekers in detention; however, since April 2009, IDCs scheduled UNHCR visits to interview unregistered potential refugees. Through these interviews, the UNHCR secured the release of 2,885 refugees from IDCs during the year.

d. Arbitrary Arrest or Detention

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

Role of the Police and Security Apparatus

The approximately 102,000-member Royal Malaysia Police (RMP) force is under the command of the inspector general of police (IGP), who reports to the home affairs minister. The IGP is responsible for organizing and administering the police force. The Department of Islamic Development Malaysia (JAKIM) enforces Sharia law. JAKIM sometimes receives assistance from the RMP when conducting religious raids. The government has some mechanisms to investigate and punish abuse and corruption. There were NGO and media reports that security forces acted with impunity during the year.

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

The government continued to focus police reform efforts on improving salaries, quarters, and general living conditions of police officers. However, the status of other reforms, including the formation of an independent police complaints and misconduct commission, remained pending at year's end. NGOs complained that the government's reform efforts lacked transparency.

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

Unlike in previous years, security forces acted to prevent or respond to some incidents of societal violence. Specifically, when places of worship were attacked in January, in response to a high court's ruling that non-Muslims could use the word "Allah" to describe God in Malay-language publications, government security forces reacted quickly to maintain control over the situation and prevent it from escalating.

On September 28, 50 protesters from the Malay rights group Perkasa gathered outside the Kuala Lumpur and Selangor Chinese Assembly Hall to protest against controversial rapper Wee Meng Chee (also known as Namewee) as he prepared to speak at a youth summit. The crowd burned enlarged photos of Namewee and attempted to enter the hall but were stopped by antiriot police.

In recent years, the Home Ministry relied primarily upon RELA to conduct raids and detain suspected illegal migrants. However, in 2009 the government reduced RELA involvement and authority in immigration matters and by August 2009, had removed all RELA personnel from the IDCs. In 2009 the government announced that RELA members would assist the police in combating crime. However, after the August 1 escape of 20 Afghan nationals from an IDC near Kuala Lumpur International Airport, Deputy Home Minister Lee Chee Leong announced that security for the IDCs would be transferred from immigration authorities to the Prison Department, with RELA providing perimeter security. NGOs and organizations dealing with refugee affairs reported that RELA continued to enforce immigration laws.

In December RELA membership reached 2,042,215, having almost doubled since 2009. The government took steps to increase RELA's overall role, specifically in assisting police with criminal matters. NGOs remained concerned that inadequate training left RELA members ill equipped to perform their duties. On December 29, Koh Tsu Koon, minister in the Prime Minister's Department, said that due to the impossibility of stationing police officers on every corner, thousands of RELA members were deployed to assist police in the patrolling of high-crime areas. Reported abuses by RELA members included extortion, theft, pilfering items from homes, and pillaging refugee settlements. However, such reports were fewer than in previous years.

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

Arrest Procedures and Treatment While in Detention

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

Police often denied detainees access to legal counsel and questioned suspects without giving them access to counsel. Police justified this practice as necessary to prevent interference in ongoing investigations, and judicial decisions generally upheld the practice. The 2005 police commission report stated that an "arrest first, investigate later" mentality pervaded some elements of the police force and recommended that detention procedures be reviewed to prevent abuse. On some occasions law enforcement agencies did not promptly allow access to family members.

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

Crowded and understaffed courts often resulted in lengthy pretrial detention, sometimes lasting several years. In December 2009 Chief Justice Zaki Azmi stated there were 900,000 cases pending in the lower courts and 91,000 in the higher courts. On September 25, the chief justice of the federal court announced the establishment of two additional civil high courts to ease the backlog in commercial and civil high court cases. In October Zaki announced there were 43,403 pending

civil cases at the high court, a 53.5 per cent reduction compared with 93,523 cases in 2008. There are 3,459 pending criminal cases at the High Court, a 23.8 per cent reduction compared with 4,544 cases in 2008. On December 14, Zaki announced that the government would allow plea bargaining as a means of reducing case backlogs.

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

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

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

The Bar Council and several human rights NGOs have called for the repeal of the ISA, which does not allow judicial review of ISA decisions in any court, except for issues of compliance with procedural requirements. The UN Human Rights Council's Working Group on Arbitrary Detention visited the country June 7-18 and at the conclusion of its visit recommended that the ISA (and the other preventive detention laws) be repealed or, if amended, brought into conformity with the Universal Declaration of Human Rights.

In April 2009, on his first day in office, Prime Minister Najib announced that his office would conduct a comprehensive review of the ISA. Since the announcement, the Home Affairs Ministry has held closed meetings with numerous groups,

including political parties and NGOs, to review the act. Little information has been made publicly available regarding these meetings.

In 2009 the government released 31 ISA detainees, including five detained Hindu Rights Action Force leaders and five alleged Jemaah Islamiya (JI) terrorist organization members.

On January 27, the Home Minister confirmed that on January 21, authorities detained 10 persons--nine foreigners and one citizen--under the ISA for alleged links with international terrorist organizations. The nine foreign-born arrestees from Yemen, Nigeria, Jordan, and Syria reportedly were deported in March. The government placed the one Malaysian citizen, Azzahari Murad, under the provisions of the Restrictive Residence Act on March 11.

On July 15, authorities detained Mohamad Fadzullah Abdul Razak for allegedly recruiting undergraduate students to join JI. At year's end he remained in custody under the ISA.

On August 11, authorities detained three persons, citizens Sheikh Abdullah Sheikh Junaid, and Samsul Hamidi, and Indonesian MustawanAhabab, for alleged terrorist links. The government released Sheikh Abdullah Sheikh Junaid and Samsul Hamidi within 60 days of their arrest.

On September 2, the Home Ministry released Shamsuddin Sulaiman, an alleged member of JI, after eight years in detention. On September 24, the Home Ministry deported and turned over to Singaporean authorities Mas Selamat Kastari, alleged leader of the Singapore JI network.

According to local NGOs, during the year authorities detained 25 persons under the ISA and released 15 persons. At year's end there were 25 persons reportedly in detention under the ISA, including those who had been detained in previous years. Reasons for the detentions were links to terror organizations, document forgery, and involvement in human smuggling syndicates.

On March 25, the Court of Appeals overturned the Kuala Lumpur High Court's 2007 award of RM2.5 million (approximately \$715,000) to former ISA detainee Abdul Malek Hussin for his arrest and alleged torture under the ISA in 1998. The Court of Appeals ruled that his detention under the ISA was legal and that he was not entitled to the monetary award. On August 12, the Federal Court upheld the ruling.

Under the Emergency Ordinance (EO), the home minister may issue a detention order for up to two years against a person if he deems it necessary for the protection of public order, "the suppression of violence, or the prevention of crimes involving violence." A local NGO reported that in 2009, the government detained 548 persons under the EO. According to statistics the Home Ministry presented to Parliament in January, 3,701 individuals were detained under the EO and other preventative measures between 2000 and 2009. The authorities used the EO on suspected organized-crime figures.

In December 2009 authorities reportedly arrested four youths between the ages of 15 and 20--S. Gunaseelan, M. Puspanathan, P.S. Jagendran, and V. Rajkumar--for being in possession of a stolen bicycle. The four were reportedly detained for 60 days under the EO. On March 11, the home minister ordered the detention of the four under the Restricted Residence Act. On March 12, SUARAM issued a press statement saying the four were "tortured physically and mentally by police during the entire duration of their detention" under the EO. On December 20, the government allowed Jagandran to return to his hometown, but his movement is restricted until March 2012, under the provisions of the EO.

Provisions of the Dangerous Drugs Act give the government specific power to detain suspected drug traffickers without trial for up to 39 days before the home affairs minister must issue a detention order. Once the Home Affairs Ministry issues the detention order, the detainee is entitled to a hearing before a court, which has the authority to order the detainee's release. Authorities may hold suspects without charge for successive two-year intervals with periodic review by an advisory board, whose opinion is binding on the minister. However, the review process contains none of the procedural rights that a defendant would have in a court proceeding. Police frequently detained suspected narcotics traffickers under this act after courts acquitted them of formal charges. According to the National Antidrug Agency, the government detained 1,176 persons under the preventive detention provisions of the act during the first 11 months of 2009, compared with 1,115 persons during all of 2008.

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

continued to justify the act as a necessary tool to remove suspects from the area where undesirable activities were being conducted.

e. Denial of Fair Public Trial

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

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

In 2008 a royal commission, which had been formed to investigate the 2002 videotape of a purported conversation in which a senior lawyer, V.K. Lingam, and a senior judge, Ahmad Fairuz Abdul Halim, discussed arrangements for assigning cases to "friendly" judges, released its findings and determined that former prime minister Mahathir, UMNO Secretary General Tengku Adnan, and former chief justice Eusoff Chin among others were involved in manipulating judicial appointments and improperly influenced the promotion of judges. In June 2009 in a written reply to opposition Democratic Action Party (DAP) parliamentarian Karpal Singh's question on why there was no follow-up on the commission's findings, a minister in the Prime Minister's Department explained that the cases were closed for lack of evidence. On August 23, Lingam, along with Eusoff Chin and Ahmad Fairuz appealed the high court's 2008 decision denying them permission to appeal the findings of the royal commission. On August 24, the Court of Appeal granted permission for the three to challenge the findings of the royal commission and directed the high court to hear the case. On September 23, the AGC appealed the Court of Appeal's decision to the Federal Court. On September 30, the high court announced that it would hear the case on May 16, 2011.

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

In August 2009 Anwar filed an application for judicial review to disqualify the government's prosecution team on grounds of alleged bias, conflict of interest, and prosecutorial misconduct. After months of delay while the trial court ruled on motions ranging from requests for evidence to outright dismissal, Anwar's trial began on February 2, with his former aide and alleged victim, Saiful Bukhari, taking the stand as the prosecution's first witness. Since the beginning of the trial, there have been six administrative delays due to appeals. The trial was scheduled to resume January 21, 2011. Prosecution for consensual sodomy between two adults is extremely rare in Malaysian jurisprudence.

Trial Procedures

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

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

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

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

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

The structure of the civil judiciary mirrors that of the criminal courts. A large case backlog often resulted in delayed provision of court-ordered relief for civil plaintiffs. The courts have encouraged the use of mediation and arbitration to speed settlements. According to judicial sources, mediation was used in 60 percent of road accident cases and approximately 40 percent of other civil cases. The government and government officials can be sued in court for alleged violations of human rights.

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

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

JAKIM guidelines authorize JAKIM officials to enter private premises without a warrant if they deem swift action necessary to conduct raids on premises where they suspect Muslims are engaged in offenses such as gambling, consumption of alcohol, and sexual relations outside marriage.

On January 4, local news outlets reported that the Selangor Islamic Religious Department (JAIS) conducted raids at budget hotels in Selangor in conjunction with the New Year's Eve celebration and arrested 52 unmarried couples in hotels for violating khalwat. On April 25, local newspapers reported that a 21-year-old

college student fell to his death from the fifth floor of an apartment building when he reportedly tried to escape a raid by JAIS agents searching for khalwat violators.

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

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

The government bans membership in unregistered political parties and organizations.

Certain religious issues posed significant obstacles to marriage between Muslims and adherents of other religions. The government does not recognize marriages between Muslims and non-Muslims.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution provides for freedom of speech and of the press; however, in practice the government restricted freedom of expression and intimidated journalists into practicing self-censorship. According to officials of the Home and Information Ministries, they imposed restrictions on the media to protect national security, public order, and friendly relations with other countries.

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

government publicly or privately. However, on some occasions the government retaliated against those who criticized it.

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

On August 18, popular Chinese-language radio station 98.8 terminated the employment of a Chinese-speaking ethnic-Malay announcer, Jamaluddin Ibrahim, reportedly in response to a letter from the Malaysian Communications and Multimedia Commission (MCMC) stating that Jamaluddin's comments on race relations negatively influenced the security of the country and were unacceptable.

On June 12, the High Court acquitted opposition DAP parliamentarian Karpal Singh of charges under the Sedition Act for comments at a February 2009 media conference that the sultan of Perak could be sued for his role in the removal of a state's chief minister.

On July 1, the Home Ministry failed to renew the annual publishing permit of People's Justice Party of Malaysia (PKR) newspaper *Suara Keadilan* after it expired on June 30. Anwar Ibrahim was the de facto leader of PKR. Also in July the Home Ministry refused to renew the permits of two other opposition political party newspapers--the Islamic Party of Malaysia's (PAS) *Harakah*, which expired on July 7, and the DAP's *Rocket*, which expired on June 30. Both parties appealed the Home Ministry's decision. On July 15, the Home Ministry approved *Harakah's* permit with conditions that the newspaper be sold only to members and at the party's headquarters and offices. On August 18, the Home Ministry renewed the permit of the *Rocket* and imposed the same conditions.

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

Journalists were subject to harassment and intimidation due to their reporting. On February 19, a journalist for the government-influenced daily, *The Star*, P. Gunasegaran, wrote an article titled "Persuasion, not Compulsion" in which he questioned whether the detention and caning of three Muslim women for having illicit sex was an appropriate punishment. On February 22, the conservative Muslim NGO Rakyat Islam Prihatin and several others including the pro-Malay-

rights group Perkasa lodged police reports demanding that the government revoke *The Star's* printing permit to protest the article. The NGOs claimed the article insulted Islam and demanded both an apology and that Gunasegaran be fired. On February 23, the Home Ministry issued a show-cause letter against the publication. On February 24, *The Star* issued an apology in response.

On September 22, police questioned member of parliament and daughter of opposition leader Anwar Ibrahim, Nurul Izzah, for sedition, following the two-part article she authored, entitled "Malaysia or Malaysaja" (Malaysia or Malay Only) for the Web site *Malaysian Insider* on August 31. In the article Nurul argued that the constitution refers to the "special position" of the Malays and other bumiputera (Malays and other indigenous persons, literally "sons of the soil"), but not to any inalienable rights. Nurul also invited Ibrahim Ali, president of the Malay rights NGO Perkasa, to debate. On September 2, Ibrahim Ali lodged a police report against Nurul over the article, accusing her of questioning the constitution. On September 22, the police questioned Nurul Izzah. There were no further developments during the year.

On September 29, DAP member of Parliament Tony Pua was questioned by police for sedition for suggesting the abolishment of discounts for luxury residential properties for bumiputera and channeling those benefits to the poor instead. His suggestion was published in the local daily *Utusan Malaysia* on July 27, which resulted in numerous police reports filed against Pua for questioning the rights of ethnic Malays. No further information regarding the case was available.

Unlike in past years, there were no instances of journalists being subject to arrest.

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

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

private groups actively covered opposition parties and frequently printed views critical of government policies.

The government directly and indirectly censored the media by using the Printing Presses and Publications Act, which requires domestic and foreign publications to apply annually to the government for a permit, making publication of "malicious news" a punishable offense and empowering the home affairs minister to ban or restrict publications believed to threaten public order, morality, or national security. It also prohibits court challenges to suspension or revocation of publication permits. According to the government, these provisions ensured that the media did not disseminate "distorted news" and were necessary to preserve harmony and promote peaceful coexistence in a multiracial country. During the year the ministry continued to review, censor, and confiscate many foreign publications.

During the year the Home Ministry banned at least 25 books that could "jeopardize public order" or were obscene. The books banned include a Tamil-language book, *Sex Exercise* by Tamilvanan, and a Malay book, *Between Love and Sin* by Fahmi Ismail. Home Ministry officials added that individuals involved in the printing, importing, publishing, selling, and distributing of these banned titles could be charged under the Printing, Presses, and Publishing Act of 1984, which carries a jail term of up to three years and a fine up to RM20,000 (approximately \$5,700).

In June the government banned the book *Perak Darul Kartun* (Perak Land of Cartoons) and a magazine of political cartoons, *Issues in Cartoons*. Home Ministry Secretary General Mahmood Adam said the government banned the publications because their contents could influence people to revolt against the leaders and government policies.

On June 24, the Home Ministry also banned a book, *IFunny Malaysia*, by cartoonist Zulkifly Anwar Ulhaque (also known as Zunar) and published by Kini Books, which is owned by Internet news portal Malaysiakini. Mahmood Adam said the book's contents were deemed unsuitable and detrimental to public order. On September 24, police officials arrested Zunar for sedition just hours before the launch of his book, *Cartoon-o-phobia*. The government confiscated 66 copies of the book. Zunar was released on bail September 25 and was ordered to report to police on October 7. On October 8, the high court allowed Zunar to file a challenge to the book ban. A hearing was scheduled for March 10, 2011.

On August 19, Home Ministry enforcement officers seized copies of political books, *Body 2 Body* and *The March to Putrajaya*, from Kinokuniya, an international bookstore in Kuala Lumpur. The officers left a seizure notice with the store's employees. On September 30, the Home Ministry banned the books for containing "baseless accusations against national leaders and inciting public hatred and anger against the federal constitution." On October 4, Kim Quek, the author of *March to Putrajaya*, made the book available on the Internet free of charge. On December 10, Kim Quek filed a lawsuit against the home minister, the police, and the government alleging unlawful seizure of the books. The high court judge scheduled a hearing for January 10, 2011.

On January 25, the High Court of Kuala Lumpur lifted as unconstitutional the ban imposed in 2008 against the book *Muslim Women and the Challenge of Islamic Extremism*, by Norani Othman, cofounder of the NGO Sisters in Islam (SIS).

On March 8 and 11, the Home Ministry banned 13 Malay-language, three Tamil-language, and five Chinese-language books claiming the books were immoral and unsuitable for public reading.

Radio and television stations were as restricted as the print media and were predominantly supportive of the government. News of the opposition was tightly restricted and reported in a biased fashion. During the 13 by-elections held since the March 2008 national elections, the mainstream media provided minimal coverage of opposition candidates, intensely negative reporting about their parties' senior figures, and extensive reporting on the ruling party candidates.

On April 20, Joshua Wong Ngee Chong, producer of NTV7's Chinese-language talk show "Editor's Time," resigned to protest self-censorship by the private television channel in the face of alleged pressure from the prime minister's wife, Rosmah Mansor. According to Wong, Rosmah forwarded text messages to NTV7 senior management calling episodes of some of its talk shows racist. The episodes in question featured debates between politicians from the ruling coalition Barisan Nasional and the opposition coalition Pakatan Rakyat (PR) as well as independent commentators. NTV7 subsequently did not report on the April 25 Hulu Selangor parliamentary by-election or political issues in general; nor did it invite opposition politicians as guests. NTV7 subsequently refused to air a documentary on the Hulu Selangor by-election.

On April 28, the director general of state-owned Radio Television Malaysia, Ibrahim Yahya, allegedly ordered a Chinese-language documentary series *Galeri*

Mandarin Nasional taken off the air after only two episodes. The 10-episode series depicted the plight of more than 10,000 natives of Belaga, Sarawak, after their forced relocation to Sungai Asap and Sungai Koyan in 1998 due to the construction of Bakun Dam. The documentary producer reportedly said that his superior claimed that some "sensitive elements" in the documentary could be harmful to the Sibuan parliamentary by-election that was to be held on May 16 and the upcoming Sarawak State election.

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

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

Internet Freedom

Internet access was widely available, except in East Malaysia, where the Internet was often not available beyond urban centers. According to International Telecommunication Union statistics for 2009, approximately 65 percent of the country's inhabitants used the Internet.

On March 1, Information, Communication and Culture Minister Rais Yatim said the government would not impose any restrictions on the Internet, noting that the government would not resort to measures such as censoring software to monitor all personal computers. However, on September 4, the Home Ministry deputy secretary general for security, Abdul Rahim Mohamad Radzi, announced the establishment of a taskforce to monitor the Internet for blog postings deemed harmful to national unity and to take action against those trying to stoke racial tensions. The taskforce involved police, Internet regulators, the Ministry of Information, and the Attorney General's Chambers. The government monitored e-mails sent to Internet blog sites and threatened to detain anyone sending content over the Internet that the government deemed threatening to public order or security. On September 13, Rais Yatim mentioned the formation of a special taskforce to investigate complaints about possible threats to national security and unity. On September 15, the MCMC warned Internet operators to avoid offensive, indecent, or sensitive matters such as religion and race.

Criminal defamation and preventive detention laws generated some self-censorship from local Internet content sources such as bloggers, Internet news providers, and NGO activists.

On September 2, the Petaling Jaya Sessions court charged blogger Irwan Abdul Rahman under the Communication and Multimedia Act for "creating and spreading lies with the malicious intent to hurt others." Irwan posted a satire stating that the National Electric Company (Tenaga Nasional Berhad) would sue the World Wildlife Federation for organizing the "Earth Hour Campaign" encouraging consumers not to use electricity for an hour because such an event would cost the national corporation millions in unrealized revenue. If convicted, Irwan could face a year's imprisonment and a fine of as much as RM50,000 (approximately \$16,000). A hearing was scheduled for January 26, 2011.

On December 6, UMNO Supreme Council member Dr. Shahidan Kassim called for the blocking of the Facebook social networking Web site if its contents pose a threat to national security. He made his comments after a Malaysian Facebook account holder allegedly insulted Islam and leaders of Malaysia on the Web site. He accompanied the Perlis Facebook Association committee members as they lodged a police complaint regarding the matter. The group reportedly also lodged a report at the State Islamic Religious Department.

In March 2009 the Sessions Court Kuala Lumpur charged six persons under the Communications and Multimedia Act for insulting the Sultan of Perak on blogs or other Internet postings. The blogs related to the Perak political crisis following the takeover by the BN in February 2009. One blogger pled guilty and was fined RM10,000 (approximately \$2,850). The remaining five pled not guilty. On June 22, the Sessions court acquitted Muslim Ahmad on the grounds that the prosecution failed to establish a prima facie case against him. At year's end the trials against the remaining four remained pending.

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

Academic Freedom and Cultural Events

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

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

During the year Deputy Prime Minister Muhyiddin Yassin told the press he wanted tighter screening for university lecturers to keep extremist ideology out of the university system. The administrations of several universities agreed to cooperate closely with police in identifying both faculty and students with possible extremist links.

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

On August 11, Minister of Higher Education Khaled Nordin announced the cabinet's reaffirmation of a 1974 decision that college and university students not join political parties after a Ministry of Education official had suggested lifting the ban. However, during an August 27 National Front Youth town-hall meeting, Prime Minister Najib said that he was keeping an open mind about university students getting politically involved.

In the past the government has censored and banned films for profanity, nudity, sex, violence, and certain political and religious content. There were no such actions during the year; however, on September 27, the Chairman of the Film Censorship Board called for a ban on the import and distribution of Japanese

anime, on grounds that it contained negative elements, which could corrupt the minds of children. Although the government allowed art-house foreign films at local film festivals, sexual content was censored by blocking the screen until the concerned scene was over.

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

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

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

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

Unlike in previous years, there were no reports that the government used tear gas and chemically laced water cannons to break up rallies. On August 1, police arrested 25 people at a candlelight vigil in protest of the 50th anniversary of the Internal Security Act. Among those arrested were anti-ISA movement President Syed Ibrahim Syed Noh and PKR Supreme Council Member Badrul Hisham.

On July 27, a sessions court sentenced two of the six Muslim protesters, who in August 2009 had desecrated a cow's head to protest the relocation of a Hindu temple to their area, to pay a RM3,000 (\$967) fine or face three months'

imprisonment after they plead guilty to sedition. One of the two men was also sentenced to an additional week in jail. The court granted a discharge not amounting to an acquittal to the four others. These six and six others had previously pled guilty to the charge of participating in an illegal assembly with the intention of causing public unrest and were ordered to pay a RM1,000 (\$322) fine or face a month in jail.

At year's end the cases of the nine persons arrested for participating in an assembly marking International Human Rights Day 2007 were still pending.

On November 20, the sessions court acquitted the 17 members of the Coalition for Clean and Fair Elections who were arrested in 2007 on the grounds that the prosecution failed to establish a prima facie case against them.

Freedom of Association

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

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

The Universities and University Colleges Act also restricts freedom of association. This act mandates university approval for student associations and prohibits student associations and faculty members from engaging in political activity (see section 2.a.). Many students, NGOs, and opposition political parties called for the repeal or amendment of the act. A number of ruling coalition organizations and politicians also supported reexamination of the act, but the government maintained

that the act still was necessary. In 2008 Parliament amended the act to allow students to be members of organizations outside the university.

c. Freedom of Religion

For a complete description of religious freedom, please see the *2010 International Religious Freedom Report* at www.state.gov/g/drl/irf/rpt.

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

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

By law anyone entering the country without appropriate documentation is considered illegal and faces mandatory imprisonment for a maximum of five years, a fine not to exceed RM10,000 (approximately \$3,200), or both, and mandatory caning not to exceed six strokes. In June 2009 the government stated that it had sentenced 47,914 migrants to be caned for immigration offenses since amendments to its Immigration Act came into force in 2002, and at least 34,923 migrants had been caned between 2002 and 2008, according to the country's prison department records. In its 2010 publication, *A Blow to Humanity--Torture by Caning in Malaysia*, Amnesty International (AI) estimated that the government canes as many as 10,000 prisoners a year.

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

Citizens must apply for government permission to travel to Israel.

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

earlier ruling compelling him to show identification papers proving his citizenship, forcing him to continue to live in exile in Thailand. In April 2009 the Federal Court upheld the Court of Appeal's decision

Dissident blogger Raja Petra Kamarudin was in self-exile in London; he has said he would return to the country to face sedition charges when he was assured he would not be detained under the ISA.

Protection of Refugees

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

The government generally did not distinguish between asylum seekers and illegal immigrants and detained them in the same immigration detention centers. Beginning in April 2009 the government provided preferential treatment to those individuals carrying a UNHCR card. Reports of government deportation of some refugees and asylum seekers with UNHCR refugee cards effectively stopped as of July 2009.

According to government officials, there were an estimated four million foreign nationals in the country, of whom nearly two million were illegal and undocumented. Of this latter group, the majority were from Indonesia. Additionally, 61,000 Filipino Muslims who fled the Moro insurgency in the 1970s were reportedly living in the country. Although they were not legally authorized to work, the government typically did not enforce laws prohibiting registered refugees from working. On November 18, Home Ministry Secretary General Mahmood Adam said the Cabinet would decide in December if the government would allow refugees to work in the country; however, no further developments were reported during the year.

During the year the UNHCR registered 91,985 persons of concern in the country 18,378 of whom were children. The majority of illegal migrants worked in construction, restaurants, plantations, and garment factories, as well as in the sex industry.

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

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

In previous years there were many allegations from NGOs, international organizations, and civil society groups that immigration officials were involved in the trafficking of Burmese refugees from IDCs to Thailand, where some refugees were sold into slavery. There were no such reports of trafficking during the year. NGOs and international organizations reported that since April 2009, allegations of abuse of power by RELA decreased. However, RELA continued to conduct raids targeting illegal migrant communities and detained refugees and asylum seekers along with allegedly illegal migrants. According to local NGOs and international organizations, IDCs allowed those with the UNHCR documents access to the UNHCR while in detention. Refugees with UNHCR cards occasionally were arrested during the raids but were released after the authorities were satisfied with the documents. Since April 2009 the authorities also provided UNHCR access to potential refugees without UNHCR registration cards as well as to all Burmese detainees in the IDCs to verify whether they were asylum seekers.

Because the UNHCR did not maintain a presence at the country's border, most asylum seekers traveled to Kuala Lumpur for determinations; in 2009 and the early part of the year UNHCR conducted mobile registrations in areas with high concentrations of refugees. During the year the UNHCR listed 91,985 persons as asylum seekers and refugees, approximately 92 percent of whom were Burmese citizens with Chin and Rohingya being most numerous, and sizeable groups of Kachin, Karen, and Mon. UNHCR registered 9,539 refugees through its mobile registration from January to March.

During the year the UNHCR submitted 12,648 refugees to third countries for resettlement consideration. Third countries accepted and resettled 7,955 refugees during the year.

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

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

Stateless Persons

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

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

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

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

Elections and Political Participation

Opposition parties were unable to compete on equal terms with the governing BN coalition, led by the ethnic-Malay UMNO party, which has held power at the national level since independence in 1957, because of restrictions on campaigning, freedom of assembly and association, and access to the media. Nevertheless, opposition candidates campaigned actively, and in the most recent national elections, held in 2008, the opposition parties captured 82 of 222 parliamentary seats and 198 of 505 state assembly seats, winning control of five out of 13 state

governments, and capturing 49 percent of the popular vote nationwide. For the first time since 1969, the opposition's electoral success denied the ruling coalition a two-thirds majority in Parliament, blocking the government's ability to amend the constitution at will. The opposition parties won eight of the 11 local by-elections since the March 2008 general election.

On December 16, Anwar Ibrahim and three other opposition parliamentarians were suspended from Parliament for six months. The cause given for Anwar's suspension was making misleading statements to Parliament when he linked the prime minister's 1Malaysia slogan to a One Israel concept. The three other parliamentarians were suspended for contempt occasioned by their opposition to Anwar's suspension.

On April 25, BN candidate P. Kamalanathan defeated PKR candidate Zaid Ibrahim in the Hulu Selangor by-election. On May 24, Zaid Ibrahim petitioned the high court to invalidate the results. On August 5, the court dismissed the petition.

On May 16, DAP candidate Wong Ho Leng defeated the BN candidate in the Sibujaya by-election in the East Malaysian State of Sarawak. In the pre-election period, DAP leaders filed official reports with the Election Commission claiming that the prime minister and other BN leaders had violated election laws by promising millions of dollars in development funds to the constituency. On May 20, the Election Commission dismissed the reports claiming it had no powers to investigate the allegation as the election laws only apply to allegations against the candidate or their agents. The Commission stated that the DAP should refer their reports to the Malaysian Anticorruption Commission (MACC).

On February 9, a five-member panel of the Federal Court upheld the Court of Appeals' reversal of a high court decision and ruled that the sultan of Perak was empowered to dismiss the chief minister of the state. This concluded the contretemps begun in February 2009 in which the BN coalition regained control of Perak, one of the five states won by the opposition PR coalition, when three PR state legislative assembly members declared support for the BN and the sultan dismissed the opposition-controlled state government and appointed a BN state government.

Political parties could not operate without restriction or outside interference. The lack of equal access to the media was one of the most serious problems for the opposition in the 2008 national elections and in the subsequent by-elections. Opposition leaders also claimed that the Election Commission was under

government control and lacked the independence needed to carry out its duties impartially. There were numerous opposition complaints of irregularities by election officials during the campaign; however, most observers concluded that they did not substantially alter the results. NGOs and opposition party leaders lodged allegations of illegally registered "phantom" voters, reportedly brought in from other districts to vote in tightly contested districts; inflated voter rolls; nonregistered voters using fictitious names or the names of dead voters still listed on the voter rolls; and noncitizens registered to vote.

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

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

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

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

In practice the political dominance of the Malay majority meant that ethnic Malays held the most powerful senior leadership positions. Non-Malays filled 11 of the 29 ministerial posts and 23 of the 42 deputy minister positions.

Section 4 Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials often engaged in corrupt practices with impunity. The media reported numerous cases of alleged official corruption, and there was a broadly held perception of widespread corruption and cronyism within the governing coalition and in government institutions. The MACC is responsible for investigating and persecuting corruption by both private and public bodies.

On July 8, the newspaper *The Star* reported that the MACC had arrested 194 people from January to May 31 involved in attempting to bribe public officials. MACC reportedly also arrested 140 public servants for accepting bribes.

On December 15, the Whistleblower Protection Act 2010 came into effect. The act is designed to protect individuals who disclose information on corrupt practices in both the public and private sectors.

Surveys by international NGOs identified the police as among the country's most corrupt government organizations. A 2009 Home Affairs Ministry survey noted that 70 percent of respondents had bribed police officers under duress. Reported police offenses included accepting bribes and theft.

In May 2009 the government declassified an independent audit on the Port Klang Free Zone (PKFZ) project that revealed that the construction cost had escalated from RM1.1 billion (approximately \$314 million) in 2001 to an estimated RM12.5 billion (\$3.57 billion). Credible observers alleged that a revolving door of individuals in politics, government, and the private sector led to a lack of appropriate checks and balances and a general misuse of funds. In October 2009 the government announced a special task force to determine misconduct or criminal behavior on the part of individuals or entities involved in the project and to recommend actions against them. In December 2009 government authorities arrested and charged the former general manager of the Port Klang Authority, Phang Oi Choo; the chief operating officer, Stephen Abok; and the architect, Bernard Tan Seng Swee. In December 2009 a fourth individual, Law Jenn Dong, an engineer, was also arrested and charged. On July 29, the Kajang Sessions Court

charged the former transport minister and former Malaysian Chinese Association (a component party of the ruling BN) president, Ling Liong Sik, over his involvement in the PKFZ project. The case remained pending at year's end.

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

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

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

The November 2009 report of the UN Group of Experts on the Democratic Republic of the Congo (DRC) reported that the Malaysian Smelting Corporation, based in Malaysia, purchased natural resources, the proceeds of which may have directly or indirectly funded perpetrators of human rights abuses in the eastern DRC.

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

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

In 2009 the Islamic women's NGO SIS criticized the sentencing of Kartika Shukarno--later pardoned--to caning for drinking alcohol in public (see section 1.c.). A number of conservative Islamic groups filed police reports against SIS for allegedly having insulted the Sharia system. Police took statements from SIS employees as part of an investigation into alleged violation of the penal code for causing disharmony, disunity, feelings of enmity, hatred, or ill will, or prejudicing the maintenance of harmony or unity, on grounds of religion. There were no further developments during the year (see section 6, Women).

On June 16, AI released the report *Abused and Abandoned: Refugees Denied Rights in Malaysia*. Although the report was generally critical of the country's efforts to provide protections to refugees, it recognized the cooperation of the government. The AI report noted that in July 2009, "Amnesty International was given unprecedented and unfettered access to three immigration detention center facilities in and around the capital, Kuala Lumpur." Similarly, UNHCR and members of the diplomatic corps noted willingness by the government to allow visits to IDCs and trafficking shelters.

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

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

On June 7, the prime minister announced the appointment of Hasmy Agam as chairman of SUHAKAM, and he also appointed six new commissioners. On September 23, Agam announced that the Commission had proposed that the government grant it powers to litigate human rights cases.

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

Section 6 Discrimination, Societal Abuses, and Trafficking in Persons

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

Women

The penal code states that rape is punishable by a prison term of up to 30 years, caning, and a fine. The government enforced the law effectively. A 2007 amendment to the Penal Code criminalized marital rape. In August 2009 a sessions court in Pahang State sentenced a man to the maximum five years in jail, in what was believed to be the first successful prosecution of marital rape under the amended law.

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

Violence against women remained a problem. Reports of rape and spousal abuse drew considerable government, NGO, and press attention. Under the Domestic Violence Act, anyone who willfully contravenes a protection order by using violence against a protected person may be punished by imprisonment of up to one year and a maximum fine of RM2,000 (\$633). In extreme cases involving "grievous hurt" inflicted using a deadly weapon, the maximum imprisonment increases to 20 years. Women's groups criticized the act as inadequate and called for amendments to strengthen it. In their view the act failed to protect women in immediate danger because it requires that separate reports of abuse be filed with both the Social Welfare Department and the police, causing delay in the issuance of a restraining order. Cases also require visible evidence of physical injury, despite its interpretation to include sexual and psychological abuse. On April 20, *The Star* reported the following rape statistics released by the home minister: In 2008 there were 3,409 police reports lodged by rape victims and 3,626 in 2009. Of the cases reported in 2008, police arrested 2,261 suspects and 184 of them were charged. Of the 3,626 cases reported in 2009, 2,301 suspects were arrested and 162 of them were charged. According to a December report by the Home Ministry, 2,426 rape cases were reported from January to August, and 119 persons were charged.

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

percent of rape cases were reported to police. Women's groups noted that courts were inconsistent in punishing rapists.

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

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

A government voluntary code of conduct provides a detailed definition of sexual harassment, which is meant to raise public awareness of the problem, but women's groups advocated passage of a separate law on sexual harassment. The Malaysian Employers Federation opposed any attempt to legislate against sexual harassment in the workplace, arguing that government-imposed policies would unduly restrict the management of labor relations. In December 2009 the Human Resources Ministry announced that there had been 276 reported cases of sexual harassment since 1999, of which 271 had been resolved. According to a December report by the Home Ministry, 1,441 sexual harassment cases were reported from January to August, with 73 brought to court.

In an effort to reduce sexual harassment during travel, the government introduced all-female public transportation services. In April Malaysian Railway established women-only cars on its trains, and in December the city of Kuala Lumpur launched a women-only bus service.

Couples and individuals had the right to decide the number, spacing, and timing of their children. Contraceptives such as the birth-control pill and condoms were permitted and were locally available, although an expert from one domestic NGO estimated that only 50 percent of women use contraceptives of any type. The great majority of births were attended by skilled medical personnel, and women generally had access to postpartum care. According to 2008 UN statistics, the maternal mortality rate was 31 per 100,000 live births. Women and men generally

had equal access to diagnostic and treatment services for sexually transmitted infections, including HIV.

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

In August 2009 the NGO coalition Joint Action Group for Gender Equality (JAG) issued a press statement stating that the conviction of Kartika Shukarno for drinking alcohol illustrated discrimination against Muslim women in the country (see section 1.c.). SIS, a member group of JAG, faced apparent retaliation from conservative Islamic NGOs. In September 2009 JAG issued a press release condemning Kartika's sentence noting that it "undermined the government's efforts to project an image as a moderate Islamic country." In February it criticized the caning of three women for illicit sex. SIS urged the government to review caning as a form of punishment under the Sharia Criminal Offences Act. It argued that certain Sharia laws contravene the provisions of the federal constitution that forbid discrimination based on gender. Conservative Islamic NGOs including the Selangor Islamic Council (MAIS) filed more than 50 police reports against SIS, accusing it of insulting the Sharia system, the king, and the constitution. A member of parliament called on the National Fatwa Council to investigate SIS. On March 12, the Friday mosque sermons issued by MAIS called on the public to take action against SIS and its officers. Police took statements from SIS employees as part of an investigation into alleged violation of the penal code for causing disharmony, disunity, feelings of enmity, hatred, or ill will, or prejudicing the maintenance of harmony or unity, on grounds of religion. There were no further developments during the year.

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

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

The government undertook a number of initiatives to promote equality for women and the full and equal participation of women in education and the work force. For example, the Women's Ministry developed programs and workshops to encourage

women to enter the business community and operate small- and medium-sized enterprises. In August the Women's Ministry launched a Symposium on Women Entrepreneurship in 2010, which included a grant of RM4.7 million (\$1.52 million) for 946 women entrepreneurs in the country.

Women experienced some economic discrimination in access to employment. In December 2009 the human resource minister announced that there were 3.8 million women compared with 7.2 million men in the labor force. In May SUHAKAM reported that women continued to be discriminated against in the workplace in terms of promotion and salary. Only 20 percent of officials at the decision-making level in government were women, a lower percentage than in the private sector. Women were routinely asked their marital status during job interviews. In 2008 the Kedah State government announced that women entertainers could perform only in front of all-female crowds. The JAG condemned the state government for infringing gender-equality rights protected by the constitution.

Children

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

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

The government recognized that sexual exploitation of children and, particularly in rural areas, incest were problems. The law provides for six to 20 years' imprisonment and caning for individuals convicted of incest. The testimony of

children is accepted only if there is corroborating evidence. This posed special problems for molestation cases in which the child victim was the only witness.

Female circumcision is reportedly a routine practice among Muslim Malays. In November 2009 local online news portal Malaysiakini reported that "in Malaysia, female circumcision refers to the act of making a small scratch or using a sharp penknife to nick the prepuce of the vagina. It is usually performed on infants within a few months of birth, by medical doctors or midwives."

On December 4, 14-year-old Siti Maryam Mahmood married 23-year-old Abdul Manan Othman at a Kuala Lumpur mosque as part of a 250-couple mass wedding. The couple reportedly first married in July after permission by a Sharia court. On December 6, Women's Minister Shahrizat Abdul Jalil said the government does not condone child marriages and vowed to look into the matter. However, on December 8, Law Minister Nazri Aziz said that Islam permits underage marriage and the government had no plan to ban it or review the laws. Minister in Charge of Islamic Affairs Jamil Khir Baharom reportedly welcomed the marriage. The minimum age of marriage for males is 18; Muslim girls below the age of 16 may marry with the approval of a Sharia court, but such marriages were uncommon. Reportedly two girls, ages 10 and 11, were married to older men in Kelantan State during the year.

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

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

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

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at http://travel.state.gov/abduction/country/country_3781.html.

Anti-Semitism

No reliable estimate of the country's Jewish population was available, and there were no locally based Jewish communities or synagogues. There were no reports of anti-Semitic acts.

Trafficking in Persons

For information on trafficking in persons, please see the Department of State's annual *Trafficking in Persons Report* at www.state.gov/g/tip.

Persons with Disabilities

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

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

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

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

The government undertook initiatives to promote public acceptance of persons with disabilities, make public facilities more accessible to such persons, and increase budgetary allotments for programs aimed at aiding them. Recognizing that

public transportation was not "disabled-friendly," the government maintained its 50 percent reduction of the excise duty on locally made cars and motorcycles adapted for persons with disabilities. The Ministry of Human Resources was responsible for safeguarding the rights of the disabled.

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

National/Racial/Ethnic Minorities

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

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

On March 30, the prime minister unveiled a New Economic Model, an economic policy reform agenda that called for, among other things, the restructuring of the country's system of bumiputera ethnic preferences to reduce unequal treatment of different ethnicities by the government. The prime minister cited the reforms as a means to better target subsidies and preferences to the poorest citizens, regardless of ethnicity. Conservative bumiputera-rights groups raised strong objections to any

changes that could threaten ethnic preference programs.

In April 2009 Prime Minister Najib announced that the government had lifted the 30 percent bumiputera equity requirement for 27 service subsectors including health, social, tourism, business, and computer services. Given the narrow scope of these subsectors, observers considered the announcement a minor adjustment to the entrenched pro-Malay economic policies.

During the year the PAS, a part of the opposition coalition, endorsed the establishment of a PAS Supporters Congress, made up of non-Muslims, as an official wing of the party. The PAS constitution stipulates that only Muslims can become members; however, representatives of the Supporters Congress will be allowed to sit in the party's supreme council.

Indigenous People

Indigenous people (the descendants of the original inhabitants of the peninsular region of the country and the Borneo states, such as the Penan) generally enjoyed the same constitutional rights as the rest of the population. However, in practice federal laws pertaining to indigenous people of the peninsular region, known as the Orang Asli, vested considerable authority in the non-Orang Asli minister for rural development to protect, control, and otherwise decide issues concerning this group. As a result indigenous people in peninsular Malaysia had very little ability to participate in decisions that affected them. The government did not effectively protect indigenous persons' civil and political rights.

The Orang Asli, who numbered approximately 150,000, constituted the poorest group in the country. According to the 10th Economic Plan covering the years 2010-15, 50 percent of the 29,990 Orang Asli households were living below the poverty line. Of these, about 5,700 households (19 percent) were considered to be "hardcore poor." A local NGO that focused on Orang Asli rights estimated that these numbers underreported the numbers living in poverty because it considered only Orang Asli living in established villages--not those living deep in the rainforest. A government-sponsored national advisory council monitored the development of Orang Asli, but only five of the council's 17 members were Orang Asli. In addition, only one Orang Asli held a management position in the government's Department of Orang Asli Affairs. Under its ninth economic plan covering the years 2006-10, the government allocated slightly more than RM377 million (approximately \$108 million) for development projects for the Orang Asli. These focused on improving health, preschool education, infrastructure, and

economic activities. The plan included an additional RM100 million (\$28.6 million) for development of lands inhabited by the Orang Asli and another RM20 million (\$5.7 million) to curb inflationary pressures. The Department of Orang Asli Affairs reported that the dropout rate among primary school children had improved from 30 percent to 20 percent since 2008. Moreover, the number of students who drop out between primary and secondary school declined from 50 percent to 30 percent during the same timeframe. In 2008 approximately 600 Orang Asli students went on to college or university.

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

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

Laws allowing condemnation and purchase of land do not require more than perfunctory notifications in newspapers, to which indigenous persons may have no access. In past years this deprived some indigenous persons of their traditional lands with little or no legal recourse. In recent years court decisions recognizing native customary title in land have resulted in greater protections of the Orang Asli land rights. In 2007 the Federal Court, the country's highest court, found that native customary titles are recognized in common law.

The 2007 petition filed by the Semalai, an Orang Asli group, to the high court to review a Pahang State government-ordered eviction from an area the Semalai claimed as their traditional land remained pending at year's end. In 2007 a suit was filed against authorities who allegedly tore down an Orang Asli church in Gua

Musang. In July 2009 the high court declared that the Orang Asli had the right to their land and to practice the religion of their choice under the Federal Constitution. The government appealed the judgment, and the case remained pending at year's end.

On March 17, an Orang Asli group staged a peaceful demonstration in Putrajaya to protest against a proposed amendment to the National Land Act. The Network of Orang Asli Villages founder, Tijah Yok Chopin, and the Persatuan Orang Asli Malaysia president, Majid Suhut, handed over a memorandum signed by 12,000 Orang Asli to Regional Development Minister Shafie Apdal, claiming that the amendment ignored the fundamental rights of the indigenous people. They also demanded that the government recognize their rights to ancestral lands.

In May members of the Temuan tribe won a 15-year court battle and were awarded RM6.5 million (\$2.1 million) in a landmark settlement with highway authorities for forcibly taking their ancestral land for development. The Temuan community filed a suit after authorities forcibly acquired 38.5 acres of land in Selangor in 1995 to construct a highway to Kuala Lumpur International Airport without paying compensation. In 2002 the high court ruled that the Orang Asli enjoyed native title rights and should be compensated. The Selangor State government appealed the decision in 2005. In May the state government withdrew the appeal after the opposition coalition took over Selangor.

On April 4, Minister of Rural and Regional Development Mohd Shafie Apdal announced the allocation of RM570 million (approximately \$182 million) for Orang Asli development and stated the government never neglected the Orang Asli community in implementing infrastructure and economic development projects. Shafie said that 61 percent of the Orang Asli settlements (534 villages) had basic amenities such as 24-hour electricity supply, clean water supply, and land development projects that enabled them to earn regular income.

On September 22, the Kuala Lumpur High Court awarded damages to the Orang Asli tribes in Johor, ruling that government authorities had trespassed on their land, unlawfully demolished their Christian chapel, and failed to honor a 2001 pledge to list the site as customary native land. Authorities had torn down the church in 2005 alleging that it was built on state land.

The Penan, an indigenous community of Sarawak, used native customary rights to establish land ownership and stewardship. Each group of Penan maintained its own foraging area, which was passed down from one generation to another. Customary

native lands were not always well demarcated. Indigenous rights groups alleged that Abdul Taib Mahmud, the chief minister of Sarawak, leased Penan and other indigenous groups' customary land to logging companies and land developers in exchange for political favors and money. Local observers claimed that logging companies harassed and sometimes threatened vocal Penan leaders and land-rights activists. The Sarawak Penan Association continued urging the state government to delineate the Penan's native customary land boundaries, revoke timber licenses that overlapped their land, stop issuing provisional leases for plantations, and halt all logging and plantation development activities on their land. The Penan tribe was among the poorest groups in the country and lived below the poverty line.

In August 2009 hundreds of Penan armed with spears and blowpipes set up blockades in the Borneo interior to protest against logging and plantations on their ancestral land. In September 2009 the police tore down the blockades and subsequently denied using any force in the removal of the blockades. The Sarawak state government agreed to several of the Penan's demands in an effort to end the protests and blockades against logging operations. The state government recognized the economic grievances of the Penan and pledged to provide farming land, water, electricity, schools and medical facilities to those Penan who had settled into villages, and to build houses for nomadic Penan who wished to settle. The state also agreed to provide training, financial and technical aid for Penan who wished to engage in rubber or orchard farming, and to accelerate the birth certificate and identity-card issuance rate for Penan.

A credible international NGO reported that workers from two logging companies, including one owned by the chief minister's family, regularly sexually abused Penan women and girls, resulting in several pregnancies. In September 2009 Minister of Women, Family, and Community Development Shahrizat Jalil confirmed that Penan girls had been raped and molested by timber company workers. The minister announced that the timber company was identified and police would take further action. Subsequently, Deputy Commissioner of Police for Sarawak Hamza Taib said no further action would be taken on three of the cases due to lack of evidence, while the fourth was still pending as police had yet to identify the victim or witnesses. On July 13, the women's minister visited the Penan community and urged the police to take these cases seriously.

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

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

On December 21, a 32-year-old Muslim man acknowledged being gay in a video posted on the YouTube Web site. In the video, entitled "I'm Gay, I'm OK," the individual encouraged other gay persons to be confident in themselves. In six days, the video was viewed more than 140,000 times. The man received online death threats as a result of the video and stated that he feared for his life. Perak Mufti Harussani Zakaria condemned the video and said that the individual had "derided his own dignity and Islam in general."

Other Societal Violence or Discrimination

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

Section 7 Worker Rights

a. The Right of Association

By law most workers have the right to form and join trade unions, but the Trade Unions Act (TUA) and the Industrial Relations Act (IRA) restrict this right. Other laws also may restrict freedom of association. For example, the penal code requires police permission for public gatherings of more than five persons. Trade unions represented 8.9 percent of the labor force with a total membership of 803,405 as of October, a decrease from 805,654 in 2009. In December the Department of Statistics reported the working-age population of individuals ages 15 to 64 years old was 11,569,400. As of October there were 693 trade union organizations: 319 unions represented the services industry; 57 represented the agriculture, forestry and fishery industries; and 170 represented production industries.

Those restricted by law from joining a union include public sector workers categorized as "confidential, managerial, and executive," as well as defense and police officials. However, the 2007 amendments to the IRA made it more difficult for workers to form unions because the director general of trade unions and the minister of human resources also have absolute authority to determine designations of workers' status as "confidential," "managerial," or "executive," leading to possible systemic abuse by employers. In theory foreign workers can join a trade union; however, the Immigration Department barred foreign workers from holding trade union offices, and most foreign workers' contracts banned them from joining a trade union.

The TUA prohibits interfering with, restraining, or coercing a worker in the exercise of the right to form trade unions or participation in lawful trade union activities. However, the act restricts a union to representing workers in a "particular establishment, trade, occupation, or industry or within any similar trades, occupations, or industries." In addition the director general of trade unions has broad discretion to refuse to register a trade union and to withdraw the registration of an existing trade union based on provisions outlined in the act without being subject to judicial review. When registration is refused, withdrawn, or canceled, a trade union is considered an unlawful association; there were no reports of any such actions during the year.

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

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

In the past, government policy inhibited the formation of national unions in the electronics sector, the country's largest industry, because it has "pioneer status," which affords certain investment incentives. The government's rationale was that

establishment of national unions in the electronics sector would impede foreign direct investment and negatively affect the country's international competitiveness in the sector; government leaders stated that enterprise-level unions were more appropriate for the electronics industry. However, in May 2009, the Cabinet approved formation of regional industrial unions for the electronics industry in peninsular Malaysia.

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

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

Although private-sector strikes are legal, the right to strike is severely restricted. Strikes or lockouts are prohibited while a dispute is before the industrial court. The law contains a list of "essential services" in which unions must give advance notice of any industrial action. The IRA lists various types of employment under essential services, including: banking services; electricity services; fire services; port, dock, harbor, and airport services; postal services; prison services; production, refining, storage, supply, and distribution of fuel and lubricants; public health services, radio communication services; telegraph, telephone, and telecommunication services; transport services; water services; any service provided by any of the following departments of government--chemistry, civil aviation, customs and excise, immigration, marine, meteorology, and printing; and services that are connected with, or related to, or which assist towards the maintenance and functioning of the armed forces and the RMP. The list includes sectors not normally deemed essential under International Labor Organization definitions. MTUC officials said that requirements imposed by the authorities were so stringent that it was almost impossible to strike. According to MTUC officials, there were no strikes during the year.

The IRA requires the parties to notify the Ministry of Human Resources that a dispute exists before any industrial action may be taken. The ministry's Industrial Relations Department may then become involved actively in conciliation efforts. If conciliation fails to achieve settlement, the minister has the power to refer the

dispute to the industrial court. The IRA prohibits employers from taking retribution against a worker for participating in the lawful activities of a trade union. However, in many cases, these provisions were not effectively enforced. The IRA limits worker compensation for wrongful termination to a maximum of two years from the time the employee was laid off.

b. The Right to Organize and Bargain Collectively

Workers, in the private sector, have the legal right to organize and bargain collectively, and collective bargaining was widespread in those sectors where labor was organized. Employees in the public sector, however, do not enjoy such a right.

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

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

CUEPACS sought a minimum wage for civil servants; however, by year's end, despite government assertions that it was considering establishing a minimum wage, there was no minimum wage for public or private sector workers.

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

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

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

There are no special laws or exemptions from regular labor laws in export processing zones. Although the electronics sector's pioneer status inhibits organizing, many companies had "in-house unions" seen as a preferable alternative by management, which did not allow workers in this sector to affiliate with national union umbrella bodies.

c. Prohibition of Forced or Compulsory Labor

The constitution prohibits forced or compulsory labor; however, there were reports that such practices occurred. Although the Malaysian Passport Act criminalizes possession of someone else's passport "without legal authority," the existence of memorandums of understanding (MOUs) that allow for employer retention of employee passports appear to provide sufficient legal authority to satisfy this exception in the passport law. The law therefore does not effectively prevent employers from holding employees' passports, and it was common practice for employers to do so thereby making employees more vulnerable to human trafficking and forced labor. This practice effectively made some foreign workers captives of the hiring company. Recruiting agents required fees that sometimes made foreign workers vulnerable to debt bondage. Some companies used debt bondage to force some foreign workers to accept harsh working conditions, threatening imprisonment and deportation. Indebted to their employers due to excessively high recruitment fees and without their passports, workers were effectively forced to work long hours, accept lower wages than promised, allow wage deductions, and live in poor housing. Forced labor conditions reportedly occurred in some palm oil and rubber plantations, factories manufacturing computer components, garment production, restaurants, and in domestic households.

Labor activists and human rights NGOs reported that debt bondage was practiced in some plantations, where whole families of ethnic Indians and migrant workers were placed into forced labor conditions.

Some of the estimated 300,000 foreign women employed as household workers were subjected to physical abuse and forced to work under harsh conditions, and some child household employees worked in conditions amounting to forced labor. A number of domestic workers were not paid or were paid below the agreed salary. Several of the abused women reported their employers beat them, forced them to sleep on kitchen floors, and fed them only the scraps from a meal.

Although Malaysia and Indonesia concluded a MOU in 2006 that, among other things, called for domestic workers to be paid directly, receive compensation for personal injury, and be given time off in lieu of overtime, it remained a common practice for employers to deposit wages with recruiting agencies as repayment for debts. In 2009 the two countries began negotiating a new MOU that would address minimum salaries, provide domestic workers with one day off per week, and remove language allowing employers to confiscate worker passports. On May 18, the countries recommitted to the process by signing a letter of intent to amend the MOU, but at year's end, a new agreement was not reached due to disagreements over which country would be responsible for costs associated with travel, agents, and other related fees.

On September 19, police arrested a couple in Penang for allegedly abusing their Indonesian maid. Win Faidaa, a 26-year-old woman from East Java, claimed she was raped by her employer and beaten by her employer's wife if she refused the husband's sexual advances. She claimed the couple beat her with a belt, splashed her with hot water, and burnt her with an iron. On September 22, local news service Bernama reported that Indonesia's Labor and Transmigration Minister Muhaimin Iskandar announced that prospective maids from Indonesia would be banned from leaving for Malaysia until the Indonesian government could ensure their safety; however, many continued to arrive unofficially.

In June 2009 a court charged Hau Yuan Tyung with three counts of abusing her Indonesian maid, Siti Hajar. Tyung allegedly scalded Siti Hajar with boiling water as well as tortured and starved her. On May 20, a sessions court in Kuala Lumpur found Hau guilty and sentenced her to eight years in jail for causing grievous harm to Siti Hajar. The judge also ordered Hau to pay RM5,000 (\$1,600) in

compensation to Siti Hajar. Tyung appealed her conviction. The Kuala Lumpur High Court scheduled January 25, 2011 to deliver its decision.

In September 2009 the Indonesian ambassador announced that the embassy would only renew passports of domestic workers if employers agree to pay a minimum monthly salary of RM500 (\$145).

In October 2009 Mantik Hani, 26, an Indonesian woman working as a maid in Selangor died from injuries sustained allegedly at the hands of her employer, A. Murugan. Police found Hani in a locked bathroom in Murugan's house. Her arms and legs were bound, she had bruises all over her body, a broken back and wrist, and a serious wound to her right leg that exposed bone. She appeared to have been locked in the bathroom for two days without food. Police arrested and charged Murugan with murder. In November 2009 he pled not guilty to the charges. On July 20, the high court in Kuala Lumpur convicted him of murder and sentenced him to death by hanging. Murugan's appeal of his conviction remained pending at year's end.

Also see the Department of State's annual *Trafficking in Persons Report* at www.state.gov/g/tip.

d. Prohibition of Child Labor and Minimum Age for Employment

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

Most child laborers worked informally in palm-oil plantations and the agricultural sector, helping their parents in the field; however, only adult members of the family received a wage. Child labor in urban areas often was found in family food businesses, night markets, and small-scale industries. Government officials did not deny the existence of child labor in family businesses but maintained that foreign workers had largely replaced child labor and that child labor provisions were vigorously enforced.

e. Acceptable Conditions of Work

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

Plantation workers generally received production-related payments or daily wages. Under a 2003 agreement, plantation workers received a minimum wage of RM350 (approximately \$115) per month. Proponents of the agreement said that productivity incentives and bonuses raised the prevailing wage to RM700 (\$229).

Under the Employment Act, working hours may not exceed eight hours per day or 48 hours per workweek of six days. Each workweek must include a 24-hour rest period. The act also sets overtime rates and mandates public holidays, annual leave, sick leave, and maternity allowances. The Labor Department of the Ministry of Human Resources is responsible for enforcing the standards, but a shortage of inspectors precluded strict enforcement.

Foreign migrant laborers, legal and illegal, often worked under difficult conditions, performed hazardous duties, had their pay withheld by employers, and had no meaningful access to legal counsel in cases of contract violations and abuse. The following was typical example of exploitation and abuses of foreign migrant workers: a labor-outsourcing company recruited foreign workers to work at a foreign-owned electronics plants in the country. Each worker paid approximately RM5,000 (approximately \$1,600) and signed a contract guaranteeing work for an extensive period of time (typically over 24 months) at a salary of RM800 (\$255) per month. Their passports were confiscated and they were taken to a dormitory near the plant. They worked at a plant for about one-third of the contractual period, earning the agreed upon salary. However, when work at the plant slowed, several workers were returned to the outsourcing company, which then sent them to work elsewhere, e.g. in restaurants, a glove factory, a poultry farm, a frozen fruit plant--all in contradiction to their contracts. During this time the employers withheld their pay.

Foreign workers, particularly if they were illegal aliens, generally did not have access to the system of labor adjudication. However, the government investigated

complaints of abuses, attempted to inform workers of their rights, encouraged workers to come forward with their complaints, and warned employers to end abuses. Like other employers, labor contractors may be prosecuted for violating the law. According to the results of a survey conducted during the year by the Federation of Malaysian Manufacturers, the average monthly wage of foreign workers engaged in the manufacturing sector was RM581 (approximately \$185). Migrant workers may bring employment disputes to industrial court. However, this mechanism was seldom used. It is time consuming and, once their work visa terminated, migrants require "special passes" to stay in the country. These passes are valid for one month and cost RM100 (\$32) to renew. Renewal is subject to the discretion of the director general of immigration. Migrants holding special passes were not allowed to work.

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

Employers sometimes failed to honor the terms of employment and abused their household workers. Household workers must be ages 25 to 45 for admission into the country, according to Immigration Department officials. They were not allowed to bring family members into the country while employed. The terms of the contract for Indonesian domestic workers, who made up approximately 90 percent of all foreign household workers, were often vague and open to abuse. The typical contract provided for a monthly salary of RM450 to 600 (\$143 to 191) but did not specify the number of working hours per day. NGOs reported that many Indonesian household workers were required to work 14 to 18 hours a day, seven days a week. The contract for Filipina household workers included more comprehensive protections, but both groups suffered from a lack of education concerning their legal rights.

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

Workers have the right to take legal action against abusive employers. According to NGOs the courts generally sided with employees and ruled that employers must pay all back salary and compensate plaintiffs for injuries, but long delays in court

proceedings and rulings often precluded aggrieved foreign workers from seeking redress through the court system.

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

The Occupational Safety and Health Act covers all sectors of the economy except the maritime sector and the armed forces. The act established a national Occupational Safety and Health Council, composed of workers, employers, and government representatives, to set policy and coordinate occupational safety and health measures. It requires employers to identify risks and take precautions, including providing safety training to workers, and compels companies that have more than 40 workers to establish joint management-employee safety committees. The act requires workers to use safety equipment and cooperate with employers to create a safe, healthy workplace. Employers or employees who violate the act are subject to substantial fines or imprisonment for up to five years, although the MTUC complained that some employers flouted the rules with impunity. There are no specific statutory or regulatory provisions that provide a right for workers to remove themselves from dangerous workplace conditions without arbitrary dismissal.

On March 22, six Filipino workers died after inhaling carbon monoxide gas while cleaning a tank at a water treatment plant in Kota Kinabalu, Sabah. The incident occurred when two of the workers entered the filtering tank and switched on a pump to remove the remaining water inside. When they failed to emerge four hours later, four of their colleagues went to check on them and discovered them unconscious inside the tank. The four workers then went one-by-one into the tank to rescue them but were overcome by the gas and died.

On August 16, Karna Bahabar Gharti Magar, a Nepalese worker, died inside JCY SDB BHD Company, a producer of computer parts in Johor Baru. It was alleged that he fell ill and requested treatment that was initially denied by company. In response to his death, 5,000 foreign workers protested for three days until employers and outsourcing companies agreed to provide compensation of RM10,000 (\$3,225) to Gharti's family. The company also agreed to provide a minimum salary of RM546 (\$175) per month along with an ambulance service for emergency cases and prompt treatment for all workers at a clinic on the factory

premises. The Ministry of Human Resources was reportedly investigating the circumstances of Gharti's death.