



JANUARY 2009

COUNTRY SUMMARY

Malaysia

Hopes that Malaysia's human rights climate would improve following elections in March 2008 proved unfounded. The ruling National Front coalition lost the two-thirds parliamentary majority it had enjoyed since Malaysia became independent in 1957 but was still in power at this writing. National Front leaders continue to insist that Malaysia's multiethnic society is too fragile to sustain genuine freedom of assembly and expression or full due process rights for all suspects.

The government continues to use outdated repressive laws and regulations to silence its critics and extend its rule. One such critic is former Deputy Prime Minister Anwar Ibrahim, now leading the opposition coalition People's Alliance. In what was widely viewed as a politically motivated attempt to discredit him, police charged him with consensual sexual relations with a male aide in August 2008.

The People's Volunteer Corps, a largely volunteer paramilitary force, continues to commit abuses against undocumented migrants, refugees, and asylum seekers.

Detention without Charge or Trial

Malaysia uses the Internal Security Act (ISA) to indefinitely detain, without charge or trial, individuals deemed by officials to threaten Malaysia's national security. This includes not only individuals suspected of planning terrorist attacks, such as members of the militant Islamist groups Jemaah Islamiah and Darul Islam, but also individuals allegedly promoting ethnic or religious discord.

On December 13, 2007, after the Hindu Rights Action Force (Hindraf) organized a massive rally to draw attention to discrimination faced by Malaysia's Indian population, the government detained five of its leaders. In October 2008, the government declared Hindraf an illegal organization on the grounds that it

constituted a “threat to public order and morality.” As of late November 2008, the leaders remained in ISA custody.

On September 12, 2008, police detained three government critics under the ISA. Raja Petra Kumaruddin, founder and editor of Malaysia’s most popular website *MalaysiaToday*, was originally detained for two years for insulting Islam but was freed on procedural grounds on October 7. The government is appealing the ruling. Authorities also detained opposition Democratic Action Party parliamentarian Teresa Kok for a week for involvement in “activities that may spark a religious dispute,” and Tan Hoon Cheng, a *Sin Chew Daily* reporter, for 18 hours.

According to the Abolish ISA Movement (Gerakan Mansuhkan ISA), 64 individuals were in ISA detention as of October 2008.

Migrant Workers, Refugees, and Asylum Seekers

According to Malaysia’s Immigration Department, there were 2.1 million documented migrants in Malaysia in November 2007. Undocumented migrants are estimated at over 400,000, some 150,000 of whom are refugees or asylum seekers.

As the Malaysian Immigration Act of 1959/1963 does not distinguish between undocumented migrant workers and refugees, all those without valid residency status are subject to arrest, detention, and deportation. The People’s Volunteer Corps (RELA), numbering half a million members, is empowered by law to enter any premises and arrest “undesirable persons” and suspected undocumented migrants. No search or arrest warrants are necessary. During 2007, close to 60,000 migrants—including children—were arrested, imprisoned, or deported. Most migrant children are denied access to schools and some end up in exploitative forms of child labor.

In May and June 2008, migrants told Human Rights Watch researchers how RELA members abused them with impunity during detention and in the immigration detention centers where RELA is responsible for security. Abuses include physical assault, intimidation, forced entry into living quarters, extortion, theft, destruction of residency papers, and sexual abuse.

Testimonies from migrants, refugees, and asylum seekers deported from Malaysia to the Thai border indicate collusion between Malaysian immigration officials and human smuggling gangs who charge steep fees to facilitate deportees' return to Malaysia or back to Burma.

Cases of severe physical abuse of migrant domestic workers continue to be reported. In September 2008 a Malaysian employer forced an Indonesian domestic worker to drink boiling water. The criminal justice system has been slow to respond. A verdict in the case of Nirmala Bonat, burned and brutally beaten by her employer in 2004, was expected in late November 2008.

Many of the approximately 400,000 primarily Indonesian domestic workers in Malaysia experience withheld wages, forced confinement, and excessively long work hours without days off; some face physical and sexual abuse. Domestic workers are excluded from key provisions of Malaysia's 1955 Employment Act and their work permits tie them to a particular employer, making it difficult to report abuse for fear of deportation.

Freedom of Assembly and Police Abuse

Article 10 of Malaysia's constitution guarantees freedom of assembly, but the Police Act of 1967 severely restricts its exercise in practice. No more than four persons may assemble in public without a police license. Police are empowered to break up unlicensed demonstrations, arrest participants, and use force if orders to disperse are ignored. In January 2008 a peaceful protest organized by NGOs and opposition political parties targeting inflationary pressure resulted in 56 short detentions.

Excessive use of force at public demonstrations is one of the reasons that a May 2005 Royal Commission recommended the establishment of an Independent Police Complaints and Misconduct Commission. No such commission has been created.

Freedom of Expression

An increasingly vibrant blogosphere and use of electronic media and communications are challenging longstanding restrictions on free expression, but authorities continue periodic crackdowns on dissent.

On August 25, the Malaysian Communications and Multimedia Commission ordered all 19 internet service providers to block *MalaysiaToday*, suggesting it published “libelous, defamatory and slanderous” material threatening public order. Postings had probed government activities the leadership apparently did not want exposed. The Malaysian cabinet overturned the closure order on September 11.

The broadly worded 1948 Sedition Act has been used to silence bloggers who express grievances against the government or who “promote feelings of ill will and hostility between” ethnic groups in Malaysia. In October 2008, Kamaruddin was put on trial for sedition for an article he wrote about a 2006 murder case.

The 1984 Printing Presses and Publications Act censors newspapers by requiring annual renewal of publishing licenses and by controlling production and distribution of foreign publications. The Home Affairs Ministry can restrict or ban a publication outright on several different vaguely defined grounds and no legal remedy or judicial review is available.

In September 2008 the ministry instructed three newspapers to “show cause” why their publication licenses should not be suspended or rescinded. *Sin Chew Daily*, a Chinese-language paper, had reported on allegedly sensitive issues affecting ethnic relations; *The Sun*, an English Daily, was cited for “manipulating and playing up numerous sensitive issues,” and *Suara Keadilan*, the People’s Justice Party internal publication, had claimed that an official became paralyzed after heart surgery.

Freedom of Religion

Islam is Malaysia’s official state religion, but the constitution protects freedom of religion for all. Tensions periodically arise over whether Malaysia is a secular or religious state and over attempts to widen or restrict the jurisdiction of Sharia courts.

On August 9, 2008, some 300 protestors disrupted an open forum entitled “Conversion to Islam,” sponsored by the Malaysian Bar Council. The protestors contended that non-Muslims had no right to discuss Islam. The forum addressed issues faced by families caught in jurisdictional disputes on matters such as civil marriage, divorce and custody battles, and burial rites.

Privacy

Section 377 of Malaysia’s criminal code criminalizes “carnal intercourse against the order of nature,” both consensual and non-consensual. Activists have urged Malaysian authorities to repeal provisions on consensual relations and replace the section on non-consensual sexual acts with a modern, gender-neutral law on rape.

Human Rights Defenders

The NGO community, the Malaysian bar, lawyers, journalists, and some opposition politicians actively defend human rights despite serious personal and professional risks. Police arrested and detained overnight eight activists including members of the bar and local non-governmental organizations during a December 2007 peaceful march to commemorate International Human Rights Day. Six of the eight went on trial in October 2008.

On January 6, 2008, police used water cannons to break up a vigil organized by the Abolish ISA movement. On September 26 and October 9, after more ISA arrests, police broke up additional candlelight vigils opposing the ISA. In the latter incident, police confiscated the camera of a newspaper reporter, one of 23 people temporarily detained after the vigil.

Key International Actors

Tension in the US-Malaysia relationship surfaced in 2008. While the US praised Malaysia as a regional counterterrorism leader, officials in August expressed concern over the filing of sodomy charges against Anwar Ibrahim, and in September summoned Ilango Karuppanan, the charge d’affaires at the Malaysian embassy, to protest Malaysia’s crackdown on critics.

Lord Malloch-Brown, the UK's minister of state in the Foreign and Commonwealth Office, said the UK had also spoken with Malaysian officials about the crackdown and had raised the issue with its EU partners and the Commonwealth Secretariat.

In a September address to the UN, Malaysian Foreign Minister Dr. Rais Yatim objected to interference in Malaysia's internal affairs.

Although the US Department of State's June 2008 "Trafficking in Persons Report" upgraded Malaysia's status from Tier 3 to Tier 2, US Senator Lugar expressed concern about continuing reports of trafficking of Burmese at the Thai-Malay border.

Malaysia has supported the creation of an ASEAN regional human rights mechanism, but in July 2008 Foreign Minister Yatim said that its standards should reflect the "ASEAN value system," hearkening back to the "Asian values" debate and the discredited notion that Asians value human rights less than others.