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Ethnicity

Ethnic demographics

Malays are the dominant ethnic group in Malaysia. Along with a small number of other indigenous groups, they comprise 68.1 per cent of the country's population and are collectively known as *Bumiputera*.[1] Chinese (24.8 per cent) and Indians (7.1 per cent) are the other major ethnic groups in Malaysia.[2] It is estimated that 80 per cent of the Indian population are Tamil.[3] Although the Malaysian Constitution forbids discrimination against citizens on the basis of gender, religion and race, it accords a special position for *Bumiputera*, in effect permitting affirmative action policies that are widely considered to be discriminatory against other ethnic groups.[4] Chinese are the county's highest median income earners, while Indians and *Bumiputera* are the lowest median income earners – both below the national median.[5]

Bumiputera

***Bumiputera* enjoy a special position in Malaysia that is not afforded to ethnic Chinese or Indians.** Government regulations and policies provide for extensive preferential programs designed to boost the economic position of *Bumiputera*.[6] Conversely, these programs also limit opportunities for non-*Bumiputera* in higher education and government employment.[7] Many industries are subject to race-based requirements that mandate *Bumiputera* ownership levels.[8] Government procurement and licensing policies favour *Bumiputera*-owned businesses.[9]

Chinese

Chinese Malaysians generally do not experience discrimination or violence on a daily basis, but may face low levels of official discrimination when attempting to gain entry to tertiary education or the civil service. There are no laws or constitutional provisions that directly discriminate against Chinese Malaysians.[10] Chinese are able to access public education but increasingly attend one of the 1,284 Chinese primary schools and 61 Chinese secondary schools due to concerns about the quality of education and perceptions that the public curriculum is influenced by Islam.[11] Despite the removal of government-sanctioned ethnic quotas for public universities in 2002, Malaysia's matriculation programs favour *Bumiputera* students and some ethnic Chinese miss out on a university place despite having high marks.[12] Chinese form the bulk of students at Malaysia's non-government universities and an increasing number study abroad.[13]

The predominant use of the Malay language is a major barrier to Chinese employment in the

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[1] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, section 2.4, p.5
[2] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, section 2.4, p.5
[3] World Directory of Minorities and Indigenous Peoples - Malaysia Indians, Minority Rights Group International, January 2018, CIS7B83941338
[4] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, section 2.21, p.7
[5] Malaysian Indian Blueprint, Prime Minister's Office, 21 April 2017, CISEDB50AD7705, pp.8-9
[6] BTI Malaysia Country Report 2016, Bertelsmann Stiftung, 29 February 2016, CIS38A8012356, pp.3-4
[7] World Directory of Minorities and Indigenous Peoples - Malaysia Indians, Minority Rights Group International, January 2018, CIS7B83941338;
World Directory of Minorities and Indigenous Peoples - Malaysia: Chinese, Minority Rights Group International, January 2018, CIS7B83941344
[8] Malaysia 2016 Human Rights Report, US Department of State, 3 March 2017, OGD95BE926855, p.26
[9] Malaysia 2016 Human Rights Report, US Department of State, 3 March 2017, OGD95BE926855, p.26
[10] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, sections 3.4-3.10, pp.9-10
[11] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, sections 3.4-3.10, pp.9-10
[12] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, sections 3.4-3.10, pp.9-10
[13] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, sections 3.4-3.10, pp.9-10

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civil service. There are comparatively fewer ethnic Chinese in the Malaysian civil service relative to their proportion of the overall population.[14] Concentrated in major cities and the west coast states of Peninsular Malaysia, Chinese Malaysians instead dominate the business and commerce sectors, make up a high percentage of the professional and educated classes, and have high relative wealth compared to other Malaysian ethnic groups.[15]

Chinese Malaysians participate extensively in political life and are represented by both ministers in the current government and by opposition parties. The Malaysian Chinese Association, part of the Barisan National (BN) coalition government, has traditionally been the largest Chinese political party.[16] However, an increasing number of Chinese support the Democratic Action Party (DAP), one of three opposition parties of the Pakatan Harapan coalition.[17] While there have been periodic incidences of violence against Chinese Malaysians, such as the 2015 'Low Yat riot' in which more than 100 Malays rioted in a shopping centre following social media reports that a Chinese Malaysian vendor had cheated a Malay man, there is not a broader trend of societal violence against Chinese Malaysians.[18]

Indians

Indian Malaysians generally do not experience discrimination or violence on a daily basis but may face low levels of discrimination when attempting to gain entry to tertiary education or the civil service. There are no laws or constitutional provisions that directly discriminate against Indian Malaysians.[19] Indians are able to access public education, with 524 state-based Tamil-language schools across Malaysia.[20] However, access to state-based tertiary education remains low, with approximately six per cent of student places at public universities offered to Indian applicants.[21]

Since 2009 the government has mandated initiatives aimed to improve the socio-economic position of Indian Malaysians. In recent years, the government has focused socio-economic policies on helping the lower economic percentile of the Indian community (estate Indians) to attain better education outcomes,[22] resulting in spending allocations exceeding RM1 billion for Tamil schools.[23] In 2017, the government published its 10 year Malaysian Indian Blueprint that outlines policies and mechanisms that have been implemented since 2009 which aim to lift the socio-economic position of Malaysian Indians.[24]

The predominant use of the Malay language can be a major barrier to Indian employment in the civil service. Concentrated in major cities and the west coast states of Peninsular Malaysia, most Indian Malaysians form part of the working classes but also represent a high proportion of professionals, including 38 per cent of the country's medical workforce.[25] In 2015, an Indian Malaysian was appointed as Chief of Police in Kuala Lumpur, the first non-Malay to hold this position.[26]

[14] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, section 3.7, p.10
[15] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, sections 3.4-3.10, pp.9-10
[16] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, sections 3.4-3.10, pp.9-10
[17] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, sections 3.4-3.10, pp.9-10
[18] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, sections 3.4-3.10, pp.9-10
[19] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, sections 3.11-3.15, p.10
[20] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, sections 3.11-3.15, p.10
[21] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, sections 3.11-3.15, p.10
[22] Malaysia Indian Blueprint, Prime Minister's Office, 21 April, 2017, CISEDB50AD7705
[23] I'm committed to transforming Indian community, says Najib, *The Malaysian Insight*, 3 December 2017, CXC90406618619
[24] Malaysia Indian Blueprint, Prime Minister's Office, 21 April, 2017, CISEDB50AD7705
[25] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, sections 3.11-3.15, p.10
[26] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, sections 3.11-3.15, p.10

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Indian Malaysians participate extensively in political life and are represented by both ministers in the current government and by opposition parties. The Malaysian Indian Congress is part of the BN coalition government, but does not necessarily receive support from the bulk of the Malaysian Indian community, with many voting for the opposition in the 2013 elections.[27] There are several members of parliament of Indian origin and three serving ministers within the current government, as well as the current President of the Senate.[28]

Religion

Islam is the dominant religion in Malaysia. Census figures from 2010 indicate that 61.3 per cent of the population practices Islam.[29] Significant religious minorities are Buddhists (19.8 per cent), Christians (9.2 per cent), Hindus (6.3 per cent) and Confucianists, Taoists and other traditional Chinese philosophies and religions (1.3 per cent).[30] Ethnic Malays are defined in the country's Constitution as Muslims from birth.[31] Rural areas – especially on the east coast of Peninsular Malaysia – are predominately Muslim, while the states of Sabah and Sarawak on the island of Borneo have higher numbers of non-Muslims.[32] A Malaysian citizens religion is on their national identity card if Muslim, or embedded within the chip of the card if not Muslim.[33]

Religious freedom

Sunni Islam is Malaysia's official religion. Although the Constitution states that Islam is the religion of the Federation and provides for religious freedom,[34] a 1996 *fatwa* with the effect of law under Sharia code required the country to follow only Sunni teachings and prohibits Muslims from possessing, publishing, or distributing material contrary to those teachings.[35] Non-Sunni interpretations of Islam are illegal and subject to action by religious authorities.[36] During 2016, the government forbade non-Sunni practice of Islam, barred Muslims from converting to another religion, and imposed fines, detentions, and canings on those classified under the law as Muslim who contravened Sharia codes.[37] Furthermore, the government used sedition laws during 2016 to prosecute those who criticising the government's policies on religion deeming them to have "insulted Islam".[38]

Malaysians are generally free to worship religions other than Islam. In practice, there are limits to religious freedom in Malaysia, including a ban on non-Sunni practice of Islam.[39] The Malaysian Constitution gives state and federal governments the power to control or restrict the propagation of any religious doctrine or belief among Muslims, and Parliament is able to regulate Islamic religious

[27] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, sections 3.11-3.15, p.10
[28] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, sections 3.11-3.15, p.10
[29] International Religious Freedom Report for 2016 - Malaysia, US Department of State, 1 August 2017, OGD95BE927132, Section I
[30] International Religious Freedom Report for 2016 - Malaysia, US Department of State, 1 August 2017, OGD95BE927132, Section I
[31] International Religious Freedom Report for 2016 - Malaysia, US Department of State, 1 August 2017, OGD95BE927132, Section I
[32] International Religious Freedom Report for 2016 - Malaysia, US Department of State, 1 August 2017, OGD95BE927132, Section I
[33] International Religious Freedom Report for 2016 - Malaysia, US Department of State, 1 August 2017, OGD95BE927132, Section I
[34] Federal Constitution, Government of Malaysia, introduced 31 August 1957, amended 27 December 2007, reprinted 1 November 2010, The Commissioner of Law Revision, CISDCDCAAB1747, Article 11
[35] International Religious Freedom Report for 2016 - Malaysia, US Department of State, 1 August 2017, OGD95BE927132, Section II
[36] International Religious Freedom Report for 2016 - Malaysia, US Department of State, 1 August 2017, OGD95BE927132, Executive Summary
[37] International Religious Freedom Report for 2016 - Malaysia, US Department of State, 1 August 2017, OGD95BE927132, Section II
[38] International Religious Freedom Report for 2016 - Malaysia, US Department of State, 1 August 2017, OGD95BE927132, Section II
[39] International Religious Freedom Report for 2016 - Malaysia, US Department of State, 1 August 2017, OGD95BE927132, Section II

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affairs.[40] Several organisations advocate the rights of minority religions, including the Malaysian Consultative Council of Buddhism, Christianity, Hinduism, Sikhism and Taoism, which has an active relationship with the Malaysian Government.[41]

Religious adherence

Apostasy is not a federal crime but Muslims are liable for punishment under Sharia law. Muslims who wish to convert to another religion must obtain approval from a Sharia court.[42] In practice, those born Muslim are not permitted to convert out of Islam by a Sharia court.[43] In a ten year period between 2000 and 2010 only 168 of 800 Muslims who attempted to convert from Islam were given permission by Sharia courts.[44] Apostasy from Islam is a criminal offence in several states.[45] However, this punishment is not yet enforceable due to restrictions by federal law, although apostates can still be liable for a fine, sent to counselling, be jailed or caned.[46]

Atheism is not illegal in Malaysia. The Constitution provides for freedom of religion that includes the right not to practice a religion.[47] However a Muslim should first obtain a certificate from the Sharia court to convert out of Islam.[48] In August 2017 two senior ministers in the Malaysian government generated controversy after they called for an investigation after members of the Malaysian chapter of the Atheist Republic posted a photo of their initial gathering on Facebook.[49] The deputy minister in charge of religious affairs said that the government needed to determine whether any Muslims were in the Atheist Republic photo and suggested using the "soft" approach by sending them for counselling.[50] The other minister from the Prime Minister's Department said that "we have to bring them back to the right path".[51]

It is possible for an individual to live an atheist life in Malaysia. Population and Housing Census figures from 2010 suggested there were about 300,000 Malaysians who followed non-religious belief systems or did not believe in God.[52] Malaysian Muslims are generally not prosecuted for disbelief.[53] Some atheists maintain a low-profile in society and are known to socialise with likeminded people,[54] whereas other Muslims make no attempt to hide their atheism from society.[55] A range of atheist-focused organisations, Facebook pages, Twitter accounts and websites – some of which are no longer active – have been set up in recent years with the aim of allowing people who do not believe in God to come together.[56]

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[40] International Religious Freedom Report for 2016 - Malaysia, US Department of State, 1 August 2017, OGD95BE927132, Section II
[41] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, section 3.19, p.11
[42] International Religious Freedom Report for 2016 – Malaysia, US Department of State, 1 August 2017, OGD95BE927132, p.3
[43] International Religious Freedom Report for 2016 – Malaysia, US Department of State, 1 August 2017, OGD95BE927132, p.3
[44] Country Information Report – Malaysia, Department of Foreign Affairs and Trade, 19 July 2016, CIS38A80121311, section 3.35, p.13
[45] Atheism: the latest whipping boy for Malaysia's pre-election politics?, *South China Morning Post,* 13 August 2017, CXC90406615823
[46] Atheism: the latest whipping boy for Malaysia's pre-election politics?, *South China Morning Post,* 13 August 2017, CXC90406615823
[47] Lawyers: Being atheist, promoting atheism protected by Constitution, *Malaymail Online*, 25 November 2017, CXC90406620451
[48] Atheism is not unconstitutional, legal minds tell deputy minister, *Free Malaysia Today,* 24 November 2017, CXC90406620452;
[49] Intolerance Rising: Atheists at Risk in Malaysia, *The Diplomat,* 22 August 2017, CXC90406612572
[50] Malaysia probes atheist group after uproar over Muslim apostates, *Reuters,* 7 August 2017, CXC90406620455
[51] Atheist Republic members need to be tracked down, says Malaysian Cabinet minister, *The Straits Times,* 8 August 2017, CXC90406620454
[52] Are Malaysia's atheists an endangered species or quietly burgeoning?, Malaysiakini, 13 July 2016, CX6A26A6E16914 (full article available at Malaysia's Atheists: Endangered Species or Quietly Burgeoning?, DIN MERICAN, 13 July 2016, CIS38A80124361)
[53] Intolerance Rising: Atheists at Risk in Malaysia, *The Diplomat,* 22 August 2017, CXC90406612572
[54] Intolerance Rising: Atheists at Risk in Malaysia, *The Diplomat,* 22 August 2017, CXC90406612572
[55] Moderation under threat as Malaysia faces Islamic tide, *The Australian,* 17 August 2017, CXC90406620453
[56] Are Malaysia's atheists an endangered species or quietly burgeoning?, Malaysiakini, 13 July 2016, CX6A26A6E16914 (full article available at Malaysia's Atheists: Endangered Species or Quietly Burgeoning?, DIN MERICAN, 13 July 2016, CIS38A80124361)

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Religious discrimination

Malaysian authorities continue to ban several religious groups which they consider deviant, including Shia Muslims, Ahmadiyya Muslims, Baha'i, and the Al-Arqam community. Members of banned groups cannot speak freely about their beliefs.[57] The government uses sedition laws to restrict and punish speech criticising Sunni Islam but largely ignore criticism of other faiths.[58] JAKIM funds most Sunni mosques and imams and provides talking points for sermons, which regularly vilify religious minorities, such as Shia Muslims.[59]

Malaysian authorities place restrictions on religious assembly and other rights of some non-Islamic religious groups. Religious groups complain that the government has no transparent criteria for determining whether to register a religious group.[60] In cases where the government refuses to register a religious group, the group can attempt to register as a company.[61] The Malaysian government did not provide any funds for non-Muslim religious groups in its 2015 budget, although some groups reported receiving some irregular funding for temple and church buildings and other activities.[62] Harassment of or attacks on non-Muslim houses of worship are infrequent, but do occur, and non-Muslims also report difficulties in obtaining government permission to build houses of worship.[63] A mosque can legally be built in any neighbourhood, Muslim or non-Muslim, but non-Muslim places of worship cannot be built within 100 metres of a Muslim neighbourhood and face building restrictions.[64]

Sharia law

Malaysia maintains a dual legal system with the coexistence of Sharia law alongside civil law. Based on Maqasid Sharia,[65] Sharia courts have jurisdiction over Muslims in matters of family law and religious observance.[66] A constitutional amendment provides that civil courts have no jurisdiction with respect to any matter within the jurisdiction of the Sharia courts.[67] Two states, Kelantan and Terengganu, have symbolically enacted Muslim penal law for Muslims, but the Malaysian government has not allowed the code to be implemented.[68] Some penalties imposed by Sharia courts are limited by federal civil law.[69]

State-level Islamic religious departments enforce Sharia through Islamic courts and have jurisdiction over Muslims in each state. Article 121 of the Malaysian Constitution stipulates that all matters related to Islam should be heard in Sharia courts.[70] In practice, this results in vastly different

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[57] 2015 Report on International Religious Freedom – Malaysia, US Department of State, 10 August 2016, OGD95BE926734, section II
[58] 2015 Report on International Religious Freedom – Malaysia, US Department of State, 10 August 2016, OGD95BE926734, section II
[59] USCIRF 2017 Annual Report – Tier 2 countries - Malaysia, US Commission on International Religious Freedom, 1 May 2017, OGD95BE927058, p.182
[60] 2016 Report on International Religious Freedom – Malaysia, US Department of State, 1 August 2017, OGD95BE927132, section II
[61] 2016 Report on International Religious Freedom – Malaysia, US Department of State, 1 August 2017, OGD95BE927132, section II
[62] 2015 Report on International Religious Freedom – Malaysia, US Department of State, 10 August 2016, OGD95BE926734, section II
[63] USCIRF 2017 Annual Report – Tier 2 countries - Malaysia, US Commission on International Religious Freedom, 1 May 2017, OGD95BE927058, p.181;
Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, sections 3.40-3.41, p.14
[64] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, sections 3.40-3.41, p.14
[65] Maqasid Shariah is the implementation of Shariah laws based on the Quran and Sunni doctrine;
PM says 'human rightism, humanism, secularism' new religion threatening Islam, *Bernama*, 14 May 2014, CX1B9ECAB13103
[66] 2016 Report on International Religious Freedom – Malaysia, US Department of State, 1 August 2017, OGD95BE927132, section II
[67] 2016 Report on International Religious Freedom – Malaysia, US Department of State, 1 August 2017, OGD95BE927132, section II
[68] 2016 Report on International Religious Freedom – Malaysia, US Department of State, 1 August 2017, OGD95BE927132, section II
[69] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, section 5.3, p.25
[70] Freedom in the World 2017 – Malaysia, Freedom House, 12 July 2017, NG2A465F591, section F

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treatment of Muslims and non-Muslims in 'moral' and family law issues.[71] Sharia courts often have low capacity and the degree of Sharia law enforcement varies from state to state.[72] Due to the nature and focus of Sharia-based law, Sharia courts have a disproportionate impact on transgender individuals, domestic violence victims and women in child custody cases.[73] Sharia-based criminal law regards the testimony given by female members or female witnesses as less valuable than that of other witnesses.[74]

Religious enforcement officers conduct moral policing operations and can enforce Sharia law. Religious enforcement officers have a range of powers, depending on the particular Islamic laws that apply in each state.[75] They are permitted to accompany police during operations or conduct their own raids of private premises and public establishments to enforce Sharia, including bans on indecent dress, alcohol consumption, sale of restricted books, or close proximity to members of the opposite sex.[76] Moral breaches of Sharia law typically result in a warning or a fine but may include canning or up to one month imprisonment for the most serious offences.[77]

Interfaith and mixed marriages

Non-Muslims wishing to marry a Muslim must convert to Islam for the marriage to be officially recognised. There are two primary statutes in Malaysia for marriage, for civil marriage, the Law Reform (Marriage and Divorce) Act 1976,[78] and for Muslim marriage, Islamic Family Law Act (Federal Territories) 1984.[79] The civil law marriage and divorce act states that it does not apply to Muslims.[80] The only exception for a Muslim to marry a non-Muslim is when a Muslim man marries a *Kitabayah* (Christian whose ancestors where Christian before the prophethood of Muhammod).[81] In practice it is almost impossible to prove this ancestry.[82] For a marriage to be officially recognised, a non-Muslim must convert to Islam to marry a Muslim.[83] Malaysian authorities do not recognise marriages between Muslims and non-Muslims and consider children born of such marriages illegitimate.[84] Some Sunni and Shia Muslims intermarry and have family members that practice either form of Islam.[85]

Although non-Muslims interfaith and ethnic mixed marriages are legal some may face opposition from their community, family or friends. Malaysian law does not restrict the rights of non-Muslims to marry.[86] Conversion sometimes takes place due to marriage, with one partner choosing to convert or both partners choosing to adopt a new faith; however, this is not compulsory.[87] Malaysian law does not restrict the rights of people from different ethnic groups to marry,[88] although as Malaysian law considers all Malays to be Muslim, a non-Muslim of another ethnicity intending to

[71] Freedom in the World 2017 – Malaysia, Freedom House, 12 July 2017, NG2A465F591, section F
[72] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, section 5.14, p.26
[73] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, section 5.14, p.26
[74] Washing the Tigers: Addressing Discrimination and Inequality in Malaysia, Equal Rights Trust in partnership with Tenaganita, November 2012, CIS28954, pp.261-264
[75] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, section 5.9, p.26
[76] Malaysia 2016 Human Rights Report, US Department of State, 3 March 2017, OGD95BE926855, p.5
[77] The female face of Islamic law in Malaysia, *Aljazeera,* 16 August 2017, CXC90406620329;
Lawyer: Muslims can challenge khalwat offences, *Free Malaysia Today,* 7 December 2016, CX6A26A6E20451
[78] Law Reform (Marriage and Divorce) Act (164) 1976 (Malaysia), Federal Government of Malaysia, 6 March 1976, (amendments to 1 January 2006), the Commissioner of Law Reform, CISBE8E6BE702
[79] Islamic Family Law Act (Federal Territories) Act (303) 1984 (Malaysia), Federal Government of Malaysia, 27 June 1984, amendments to 1 January 2006, the Commissioner of Law Reform, CIS883493140
[80] Law Reform (Marriage and Divorce) Act (164) 1976 (Malaysia), Federal Government of Malaysia, 6 March 1976, (amendments to 1 January 2006), the Commissioner of Law Reform, CISBE8E6BE702, Part I, article 3(3)
[81] Solving the syariah – civil conflict, *New Straits Times*, 19 August 2017, CXC90406617998
[82] Ethnic and religious discrimination big challenge for Malaysia's minorities, Minority Rights Group International, 25 May 2011, CXCB3E63421379
[83] International Religious Freedom Report for 2016 – Malaysia, US Department of State, 1 August 2017, OGD95BE927132, p.3
[84] Malaysia 2016 Human Rights Report, US Department of State, 3 March 2017, OGD95BE926855, p.9;
[85] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, section 3.27, p.12
[86] Registration of Marriage For Non-Muslim, National Registration Department – Ministry of Home Affairs, n.d., accessed 10 August 2017, CISEDB50AD5251
[87] A M'sian union – interracial couples share their stories, Malaysiakini, 16 September 2016, CX6A26A6E16886;
Interracial marriage as beacon of light in upholding Malaysia's unity, The Rakyat Post, 14 July 2015, CXBD6A0DE19504
[88] Registration of Marriage For Non-Muslim, National Registration Department – Ministry of Home Affairs, n.d. accessed 10 August 2017, CISEDB50AD5251

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marry a Malay must convert.[89] Individuals in a mixed marriage sometimes face pressure or stigma from within their family, friends or community, while couples of different ethnicities may also encounter racism.[90]

Arranged marriages

Arranged marriages have declined sharply in recent decades, and most Malaysians are free to choose their own husband or wife. Malaysia's Law Reform (Marriage and Divorce) Act states that all marriages must be based on mutual consent, and no restriction is placed on the rights of people from different ethnic groups, or non-Muslims, to marry.[91] While individuals sometimes face pressure or stigma from within their family, friends or community based on religious, social or cultural difference,[92] no information was found to suggest that they would typically face physical harm.[93] Using force or threat to compel a woman to marry against her will or to prevent her from getting married is punishable with a fine or imprisonment.[94] However, Malaysia does not recognise marriages between Muslims and non-Muslims,[95] and Islamic family law stipulates that marriages are not fully recognised without the consent of the 'wali', a male family member – typically a woman's father, paternal grandfather, brother or paternal uncle – who acts as guardian for a woman prior to their marriage.[96] A 2012 report said that the 'wali' system means that Muslim women do not necessarily have the same right to freely choose their spouse and enter into marriage.[97]

Sunni Muslims

Sunni Islam is Malaysia's state-sanctioned religion, although the country is officially secular. Ethnic and religious identity is central to Malaysian politics, contributing to an entrenched system of government that advantages the ruling party and the Sunni Muslim Malay majority at the expense of ethnic and religious minorities.[98] The state implements an increasingly exclusive brand of Islam that is based, in part, on the constitutional establishment of Islam as the official religion.[99] To stave off perceived political threats and be seen as protecting Islam, Prime Minister Najib Razak and the BN coalition crackdown on individuals who express dissent or criticism, accusing them of attacking Islam.[100]

Shia Muslims

Shia Islam is considered a deviant form of Islam and is prohibited under Malaysian law. Eleven out of 14 states ban Shia Islam, and a Shia Muslim found to be proselytising can expect to be

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[89] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, section 2.4, p.5;
Malaysia 2016 Human Rights Report, US Department of State, 3 March 2017, OGD95BE926855, p.9
[90] Interracial marriage as beacon of light in upholding Malaysia's diversity, Rakyat Post, The, 14 July 2015, CXBD6A0DE19504 and A M'sian union – interracial couples share their stories, Malaysiakini, 16 September 2016, CX6A26A6E16886
[91] Registration of Marriage For Non-Muslim, National Registration Department – Ministry of Home Affairs, n.d. (accessed 10 August 2017), CISEDB50AD5251
[92] Interracial marriage as beacon of light in upholding Malaysia's diversity, Rakyat Post, The, 14 July 2015, CXBD6A0DE19504; A M'sian union – interracial couples share their stories, Malaysiakini, 16 September 2016, CX6A26A6E16886;
2015 Report on International Religious Freedom – Malaysia, US Department of State, 10 August 2016, OGD95BE926734, section III
[93] Sources consulted include CISNET, Home Affairs Library, government and non-government reports, international and domestic media outlets, and Internet searches.
[94] Social Institutions and Gender Index 2014 – Malaysia, Organisation for Economic Co-operation and Development, 2014,, p.1
[95] DFAT Country Information Report – Malaysia, 19 July 2016, CIS38A80121311, P.13
[96] Social Institutions and Gender Index 2014 – Malaysia, Organisation for Economic Co-operation and Development, 2014, CISEDB50AD5657, p.1;
Wali, Singapore Government, 2015, CISEC96CF15597
[97] Washing the Tigers: Addressing Discrimination and Inequality in Malaysia, Equal Rights Trust and Tenaganita, November 2012, CIS28954, p.53
[98] USCIRF 2017 Annual Report – Tier 2 countries - Malaysia, US Commission on International Religious Freedom, 1 May 2017, OGD95BE927058, pp.181-182
[99] USCIRF 2017 Annual Report – Tier 2 countries - Malaysia, US Commission on International Religious Freedom, 1 May 2017, OGD95BE927058, p.181
[100] USCIRF Annual Report 2016 – Tier 2 countries – Malaysia, US Commission on International Religious Freedom, 2 May 2016, CIS38A80121078

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detained and prosecuted.[101] On 1 October 2017, the Selangor state religious authorities reportedly detained over 200 Iraqi nationals for taking part in a Shia Muslim ceremony (Ashura); however they were all released after Iraqi pressure from Baghdad.[102] Despite legal barriers to their worship, most Shia Muslims live free from discrimination and violence on a day-to-day basis.[103] Government enforcement efforts generally focus on conversions and proselytisers, not assembly or worship, and very few arrests have resulted in charges being laid.[104] National identity cards do not distinguish Shia's from other Muslims and there are no restrictions on their movement within Malaysia.[105]

Christians

Christians generally live free from discrimination and are free to practice their religion in Malaysia. Official impediments have been placed on their use of the word 'Allah' (Arabic for God), which Malaysian Christians claim to have used for centuries to practice their religion.[106] In 2008 the Home Affairs Ministry banned the Catholic newspaper, *The Herald*, from using 'Allah'.[107] This ban was upheld by both the Malaysian Court of Appeals and Federal Court.[108] Christians may occasionally face a low level of official discrimination but do not face official or societal discrimination or violence on a day-to-day basis.[109]

Buddhists and Hindus

Buddhists and Hindus are normally able to practice their religion without interference and do not face official or societal discrimination on a day-to-day basis. Federal and state governments have supported the building of Hindu or Buddhist places of worship throughout Malaysia.[110] In 2013, the Malaysian Government allocated RM 2 million (AUD 660,533) for the building of a new Hindu complex in Selangor.[111] Hindus and Buddhists have faced some compulsory acquisitions of places of worship or occasional community backlash in response to relocated temples.[112] Fifty Muslim residents protested the relocation of a Hindu temple into their residential area by placing a severed cow's head at the front gate of the Selangor State Government office in 2009.[113] In January 2018 following the demolition of an illegally-constructed Hindu temple, the Johor Sultan offered support to obtain a new site, land for which the state government subsequently allocated, some 1.5 km away from the previous temple.[114]

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[101] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, sections 3.28-3.31, p.12
[102] 200 Iraqi Shias released in Selangor after pressure from Baghdad, Free Malaysia Today, 1 October 2017, CXC90406620552;
SUARAM Human Rights Report 2017 Overview, Suara Rakyat Malaysia (SUARAM), 20 February 2018, CIS7B83941337, p.36
[103] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, sections 3.28-3.31, p.12
[104] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, sections 3.28-3.31, p.12
[105] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, section 3.27, p.12
[106] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, sections 3.43-3.47, p.14
[107] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, sections 3.43-3.47, p.14
[108] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, sections 3.43-3.47, p.14
[109] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, sections 3.43-3.47, p.14
[110] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, sections 3.49-3.51, p.15
[111] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, sections 3.49-3.51, p.15
[112] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, sections 3.49-3.51, p.15
[113] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, sections 3.49-3.51, p.15
[114] Hindu temple demolition Johor Sultan steps in as peacemaker, offers relocation aid, Malay Mail on line, 21 January 2018, CXBB8A1DA20539

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Conversion

Conversion from Islam is extremely difficult and attempted converts face high levels of official discrimination and societal stigma. A 2007 ruling by the Federal Court effectively made it impossible for Muslims to have their conversions to other faiths recognised by the state.[115] An individual wishing to convert from Islam must first obtain permission from a state Sharia court.[116] These courts rarely grant permission and can impose punishments that include a fine, jail or caning.[117] In Kelantan and Terengganu, Sharia courts can also impose the death penalty, although this has never been carried out.[118] Individuals who attempt to convert from Islam have also been compelled to attend religious rehabilitation centres that teach and enforce government-approved Islamic practices.[119] In May 2014, Prime Minister Najib said the government would not tolerate demands for Muslims to convert.[120] Converts sometimes also face severe societal stigma, and may feel it necessary to conceal their new religion from family and friends.[121]

People who have converted to Islam as minors or can prove they were not originally Muslim may be able to revert to their former religion. In March 2016, a Sarawak civil court permitted a man whose parents had converted him to Islam as a child to convert back to Christianity.[122] The court ruled that this was in line with the man's constitutional right to freedom of religion as he was now an adult.[123] Sharia courts heard 686 conversion cases from 2000-2010, and granted permission in 135 of these.[124] In each of these cases, the Sharia courts determined the applicant had not been Muslim to begin with.[125] Muslims who fail in their attempt to change religion are by law compelled to continue acting as Muslims or face punishment by a Sharia court.[126]

Non-Muslims are free to change their religious beliefs and affiliation, although they may face opposition from their community, family or friends. Malaysian law does not restrict the rights of non-Muslims to convert to another religion.[127] Conversion sometimes takes place due to marriage, with one partner choosing to convert or both partners even choosing to adopt a new faith.[128] A minor (under the age of 18, according to federal law) generally may not convert to another faith without the explicit permission of their parent or guardian, although some states allow conversion to Islam without parental permission after age 15.[129] Converts sometimes face pressure or stigma from within their family, friends or community, and may feel it necessary to conceal their new religion.[130]

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[115] Freedom in the World 2017 – Malaysia, Freedom House, 12 July 2017, NG2A465F591, section E
[116] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, sections 3.33-3.35, p.13
[117] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, sections 3.33-3.35, p.13
[118] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, sections 3.33-3.35, p.13
[119] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, sections 3.33-3.35, p.13
[120] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, sections 3.33-3.35, p.13
[121] 2015 Report on International Religious Freedom – Malaysia, US Department of State, 10 August 2016, OGD95BE926734, section III
[122] Malaysia – Landmark ruling allows Muslim convert to be Christian, Asian Correspondent, 25 March 2016, CX6A26A6E16727
[123] Court rules Sarawak Muslim convert has right to be Christian, Star Online, The, 24 March 2016, CX6A26A6E3231
[124] Path to leave Islam simple, but far from easy, Malay Mail online, 12 July 2014, CX1B9ECAB12845
[125] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, sections 3.33-3.35, p.13;
Legal provisions and restrictions on the propagation of non-Islamic religions among Muslims in Malaysia, Journal of Malaysian Studies, 2013, Vol. 31, Issue 2, CIS36DE0BB1729, p.8
[126] Washing The Tigers: Addressing Discrimination and Inequality in Malaysia, The Equal Rights Trust in partnership with Tenaganita, 1 November 2012, CIS28954, p.103
[127] 2016 Report on International Religious Freedom – Malaysia, US Department of State, 1 August 2017, OGD95BE927132, section II
[128] A M'sian union – interracial couples share their stories, Malaysiakini, 16 September 2016, CX6A26A6E16886;
Interracial marriage as beacon of light in upholding Malaysia's unity, The Rakyat Post, 14 July 2015, CXBD6A0DE19504
[129] 2016 Report on International Religious Freedom – Malaysia, US Department of State, 1 August 2017, OGD95BE927132, section II
[130] A M'sian union – interracial couples share their stories, Malaysiakini, 16 September 2016, CX6A26A6E16886;
2015 Report on International Religious Freedom – Malaysia, US Department of State, 10 August 2016, OGD95BE926734, section III

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Unilateral conversion

On 29 January 2018 the Federal Court unanimously ruled that unilateral child conversion is unlawful. The Federal Court ruled that a child from a civil marriage can only be converted to Islam if both parents consent.[131] The Constitution's article 12(4) in English uses the word "parent" in the singular sense while article 12(4) of the Bahasa Malaysia translation uses the words "*ibu atau bapa*" (mother or father); however the court ruled that the Constitution's eleventh schedule has a clause on interpreting words in the singular to include the plural and vice versa.[132] Legislative amendments to the Federal Constitution and the *Law Reform (Marriage & Divorce) Act 1976* have yet to occur.[133] A Muslim coalition, the Movement to Defend Ummah, announced that it would file a judicial review in a bid to overturn the Federal Court decision.[134]

Historically cases of unilateral child conversions favoured the Muslim parent, but these conversions became unlawful following a landmark Federal Court judgement in 2018. Prior to a Federal Court 2018 judgement that ruled unilateral child conversion unlawful,[135] the consent of only one parent was required to convert a child under Sharia laws and allows the Muslim parent to gain sole custody.[136] Despite Sharia courts being constitutionally subordinate to civil courts, in January 2016 the Federal Court of Appeal ruled that matters of conversion to Islam were at the sole discretion of Sharia courts.[137] As a result, Sharia courts often decided child custody cases where one parent has converted to Islam while the other has not, and historically favoured the Muslim parent.[138] There have been some high-profile cases of unilateral child conversions, mostly concerning Hindu fathers converting to Islam and claiming custody of their children.[139] Previously, when there had been competing orders by civil and Sharia courts regarding custody, police generally sided with Sharia decisions.[140]

Patricular social groups

Lesbian, Gay, Bisexual, Transgender, Intersex (LGBTI)

Malaysian law criminalises homosexual acts. Section 377A of the Penal Code criminalises consensual sexual relations between adult men.[141] Although punishment for the offence is up to 20 years in prison and possible whipping,[142] in practice, the penal code has only been invoked seven times since 1938 – four of those against former deputy prime minister Anwar Ibrahim.[143] Sharia law in some states also criminalises sexual relations between people of the same sex.[144] Women found

[131] Amid language clash, Federal Court says conversion needs consent of both parents, *Malay Mail Online*, 31 January 2018, CXBB8A1DA20998
[132] Amid language clash, Federal Court says conversion needs consent of both parents, *Malay Mail Online*, 31 January 2018, CXBB8A1DA20998
[133] Malaysian Bar All legislation must adhere to Federal Constitution, *The Star Online,* 4 February 2018, CXBB8A1DA21244
[134] Muslim civil society to challenge Federal Court decision on unilateral conversion, *The Malaysian Insight*, 7 February 2018, CXBB8A1DA21506
[135] Malaysian court says both parents must consent on children's religion, *Reuters*, 29 January 2018, CXBB8A1DA21004
[136] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, sections 3.37-3.39, p.13
[137] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, sections 3.37-3.39, p.13
[138] 2016 Report on International Religious Freedom – Malaysia, US Department of State, 1 August 2017, OGD95BE927132, section II
[139] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, sections 3.37-3.39, p.13
[140] 2016 Report on International Religious Freedom – Malaysia, US Department of State, 1 August 2017, OGD95BE927132, section II
[141] Amnesty International Report 2017/18, Amnesty International, 22 February 2018, NGED867A612, p.250
[142] Freedom in the World 2017 – Malaysia, Freedom House, 12 July 2017, NG2A465F591, section F
[143] Malaysia: On the Record: Violence Against Lesbians, Bisexual Women and Transgender Persons In Malaysia, International Gay and Lesbian Human Rights Commission, 6 May 2014, CIS2F827D91966, p.33
[144] Freedom in the World 2017 – Malaysia, Freedom House, 12 July 2017, NG2A465F591, section F

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guilty of lesbianism can be punished by whipping.[145] However, the degree of severity and application of religious law varies from state to state.[146]

The LGBTI community face official discrimination. The Malaysian Government openly criticises LGBTI individuals.[147] In June 2017, the Ministry of Health was criticised for launching a video competition about how to 'prevent gender confusion' that included 'gay, lesbian, transgender, transvestite and tomboy'.[148] The ministry subsequently removed the controversial wording following a meeting between the ministry and a prominent Malaysian LGBT activist.[149] The Ministries of Health and Education conduct campaigns to 'prevent, overcome, and correct' symptoms of homosexuality in children, moreover the Ministry of Information banned television and radio shows depicting gay characters.[150]

Homosexuals (gays and lesbians)

It is possible for gays and lesbians to live safely in Malaysia despite official discrimination and conservative societal attitudes. Many middle and upper class, educated and urban Malaysians are able to be open about their sexuality among their family and community, while some sources suggest that gays and lesbians are tolerated more broadly as long as they do not flaunt their sexuality.[151] Kuala Lumpur is the country's most gay-friendly city and has a widespread, if still underground, gay scene that has existed for many years.[152] There are a number of gay and lesbian-focused venues, along with others that welcome them as patrons.[153] Smaller gay and lesbian scenes exist in other cities such as Kota Kinabalu and Penang.[154]

Numerous LGBTI organisations operate in Malaysia and provide information and support to the community. In addition to these, mainstream Christian churches and the Malaysian Consultative Council of Buddhism, Christianity, Hinduism, Sikhism and Taoism have also spoken out against discrimination and violence towards gay and lesbian people.[155] Sources suggest that hotels and other venues are generally not suspicious of people of the same sex who share a room, while gay and lesbian people who avoid known gay and lesbian venues are less likely to attract the attention of authorities.[156]

Transgender

Transgender individuals are subject to official discrimination and stigma. Authorities can charge transgender individuals for cross-dressing under the Minor Offenses Act, or for 'public indecency and immorality', or under Sharia-based law for 'impersonating women'.[157] These laws have been used to impose fines and sentence transgender individuals to short jail terms, and are predominately applied

[145] CEDAW and Malaysia: Malaysian Non-Government Organisations' Alternative Report assessing the Government's process in implementing the UN CEDAW, Women's Aid Organisation, April 2012, CIS24169, p.194
[146] The life of gay people in Muslim Malaysia, 1Dad1Kid.com, n.d. (earliest comment on article September 2013), Accessed 23 June 2017, CISEDB50AD4610
[147] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, section 3.90, p.20
[148] Amnesty International Report 2017/18, Amnesty International, 22 February 2018, NGED867A612, p.250
[149] Malaysian government doctors backtrack on homophobic video competition, *Pink News,* 8 June 2017, CXC90406620473
[150] Freedom in the World 2017 – Malaysia, Freedom House, 12 July 2017, NG2A465F591, section F
[151] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, section 3.94, p.20;
Malaysia: Muslim gay faces govt wrath, Inter Press Service (IPS), 15 January 2011, CX256528 and Still in the Closet, Foreign Policy, 3 July 2014, CX1B9ECAB9835
[152] Kuala Lumpur City Guide, Travel Gay Asia, 2017 (accessed 26 June 2017), CISEDB50AD4633;
Still in the Closet, Foreign Policy, 3 July 2014, CX1B9ECAB9835
[153] Travel and Resources: KUALA LUMPUR & Vicinity (Klang Valley), Utopia, n.d. (most recent update on page June 2017), Accessed 23 June 2017, CISEDB50AD4611
[154] Travel and Resources: PENANG, Utopia, n.d. (most recent update on page September 2016), Accessed 23 June 2017, CISEDB50AD4612
[155] LGBT Organisations in Malaysia, Angloinfo Malaysia, n.d., CISEDB50AD3776;
Beauty and the Beast censorship attempt shows the good, the bad and the ugly of LGBT rights in Malaysia, Conversation, The, 29 March 2017, CXC9040667196
[156] The life of gay people in Malaysia, the female perspective, 1Dad1Kid.com, n.d. (earliest comment on article September 2013), Accessed 23 June 2017, CISEDB50AD4613
[157] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, section 3.95, p.20;
World Report 2015: Country Summary Malaysia, Human Rights Watch, 29 January 2015, NG5A1E6BC48

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to biological men dressing as women.[158] Imprisoned transgender individuals are held in male prisons and have been sexually assaulted by wardens or fellow detainees.[159] Transgender individuals may face discrimination in public healthcare facilities, including undergoing forcible HIV/AIDS testing or being housed in male wards where they can be exposed to violence and abuse.[160] Transgender individuals, especially Muslim men who cross-dress as women or identify as transgender, face a high level of official and societal discrimination and are at moderate risk of harm.[161]

Women

Women are active in all areas of Malaysian society but risk experiencing societal and official discrimination. While the Malaysian Constitution prohibits discrimination based on gender,[162] Malaysia has the lowest rate of women's workforce participation in Southeast Asia.[163] There are currently three female cabinet ministers (out of 36) and representation is similarly low in both houses of parliament.[164] The Constitution gives women equal rights to inherit, acquire, manage or dispose of property, including land, while civil law gives non-Muslim mothers equal parental rights.[165] Four states – Johor, Selangor, Negri Sembilan and Pahang – extend equal parental rights to Muslim mothers.[166] However, Islamic inheritance law generally favours male offspring and male relatives and Sharia generally requires a husband's consent for divorce, although a small but steadily increasing number of women have been able to obtain divorces under Sharia without their husband's consent.[167]

Although authorities take claims of sexual harassment seriously and legal protections exist prosecution is cumbersome. According to police statistics, there were 1,590 reported cases of sexual harassment in 2014.[168] Amendments were made to the Employment Act in 2012 which made certain forms of workplace sexual harassment illegal, while the law prohibits a person in authority from using their position to intimidate a subordinate into having sexual relations.[169] A government voluntary code of conduct provides a detailed definition of sexual harassment intended to raise public awareness of the problem.[170] Authorities take claims of sexual harassment seriously but victims are often reluctant to report cases because of embarrassment, the difficulty of proving the offence, and a lengthy trial process.[171]

Economic hardship

Malaysia is an upper-middle income country in which absolute poverty has been largely eradicated. Malaysia recorded average annual economic growth of more than 7 per cent between 1967 and 1997, while growth in recent years has continued to exceed 5 per cent.[172] Economic growth

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[158] Freedom in the World 2016: Malaysia, Freedom House, 23 August 2016, NGE43874C422, Section G, p.6;
Malaysia: Court Convicts 9 Transgender Women, Human Rights Watch, 22 June 2015, CXBD6A0DE8963;
Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, section 3.95, p.20
[159] Country Reports on Human Rights Practices for 2015 – Malaysia, US Department of State, 13 April 2016, OGD95BE926273, section 5, p.1
[160] Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Addendum: Visit to Malaysia (19 November–2 December 2014), United Nations Human Rights Council, May 2015, CISEC96CF14228, p.16;
How life is tough for transgenders in conservative Malaysia, who face violence, religious and official bias, and abusive me, *South China Morning Post*, 15 November 2017, CXC90406617584
[161] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, section 3.99, p.21
[162] Malaysia 2016 Human Rights Report, US Department of State, 3 March 2017, OGD95BE926855, p.23
[163] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, section 3.79, p.18
[164] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, section 3.79, p.18
[165] Malaysia 2016 Human Rights Report, US Department of State, 3 March 2017, OGD95BE926855, p.23
[166] Malaysia 2016 Human Rights Report, US Department of State, 3 March 2017, OGD95BE926855, p.23
[167] Malaysia 2016 Human Rights Report, US Department of State, 3 March 2017, OGD95BE926855, p.23
[168] Malaysia 2016 Human Rights Report, US Department of State, 3 March 2017, OGD95BE926855, p.22
[169] Malaysia 2016 Human Rights Report, US Department of State, 3 March 2017, OGD95BE926855, p.22
[170] Malaysia 2016 Human Rights Report, US Department of State, 3 March 2017, OGD95BE926855, p.22
[171] Malaysia 2016 Human Rights Report, US Department of State, 3 March 2017, OGD95BE926855, p.22
[172] 'The World Bank in Malaysia', The World Bank, April 2017, CISEDB50AD5041;
'The Growth Report: Strategies for Sustained Growth and Inclusive Development', The World Bank, 2008, CIS956B8881704, p.20

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has been inclusive, with less than 1 per cent of the population living in extreme poverty.[173] Rates of poverty are low among Malays (0.8 per cent), Chinese (0.1 per cent), and Indians (0.6 per cent), although the poverty rate is higher in rural areas than in cities.[174] Malaysian authorities have turned their attention to reducing income inequality – which remains high in comparison to other East Asian countries, but is gradually declining – and addressing the well-being of the poorest 40 per cent of the population, who remain vulnerable to increases in the cost of living or economic shocks.[175] The UNDP's Human Development Index ranked Malaysia 59 out of 188 countries in 2016, placing it in the 'high human development' category.[176]

Malaysia has an expanding if still limited social welfare system, while traditional social roles mean that families provide support for the elderly and sick. Old age, survivor and disability payments and employment injury compensation are among the payments available to eligible individuals, although credible sources state that the overall scope of social welfare coverage remains limited.[177] In August 2017, the Malaysian Government introduced legislation into parliament that would provide unemployment benefits for three to six months.[178] The Zakat system – a levy imposed on Muslims which is equal to 2.5 per cent of their assets above a minimum figure – forms one of the main social protection programmes in the country, and payments are distributed to needy groups such as the poor and refugees.[179] In Malaysia, grown children typically provide financial or care support to elderly or sick parents.[180]

Political opinion

Malaysia is a constitutional monarchy in which executive power is vested in the prime minister and cabinet. The Malaysian monarch is elected for a five-year term by fellow hereditary rulers from 9 of Malaysia's 13 states, and his role is largely ceremonial.[181] The upper house of the bicameral parliament consists of 44 members appointed by the monarch and 26 members elected by the 13 state legislatures, who serve three-year terms.[182] The lower house has 222 members who are popularly elected every five years.[183] The role of the monarch is largely ceremonial.[184] UMNO has dominated Malaysian politics since independence, and has used a skewed electoral system, unequal access to the media, restrictions on campaigning and freedom of assembly to maintain its grip on power.[185]

United Malays National Organisation (UMNO)

The UMNO dominated government has used laws against internal and external opponents in relation to the 1Malaysia Development Berhad (1MDB) scandal. Prime Minister Najib Razak's mismanagement of and possible embezzlement from state development fund 1MDB has continued to be highly controversial domestically and internationally.[186] Najib worked to suppress scrutiny within the government and his own party. [187] In 2015 Najib replaced the attorney general and fired cabinet ministers, including Deputy Prime Minister Muhyiddin Yassin, who had been critical of his handling of

[173] 'The World Bank in Malaysia', The World Bank, April 2017, CISEDB50AD5041
[174] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade (DFAT), 19 July 2016, CIS38A80121311, p.6, section 2.9
[175] 'OECD Economic Surveys – Malaysia', OECD, November 2016, CIS38A80124917, p.4 and 'The World Bank in Malaysia', The World Bank, April 2017, CISEDB50AD5041
[176] 'Table 1: Human Development Index and its components', UNDP, 21 March 2017, CISEDB50AD5042
[177] 'Social Security Programs Throughout the World: Asia and the Pacific, 2016 – Malaysia', US Social Security Administration Office of Retirement and Disability Policy, March 2017, CISEDB50AD5043;
'A Decade of Social Protection Development in Selected Asian Countries', OECD, 11 May 2017, CISEDB50AD5044, pp.46-47
[178] 'New bill introduces conditional unemployment benefits', Malaysiakini, 1 August 2017, CXC90406611469
[179] 'A Decade of Social Protection Development in Selected Asian Countries', OECD, 11 May 2017, CISEDB50AD5044, p.60
[180] 'Report on Key Findings FIFTH MALAYSIAN POPULATION AND FAMILY SURVEY {MPFS-5] 2014', Ministry of Women, Family and Community Development and National Population and Family Development Board, 2016, CIS38A80124919, p.28
[181] Freedom in the World 2017 – Malaysia, Freedom House, 12 July 2017, NG2A465F591, section A
[182] Freedom in the World 2017 – Malaysia, Freedom House, 12 July 2017, NG2A465F591, section A
[183] Freedom in the World 2017 – Malaysia, Freedom House, 12 July 2017, NG2A465F591, section A
[184] Freedom in the World 2017 – Malaysia, Freedom House, 12 July 2017, NG2A465F591, section A
[185] Freedom in the World 2017 – Malaysia, Freedom House, 12 July 2017, NG2A465F591, section B
[186] Freedom in the World 2017 – Malaysia, Freedom House, 12 July 2017, NG2A465F591, Executive summary
[187] Freedom in the World 2017 – Malaysia, Freedom House, 12 July 2017, NG2A465F591, section C

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1MDB. [188] Najib then promoted four members of a parliamentary committee investigating 1MDB to his cabinet, temporarily halting the committee's work.[189] In November 2016, a court found opposition politician Rafizi Ramli guilty of disclosing state secrets after he made public the Auditor General's report on the 1MDB scandal.[190]

Pakatan Rakyat/Pakatan Harapan

The opposition Pakatan Rakyat coalition regrouped as the Pakatan Harapan coalition in September 2015. The three party Pakatan Rakyat coalition previously led by the People's Justice Party, won more votes than BN but lost the 2013 election due to the country's first-past-the-post system.[191] The Pakatan Rakyat alleged that electoral irregularities and systemic disadvantages due to a lack of media access and gerrymandered districts favouring the ruling coalition.[192] In 2015, Opposition Leader, and former Deputy Prime Minister Anwar Ibrahim began a five year prison term on sodomy charges that international observers view as politically motivated.[193] Pakatan Rakyat was dissolved in June 2015 and then re-configured as Pakatan Harapan.[194] Pakatan Harapan, a coalition[195] of four parties currently led by former Prime Minister Mahathir Mohammad, has agreed that if the coalition is successful in the 2018 general election, Anwar Ibrahim will accede leadership once released from prison and given a royal pardon.[196]

Freedom of expression

Freedom of expression is constitutionally guaranteed but restricted in practice. The government uses the Sedition Act and the Communications and Multimedia Act to detain and prosecute critics.[197] Although the application of the Sedition Act has reduced significantly since 2015.[198] During 2017 the Communications and Multimedia Act was used repeatedly to investigate and arrest those who criticised government officials in the media and on social media.[199] The Malaysian Communication and Multimedia Commission monitors the internet and has the authority to remove material considered provocative or subversive.[200] The government engages in legal harassment of critical voices, charging them under defamation laws, the Official Secrets Act, and the Sedition Act.[201]

Authorities increasingly rely on the use the Communications and Multimedia Act to silence those who are critical of the government online. Since 2015 authorities have shifted away from using the Sedition Act but increased the application of the Communications and Multimedia Act.[202] In 2017 there were more than 250 cases being investigated under the Communications and Multimedia Act for criticism of government officials through various online platforms such as social media.[203] The Act criminalises the 'misuse of network facilities' for criticising the government or for government-related satire.[204] Section 233(1) provides criminal penalties of up to one-year imprisonment for communication that is indecent, obscene, false, threatening, or offensive to another person.[205] Although many cases have been dropped prior to trial, one-year prison sentences have been given

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[188] Freedom in the World 2017 – Malaysia, Freedom House, 12 July 2017, NG2A465F591, section C
[189] Freedom in the World 2017 – Malaysia, Freedom House, 12 July 2017, NG2A465F591, section C
[190] Freedom in the World 2017 – Malaysia, Freedom House, 12 July 2017, NG2A465F591, section B
[191] Malaysia 2016 Human Rights Report, US Department of State, 3 March 2017, OGD95BE926855, p.1
[192] Malaysia 2016 Human Rights Report, US Department of State, 3 March 2017, OGD95BE926855, p.1
[193] Malaysia 2016 Human Rights Report, US Department of State, 3 March 2017, OGD95BE926855, p.8
[194] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, section 2.19, p.7
[195] Pakatan Harapan coalition: Leader Anwar Ibrahim, Chairman Mahathir Mohammad. Member parties: People's Justice Party, Malaysian United Indigenous Party, National Trust Party and Democratic Action Party.
[196] Mahathir Mohamad named opposition candidate for Malaysian PM, *The Straits Times,* 7 January 2018, CXBB8A1DA22794
[197] Amnesty International Report 2017/18, Amnesty International, 22 February 2018, NGED867A612, p.250
[198] SUARAM Human Rights Report 2017 Overview, Suara Rakyat Malaysia (SUARAM), 20 February 2018, CIS7B83941337, p.17
[199] World Report 2018, Human Rights Watch, 18 January 2018, NGED867A63, p.352
[200] Freedom in the World 2017 – Malaysia, Freedom House, 12 July 2017, NG2A465F591, section D
[201] Freedom in the World 2017 – Malaysia, Freedom House, 12 July 2017, NG2A465F591, section D
[202] SUARAM Human Rights Report 2017 Overview, Suara Rakyat Malaysia (SUARAM), 20 February 2018, CIS7B83941337, p.17
[203] SUARAM Human Rights Report 2017 Overview, Suara Rakyat Malaysia (SUARAM), 20 February 2018, CIS7B83941337, pp.18-21
[204] Amnesty International Annual Report 2017-18, Amnesty International, 22 February 2018, NGED867A612, p.249
[205] Freedom on the Net 2017 - Malaysia, Freedom House, 14 November 2017, NG2A465F5246;
World Report 2018, Human Rights Watch, 18 January 2018, NGED867A63, p.352

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handed-down to those who are critical of government officials online.[206] Those prosecuted under the Act have included bloggers, the CEO and editor-in-chief on online new platform *Malaysiakini*[207], and a Facebook user amongst others.[208]

Freedom of assembly

In the recent years, freedom of assembly has seen a notable improvement with less severe crackdown and harassment against peaceful assemblies and organisers of assemblies. During 2017 sporadic arrests were made during some events however assemblies were mostly peaceful.[209] Freedoms of assembly and association are limited on the grounds of maintaining security and public order.[210] Under Section 9 of Peaceful Assembly Act activists and organisers of assemblies can be investigated for failure to provide a 10-day notice to the police or for organising an assembly near a restricted area.[211] During recent years Malaysian authorities have prosecuted individuals who hold peaceful assemblies without giving notice.[212] In July 2017, the Kota Kinabalu High Court reversed an earlier acquittal by the Magistrate's Court of Sabah Berish 4.0 chairperson Jannie Lasimbang who had been charged under Section 9 of the Act.[213] Parliamentarians and activists were charged after joining the peaceful #KitaLawan (We Fight) protest rally. Charges against Maria Chin Abdullah, Mandeep Singh and Sim Tze Tzin were initially dismissed by the courts, but brought again on 4 October 2017.[214]

Civil society organisations

Deteriorating freedom of expression throughout Malaysia has led to an increase in self-censorship among civil society organisations. A number of domestic and international civil society and human rights organisations operate in Malaysia and actively comment on issues such as the legislative environment, the rights of women in Islam and government human rights practices.[215] While these organisations are generally able to function independently, some report that engagement with the government can be difficult and their advocacy is largely ignored.[216] The government's registrar of societies has prevented the registration of organisations deemed unfriendly to the government, and authorities regularly use registration issues as a basis for investigating organisations.[217]

State protection

Law enforcement

Law enforcement operates at both the federal and state level. The Royal Malaysian Police (RMP) reports to the federal Minister for Home Affairs and is responsible for law enforcement nationwide.[218] The National Department of Islamic Development (JAKIM) enforces Sharia law and has jurisdiction

[206] Freedom on the Net 2017 - Malaysia, Freedom House, 14 November 2017, NG2A465F5246
[207] World Report 2018, Human Rights Watch, 18 January 2018, NGED867A63, p.352
[208] Freedom on the Net 2017 - Malaysia, Freedom House, 14 November 2017, NG2A465F5246
[209] SUARAM Human Rights Report 2017 Overview, Suara Rakyat Malaysia (SUARAM), 20 February 2018, CIS7B83941337, p.26
[210] Freedom in the World 2017 – Malaysia, Freedom House, 12 July 2017, NG2A465F591, section E
[211] SUARAM Human Rights Report 2017 Overview, Suara Rakyat Malaysia (SUARAM), 20 February 2018, CIS7B83941337, p.26
[212] Amnesty International Annual Report 2017-18, Amnesty International, 22 February 2018, NGED867A612, p.249
[213] Amnesty International Annual Report 2017-18, Amnesty International, 22 February 2018, NGED867A612, p.249; SUARAM Human Rights Report 2017 Overview, Suara Rakyat Malaysia (SUARAM), 20 February 2018, CIS7B83941337, p.26
[214] Amnesty International Report 2017/18, Amnesty International, 22 February 2018, NGED867A612, p.249; SUARAM Human Rights Report 2017 Overview, Suara Rakyat Malaysia (SUARAM), 20 February 2018, CIS7B83941337, p.26
[215] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, section 3.66, p.16
[216] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, section 3.66, p.16
[217] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, section 3.66, p.17
[218] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, section 5.1, p.25

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over Muslims in Kuala Lumpur and two other federal territories.[219] The People's Volunteer Corps (RELA), a federal paramilitary civilian corps under the Ministry of Home Affairs, assists security forces.[220] RELA's engagement in law enforcement activities has significantly reduced in recent years.[221] NGOs have reported that inadequate training has led to abuses by RELA members such as extortion and theft.[222]

Corruption

Government favouritism and blurred distinctions between public and private enterprises create conditions conducive to corruption. Officials regularly move back and forth between the private and public sectors, fostering opportunities for collusion and graft, while political parties are allowed to own or have financial holdings in corporate enterprises.[223] A 2013 survey of executives from 100 listed companies found that 71 per cent of respondents believed that bribery and corruption are an inevitable cost of doing business in Malaysia.[224] Transparency International's 2017 corruption index showed Malaysia fell seven places to 62nd globally,[225] while surveys show that Malaysians are sceptical of the government's anti-corruption efforts.[226] Journalists, activists and politicians who have reported or criticised high-level corruption have been harassed or prosecuted.[227] In July 2017, a coalition of civil society organisations called for the formation of an independent body to tackle corruption in the country.[228]

The Malaysian Government have sought to suppress dissent related to the 1MDB scandal. Officials, including Prime Minister Najib, are alleged to have misappropriated hundreds of millions of dollars from the state-owned development company 1Malaysia Development Berhad (1MDB).[229] In response, Najib's government has purged opponents and used draconian laws to silence critics.[230] Protests have been broken up by police and protest leaders have been harassed or charged under the Sedition Act,[231] while media outlets have been suspended for reporting that was allegedly prejudicial to public order.[232] Democratic Action Party (DAP) Parliamentary Leader Lim Kit Siang was suspended from parliament for six months in October 2015 for refusing to retract accusations that the Parliamentary Speaker was intentionally delaying an investigation into 1MDB corruption claims.[233]

Anti-corruption mechanisms

Malaysian law provides criminal penalties for corruption, but enforcement is typically focused on low level crime. Authorities do arrest and prosecute bribe-taking officials and individuals paying bribes,[234] but corrupt senior officials or members of the governing coalition largely escape sanction.[235] In August 2016, the top three officials at the Malaysian Anti-Corruption Commission (MACC) retired or transferred to other ministries in a move that was interpreted by opposition leaders and civil society

[219] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, section 5.1, p.25
[220] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, section 5.1, p.25
[221] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, section 5.1, p.25
[222] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, section 5.1, p.25
[223] Freedom in the World 2015: Malaysia, Freedom House, May 2015, NG5A1E6BC218
[224] KPMG Malaysia fraud, bribery and corruption survey 2013, KPMG International Cooperative, 10 December 2013, CIS36DE0BB2150, p.42
[225] Corruption Perceptions Index 2017, Transparency International, 21 February 2018, CIS7B83941307; NOW offers to create Malaysia's own corruption index, Malaysiakini, 27 February 2018, CXBB8A1DA23044
[226] Political parties perceived to be most corrupt, says survey, Malaysian Insider, 14 May 2014, CX1B9ECAB9553
[227] Malaysia 2016 Human Rights Report, US Department of State, 3 March 2017, OGD95BE926855, pp.19-20
[228] Civil Society Coalition Calls for Separate Independent Anti-Corruption Body, Star Online, The, 19 July 2017, CXC90406610586
[229] End "far-reaching" crackdown in wake of corruption scandal, Amnesty International, 4 August 2015, CXBD6A0DE11313
[230] Six Countries to Watch in 2016, Freedom House, 3 February 2016, CX6A26A6E7194
[231] End "far-reaching" crackdown in wake of corruption scandal, Amnesty International, 4 August 2015, CXBD6A0DE11313
[232] End "far-reaching" crackdown in wake of corruption scandal, Amnesty International, 4 August 2015, CXBD6A0DE11313
[233] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, section 3.57, p.15
[234] Cop arrested for alleged corruption in kidnap case, Star Online, The, 30 July 2017, CXC90406611252
[235] Malaysia 2016 Human Rights Report, US Department of State, 3 March 2017, OGD95BE926855, p.19

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organisations as a blow for transparency in the country.[236] The MACC's new leadership, however, has since conducted several high-profile cases and arrested senior officials from both the public and private sectors, including recovering RM114 million (AUD 33.6 million) from two top Sabah Water Department officials suspected of giving contracts to relatives and charging Abdul Aziz Zainal, the chair of Bank Rakyat, for abetting the theft of almost RM15 million (AUD 3.37 million).[237] In July 2017, the Royal Malaysia Police (RMP) signed an anti-graft pledge which anti-corruption bodies and civil society organisations said was a significant step towards accountability.[238] Rates of corruption in Malaysia remain relatively low in comparison to other countries in the region.[239]

Crime

Malaysian authorities periodically crack down on criminal gangs and crime syndicates. In August 2013, the RMP launched Ops Cantas Khas, focusing on weapons seizures and targeting gang members, leaders and their assets.[240] Police claimed that they had identified 49 illegal gangs nationwide with 40,000 members – 70 per cent of whom were ethnic Indian[241] – who are linked to armed robberies, drug and prostitution rings, loan-sharking, gambling, and extortion and contract killings.[242] Authorities claim that the crackdown has led to a reduction in crime.[243] A second stage of the campaign – Op Cantas Khas 2 – was launched in August 2016.[244] In January 2018 a nationwide operation known as Operation Cantas Silver resulted in the arrest of 36 suspected members of Gang 04 who are allegedly involved in violent crimes including robbery, extortion, arson and drug trafficking.[245] Gang members are charged under section 130 V of the Penal Code and section 130 W of the Penal Code for being members of the group and assisting an organised crime group.[246]

Death penalty

Capital punishment applies in Malaysia for a number of offences, including drug trafficking, murder, acts of terrorism and offences against the King. In practice, the death penalty is most commonly applied for drug trafficking and premediated murder.[247] People sentenced to death by the High Court have an automatic right to judicial review of their sentence by the Court of Appeal and the Federal Court, and are also able to seek clemency from the relevant state ruler or the King.[248] Malaysia does not traditionally release data on the number of people executed, but an estimated two to three death sentences were carried out in each of 2013 and 2014.[249] Prisoners typically languish on death row for years and there is no established procedure for notifying families of scheduled executions.[250]

Malaysia introduced legislation that removes the mandatory death sentence for drug traffickers under limited circumstances. In November 2017 parliament passed the Dangerous Drugs (Amendment) Bill 2017to remove the mandatory death sentence for drug-related offences by giving judges the discretion to punish drug offences with either life imprisonment or hanging.[251]

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[236] Malaysia 2016 Human Rights Report, US Department of State, 3 March 2017, OGD95BE926855, p.20
[237] A tough year for MACC boss – and it remains uphill, Star Online, The, 2 August 2017, CXC90406611481 and Malaysia 2016 Human Rights Report, US Department of State, 3 March 2017, OGD95BE926855, p.20
[238] Anti-graft pledge by police hailed as a good move, Star Online, The, 27 July 2017, CXC90406610992
[239] Malaysia Corruption Report, GAN Integrity, 1 November 2016, CIS38A80123529
[240] Cops deal crime a crippling blow since Ops Cantas Khas launch, Star Online, 23 September 2013, CXC28129414715
[241] Malaysia's gang menace, Aljazeera, 11 July 2014, CX1B9ECAB10299
[242] Malaysia's gang menace, Aljazeera, 11 July 2014, CX1B9ECAB10299
[243] 79,414 individuals detained throughout 'Ops Cantas Khas', Bernama (Malaysian National News Agency), 10 June 2014, CX1B9ECAB11435
[244] Op Cantas crackdown on triads: 1,444 arrested, Astro Awani, 13 August 2016, CX6A26A6E8262
[245] 36 suspected underworld gang members arrested in Malaysia, *Bernama (Malaysian National News Agency)*, 20 February 2018, CXBB8A1DA22559
[246] 36 suspected underworld gang members arrested in Malaysia, *Bernama (Malaysian National News Agency)*, 20 February 2018, CXBB8A1DA22559
[247] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, section 4.10, p.23
[248] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, section 4.10, p.23
[249] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, section 4.12, p.23
[250] Amnesty International, February 2017, NG2A465F54, p.243
[251] No more mandatory death sentence soon as amendments to Dangerous Drugs Act passed in Parliament, *New Straits Times,* 30 November 2017, CXC90406618546

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However judicial discretion is limited only to certain circumstances under specified in section 39B(2A) of the Bill;[252] namely where the accused is a merely a drug courier and has assisted law enforcement in disrupting drug trafficking activities.[253] The amendment Bill does not apply in retrospect for previous convictions.[254] At least 10 persons have received the mandatory death penalty for drug trafficking despite Parliament having already enacted the Bill to abolish the penalty.[255]

Royal Malaysian Police (RMP)

The RMP are a professional and effective force, but are prone to corruption. The RMP is responsible for law enforcement nationwide,[256] and has demonstrated a willingness and capacity to tackle crime and enforce the law.[257] In recent years, the RMP has launched crackdowns on criminal gangs, crime syndicates and loan sharks,[258] while in July 2017 a human trafficking hotline was set up through which reports will be submitted to police.[259] Credible sources say the RMP is a generally professional and effective force and is well-trained and equipped;[260] however, it can be limited in its effectiveness in investigations,[261] and officers receive limited training in areas like human rights.[262] Malaysian law permits police to arrest and detain individuals for some offences without a warrant.[263] A 2017 Transparency International survey found that 57 per cent of Malaysian respondents thought that corruption was a problem within the RMP – a result that was significantly above the regional average.[264]

Judiciary

The majority of cases in Malaysian courts are processed in accordance with the rule of law. The Malaysian Constitution states all people are equal before the law and are entitled to equal protection, and defendants are presumed innocent until proven guilty.[265] Trials are public[266] and strict rules of evidence apply in court; however, the government does not consistently make evidence available to defence counsel.[267] Defendants generally have adequate time to prepare a defence if they have the means to engage private counsel, although government legal aid resources are limited and often of poor quality.[268] Defendants have the right to counsel at public expense if facing charges

[252] A Call to End the Mandatory Death Penalty in Malaysia, *Union Internationale des Avocates (UIA)*, 20 February 2018, CXBB8A1DA22745
[253] Amnesty International Report 2017/18, Amnesty International, 22 February 2018, NGED867A612, p.250
[254] Parliament removes mandatory death penalty for drug offences, judges to get discretion, *Malay Mail*, 30 November 2017, CXC90406618547
[255] A Call to End the Mandatory Death Penalty in Malaysia, *Union Internationale des Avocates (UIA)*, 20 February 2018, CXBB8A1DA22745
[256] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, section 5.1, p.25
[257] Cops deal crime a crippling blow since Ops Cantas Khas launch, Star Online, The, 23 September 2013, CXC28129414715 and Op Cantas crackdown on triads: 1,444 arrested, Astro Awani, 13 August 2016, CX6A26A6E8262;
Police bust largest money-lending syndicated (Updated), The Sun Daily, 23 May 2016, CX6A26A6E7820
[258] Cops deal crime a crippling blow since Ops Cantas Khas launch, Star Online, The, 23 September 2013, CXC28129414715;
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36 suspected underworld gang members arrested in Malaysia, *Bernama (Malaysian National News Agency)*, 20 February 2018, CXBB8A1DA22559
[259] Hotline set up in bid to tackle human trafficking, Star Online, The, 31 July 2017, CXC90406611249
[260] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, section 5.1, p.25;
Malaysia 2016 Crime & Safety Report, US Department of State, 29 February 2016, CIS38A80121034, p.11
[261] Malaysia 2017 Crime & Safety Report, US Department of State, 3 March 2017, CISEDB50AD5221, p.5
[262] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, section 5.5, p.25
[263] Malaysia 2016 Human Rights Report, US Department of State, 3 March 2017, OGD95BE926855, p.4
[264] Global Corruption Barometer – Asia Pacific, Transparency International, 28 February 2017, CISEDB50AD5225, p.41
[265] Malaysia 2016 Human Rights Report, US Department of State, 3 March 2017, OGD95BE926855, p.7
[266] Malaysia 2016 Human Rights Report, US Department of State, 3 March 2017, OGD95BE926855, p.7
[267] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, section 5.11, p.26;
Country Reports on Human Rights Practices for 2016 – Malaysia, US Department of State, 3 March 2017, OGD95BE926855, section 1.e, p.8
[268] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, section 5.11, p.26

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that carry the death penalty and may apply for a public defender in certain other cases.[269] Authorities provide defendants free interpretation in Malay, Mandarin, Tamil and some other commonly used dialects from the moment they are charged.[270] Credible sources say that Malaysian courts are relatively efficient in settling disputes.[271]

Judicial independence can be compromised by extensive and increasing executive interference. Malaysia's highest courts are influenced by political or religious affiliation.[272] Arbitrary or politically motivated verdicts do occur,[273] and members of the bar, NGO representatives and other observers have cited a number of high-profile instances of arbitrary verdicts, selective prosecution and preferential treatment of some litigants and lawyers,[274] such as the conviction of former deputy prime minister and opposition leader Anwar Ibrahim on charges of corruption and sodomy in 1999, 2000 and 2014.[275] The Prime Minister plays a key role in the appointment of members of the Judicial Appointments Commission – the body which selects judges.[276] Judges receive relatively low salaries, limited training, and appointments are often made directly from university.[277] Defendants may appeal court decisions to higher courts, but only if the appeal raises a question of law or if material circumstances raise a reasonable doubt regarding conviction or sentencing – restrictions that the country's bar council has claimed are excessive.[278]

Sharia courts result in vastly different treatment of Muslims and non-Muslims in personal and family issues. Muslims are subject to Sharia (Islamic law), the interpretation of which varies regionally, and Article 121 of the country's Constitution that stipulates all matters relating to Islam should be heard in Sharia courts.[279] This results in vastly different treatment of Muslims and non-Muslims regarding 'moral' and family law issues.[280] The interpretation of Sharia varies regionally, and credible sources say the jurisdictional lines between Sharia and civil courts are increasingly indistinct.[281] State-level Sharia courts generally apply Sharia law in accordance with their rules of procedure but also have low capacity.[282] Due to the nature and focus of Sharia-based law, Sharia courts have a disproportionately negative impact on transgender individuals, domestic violence victims and women in child custody cases.[283]

Loan sharks

The practice of illegal money lending is widespread in Malaysia but victims are often reluctant to report problems to police because of threats from loan sharks or embarrassment. Illegal money lending is an offence under Malaysian law and can attract a fine or five years in prison.[284] Loan sharks often target gamblers and drug addicts, and police have shown a willingness to take action against them.[285] However, a lack of cooperation from victims and other members of the public

[269] Malaysia 2016 Human Rights Report, US Department of State, 3 March 2017, OGD95BE926855, p.7
[270] Malaysia 2016 Human Rights Report, US Department of State, 3 March 2017, OGD95BE926855, p.7
[271] Malaysia Corruption Report, GAN Integrity, 1 November 2016, CIS38A80123529
[272] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, section 5.11, p.26
[273] BTI Malaysia Country Report 2016, Bertelsmann Stiftung, 29 February 2016, CIS38A8012356, p.11
[274] SUARAM Human Rights Reports 2015 Overview, Suara Rakyat Malaysia (SUARAM), 9 December 2015, CISEC96CF14220, p.8;
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[275] Freedom in the World 2017 – Malaysia, Freedom House, 12 July 2017, NG2A465F591, section F
[276] Malaysia: anti-corruption measures need strengthening, Transparency International, 28 July 2015, CXBD6A0DE18759
[277] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, section 5.11, p.26
[278] Country Reports on Human Rights Practices for 2015 – Malaysia, US Department of State, 13 April 2016, OGD95BE926273, section 1.e, pp.7-8
[279] Freedom in the World 2017 – Malaysia, Freedom House, 12 July 2017, NG2A465F591, section F
[280] Freedom in the World 2017 – Malaysia, Freedom House, 12 July 2017, NG2A465F591, section F
[281] United States Commission on International Religious Freedom – Malaysia Chapter – 2017 Annual Report, United States Commission on International Religious Freedom, 26 April 2017, CISEDB50AD4393
[282] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, section 5.14, p.26
[283] Uncertain Role for Female Shariah Judges in Malaysia, The New York Times, 14 July 2010, CX744258517299 and Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, section 5.14, p.26
[284] KL Consumer Safety Association - No need to fear the loan sharks, Bernama (Malaysian National News Agency), 17 February 2015, CXBD6A0DE1580
[285] Sabah Police probe nine Ah Long cases in 2013,The Malaysian Times, 3 January 2014, CX1B9ECAB11427;
Malacca police investigates 29 Ah long cases since January 2013, Malaysia Edition, 28 December 2013, CXC28129414704

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as a result of threats or embarrassment is a major barrier to prosecuting loan shark syndicates,[286] while credible sources suggest that Malaysian authorities may also view individuals who access loan shark services as having participated in an illegal practice.[287] In May 2016, police disrupted the largest illegal money-lending syndicate in Malaysia.[288]

Domestic violence/familial abuse

Family violence

Domestic violence remains prevalent in Malaysia, despite laws prohibiting it. Malaysian law prohibits domestic violence, including physical injury and mental, emotional and psychological abuse.[289] A husband who harms his wife in order to force her to have sex – or who causes her to fear for her life – can be jailed for up to five years; however, non-consensual sex between a husband and wife is otherwise not considered rape under the country's penal code.[290] Domestic violence victims can obtain protection orders which attract a prison sentence of up to one year or a fine if breached, although this process has been criticised as onerous and placing a high burden of proof on the complainant.[291] The Malaysian Government has taken steps to reduce the prevalence of domestic violence and conviction rates have increased.[292] In August 2017, the country's parliament passed a law enlarging the definition of domestic violence to include the misappropriation of property, threatening a victim, communicating with or about a victim in a way that insults their 'modesty', as well as also ensuring protection for male victims.[293] However, contradictions between civil and Sharia law still affect the level of protection available to victims.[294] Under Sharia law, wives are prohibited from disobeying the 'lawful order' of their husbands, which can make it difficult to convict a Muslim man of domestic violence.[295]

Government and non-government bodies provide shelter and wide-ranging assistance to victims of domestic violence, but these are often insufficient to meet the need. Almost every hospital in Malaysia has a crisis centre where victims of rape and domestic violence can make reports without going to a police station,[296] and which offer services such as examination by female doctors, evidence management, temporary shelter and legal assistance.[297] In 2011, UN Women reported that this model was extremely successful in combining clinical therapeutic responses with secondary preventive measures.[298] NGOs and political parties also cooperate to provide counselling for rape victims.[299] Police in each state now maintain sexual investigations units to assist victims[300] The Ministry of Women, Family and Community Development organises legal literacy seminars designed

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[286] Police cooperate with Council to wipe out loan sharks, Daily Express, 28 December 2013, CX320164
[287] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, section 3.78, p.18
[288] Police bust largest money-lending syndicate (Updated), The Sun Daily, 23 May 2016, CX6A26A6E7820
[289] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, section 3.81, p.19
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Why it's hard to make marital rape a crime, Free Malaysia Today, 12 March 2017, CXC90406616307;
WAO: Why criminalising marital rape is important, Free Malaysia Today, 23 March 2017, CXC90406616314
[291] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, section 3.81, p.19;
Washing the Tigers: Addressing Discrimination and Inequality in Malaysia, Equal Rights Trust in partnership with Tenaganita, November 2012, CIS28954, pp.269-271
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[293] Dewan Negara passes Domestic Violence (Amendment) Bill 2017 and Private Employment Agencies (Amendment) Bill 2017, New Straits Times, 14 August 2017, CXC90406612113
[294] Domestic Violence, Women's Aid Organisation, n.d., accessed 16 August 2017, CISD9559B12503
[295] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, section 3.81, p.19
[296] One Stop Crisis Centre (OSCC), One Stop Crisis Centre (OSCC) website, 2017, CISEDB50AD5269
[297] Knowledge, attitude and practice among healthcare staffs in the Emergency Department, Hospital Universiti Sains Malaysia towards Rape Victims In One Stop Crisis Centre (OSCC), Medical Journal of Malaysia, 3 June 2015, CISEC96CF15553, p.162;
One Stop Crisis Centre (OSCC), One Stop Crisis Centre (OSCC) website, 2017, CISEDB50AD5269
[298] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, section 3.83, p.19
[299] Malaysia 2016 Human Rights Report, US Department of State, 3 March 2017, OGD95BE926855, p.22
[300] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, section 3.82, p.19

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to inform women of their rights in cases related to issues such as marital problems and divorce.[301] Changes to the country's domestic violence laws in August 2017 allow authorised social welfare officers to issue emergency protection orders for domestic violence victims.[302] Police training on domestic violence is limited and women's groups assert that they need further training in handling cases.[303] Credible sources also suggest that access to facilities like shelter services are insufficient to meet the need.[304]

Early and forced marriage

Sharia courts typically approve applications for child marriage despite laws stipulating the minimum age at which girls can get married. In Malaysia, the minimum age of marriage is 18 years for men and 16 years for women.[305] However, Muslim women younger than 16 may marry with the approval of a Sharia court.[306] According to the country's Sharia Judiciary Department, there were 10,270 child marriage applications between 2005 and 2015, and, in some cases, authorities treat early marriage as a solution to statutory rape as men accused of rape marry their alleged victim to avoid criminal charges.[307] Official figures demonstrate an increase between 2000 (55,915) and 2010 (82,382) in the number of females aged 15 to 19 getting married, although the real numbers are believed to be higher given underreporting of unregistered/unofficial customary and forced marriages.[308]

Malaysian authorities have taken limited steps to regulate early marriages and the sexual abuse of young girls. In October 2016, the Ministry of Women, Family, and Community Development said it had established a taskforce to regulate early marriages and limit abuses.[309] Malaysia's parliament voted down an attempt to ban child marriage in April 2017, but passed a new child sex crimes law.[310] The law criminalises 'grooming' of minors, includes penalties for making and possessing pornography involving people aged under 18, and involves the establishment of a special court to deal with child sexual abuse cases more quickly.[311] According to the National Fatwa Council, early marriages are no longer seen as a 'healthy' practice and should only be permitted where it is done 'to care for the child's needs'.[312] A 2016 UNICEF Malaysia poll suggests that public opinion may be turning against early marriage – particularly among young people – with 95 per cent of respondents saying that marrying a 14 year-old is wrong and 86 per cent saying the minimum age to get married should be set at 18.[313]

Islamic Family Law stipulates that Muslim women may only marry with the consent of a male guardian, but using force or threat to compel a woman to marry or to reject a proposal can lead to a fine or imprisonment. Malaysia's Law Reform (Marriage and Divorce) Act states that all marriage must be based on mutual consent, and using force or threat to compel a woman to marry against her will or to prevent her from getting married is punishable with a fine or imprisonment.[314] However, Islamic Family Law stipulates that marriages are not fully recognised without the consent of the 'wali', the

[301] Good Practices: Eliminating Violence Against Women and Children (EVAWC), Ministry of Women, Family and Community Development, Malaysia and ASEAN Commission on the Promotion and Protection of the Rights of Women and Children, n.d., accessed 15 August 2017, CISEDB50AD5272, p.38
[302] Minister urges victims of domestic violence to come forward, Bernama, 15 August 2017, CXC90406612117
[303] Refuse abuse: Finding the power to stop domestic violence, Star Online, The, 25 April 2014, CX1B9ECAB12950 and Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, section 3.81, p.19;
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[304] Working Together – Case Studies in Domestic Violence Response, 2015 Report, Women's Aid Organisation, 2015 CISEC96CF14713, p.34
[305] Malaysia 2016 Human Rights Report, US Department of State, 3 March 2017, OGD95BE926855, p.24
[306] Malaysia 2016 Human Rights Report, US Department of State, 3 March 2017, OGD95BE926855, p.20
[307] Malaysia's child brides, Aljazeera, 13 August 2016, CX6A26A6E16906 and Malaysia 2016 Human Rights Report, US Department of State, 3 March 2017, OGD95BE926855, p.20
[308] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, section 3.87, p.19
[309] Malaysia 2016 Human Rights Report, US Department of State, 3 March 2017, OGD95BE926855, p.20
[310] Malaysia passes child sex crimes law, does not ban child marriage, Reuters, 5 April 2017, CXC90406611583
[311] Malaysia passes child sex crimes law, does not ban child marriage, Reuters, 5 April 2017, CXC90406611583
[312] Are child marriages Islamic? Not exactly, says fatwa council, Malaysiakini, 2 December 2015, CXBD6A0DE19512
[313] 95% of Respondents to UNICEF Opinion Poll – Marriage to 14-Year-Old Girl 'Not OK', United National Children's Fund (UNICEF), 12 August 2016, CX6A26A6E16907
[314] Social Institutions and Gender Index 2014 – Malaysia, Organisation for Economic Co-operation and Development, 2014, CISEDB50AD5657, p.1

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woman's guardian.[315] A 'wali' may be the bride's birth father, paternal grandfather, brother, paternal uncle or any male relative from her paternal side.[316] They are responsible for the bride's life before she is married and are supposed to ensure that the proposed groom is a reliable and trustworthy person who will continue to meet his responsibilities towards the bride after marriage.[317] No information was found suggesting that adult Malaysian Muslim women are routinely forced to marry unwillingly; however, a 2012 report said that the 'wali' system means that they do not necessarily have the same right to freely choose their spouse and enter into marriage.[318] Where a 'wali' is not available, credible sources say that permission can be given by a judge or a person authorised by a judge, or a representative of the head of state.[319] A number of older reports from 2005 and 2006 refer to the practice of 'ijbar' in Kelantan and Kedah states, which allows a guardian to marry off an unmarried virgin without their consent.[320]

Female genital mutilation

Female Genital Mutilation (FGM or female circumcision) is widely practiced across Malaysia and is becoming increasingly common despite international criticism of the practice.
Malaysia's National Council of Islamic Religious Affairs issued a *fatwa* in 2009 that ruled female circumcision obligatory for Muslim women unless found to be physically harmful.[321] The Ministry of Health has developed guidelines on female circumcision and allows the practice to take place in healthcare facilities.[322] Female circumcision is often performed during infancy and a 2012 study found that 93 per cent of Muslim women respondents had undergone the practice.[323] The main reasons given for the practice are religious obligation, hygiene and cultural tradition.[324] In February 2018, representatives from Muslim-majority countries such as Bangladesh and Egypt criticised the practice as un-Islamic at the Constructive Dialogue session of the 69th session of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).[325]

[315] Social Institutions and Gender Index 2014 – Malaysia, Organisation for Economic Co-operation and Development, 2014, CISEDB50AD5657, p.1
[316] Wali, Singapore Government, 2015, CISEC96CF15597
[317] Wali, Singapore Government, 2015, CISEC96CF15597
[318] Washing the Tigers: Addressing Discrimination and Inequality in Malaysia, Equal Rights Trust and Tenaganita, November 2012, CIS28954, p.53
[319] Washing the Tigers: Addressing Discrimination and Inequality in Malaysia, Equal Rights Trust and Tenaganita, November 2012, CIS28954, p.53;
Marriage in the Absence of Wali Nasab: Procedural Difficulties in Obtaining Consent from a Wali Raja, Pertanika – official journal of the Universiti Putra Malaysia, 2015, CISEC96CF15598, p.306
[320] "Best Practices" – Progressive Family Laws in Muslim Countries, Woodrow Wilson International Center for Scholars, August 2005, CIS9BE2467857, p.17;
Knowing Our Rights: Women, family, laws and customs in the Muslim world, Women Living Under Mpauluslim Laws (WLUML), 2006, CIS23704, p.84
[321] Malaysia Still on the Wrong Path on Women's Rights, *The Diplomat,* 26 February 2018, CXBB8A1DA23247
[322] Malaysia 2016 Human Rights Report, US Department of State, 3 March 2017, OGD95BE926855, p.22
[323] Malaysia Still on the Wrong Path on Women's Rights, *The Diplomat,* 26 February 2018, CXBB8A1DA23247
[324] Malaysia 2016 Human Rights Report, US Department of State, 3 March 2017, OGD95BE926855, p.22
[325] Malaysia urged to abolish female genital mutilation, *The Star Online,* 22 February 2018, CXBB8A1DA2276

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Australian Government
Department of Home Affairs

Common Claims

Malaysia

Country of Origin Information Services Section (COISS)

Effective from 3 July 2018

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Ethnicity

Ethnic demographics

Malays are the dominant ethnic group in Malaysia. Along with a small number of other indigenous groups, they comprise 68.1 per cent of the country's population and are collectively known as bumiputera.[1] Chinese (24.8 per cent) and Indians (7.1 per cent) are the other major ethnic groups in Malaysia.[2] It is estimated that 80 per cent of the Indian population are Tamil.[3] Although the Malaysian Constitution forbids discrimination against citizens on the basis of gender, religion and race, it accords a special position for bumiputera, in effect permitting affirmative action policies that are widely considered to be discriminatory against other ethnic groups.[4] Chinese are the county's highest median income earners, while Indians and bumiputera are the lowest median income earners – both below the national median.[5]

Bumiputera

Bumiputera enjoy a special position in Malaysia that is not afforded to ethnic Chinese or Indians. Following May 1969 race riots, the government passed legislation aimed to ensure Malay political supremacy, and in 1971 promulgated the New Economic Policy that provided extensive benefits to the bumiputera community.[6] Although the New Economic Policy officially ended in 1991, economic policies since have changed little in character and continue to include special rights for the bumiputera while at the same time promoting rapid economic growth to ensure that all ethnic groups benefit economically.[7] The government limits opportunities for non-bumiputera in higher education and government employment.[8] Many industries are subject to race-based requirements that mandate bumiputera ownership levels.[9] Government procurement and licensing policies favour bumiputera-owned businesses.[10]

Chinese

Chinese Malaysians generally do not experience discrimination or violence on a daily basis, are represented in government, but may face low-level of official discrimination when attempting to gain entry to tertiary education. The Malaysian Chinese Association, part of the Barisan National (BN) coalition, has traditionally been the largest Chinese political party.[11] However, an increasing number of Chinese support the Democratic Action Party (DAP), one of three opposition parties of the Pakatan Harapan coalition.[12] Lim Guan Eng, an ethnic Chinese, was appointed as

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[1] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 2.4, p.5
[2] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 2.4, p.5
[3] World Directory of Minorities and Indigenous Peoples - Malaysia Indians, Minority Rights Group International, January 2018, CIS7B83941338
[4] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 2.22, p.8
[5] Malaysian Indian Blueprint, Prime Minister's Office, 21 April 2017, CISEDB50AD7705, pp.8-9
[6] BTI 2018 Country report Malaysia, Bertelsmann Stiftung, 22 March 2018, CIS7B83941547, pp.4-5
[7] BTI 2018 Country report Malaysia, Bertelsmann Stiftung, 22 March 2018, CIS7B83941547, p.5 and p.31
[8] World Directory of Minorities and Indigenous Peoples - Malaysia Indians, Minority Rights Group International, January 2018, CIS7B83941338;
World Directory of Minorities and Indigenous Peoples - Malaysia: Chinese, Minority Rights Group International, January 2018, CIS7B83941344;
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Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section G1
[9] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section 6, p.27
[10] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section 6, p.27
[11] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 3.6, p.11
[12] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 3.6, p.11

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finance minister following May 2018 elections.[13] There are no laws or constitutional provisions that directly discriminate against Chinese Malaysians.[14] However, non-bumiputera communities experience systematic discrimination in the distribution of state benefits.[15] Chinese are able to access public education but increasingly attend one of the 1,295 Chinese schools due to concerns about the quality of education and perceptions that the public curriculum has a strong focus on Islam.[16] Despite the removal of government-sanctioned ethnic quotas for public universities in 2002, Malaysia's admission decisions favour ethnic Malays and some ethnic Chinese miss out on a university place despite having high marks.[17] Chinese form the bulk of students at Malaysia's non-government universities.[18]

Indians

Indian Malaysians generally do not experience discrimination or violence on a daily basis but may face low levels of discrimination when attempting to gain entry to tertiary education. There are no laws or constitutional provisions that directly discriminate against Indian Malaysians.[19] However, non-bumiputera communities experience systematic discrimination in the distribution of state benefits.[20] Indians are able to access public education, with 524 state-based Tamil-language schools across Malaysia.[21] However, access to state-based tertiary education remains low, with approximately six per cent of student places at public universities offered to Indian applicants.[22]

Since 2009 the government has mandated initiatives aimed to improve the socio-economic position of Indian Malaysians. In recent years, the government has focused socio-economic policies on helping the lower economic percentile of the Indian community (estate Indians) to attain better education outcomes,[23] resulting in spending allocations exceeding RM1 billion for Tamil schools.[24] In 2017, the government published its 10 year Malaysian Indian Blueprint that outlines policies and mechanisms that have been implemented since 2009 which aim to lift the socio-economic position of Malaysian Indians.[25]

Indian Malaysians participate extensively in political life however thepredominant use of the Malay language can be a barrier to Indian employment in the civil service. Indian Malaysians participate freely in political life and the Malaysian Indian Congress forms part of the BN coalition.[26] In recent years there have been several ethnic Indian members of parliament including ministers and a president of the upper house.[27] In June 2018, the Mahathir government appointed an ethnic Indian Christian, Tommy Thomas, as Attorney General.[28] The predominant use of the Malay language can be a barrier to Indian Malaysian employment in the civil service.[29] More than 50 per cent of Indian

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[13] Malaysia's ruling party may be gone, but its racial policies survive, The Economist, 7 June 2018, CXBB8A1DA28917; The shape of things to come under Mahathir 2.0, Asia Times, 13 May 2018, CXBB8A1DA27542
[14] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 3.4, p.10
[15] BTI 2018 Country report Malaysia, Bertelsmann Stiftung, 22 March 2018, CIS7B83941547, p.7 and p.24
[16] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 3.8, p.11
[17] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 3.8, p.11
[18] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 3.8, p.11
[19] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 3.11, p.11
[20] BTI 2018 Country report Malaysia, Bertelsmann Stiftung, 22 March 2018, CIS7B83941547, p.7
[21] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 3.11, p.12
[22] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 3.11, p.12
[23] Malaysia Indian Blueprint, Prime Minister's Office, 21 April 2017, CISEDB50AD7705
[24] I'm committed to transforming Indian community, says Najib, The Malaysian Insight, 3 December 2017, CXC90406618619
[25] Malaysia Indian Blueprint, Prime Minister's Office, 21 April 2017, CISEDB50AD7705
[26] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 3.16, p.12
[27] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 3.16, p.12
[28] The changing face of Malaysian justice, The changing face of Malaysian justice, Asia Times, 6 June 2018, CXBB8A1DA28835; Malaysia's ruling party may be gone, but its racial policies survive, The Economist, 7 June 2018, CXBB8A1DA28917
[29] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 3.12, pp.11-12

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Malaysians are employed in low-income jobs but also represent a high proportion of professionals, including 38 per cent of the country's medical workforce.[30] In 2015, an Indian Malaysian was appointed as Chief of Police in Kuala Lumpur, the first non-Malay to hold this position.[31]

Religion

Islam is the dominant religion in Malaysia. Malaysia has continued its shift towards a more conservative approach to Islam, the majority religion.[32] Census figures from 2010 indicate that 61.3 per cent of the population practices Islam.[33] Significant religious minorities are Buddhists (19.8 per cent), Christians (9.2 per cent), Hindus (6.3 per cent) and Confucianists, Taoists and other traditional Chinese philosophies and religions (1.3 per cent).[34] The government automatically classes individuals born in Malaysia of Malay ethnicity as Muslim.[35] Rural areas – especially on the east coast of Peninsular Malaysia – are predominately Muslim, while the states of Sabah and Sarawak on the island of Borneo have higher numbers of non-Muslims.[36] A Muslim's status is recorded on their birth certificate and on their national identification card.[37] National identification cards do not distinguish between Sunni and Shi'a Muslims, instead the cards identify Muslims on their surface, but record other religious affiliation in encrypted form on a smart chip.[38] Following 2018 general elections, the new prime mistier ordered a review of the Malaysia's institution tasked with promoting Islam, the Islamic Development Department (Jakim), that would include how Islam is portrayed in society and its budget.[39]

Religious freedom

Sunni Islam is Malaysia's official interpretation of Islam. Although the Constitution states that Islam is the religion of the Federation and provides for religious freedom,[40] a 1996 *fatwa* supported by state laws, requires the country to follow Sunni teachings of the Shafi'i school and prohibits Muslims from possessing, publishing, or distributing material contrary to those teachings.[41] Non-Sunni interpretations of Islam are illegal and subject to action by religious authorities.[42] Sedition laws regulate and punish speech considered hostile to Islam.[43] Civil society activists have said that the government has selectively prosecuted speech allegedly denigrating Islam while largely ignoring criticism of other faiths.[44] During 2017, the government barred Muslims from converting to another religion, and imposed fines, detentions, and canings on those classified under the law as Muslim who contravened Sharia codes.[45]

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[30] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 3.12, pp.11-12
[31] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 3.12, p.12
[32] World Report 2018, Human Rights Watch, 18 January 2018, NGED867A63, p.355
[33] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section I, p.2
[34] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section I, p.2
[35] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 3.27, p.14
[36] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section I, p.2
[37] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 3.27, p.14
[38] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 3.27, p.14
[39] Malaysia's most powerful Islamic body faces scrutiny, The Straits Times, 18 June 2018, CXBB8A1DA29463
[40] Federal Constitution, Government of Malaysia, introduced 31 August 1957, amended 27 December 2007, reprinted 1 November 2010, The Commissioner of Law Revision, CISDCDCAAB1747, Article 11
[41] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p.3
[42] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, p.1
[43] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p.5
[44] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p.8
[45] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p.5

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Religious adherence

Apostasy is not a federal crime but Muslims are liable for punishment under Sharia law. Individuals born in Malaysia of Malay ethnicity are automatically classed as Muslim.[46] Muslims who wish to convert to another religion must obtain approval from a Sharia court.[47] In practice, those born Muslim are not permitted to convert out of Islam by a Sharia court.[48] Sharia courts show reluctance to allow for conversion out of Islam of those who had previously converted to Islam.[49] Apostasy from Islam is a criminal offence in Perak, Melaka, Sabah, and Pahang, punishable by a fine or jail, or up to six strokes of the cane in Pahang.[50] The maximum penalty for apostasy in the states of Kelantan and Terengganu is death.[51] However, this punishment is not yet enforceable due to restrictions by federal law, although apostates can still be liable for a fine, sent to counselling, be jailed or caned.[52]

Sharia courts only grant permission to convert out of Islam to individuals who were not born Muslim but converted to Islam during their life and then later seek reversion. Muslims who wish to convert to another religion must obtain approval from a Sharia court.[53] In practice, only those not born Muslim are granted permission to convert out of Islam by a Sharia court.[54] In a ten year period between 2000 and 2010 only 168 of 800 Muslims who attempted to convert out of Islam were given permission by Sharia courts, and these were all reversion cases.[55] It was reported in 2017 that 400 cases of Muslims were appealing to sharia courts to convert to another religion.[56] Only a Sharia court can provide a court order/letter of release from Islam that can be used to amend a person's religion on his/her identity card.[57]

Atheism is not illegal in Malaysia. In November 2017, the government stated that atheism was unconstitutional.[58] However, the Constitution provides for freedom of religion that includes the right not to practice a religion.[59] A Muslim should first obtain a certificate from a Sharia court to convert out of Islam.[60] In August 2017 two senior ministers in the Malaysian government generated controversy after they called for an investigation after members of the Malaysian chapter of the Atheist Republic posted a photo of their initial gathering on Facebook.[61] The deputy minister in charge of religious affairs said that the government needed to determine whether any Muslims were in the Atheist Republic photo and suggested using the "soft" approach by sending them for counselling.[62] The other

[46] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 3.27, p.14
[47] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p.3
[48] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p.3
[49] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p.3
[50] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p.3
[51] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p.3
[52] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p.5, 9
[53] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p.3
[54] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p.3
[55] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 3.60, p.18
[56] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section III, p.14
[57] Sarawak Shariah Court can hear apostasy cases, rules apex court, Bernama, 27 February 2018, CXBB8A1DA23564
[58] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p.8
[59] Lawyers: Being atheist, promoting atheism protected by Constitution, Malaymail Online, 25 November 2017, CXC90406620451
[60] Atheism is not unconstitutional, legal minds tell deputy minister, Free Malaysia Today, 24 November 2017, CXC90406620452;
[61] Intolerance Rising: Atheists at Risk in Malaysia, The Diplomat, 22 August 2017, CXC90406612572
[62] Malaysia probes atheist group after uproar over Muslim apostates, Reuters, 7 August 2017, CXC90406620455

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minister from the Prime Minister's Department said that "we have to bring them back to the right path".[63]

It is possible for an individual to live an atheist life in Malaysia. Population and Housing Census figures from 2010 suggested there were about 300,000 Malaysians who followed non-religious belief systems or did not believe in God.[64] Malaysian Muslims are generally not prosecuted for disbelief.[65] Some atheists maintain a low-profile in society and are known to socialise with likeminded people,[66] whereas other Muslims make no attempt to hide their atheism from society.[67] A range of atheist-focused organisations, Facebook pages, Twitter accounts and websites – some of which are no longer active – have been set up in recent years with the aim of allowing people who do not believe in God to come together.[68]

Religious discrimination

Malaysian authorities interfere in or prevent religious practice or worship of non-Sunni Islamic groups. The federal and state governments continued to forbid religious assembly and worship for groups considered to be deviant Islamic groups such as Shia, Ahmadiyya, and Al-Arqam.[69] Ahmadi Muslims have reported generally being able to maintain a worship centre but government religious authorities forbid them from holding Friday prayers stating that they could only be performed in an officially registered mosque.[70] In October 2017, the Muslim Consumer Association of Malaysia denounced the Ahmadiyya Muslim community in a press conference and police intervened to prevent a Muslim Consumer Association of Malaysia protest outside the Ahmadiyya Muslim headquarters.[71] During the past several years, local government authorities have permitted billboards stating that "Ahmadis are not Muslims" to be placed outside the Ahmadiyya Muslim headquarters.[72]

Malaysia's state government authorities may restrict the construction of official places of worship for some non-Islamic religious groups. Religious groups complain that the government has no transparent criteria for determining whether to register a religious group.[73] In cases where the government refuses to register a religious group, the group can attempt to register as a company.[74] In 2017, the government did not specifically allocate funds for non-Muslim religious groups, although some religious groups received sporadic funding for temple and church buildings and other activities.[75] Non-Muslim groups have reported some difficulties in obtaining permission from local authorities to build new places of worship, causing groups to use buildings zoned for residential or commercial use for religious services.[76] However, in March 2017 the state government of Penang announced that 32 plots of state land would be made available to non-Muslim religious groups to build churches and temples after groups complained about the lack of suitable places to construct houses of worship.[77]

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[63] Atheist Republic members need to be tracked down, says Malaysian Cabinet minister, The Straits Times, 8 August 2017, CXC90406620454
[64] Are Malaysia's atheists an endangered species or quietly burgeoning?, Malaysiakini, 13 July 2016, CX6A26A6E16914
[65] Intolerance Rising: Atheists at Risk in Malaysia, The Diplomat, 22 August 2017, CXC90406612572
[66] Intolerance Rising: Atheists at Risk in Malaysia, The Diplomat, 22 August 2017, CXC90406612572
[67] Moderation under threat as Malaysia faces Islamic tide, The Australian, 17 August 2017, CXC90406620453
[68] Are Malaysia's atheists an endangered species or quietly burgeoning?, Malaysiakini, 13 July 2016, CX6A26A6E16914
[69] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p.9
[70] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p.9
[71] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p.9
[72] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p.9
[73] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p.8
[74] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p.8
[75] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p.11
[76] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p.10
[77] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p.10

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Sharia law

Malaysia maintains a dual legal system with the coexistence of Sharia law alongside civil law. Malaysia's secular legal system is based on English common law.[78] Muslims are subject to Sharia (Islamic law), the interpretation of which varies regionally, and the constitution's Article 121 stipulates that all matters related to Islam should be heard in Sharia courts.[79] The dual legal system results in different treatment of Muslims and non-Muslims in "moral" and family law cases.[80] Although Shariah courts have jurisdiction only over matters involving Muslims, they remain highly influential in general, because their decisions frequently involve conversions to Islam, which in turn affect such matters as child-custody, burial rites and inheritance.[81] Two states, Kelantan and Terengganu, have symbolically enacted *hudood* (Islamic penal law), but the Malaysian government has not allowed the code to be implemented.[82] Some penalties imposed by Sharia courts are limited by federal civil law.[83]

See also 'State Islamic religious enforcement officers'

Interfaith and mixed marriages

Non-Muslims wishing to marry a Muslim must convert to Islam for the marriage to be officially recognised. There are two primary statutes in Malaysia for marriage, for civil marriage, the Law Reform (Marriage and Divorce) Act 1976,[84] and for Muslim marriage, Islamic Family Law Act (Federal Territories) 1984.[85] The civil law marriage and divorce act states that it does not apply to Muslims.[86] The only exception for a Muslim to marry a non-Muslim is when a Muslim man marries a *Kitabayah* (Christian whose ancestors were Christian before the prophethood of Muhammod).[87] In practice it is almost impossible to prove this ancestry.[88] For a marriage to be officially recognised, a non-Muslim must convert to Islam to marry a Muslim.[89] Malaysian authorities do not recognise marriages between Muslims and non-Muslims and consider children born of such marriages illegitimate.[90] Some Sunni and Shia Muslims intermarry and have family members that practice either form of Islam.[91]

Although non-Muslim interfaith and ethnic mixed marriages are legal some may face opposition from their community, family or friends. Malaysian law does not restrict the rights of non-Muslims to marry.[92] Conversion sometimes takes place due to marriage, with one partner choosing to convert or both partners choosing to adopt a new faith; however, this is not compulsory.[93]

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[78] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section F2; International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p.5
[79] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section F2; International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p.5
[80] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section F2
[81] BTI 2018 Country report Malaysia, Bertelsmann Stiftung, 22 March 2018, CIS7B83941547, pp.7-8
[82] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p.5; BTI 2018 Country report Malaysia, Bertelsmann Stiftung, 22 March 2018, CIS7B83941547, p.8
[83] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 5.3, p.35
[84] Law Reform (Marriage and Divorce) Act (164) 1976 (Malaysia), Federal Government of Malaysia, 6 March 1976, (amendments to 1 January 2006), the Commissioner of Law Reform, CISBE8E6BE702
[85] Islamic Family Law Act (Federal Territories) Act (303) 1984 (Malaysia), Federal Government of Malaysia, 27 June 1984, amendments to 1 January 2006, the Commissioner of Law Reform, CIS883493140
[86] Law Reform (Marriage and Divorce) Act (164) 1976 (Malaysia), Federal Government of Malaysia, 6 March 1976, (amendments to 1 January 2006), the Commissioner of Law Reform, CISBE8E6BE702, Part I, article 3(3)
[87] Solving the syariah – civil conflict, New Straits Times, 19 August 2017, CXC90406617998
[88] Ethnic and religious discrimination big challenge for Malaysia's minorities, Minority Rights Group International, 25 May 2011, CXCB3E63421379
[89] 2016 Report on International Religious Freedom – Malaysia, US Department of State, 1 August 2017, OGD95BE927132, p.3
[90] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section 1, p.9
[91] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 3.41, p.16
[92] Registration of Marriage For Non-Muslim, National Registration Department – Ministry of Home Affairs, n.d., accessed 10 August 2017, CISEDB50AD5251
[93] A M'sian union – interracial couples share their stories, Malaysiakini, 16 September 2016, CX6A26A6E16886; Interracial marriage as beacon of light in upholding Malaysia's unity, The Rakyat Post, 14 July 2015, CXBD6A0DE19504

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Malaysian law does not restrict the rights of people from different ethnic groups to marry,[94] although as Malaysian law considers all Malays to be Muslim, a non-Muslim of another ethnicity intending to marry a Malay must convert.[95] Individuals in a mixed marriage sometimes face pressure or stigma from within their family, friends or community, while couples of different ethnicities may also encounter racism.[96]

Arranged marriages

Arranged marriages have declined sharply in recent decades, and most Malaysians are free to choose their own husband or wife. Malaysia's Law Reform (Marriage and Divorce) Act states that all marriages must be based on mutual consent, and no restriction is placed on the rights of people from different ethnic groups, or non-Muslims, to marry.[97] Individuals sometimes face pressure or stigma from within their family, friends or community based on religious, social or cultural difference.[98] Using force or threat to compel a woman to marry against her will or to prevent her from getting married is punishable with a fine or imprisonment.[99] However, Malaysia does not recognise marriages between Muslims and non-Muslims,[100] and Islamic family law stipulates that marriages are not fully recognised without the consent of the *wali*, a male family member – typically a woman's father, paternal grandfather, brother or paternal uncle – who acts as guardian for a woman prior to their marriage.[101] A 2012 report said that the *wali* system means that Muslim women do not necessarily have the same right to freely choose their spouse and enter into marriage.[102]

Shia Muslims

Shia Islam is considered a deviant form of Islam and is prohibited under Malaysian law. Eleven out of fourteen states ban Shia Islam, and a Shia Muslim found to be proselytising can expect to be detained and prosecuted.[103] During 2017, the government forbade non-Sunni practice of Islam and arrested at least 25 Shia and detained others for celebrating Ashura.[104] However, despite legal barriers to their worship, most Shia Muslims live free from discrimination and violence on a day-to-day basis.[105] Government enforcement efforts generally focus on conversions and proselytisers, not assembly or worship, and very few arrests have resulted in charges being laid.[106] National identity cards do not distinguish Shias from other Muslims and there are no restrictions on their movement within Malaysia.[107]

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[94] Registration of Marriage For Non-Muslim, National Registration Department – Ministry of Home Affairs, n.d. accessed 10 August 2017, CISEDB50AD5251
[95] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, sections 2.6, p.5 and 5.32, p.40
[96] Interracial marriage as beacon of light in upholding Malaysia's diversity, The Rakyat Post, 14 July 2015, CXBD6A0DE19504; A M'sian union – interracial couples share their stories, Malaysiakini, 16 September 2016, CX6A26A6E16886
[97] Registration of Marriage For Non-Muslim, National Registration Department – Ministry of Home Affairs, n.d. (accessed 10 August 2017), CISEDB50AD5251
[98] Interracial marriage as beacon of light in upholding Malaysia's diversity, The Rakyat Post, 14 July 2015, CXBD6A0DE19504; A M'sian union – interracial couples share their stories, Malaysiakini, 16 September 2016, CX6A26A6E16886;
[99] Social Institutions and Gender Index 2014 – Malaysia, Organisation for Economic Co-operation and Development, 2014, CISEDB50AD5657, p.1
[100] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 3.104, p.25
[101] Social Institutions and Gender Index 2014 – Malaysia, Organisation for Economic Co-operation and Development, 2014, CISEDB50AD5657, p.1;
Wali, Singapore Government, 2015, CISEC96CF15597
[102] Washing the Tigers: Addressing Discrimination and Inequality in Malaysia, Equal Rights Trust and Tenaganita, November 2012, CIS28954, p.53
[103] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 3.42, p.16
[104] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p.5
[105] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 3.45, p.16
[106] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 3.44, p.16
[107] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 3.41, p.16

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Christians

Christians generally live free from discrimination and are free to practice their religion in Malaysia although they may face occasional harassment. Malaysian Christians are usually able to practise their religion without interference.[108] Official restrictions have been placed on their use of the word 'Allah' (Arabic for God), which Malaysian Christians claim to have used for centuries to practice their religion.[109] In 2008, the Home Affairs Ministry banned the Catholic newspaper, *The Herald*, from using 'Allah'.[110] This ban was upheld by both the Malaysian Court of Appeals and Federal Court.[111] In 2015, a protest took place in outside a Christian church in a predominately Muslim suburb in Medan demanding the removal of the cross on the church – the cross was removed.[112] Furthermore, in February 2017 an evangelical pastor suspected of converting Muslims to Christianity was abducted by masked individuals.[113] During 2017, the government cancelled a Christian prayer gathering to be held in Melaka State, saying it would upset the sensibilities of Muslims during Ramadan.[114]

Buddhists and Hindus

Buddhists and Hindus are normally able to practice their religion without interference and do not face official or societal discrimination on a day-to-day basis. Federal and state governments have supported the building of Hindu or Buddhist places of worship throughout Malaysia.[115] In 2013, the Malaysian Government allocated RM 2 million (AUD 660,533) for the building of a new Hindu complex in Selangor.[116] Hindus and Buddhists have faced some compulsory acquisitions of places of worship or occasional community backlash in response to relocated temples.[117] Fifty Muslim residents protested the relocation of a Hindu temple into their residential area by placing a severed cow's head at the front gate of the Selangor State Government office in 2009.[118] In January 2018 following the demolition of an illegally-constructed Hindu temple, the Johor Sultan offered support to obtain a new site, land for which the state government subsequently allocated, some 1.5 km away from the previous temple.[119]

Conversion

For apostasy see 'Religious adherence'

Non-Muslims are free to change their religious beliefs and affiliation, but they may face opposition from their community, family or friends. Malaysian law does not restrict the right of non-Muslims to convert to another religion.[120] A minor (under the age of 18, according to federal law) generally may not convert to another faith without the explicit permission of their parent or guardian,

[108] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 3.52, p.17
[109] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 3.47, pp.16-17
[110] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 3.47, pp.16-17
[111] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 3.47, pp.16-17
[112] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 3.49, p.17
[113] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 3.50, p.17
[114] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, pp.5-6
[115] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 3.55, p.17
[116] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 3.55, p.17
[117] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 3.54, p.17
[118] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 3.54, p.17
[119] Hindu temple demolition Johor Sultan steps in as peacemaker, offers relocation aid, Malaymail Online, 21 January 2018, CXBB8A1DA20539
[120] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p.4

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although some states allow conversion to Islam without parental permission after age 15.[121] Sometimes converts can face stigmatisation, especially those converting from Islam.[122] A non-Muslim wishing to marry a Muslim must convert to Islam for the marriage to be officially recognised.[123]

Unilateral conversion

On 29 January 2018 the Federal Court unanimously ruled that unilateral child conversion is unlawful. The Federal Court ruled that a child from a civil marriage can only be converted to Islam if both parents consent.[124] The Constitution's article 12(4) in English uses the word "parent" in the singular sense while article 12(4) of the Bahasa Malaysia translation uses the words "*ibu atau bapa*" (mother or father); however the court ruled that the Constitution's eleventh schedule has a clause on interpreting words in the singular to include the plural and vice versa.[125] Legislative amendments to the Federal Constitution and the *Law Reform (Marriage & Divorce) Act 1976* have yet to occur.[126] A Muslim coalition, the Movement to Defend Ummah, announced that it would file a judicial review in a bid to overturn the Federal Court decision.[127]

Historically, cases of unilateral child conversions favoured the Muslim parent. Prior to a Federal Court 2018 judgement that ruled unilateral child conversion unlawful,[128] the consent of only one parent was required to convert a child under Sharia laws and allows the Muslim parent to gain sole custody.[129] Despite Sharia courts being constitutionally subordinate to civil courts, in January 2016 the Federal Court of Appeal ruled that matters of conversion to Islam were at the sole discretion of Sharia courts.[130] As a result, Sharia courts often decided child custody cases where one parent has converted to Islam while the other has not, and historically favoured the Muslim parent.[131] There have been some high-profile cases of unilateral child conversions, mostly concerning Hindu fathers converting to Islam and claiming custody of their children.[132] Previously, when there had been competing orders by civil and Sharia courts regarding custody, police generally sided with Sharia decisions.[133]

Particular social groups

Lesbian, Gay, Bisexual, Transgender, Intersex (LGBTI)

[121] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p.4
[122] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section III, p.14
[123] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p4
[124] Amid language clash, Federal Court says conversion needs consent of both parents, Malaymail Online, 31 January 2018, CXBB8A1DA20998
[125] Amid language clash, Federal Court says conversion needs consent of both parents, Malaymail Online, 31 January 2018, CXBB8A1DA20998;
Annual Report of the US Commission on International Religious Freedom, US Commission on International Religious Freedom, 25 April 2018, CIS7B8394186, p.194
[126] Malaysian Bar All legislation must adhere to Federal Constitution, The Star Online, 4 February 2018, CXBB8A1DA21244
[127] Muslim civil society to challenge Federal Court decision on unilateral conversion, The Malaysian Insight, 7 February 2018, CXBB8A1DA21506
[128] Malaysian court says both parents must consent on children's religion, Reuters, 29 January 2018, CXBB8A1DA21004
[129] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 3.127, p.29
[130] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 3.128, p.29
[131] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p.11
[132] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 3.128, p.29
[133] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p.11

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Malaysian law criminalises homosexual acts. Section 377A of the Penal Code criminalises consensual same-sex sexual relations between adult men.[134] Punishment for same-sex sexual relations is up to 20 years in prison and some states apply their own penalties to Muslims under Sharia statues.[135] In practice, these sections of the Penal Code have infrequently been applied to homosexuals except where its application has been politically motivated.[136] Since 1938 the Penal Code has been invoked only seven times – four of those against former deputy prime minister Anwar Ibrahim.[137] Women found guilty of same-sex relations (*musahaqah*) can be punished by a fine, whipping or imprisonment.[138] The degree of severity and application of religious law varies from state to state.[139]

The LGBTI community face discrimination and harassment. The Malaysian Government has openly criticised LGBTI people in the past.[140] In June 2017, the Ministry of Health was criticised for launching a video competition about how to 'prevent gender confusion' that included 'gay, lesbian, transgender, transvestite and tomboy'.[141] The ministry subsequently removed the controversial wording following a meeting between the ministry and a prominent Malaysian LGBT activist.[142] The Ministries of Health and Education conduct campaigns to 'prevent, overcome, and correct' symptoms of homosexuality in children, moreover the Ministry of Information banned television and radio shows depicting gay characters.[143] The Malaysian Islamic Development Department operates camps to "rehabilitate" transgender Muslims.[144]

Homosexuals (gays and lesbians)

Homosexuals lead discreet lives to avoid discrimination. The level and frequency of discrimination faced by LGBTI individuals differs according to their socio-economic status, religion, geographic location and degree of openness.[145] Some well-educated urban Malaysians of high socio-economic status can be open about their sexuality within their family and social circles whereas other, especially Muslims, hide their identity to avoid harassment.[146] Homosexuals can typically live a normal life in Kuala Lumpur which the most gay-friendly city in the country.[147] There are a number of gay and

[134] Amnesty International Report 2017/18, Amnesty International, 22 February 2018, NGED867A612, p.250
[135] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section F4
[136] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 3.115, p.27;
Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section F1;
Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section 6, p.28
[137] Malaysia: On the Record: Violence Against Lesbians, Bisexual Women and Transgender Persons In Malaysia, International Gay and Lesbian Human Rights Commission, 6 May 2014, CIS2F827D91966, p.33;
Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section F1
[138] Malaysia: On the Record: Violence Against Lesbians, Bisexual Women and Transgender Persons In Malaysia, International Gay and Lesbian Human Rights Commission, 6 May 2014, CIS2F827D91966, pp.37-38
[139] Malaysia: On the Record: Violence Against Lesbians, Bisexual Women and Transgender Persons In Malaysia, International Gay and Lesbian Human Rights Commission, 6 May 2014, CIS2F827D91966, pp.37-38
[140] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 3.116, p.27
[141] Amnesty International Report 2017/18, Amnesty International, 22 February 2018, NGED867A612, p.250;
Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section F4
[142] Amnesty International Report 2017/18, Amnesty International, 22 February 2018, NGED867A612, p.250;
World Report 2018, Human Rights Watch, 18 January 2018, NGED867A63, p.356
[143] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section F4
[144] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section F4
[145] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 3.120, p.28;
Still in the Closet, Foreign Policy, 3 July 2014, CX1B9ECAB9835
[146] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 3.120, p.28;
Still in the Closet, Foreign Policy, 3 July 2014, CX1B9ECAB9835
[147] Kuala Lumpur City Guide, Travel Gay Asia, accessed 26 June 2017, CISEDB50AD4633;
Still in the Closet, Foreign Policy, 3 July 2014, CX1B9ECAB9835;
What is it like to be gay in Malaysia today?, Ditch the Label, 16 June 2016, CIS38A80128238

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lesbian-focused venues, along with others that welcome them as patrons.[148] Smaller gay and lesbian scenes exist in other cities such as Kota Kinabalu and Penang.[149]

Numerous LGBTI organisations operate in Malaysia and provide information and support to the community. In addition to these, mainstream Christian churches and the Malaysian Consultative Council of Buddhism, Christianity, Hinduism, Sikhism and Taoism have also spoken out against discrimination and violence towards gay and lesbian people.[150] Sources suggest that hotels and other venues are generally not suspicious of people of the same sex who share a room, while gay and lesbian people who avoid known gay and lesbian venues are less likely to attract the attention of authorities.[151]

Transgender

Transgender individuals are subject to official discrimination and stigma. Cross-dressing is not technically illegal, but on occasion police have arrested transgender men under the *Minor Offenses Act* (1955) for public indecency and immorality and, where Muslim, under sharia-based law for impersonating women.[152] These laws have been used to impose fines and sentence transgender individuals to short jail terms, and in the past have predominately been applied to biological men dressing as women.[153] Imprisoned transgender individuals are held in male prisons and have been verbally and sexually assaulted by police and fellow detainees.[154] Transgender individuals may face discrimination in public healthcare facilities, including undergoing forcible HIV/AIDS testing or being housed in male wards where they can be exposed to violence and abuse.[155] Transgender individuals, especially Muslim men who cross-dress as women or identify as transgender, face a high risk of official and societal discrimination and are at moderate risk of societal violence.[156]

Women

Women participate in all aspects of Malaysian society. Although women are active in all areas of society, cultural and social barriers limit their levels of participation.[157] Furthermore, there is a lack of resources available to women to assist them re-entering the workforce after childbirth.[158] Malaysia has the lowest rate of women's workforce participation in Southeast Asia,[159] The rate of female labour-market participation recorded in 2014 was 44.4 per cent compared to 75 per cent for men.[160] Women's participation rates in the labour force have risen over the last decade, from 45 per cent in

[148] Travel and Resources: KUALA LUMPUR & Vicinity (Klang Valley), Utopia, n.d., accessed 23 June 2017, CISEDB50AD4611
[149] Travel and Resources: PENANG, Utopia, n.d., accessed 23 June 2017, CISEDB50AD4612;
Travel and Resources: KOTA KINABALU, Utopia, n.d., accessed 8 August 2018, CIS7B839418919
[150] LGBT Organisations in Malaysia, Angloinfo Malaysia, n.d., accessed 29 June 2018, CISEDB50AD3776;
Beauty and the Beast censorship attempt shows the good, the bad and the ugly of LGBT rights in Malaysia, The Conversation, 29 March 2017, CXC9040667196
[151] The life of gay people in Malaysia, the female perspective, 1Dad1Kid.com, n.d., accessed 23 June 2017, CISEDB50AD4613
[152] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 3.121, p.28;
Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section 6, p.28
[153] Freedom in the World 2016: Malaysia, Freedom House, 23 August 2016, NGE43874C422, Section G, p.6;
Malaysia: Court Convicts 9 Transgender Women, Human Rights Watch, 22 June 2015, CXBD6A0DE8963
[154] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section 5, p.28
[155] Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Addendum: Visit to Malaysia (19 November–2 December 2014), United Nations Human Rights Council, May 2015, CISEC96CF14228, p.16;
How life is tough for transgenders in conservative Malaysia, who face violence, religious and official bias, and abusive me, South China Morning Post, 15 November 2017, CXC90406617584
[156] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 3.125, p.29;
World Report 2018, Human Rights Watch, 18 January 2018, NGED867A63, p.356
[157] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 3.102, p.25
[158] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 3.103, p.25
[159] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 3.103, p.25
[160] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, CIS7B83941547, p.24

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2008 to an estimated 54.3 per cent in 2016, according to government statistics.[161] Following the May 2018 election, Azizah Ismail, wife of Mr Anwar, became the country's first female deputy prime minister.[162] However more generally, the most recent data from 2014 indicates that only 14.2 per cent of parliamentary seats were held by women.[163]

Muslim women may be adversely affected by sharia law. Malaysia's Constitution prohibits discrimination based on gender.[164] The Constitution gives women equal rights to inherit, acquire, manage or dispose of property, including land, while civil law gives non-Muslim mothers equal parental rights.[165] However, sharia law can deviate from these constitutional principles in some areas such as Islamic inheritance law that typically favours male children and male relatives.[166] A small but steadily increasing number of women have been able to obtain divorces under Sharia without their husband's consent.[167] Four states – Johor, Selangor, Negri Sembilan and Pahang – extend equal parental rights to Muslim mothers.[168] In January 2018, the Federal Court ruled that children from civil marriages can only be converted to Islam if both parents consent.[169]

Authorities take claims of sexual harassment seriously but a general reluctance by victims to report cases to the authorities and a cumbersome legal process results in a low number of prosecutions. The most recent statistics from Malaysia's Ministry of Home Affairs indicate that approximately 16 per cent of reported rape cases were taken to court, with a conviction rate of 2.7 per cent of all reported cases.[170] Amendments were made to the Employment Act in 2012 which made certain forms of workplace sexual harassment illegal, while the law prohibits a person in authority from using their position to intimidate a subordinate into having sexual relations.[171] A government voluntary code of conduct provides a detailed definition of sexual harassment intended to raise public awareness of the problem.[172] Authorities take claims of sexual harassment seriously but victims are often reluctant to report cases because of embarrassment, the difficulty of proving the offence, and a lengthy trial process.[173]

Economic hardship

Malaysia is an upper-middle income country in which absolute poverty has been largely eradicated. Malaysia recorded average annual economic growth of more than 7 per cent between 1967 and 1997, while growth in recent years has continued to exceed 5 per cent.[174] Economic growth has been inclusive, with less than 1 per cent of the population living in extreme poverty.[175] Rates of poverty are low among Malays (0.8 per cent), Chinese (0.1 per cent), and Indians (0.6 per cent),

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[161] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 3.103, p.25
[162] Malaysia's ruling party may be gone, but its racial policies survive, The Economist, 7 June 2018, CXBB8A1DA28917
[163] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, CIS7B83941547, p.24
[164] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section 6, p.24
[165] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section 6, p.24
[166] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section 6, p.24
[167] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 3 March 2017, OGD95BE927312, section 6, p.24
[168] Country Reports on Human Rights Practices for 2017 – Malaysia, OGD95BE927312, section 6, p.24
[169] Amid language clash, Federal Court says conversion needs consent of both parents, Malaymail Online, 31 January 2018, CXBB8A1DA20998
[170] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section 6, p.23
[171] Country Information Report – Malaysia, Department of Foreign Affairs and Trade, 19 July 2016, CIS38A80121311, section 3.86, p.19;
NOTE DFAT's Country Information Report – Malaysia published on 19 April 2018 does not contain a section on 'sexual harassment' or an update on information provided in the 19 July 2016 report.
[172] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section 6, p.24
[173] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section 6, p.24
[174] The World Bank in Malaysia, The World Bank, April 2017, CISEDB50AD5041;
The Growth Report: Strategies for Sustained Growth and Inclusive Development, The World Bank, 2008, CIS956B8881704, p.20
[175] The World Bank in Malaysia, The World Bank, April 2017, CISEDB50AD5041

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although the poverty rate is higher in rural areas than in cities.[176] Malaysian authorities have turned their attention to reducing income inequality – which remains high in comparison to other East Asian countries, but is gradually declining – and addressing the well-being of the poorest 40 per cent of the population, who remain vulnerable to increases in the cost of living or economic shocks.[177] The UNDP's Human Development Index ranked Malaysia 59 out of 188 countries in 2016, placing it in the 'high human development' category.[178]

Malaysia has an expanding if still limited social welfare system, while traditional social roles mean that families provide support for the elderly and sick. Old age, survivor and disability payments and employment injury compensation are among the payments available to eligible individuals, although credible sources state that the overall scope of social welfare coverage remains limited.[179] In August 2017, the Malaysian Government introduced legislation into parliament that would provide unemployment benefits for three to six months.[180] The *Zakat* system – a levy imposed on Muslims which is equal to 2.5 per cent of their assets above a minimum figure – forms one of the main social protection programmes in the country, and payments are distributed to needy groups such as the poor and refugees.[181] In Malaysia, grown children typically provide financial or care support to elderly or sick parents.[182]

Political opinion

Malaysia is a constitutional monarchy in which executive power is vested in the prime minister and cabinet. The paramount ruler, the monarch and titular head of state, is elected for five-year terms by fellow hereditary rulers from 9 of Malaysia's 13 states..[183] The upper house of the bicameral Parliament, the Senate, or Dewan Negara, consists of 44 members appointed by the king and 26 members elected by the 13 state legislatures, serving three-year terms.[184] The House of Representatives, or Dewan Rakyat, has 222 seats filled through regular elections.[185] The role of the king is largely ceremonial, though he retains the power to approve the prime minister.[186] Executive power lies with the prime minister and the cabinet.[187] Most major policy decisions are reached by the prime minister and the cabinet, sometimes with limited input from the remainder of the elected legislature.[188]

General elections have often been skewed by the ruling government. Suffrage in Malaysia is universal for citizens over the age of 21.[189] When in power, the Barisan Nasional coalition manipulated elections through the use of prohibitive media laws, extreme gerrymandering and malapportionment of constituencies, the use of government resources during campaigning, and electoral fraud including manipulation of voter registration rolls.[190] The Election Commission (EC) is officially independent but has previously comprised of the former prime minister and government allies and considered subordinate to the UMNO when in power.[191] The EC is responsible for maintaining voter rolls, and has been accused of enabling "phantom voting" by creating duplicate records of some

[176] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 2.8, p.6
[177] OECD Economic Surveys – Malaysia, OECD, November 2016, CIS38A80124917, p.4;
The World Bank in Malaysia, The World Bank, April 2017, CISEDB50AD5041
[178] Table 1: Human Development Index and its components, UNDP, 21 March 2017, CISEDB50AD5042
[179] Social Security Programs Throughout the World: Asia and the Pacific, 2016 – Malaysia, US Social Security Administration Office of Retirement and Disability Policy, March 2017, CISEDB50AD5043;
A Decade of Social Protection Development in Selected Asian Countries, OECD, 11 May 2017, CISEDB50AD5044, pp.46-47
[180] New bill introduces conditional unemployment benefits, Malaysiakini, 1 August 2017, CXC90406611469
[181] A Decade of Social Protection Development in Selected Asian Countries, OECD, 11 May 2017, CISEDB50AD5044, p.60
[182] Report on Key Findings FIFTH MALAYSIAN POPULATION AND FAMILY SURVEY [MPFS-5] 2014, Ministry of Women, Family and Community Development and National Population and Family Development Board, 2016, CIS38A80124919, p.28
[183] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section A1
[184] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, CIS7B83941547, p.4;
Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section A2
[185] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section A2
[186] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section A1
[187] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, CIS7B83941547, p.4
[188] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section C1
[189] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section B4
[190] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, CIS7B83941547, p.9
[191] BTI 2018 Country report Malaysia, Bertelsmann Stiftung, 22 March 2018, CIS7B83941547, p.9;
Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section A3

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voters, or by leaving deceased persons on the rolls.[192] The Registrar of Societies (ROS) oversees the registration of political parties and in the past has issued politicized decisions.[193] The military is not active in politics and foreign powers do not directly meddle with voting.[194]

Barisan Nasional

The UMNO is the dominant party within the oppositional Barisan Nasional alliance. Until May 2018, the government had been headed by the UMNO since independence and the Barisan Nasional coalition won every general election since its formation until and including 2013 elections.[195] The Barisan Nasional is an ethno-religious coalition of race-based political parties.[196] The Barisan Nasional alliance was formed by the UMNO, the Malaysian Indian Congress (MIC), and the Malaysian Chinese Association (MCA), but is largely dominated by the UMNO.[197] Following the 2018 general election, former Prime Minister Najib Razak resigned as head of the UMNO handing over to his deputy, Zahid Hamidi.[198] UMNO, the largest party within the Barisan Nasional coalition, lost power to the Pakatan Harapan coalition in the 9 May 2018 general elections.[199] The Barisan Nasional won only 79 parliamentary seats in the 2018 general election.[200] The UMNO and Parti Pesaka Bumiputera Bersatu (PBB) held most parliamentary seats in the alliance following the 2018 general election – UMNO 47 seats in Peninsular Malaysia, UMNO 13 seats in Sabah, and PBB 13 seats in Sarawak.[201] In June 2018, Sarawak's four ruling parties – Parti Pesaka Bumiputera Bersatu (PBB), Sarawak United Peoples' Party (SUPP), Parti Rakyat Sarawak (PRS), and Progressive Democratic Party (PDP) all quit the BN to form a new coalition, Gabungan Parti Sabah (GPS) that is friendly to the Pakatan Harapan federal government.[202] Other parties who have quit the BN include the United Pasokmomogun Kadazandusan Murut Organisation (Upko) and the Liberal Democratic Party (LDP).[203] BN component parties from Sabah and the People's Progressive Party (myPPP) also quit the BN reducing the alliance to just four parties, down from 13 prior to the 2018 election.[204]

Pakatan Rakyat/Pakatan Harapan

The Pakatan Rakyat coalition regrouped as the Pakatan Harapan coalition in September 2015. The Pakatan Rakyat coalition previously led by the People's Justice Party, won more votes than BN but lost the 2013 election due to the country's first-past-the-post system.[205] The Pakatan Rakyat alleged that electoral irregularities and systemic disadvantages due to a lack of media access and gerrymandered districts favouring the ruling coalition.[206] Opposition Leader, and former Deputy Prime Minister Anwar Ibrahim was imprisoned for a five year term on sodomy charges that international observers view as politically motivated.[207] Pakatan Rakyat was dissolved in June 2015 and then re-configured as Pakatan Harapan.[208] Pakatan Harapan, a coalition[209] of four parties currently led by Prime Minister Mahathir Mohammad, agreed that if it won the 2018 general election, would accede

[192] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section A3
[193] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section B1
[194] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section B3
[195] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, CIS7B83941547, p.5
[196] The changing face of Malaysian justice, Asia Times, 6 June 2018, CXBB8A1DA28835
[197] GE14 numbers What it means for BN, Harapan and PAS, Malaysiakini, 10 May 2018, CXBB8A1DA26970
[198] After Surprising Election, How Much Will Malaysia Change, Chatham House, 15 May 2018, CXBB8A1DA27637
[199] The shape of things to come under Mahathir 2.0, Asia Times, 13 May 2018, CXBB8A1DA27542
[200] GE14 numbers What it means for BN, Harapan and PAS, Malaysiakini, 10 May 2018, CXBB8A1DA26970
[201] GE14 numbers What it means for BN, Harapan and PAS, Malaysiakini, 10 May 2018, CXBB8A1DA26970
[202] Khaled: S'wak BN dissolution a blow to two-party system, Malaysiakini, 13 June 2018, CXBB8A1DA29259; Sarawak parties quit BN to form coalition, The Straits Times, 13 June 2018, CXBB8A1DA29155
[203] The disintegration of BN - from 13 parties to four, Malaysiakini, 12 June 2018, CXBB8A1DA29153
[204] 'BN is dead, there is only Umno', Malaysiakini, 13 June 2018, CXBB8A1DA29258
[205] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, p.1
[206] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, p.1
[207] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section 1, pp.8-9
[208] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 2.20, pp.7-8
[209] Pakatan Harapan coalition: Leader Anwar Ibrahim, Chairman Mahathir Mohammad. Member parties: People's Justice Party, Malaysian United Indigenous Party, National Trust Party and Democratic Action Party.

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leadership to Anwar Ibrahim after approximately two year from when he was given a royal pardon and released from prison and.[210]

Malaysia's Pakatan Harapan is the ruling coalition. On 9 May 2018, the Alliance of Hope or Pakatan Harapan (PH) won the general elections by securing enough seats to form a stable government.[211] PH is a pluralistic multi-ethnic alliance.[212] The coalition Pakatan Harapan coalition comprises of the dominant the People's Justice Party or Parti Keadilan Rakyat (PKR), the Democratic Action Party (DAP), the Malaysian United Indigenous Party or Parti Pribumi Bersatu Malaysia (Bersatu), the Parti Amanah Negara or National Trust Party (Amanah), and the Sabah-based Parti Warisan Sabah or Sabah Heritage Party (Warisan).[213] Malaysia's current prime minister is Dr Mahathir Mohamad, a former member of the UMNO, who previously led Malaysia as prime minister for 22 years until 2003.[214] Mahathir has said that he will remain prime minister for one to two years and that the prime ministership would be handed to Anwar Ibrahim.[215] Anwar was given a royal pardon and released from prison where he had been serving time on politically motivated charges.[216]

Freedom of expression

Most mainstream media is typically not independent and self-censors content. A 2012 amendment to the Printing Presses and Publications Act retains the home minister's authority to suspend or revoke publishing licenses but allows judicial review of such decisions.[217] Most private publications are controlled by political parties or businesses allied with the government, as are most private television stations, which generally censor programming according to government guidelines.[218] The internet is an outlet for the exposure of political corruption, but the Malaysian Communication and Multimedia Commission (MCMC) monitors websites and can order the removal of material considered provocative or subversive.[219] The government engages in legal harassment of critical voices, charging them under defamation laws, the Official Secrets Act, and the Sedition Act – all of which include imprisonment as a possible penalty.[220] In May 2017, the government launched its Communications and Multimedia Act prosecution of the CEO and the editor-in-chief of online news portal *Malaysiakini* over a video the news portal carried criticising Attorney General Mohamed Apandi Ali for clearing the prime minister of corruption allegations.[221] In 2016, an independent Malaysian news site, the *Malaysian Insider*, shut down.[222] During 2017, four individuals were charged, and another convicted, under section 233 of the Communications and Multimedia Act.[223] The former Najib government introduced the Anti-Fake News Act just prior to the May 2018 general elections.[224] Following the general elections, the country's Communications Minister said that the Anti-Fake News Act would be repealed and that media freedom was his main priority.[225] Prime Minister Dr Mahathir Mohamad described the law as "draconian" and indicated that the new government's first Parliament session in July 2018 would seek to abolish the law in accordance with the Pakatan Harapan's election promise.[226]

Freedom of expression is constitutionally guaranteed but restricted in practice The Communications and Multimedia Act criminalises the 'misuse of network facilities' for criticising the

[210] Mahathir Mohamad named opposition candidate for Malaysian PM, The Straits Times, 7 January 2018, CXBB8A1DA22794
[211] The shape of things to come under Mahathir 2.0, Asia Times, 13 May 2018, CXBB8A1DA27542
[212] The changing face of Malaysian justice, Asia Times, 6 June 2018, CXBB8A1DA28835
[213] GE14 numbers What it means for BN, Harapan and PAS, Malaysiakini, 10 May 2018, CXBB8A1DA26970
[214] Who is newly elected prime minister Mahathir Mohamad, ABC News (Australia), 10 May 2018, CXBB8A1DA27527
[215] Malaysia's Mahathir says he will remain leader for 1-2 years, Associated Press, 15 May 2018, CXBB8A1DA27515
[216] Malaysia's reformist icon Anwar freed, given royal pardon, Associated Press, 17 May 2018, CXBB8A1DA27514
[217] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section D1
[218] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section D1; BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, CIS7B83941547, p.11
[219] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section D1
[220] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section D1; BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, CIS7B83941547, pp.11-12
[221] World Report 2018, Human Rights Watch, 18 January 2018, NGED867A63, p.352
[222] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section D1; BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, CIS7B83941547, p.11
[223] Amnesty International Report 2017/18, Amnesty International, 22 February 2018, NGED867A612, p.249
[224] Najib reveals fake news law gazetted at Journalists' Day launch, allays concerns, Malaysiakini, 11 April 2018, CXBB8A1DA25426
[225] Malaysian state-linked media left scrambling after poll upset, The Straits Times, 23 May 2018, CXBB8A1DA27859
[226] Parliament session on July 16, GST and AFN to be scrapped, Malaysiakini, 6 June 2018, CXBB8A1DA28831

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government or for government-related satire.[227] Section 233(1) provides criminal penalties of up to one-year imprisonment for communication that is indecent, obscene, false, threatening, or offensive to another person.[228] During 2017, the Communications and Multimedia Act was used repeatedly to investigate and arrest those who criticised government officials in the media and on social media.[229] The Sedition Act has been used to target individuals who publically express ideas deemed sensitive by the state.[230] However, the application of the Sedition Act has reduced significantly since 2015.[231] Instructors and students espousing antigovernment views or engaging in political activity are subject to disciplinary action under the Universities and University Colleges Act (UUCA) of 1971.[232] Surveillance of private activities is largely limited to public personas, though areas deemed to be a threat to Islam are increasingly scrutinised.[233]

Freedom of assembly

In recent years, freedom of assembly has seen a notable improvement with less severe crackdowns and harassment against peaceful assemblies and organisers of assemblies. Freedom of assembly is limited on the grounds of maintaining security and public order.[234] Malaysian authorities regularly prosecute individuals who hold peaceful assemblies without giving notice or who participate in "street protests."[235] Street protests are generally prohibited, with high fines for noncompliance.[236] However, demonstrations often occur despite these restrictions, such as the September 2017 Purple March against Toxic Politics involving over 1,000 women gather in Kuala Lumpur to denounce corruption, electoral fraud, sexism, racism, and other forms of discrimination.[237] During 2017 sporadic arrests were made during some events, however assemblies were mostly peaceful.[238] Under Section 9 of Peaceful Assembly Act, activists and organisers of assemblies can be investigated for failure to provide a 10-day notice to the police or for organising an assembly near a restricted area.[239] The law delineates 21 public places where assemblies cannot be held – including within 50 metres of houses of worship, schools, and hospitals – and prohibits persons under the age of 15 from attending any public assembly.[240] During recent years, Malaysian authorities have prosecuted individuals who hold peaceful assemblies without giving notice.[241] In July 2017, the Kota Kinabalu High Court reversed an earlier acquittal by the Magistrate's Court of Sabah Berish 4.0 chairperson Jannie Lasimbang who had been charged under Section 9 of the Act.[242] Parliamentarians and activists were charged after joining the peaceful #KitaLawan (We Fight) protest rally.[243] Charges against Maria Chin Abdullah, Mandeep Singh and Sim Tze Tzin were initially dismissed by the courts, but brought again on 4 October 2017.[244]

[227] Amnesty International Report 2017/18, Amnesty International, 22 February 2018, NGED867A612, p.249
[228] Freedom on the Net 2017 - Malaysia, Freedom House, 14 November 2017, NG2A465F5246;
World Report 2018, Human Rights Watch, 18 January 2018, NGED867A63, p.352
[229] World Report 2018, Human Rights Watch, 18 January 2018, NGED867A63, p.352
[230] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section D4
[231] SUARAM Human Rights Report 2017 Overview, Suara Rakyat Malaysia (SUARAM), 20 February 2018, CIS7B83941337, p.17
[232] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section D3
[233] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section D4
[234] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section E1
[235] World Report 2018, Human Rights Watch, 18 January 2018, NGED867A63, p.355
[236] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section E1
[237] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section E1
[238] SUARAM Human Rights Report 2017 Overview, Suara Rakyat Malaysia (SUARAM), 20 February 2018, CIS7B83941337, p.26
[239] SUARAM Human Rights Report 2017 Overview, Suara Rakyat Malaysia (SUARAM), 20 February 2018, CIS7B83941337, p.26
[240] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section E1
[241] Amnesty International Report 2017/18, Amnesty International, 22 February 2018, NGED867A612, p.249
[242] Amnesty International Report 2017/18, Amnesty International, 22 February 2018, NGED867A612, p.249;
SUARAM Human Rights Report 2017 Overview, Suara Rakyat Malaysia (SUARAM), 20 February 2018, CIS7B83941337, p.26
[243] Amnesty International Report 2017/18, Amnesty International, 22 February 2018, NGED867A612, p.249;
SUARAM Human Rights Report 2017 Overview, Suara Rakyat Malaysia (SUARAM), 20 February 2018, CIS7B83941337, p.26
[244] Amnesty International Report 2017/18, Amnesty International, 22 February 2018, NGED867A612, p.249;
SUARAM Human Rights Report 2017 Overview, Suara Rakyat Malaysia (SUARAM), 20 February 2018, CIS7B83941337, p.26

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Civil society organisations

A wide array of civil society groups operate in Malaysia. A number of domestic and international civil society and human rights organisations operate in Malaysia and actively comment on issues such as the legislative environment, the rights of women in Islam and government human rights practices.[245] While these organisations are generally able to function independently, some report that engagement with the government can be difficult and their advocacy is largely ignored.[246] Civil society groups can act only within the narrow limits set by Malaysian authorities.[247] In practice, this means that issues of race and religion, or criticism of the government, are out of bounds.[248] The government's registrar of societies has prevented the registration of organisations deemed unfriendly to the government, and authorities regularly use registration issues as a basis for investigating organisations.[249] The government cracked down on Bersih in 2015 and 2016, raiding the offices of various organizers and arresting its senior officials.[250] However in 2017, Bersih was able to operate somewhat more freely, with representatives able to make public statements and engage in other activities without incurring such serious reprisals.[251] Many smaller groups operate as well.[252] Civil society organizations played a critical role in the 2017 Purple March against Toxic Politics.[253]

State protection

Law enforcement

Law enforcement operates at both the federal and state level. The Royal Malaysian Police (RMP) reports to the federal Minister for Home Affairs and is responsible for law enforcement nationwide.[254] The National Department of Islamic Development (JAKIM) enforces Sharia law and has jurisdiction over Muslims in Kuala Lumpur and two other federal territories.[255] The People's Volunteer Corps (RELA), a federal paramilitary civilian corps under the Ministry of Home Affairs, assists security forces.[256] RELA's engagement in law enforcement activities has significantly reduced in recent years.[257] NGOs have reported that inadequate training has led to abuses by RELA members such as extortion and theft.[258]

Royal Malaysian Police (RMP)

The RMP are a professional and effective force, but are prone to corruption. The RMP operates 837 police stations nationwide and employs 115,000 officers.[259] Local and international sources indicate the RMP is a professional and effective police force, although the quality of its members'

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[245] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 3.82, p.21
[246] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 3.82, p.21
[247] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, CIS7B83941547, p.17
[248] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, CIS7B83941547, p.17
[249] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, section 3.66, p.17;
BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, CIS7B83941547, p.10
[250] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section E2
[251] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section E2
[252] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section E2
[253] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section E2
[254] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 5.5, pp.35-36
[255] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, section 5.1, p.25
[256] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, section 5.1, p.25
[257] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, section 5.1, p.25
[258] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, section 5.1, p.25
[259] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 5.5, pp.35-36

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responses varies depending on levels of training, capacity and engagement in corruption.[260] Some human rights training and workshop are made available to police officers.[261] In recent years, the RMP has launched crackdowns on criminal gangs, crime syndicates and loan sharks,[262] while in July 2017 a human trafficking hotline was set up through which reports will be submitted to police.[263] Malaysian law permits police to arrest and detain individuals for some offences without a warrant.[264] A 2017 Transparency International survey found that 57 per cent of Malaysian respondents thought that corruption was a problem within the RMP – a result that was significantly above the regional average.[265]

State Islamic religious enforcement officers

Religious enforcement officers conduct moral policing operations and can enforce Sharia law. Religious enforcement officers have a range of powers, depending on the particular Islamic laws that apply in each state.[266] State Islamic religious enforcement officers have the authority to accompany police on raids of private premises and public establishments, and to enforce sharia, including for violations such as indecent dress, distribution of banned publications, alcohol consumption, or *khalwat* (close proximity to a nonfamily member of the opposite sex).[267] Moral breaches of Sharia law typically result in a warning or a fine but may include caning or up to one month imprisonment for the most serious offences.[268] In January 2017, the Federal Territories Islamic Religious Department (JAWI) arrested a married couple for close proximity despite proof of their marriage.[269] The couple subsequently sued JAWI, accusing the agency of violently detaining them and causing injuries.[270] In September 2017, state religious authorities required a Muslim man to attend a "counselling session" after he was stopped for wearing shorts in public.[271] According to some state laws, Muslims could be fined RM 1,000 ($250) if they did not attend "counselling" after being found guilty of wearing what the authorities deem to be immodest clothing.[272]

Criminal justice system

Legislation allows detention without trial under certain circumstances. The Prevention of Crime Act and the Prevention of Terrorism Act allows government-appointed boards the authority to impose detention without trial for up to two years, renewable indefinitely, to order electronic monitoring, and to impose other significant restrictions on freedom of movement and freedom of association, with no possibility of judicial review.[273] In August 2017, the government passed amendments to the Prevention of Crime Act that abolish the detainee's right to appear before or make representations to

[260] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 5.5, pp.35-36
[261] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 5.5, pp.35-36
[262] Cops deal crime a crippling blow since Ops Cantas Khas launch, The Star Online, 23 September 2013, CXC28129414715; Op Cantas crackdown on triads: 1,444 arrested, Astro Awani, 13 August 2016, CX6A26A6E8262; Police bust largest money-lending syndicated (Updated), The Sun Daily, 23 May 2016, CX6A26A6E7820; 36 suspected underworld gang members arrested in Malaysia, Bernama, 20 February 2018, CXBB8A1DA22559
[263] Hotline set up in bid to tackle human trafficking, The Star Online, 31 July 2017, CXC90406611249
[264] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section 1, p.6
[265] Global Corruption Barometer – Asia Pacific, Transparency International, 28 February 2017, CISEDB50AD5225, p.41
[266] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 5.6, p.36
[267] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section II, p.8
[268] The female face of Islamic law in Malaysia, Aljazeera, 16 August 2017, CXC90406620329; Lawyer: Muslims can challenge khalwat offences, Free Malaysia Today, 7 December 2016, CX6A26A6E20451
[269] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section II, p.8
[270] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section II, p.8
[271] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section II, p.8
[272] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section II, p.8
[273] World Report 2018, Human Rights Watch, 18 January 2018, NGED867A63, p.353

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either the inquiry officer responsible for presenting the case for detention or to the government-appointed Prevention of Crime Board (POCB) that makes the detention decision.[274] The 2012 Security Offences (Special Measures) Act (SOSMA) allows police to detain anyone for up to 28 days without judicial review for broadly defined "security offenses," and suspects may be held for 48 hours before being granted access to a lawyer.[275] During 2017, SOSMA was used to detain, prosecute and imprison people alleged to have committed security offences.[276]

Isolated incidents of mistreatment in custody and impunity for police/security forces personnel are reported. Allegations of torture and abuse, including deaths, in police custody continue, and a number of criminal offenses can be punished with caning.[277] During 2017, there were at least five deaths in custody.[278] In February, detainee Chandran Muniandy was hospitalized with multiple injuries to his head and body and most of his toenails missing; police claimed his injuries resulted from a fall in the toilet.[279] The Enforcement Agency Integrity Commission (EAIC) announced that it would investigate the death of S. Balamurugan, who died in custody in February, only after a post-mortem found evidence of blunt force injuries.[280] During 2017, at least two other individuals died in custody as a result of untreated medical conditions.[281]

Judiciary

The majority of cases in Malaysian courts are processed in accordance with the rule of law. Provisions in the constitution enshrine the rights of citizens in a trial.[282] Trials are public but judges may place restrictions on press coverage.[283] Defendants generally have adequate time to prepare a defence if they have the means to engage private counsel, although government legal aid resources are limited and often of poor quality.[284] Defendants have the right to counsel at public expense under certain circumstances, including when facing charges that carry the death penalty.[285] Defendants are provided free interpretation in Malay, Mandarin, Tamil and some other commonly used dialects from the moment they are charged through all appeals.[286]

Judicial independence may be compromised by executive interference. The judiciary is subject to interference by the executive.[287] Malaysia's highest courts are partly influenced by political or religious affiliation that can lead to politically motivated outcomes.[288] Members of the bar, NGO representatives and other observers have cited a number of high-profile instances of arbitrary verdicts, selective prosecution and preferential treatment of some litigants and lawyers,[289] such as the conviction of former deputy prime minister and opposition leader Anwar Ibrahim on charges of corruption and sodomy in 1999, 2000 and 2014.[290] The Prime Minister plays a key role in the appointment of members of the Judicial Appointments Commission – the body which selects judges.[291] Judges receive relatively low salaries, limited training, and appointments are often made

[274] World Report 2018, Human Rights Watch, 18 January 2018, NGED867A63, p.353
[275] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section F2
[276] Amnesty International Report 2017/18, Amnesty International, 22 February 2018, NGED867A612, p.250
[277] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section F3
[278] Amnesty International Report 2017/18, Amnesty International, 22 February 2018, NGED867A612, p.250
[279] World Report 2018, Human Rights Watch, 18 January 2018, NGED867A63, p.354
[280] World Report 2018, Human Rights Watch, 18 January 2018, NGED867A63, p.354
[281] World Report 2018, Human Rights Watch, 18 January 2018, NGED867A63, p.354
[282] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section 1, p.8
[283] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section 1, p.8
[284] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 5.12, p.37
[285] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section 1, p.8
[286] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section 1, p.8
[287] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, CIS7B83941547, p.14
[288] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 5.12, p.37
[289] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section 1, p.7
[290] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section F1
[291] Malaysia: anti-corruption measures need strengthening, Transparency International, 28 July 2015, CXBD6A0DE18759

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directly from university.[292] Defendants may appeal court decisions to higher courts, but only if the appeal raises a question of law or if material circumstances raise a reasonable doubt regarding conviction or sentencing – restrictions that the country's bar council has claimed are excessive.[293]

Sharia courts result in vastly different treatment of Muslims and non-Muslims in personal and family issues. Muslims are subject to Sharia law, the interpretation of which varies regionally, and Article 121 of the country's Constitution that stipulates all matters relating to Islam should be heard in Sharia courts.[294] This results in vastly different treatment of Muslims and non-Muslims regarding "moral" and family law issues.[295] The interpretation of Sharia varies regionally, and credible sources say the jurisdictional lines between Sharia and civil courts are increasingly indistinct.[296] State-level Sharia courts generally apply Sharia law in accordance with their rules of procedure.[297] Sharia court outcomes have a disproportionately negative impact on transgender individuals, domestic violence victims and women in child custody cases.[298]

Corruption

High-level corruption is a significant problem in Malaysia. Historically, high-level officeholders who break the law and engage in corruption are rarely prosecuted adequately.[299] However, at lower levels in the civil service, prosecution over corruption frequently occurs.[300] Institutional safeguards in Malaysia are weak and there is insufficient political will to substantially mitigate the problem.[301] Misuse of resources and favouritism are facilitated by the close nexus between political and economic elites, which blurs the distinction between public and private enterprises and creates opportunities for collusion and graft.[302] Transparency International's 2017 corruption index showed Malaysia fell seven places to 62nd globally.[303] Journalists, activists and politicians who have reported or criticised high-level corruption have been harassed or prosecuted.[304] In July 2017, a coalition of civil society organisations called for the formation of an independent body to tackle corruption in the country.[305]

The previous UMNO dominated government used laws against internal and external opponents in relation to the 1Malaysia Development Berhad (1MDB) scandal. Former Prime Minister Najib Razak's mismanagement of and possible embezzlement from state development fund 1MDB has continued to be highly controversial domestically and internationally.[306] In an attempt to contain the fallout from 1MDB scandal, former Prime Minister Najib in 2015 replaced the attorney general and fired several cabinet members that had been critical of the scandal.[307] Najib promoted four members of a parliamentary committee investigating 1MDB to his cabinet, temporarily halting the committee's work.[308] In November 2016, a court found opposition politician Rafizi Ramli guilty of

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[292] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 5.12, p.37
[293] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section 1, p.8
[294] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section F2
[295] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section F2
[296] United States Commission on International Religious Freedom – Malaysia Chapter – 2017 Annual Report, United States Commission on International Religious Freedom, 26 April 2017, CISEDB50AD4393
[297] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 5.14, p. 37
[298] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 5.14, p.37
[299] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, CIS7B83941547, p.13
[300] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, CIS7B83941547, p.13
[301] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section C2
[302] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section C2
[303] Corruption Perceptions Index 2017, Transparency International, 21 February 2018, CIS7B83941307; NOW offers to create Malaysia's own corruption index, Malaysiakini, 27 February 2018, CXBB8A1DA23044
[304] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section 4, p.22
[305] Civil Society Coalition Calls for Separate Independent Anti-Corruption Body, The Star Online, 19 July 2017, CXC90406610586
[306] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section C2; Malaysia sets up new task force over 1MDB scandal, Aljazeera, 21 May 2018, CXBB8A1DA27639; Malaysia seeks to lay multiple charges against ex-premier Najib over 1MDB PM Mahathir, Reuters, 19 June 2018, CXBB8A1DA29663
[307] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section C2; BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, CIS7B83941547, p.10
[308] Freedom in the World 2017 – Malaysia, Freedom House, 12 July 2017, NG2A465F591, section C

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disclosing state secrets after he made public the Auditor General's report on the 1MDB scandal.[309] However following the Pakatan Harapan win in the 9 May general election, the 1MDB report was declassified, and subsequently the Court of Appeal let Rafizi Ramili off with a two-year good behaviour bond of RM10,000.[310]

Anti-corruption mechanisms

Malaysian law provides criminal penalties for corruption, but enforcement is typically focused on low level crime. The government is only partly willing to contain corruption, and the few integrity mechanisms implemented are mostly ineffective, however levels of corruption in the civil service are probably the lowest in the region after Singapore.[311] Senior government officials who break the law and engage in corruption are rarely prosecuted adequately.[312] The law provides criminal penalties for corruption by officials however enforcement typically is focused on small scale and low level crime.[313] Between August 2016 and August 2017, the Malaysian Anti-Corruption Commission (MACC) seized more than $US77 million worth of assets, 600 per cent more than the previous year.[314] Shortly after losing the prime ministership, authorities confiscated large sums of cash and luxury items from the residences of former Prime Minister Najib and Najib has faced questioning from by the MACC in relation to missing funds from the IMDB fund.[315] In August 2017, the MACC arrested the former chairman of a government agency over allegations of corruption related to the purchase of a London hotel for an above-market price, but he had not been charged by the year's end. [316] In July 2017, the Royal Malaysia Police (RMP) signed an anti-graft pledge of which anti-corruption bodies and civil society organisations said was a significant step towards accountability.[317] Rates of corruption in Malaysia remain relatively low in comparison to other countries in the region.[318]

Crime

Malaysian authorities periodically crack-down on criminal gangs and crime syndicates. In August 2013, the RMP launched Ops Cantas Khas, focusing on weapons seizures and targeting gang members, leaders and their assets.[319] Police claimed that they had identified 49 illegal gangs nationwide with 40,000 members – 70 per cent of whom were ethnic Indian[320] – who are linked to armed robberies, drug and prostitution rings, loan-sharking, gambling, and extortion and contract killings.[321] Authorities claim that the crackdown has led to a reduction in crime.[322] A second stage of the campaign – Op Cantas Khas 2 – was launched in August 2016.[323] In January 2018 a nationwide operation known as Operation Cantas Silver resulted in the arrest of 36 suspected members of Gang 04 who are allegedly involved in violent crimes including robbery, extortion, arson and drug

[309] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section B1;
BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, CIS7B83941547, p.13
[310] Rafizi let off with good behaviour bond for OSA conviction, Malaysiakini, 1 June 2018, CXBB8A1DA28497
[311] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, CIS7B83941547, p.32
[312] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, CIS7B83941547, p.13
[313] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section 4, p.22
[314] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section 4, p.22
[315] Najib finished second round of questioning by anti-graft body, The Straits Times, 25 May 2018, CXBB8A1DA27951;
Former Malaysian PM Najib Razak interrogated by corruption commission as charges loom, ABC News (Australia), 23 May 2018, CXBB8A1DA27725;
Malaysia scrutiny of 'insolvent' 1MDB wealth fund intensifies as ex-PM Najib Razak is questioned again in corruption scandal, South China Morning Post, 24 May 2018, CXBB8A1DA27945;
Cash tally from condo raids More than $40m, Asia News Network, 24 May 2018, CXBB8A1DA27853
[316] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section 4, p.22
[317] Anti-graft pledge by police hailed as a good move, The Star Online, 27 July 2017, CXC90406610992
[318] Malaysia Corruption Report, GAN Integrity, 1 November 2016, CIS38A80123529
[319] Cops deal crime a crippling blow since Ops Cantas Khas launch, The Star Online, 23 September 2013, CXC28129414715
[320] Malaysia's gang menace, Aljazeera, 11 July 2014, CX1B9ECAB10299
[321] Malaysia's gang menace, Aljazeera, 11 July 2014, CX1B9ECAB10299
[322] 79,414 individuals detained throughout 'Ops Cantas Khas', Bernama, 10 June 2014, CX1B9ECAB11435
[323] Op Cantas crackdown on triads: 1,444 arrested, Astro Awani, 13 August 2016, CX6A26A6E8262

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trafficking.[324] Gang members are charged under section 130 V of the Penal Code and section 130 W of the Penal Code for being members of the group and assisting an organised crime group.[325]

Loan sharks

The practice of illegal money lending is widespread in Malaysia but victims are often reluctant to report problems to police because of threats from loan sharks or embarrassment. Illegal money lending is an offence under Malaysian law and can attract a fine or five years in prison.[326] Loan sharks often target gamblers and drug addicts, and police have shown a willingness to take action against them.[327] However, a lack of cooperation from victims and other members of the public as a result of threats or embarrassment is a major barrier to prosecuting loan shark syndicates,[328] while Malaysian authorities may also view individuals who access loan shark services as having participated in an illegal practice.[329] In May 2016, police disrupted the largest illegal money-lending syndicate in Malaysia.[330]

Death penalty

Capital punishment applies in Malaysia for a number of offences, including drug trafficking, murder, acts of terrorism and offences against the King. In practice, the death penalty is most commonly applied for drug trafficking and premeditated murder.[331] People sentenced to death by the High Court have an automatic right to judicial review of their sentence by the Court of Appeal and the Federal Court, and are also able to seek clemency from the relevant state ruler or the King.[332] Malaysia does not traditionally release data on the number of people executed, but the government reported that fifteen people were executed between 2014 and 2016.[333] Prisoners typically languish on death row for years and there is no established procedure for notifying families of scheduled executions.[334] During 2017, it was estimated that nearly 1,000 people were on death row.[335]

Malaysia introduced legislation that removes the mandatory death sentence for drug traffickers under limited circumstances. In November 2017, parliament passed the Dangerous Drugs (Amendment) Bill to remove the mandatory death sentence for drug-related offences by giving judges the discretion to punish drug offences with either life imprisonment or hanging.[336] However, judicial discretion is limited only to certain circumstances under specified in section 39B(2A) of the Bill;[337] namely where the accused is a merely a drug courier and has assisted law enforcement in disrupting drug trafficking activities.[338] The amendment Bill does not apply in retrospect for previous convictions.[339] At least 10 persons have received the mandatory death penalty for drug trafficking despite Parliament having already enacted the Bill to abolish the penalty.[340]

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[324] 36 suspected underworld gang members arrested in Malaysia, Bernama, 20 February 2018, CXBB8A1DA22559
[325] 36 suspected underworld gang members arrested in Malaysia, Bernama, 20 February 2018, CXBB8A1DA22559
[326] KL Consumer Safety Association - No need to fear the loan sharks, Bernama, 17 February 2015, CXBD6A0DE1580
[327] Sabah Police probe nine Ah Long cases in 2013, The Malaysian Times, 3 January 2014, CX1B9ECAB11427;
Malacca police investigates 29 Ah long cases since January 2013, Malaysia Edition, 28 December 2013, CXC28129414704
[328] Police cooperate with Council to wipe out loan sharks, Daily Express, 28 December 2013, CX320164
[329] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 3.96, p.24
[330] Police bust largest money-lending syndicate (Updated), The Sun Daily, 23 May 2016, CX6A26A6E7820
[331] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 4.9, p.32
[332] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 4.10, p.32
[333] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 4.11, p.32
[334] Amnesty International, February 2017, NG2A465F54, p.243
[335] World Report 2018, Human Rights Watch, 18 January 2018, NGED867A63, p.353
[336] No more mandatory death sentence soon as amendments to Dangerous Drugs Act passed in Parliament, New Straits Times, 30 November 2017, CXC90406618546;
Group against death penalty warns amended Drug Act still has flaws, Malaymail Online, 15 March 2018, CXBB8A1DA23929
[337] A Call to End the Mandatory Death Penalty in Malaysia, Union Internationale des Avocates (UIA), 20 February 2018, CXBB8A1DA22745
[338] Amnesty International Report 2017/18, Amnesty International, 22 February 2018, NGED867A612, p.250
[339] Parliament removes mandatory death penalty for drug offences, judges to get discretion, Malaymail Online, 30 November 2017, CXC90406618547
[340] A Call to End the Mandatory Death Penalty in Malaysia, Union Internationale des Avocates (UIA), 20 February 2018, CXBB8A1DA22745

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Domestic violence/familial abuse

Family violence

Domestic violence remains prevalent in Malaysia, despite laws prohibiting it. Malaysian law prohibits domestic violence, including physical injury and mental, emotional and psychological abuse.[341] A husband who harms his wife in order to force her to have sex – or who causes her to fear for her life – can be jailed for up to five years; however, non-consensual sex between a husband and wife is otherwise not considered rape under the country's penal code.[342] Domestic violence victims can obtain protection orders which attract a prison sentence of up to one year or a fine if breached.[343] Malaysia took a step forward in the protection of women's rights in 2017 by amending its domestic violence law to provide better protection for victims of domestic violence..[344] In August 2017, the country's parliament passed a law enlarging the definition of domestic violence to include the misappropriation of property, threatening a victim, communicating with or about a victim in a way that insults their 'modesty', as well as also ensuring protection for male victims.[345] However, contradictions between civil and Sharia law still affect the level of protection available to victims.[346] Under Sharia law in many states, wives are prohibited from disobeying the 'lawful order' of their husbands, which can lead to ambiguous interpretations of the law.[347]

Government and non-government bodies provide shelter and wide-ranging assistance to victims of domestic violence, but these are often insufficient to meet the need. Almost every hospital in Malaysia has a crisis centre where victims of rape and domestic violence can make reports without going to a police station,[348] and which offer services such as examination by female doctors, evidence management, temporary shelter and legal assistance.[349] In 2011, UN Women reported that the One Stop Crisis Centre model was successful in combining clinical therapeutic responses with secondary preventive measures.[350] The RMP Criminal Investigation Division includes a Sexual Investigation Division.[351] The Ministry of Women, Family and Community Development organises legal literacy seminars designed to inform women of their rights in cases related to issues such as marital problems and divorce.[352] Changes to the country's domestic violence laws in August 2017 allow authorised social welfare officers to issue emergency protection orders for domestic violence victims.[353] There is a sexual investigations unit at each police headquarters to help victims of sexual crimes and abuse, and police sometimes assign psychologists or counsellors to provide emotional

[341] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 3.105, p.25
[342] Penal Code, Government of Malaysia, 1 January 2015, CISEC96CF17379, p.197;
Why it's hard to make marital rape a crime, Free Malaysia Today, 12 March 2017, CXC90406616307;
WAO: Why criminalising marital rape is important, Free Malaysia Today, 23 March 2017, CXC90406616314
[343] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 3.105, p.25;
[344] World Report 2018, Human Rights Watch, 18 January 2018, NGED867A63, p.356;
Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 3.106, p.26
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[346] Domestic Violence, Women's Aid Organisation, n.d., accessed 16 August 2017, CISD9559B12503
[347] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 3.105, pp.25-26
[348] One Stop Crisis Centre (OSCC), One Stop Crisis Centre (OSCC) website, 2017, CISEDB50AD5269
[349] Knowledge, attitude and practice among healthcare staffs in the Emergency Department, Hospital Universiti Sains Malaysia towards Rape Victims In One Stop Crisis Centre (OSCC), Medical Journal of Malaysia, 3 June 2015, CISEC96CF15553, p.162;
One Stop Crisis Centre (OSCC), One Stop Crisis Centre (OSCC) website, 2017, CISEDB50AD5269
[350] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 3.109, p.26.
[351] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 3.106, p.26
[352] Good Practices: Eliminating Violence Against Women and Children (EVAWC), Ministry of Women, Family and Community Development, Malaysia and ASEAN Commission on the Promotion and Protection of the Rights of Women and Children, n.d., accessed 15 August 2017, CISEDB50AD5272, p.38
[353] Minister urges victims of domestic violence to come forward, Bernama, 15 August 2017, CXC90406612117

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support.[354] Credible sources also suggest that access to facilities like shelter services are insufficient to meet the need.[355]

Early and forced marriage

Sharia courts typically approve applications for child marriage despite laws stipulating the minimum age at which girls can get married. In Malaysia, the minimum age of marriage is 18 years for men and 16 years for women.[356] However, Muslim women younger than 16 may marry with the approval of a Sharia court. [357] In 2017, Teo Nie Cheng of the opposition Democratic Action Party unsuccessfully proposed an amendment to the Sexual Offences Against Children bill to include a ban on child marriage.[358] In Malaysia, there were 152,835 persons aged 15-19 in a marriage according to the 2010 Population and Housing Census.[359] A further breakdown in terms of gender shows that there were more females (80,195) than males (72,640); and the most affected were the Malay Muslim community.[360] Women's groups claim that on average ten women are rapped each day and that more than half of these women are younger than 16 years old.[361]

Malaysian authorities have taken limited steps to regulate early marriages and the sexual abuse of young girls. Malaysia's parliament voted down an attempt to ban child marriage in April 2017, but passed a new child sex crimes law.[362] The law criminalises 'grooming' of minors, includes penalties for making and possessing pornography involving people aged under 18, and involves the establishment of a special court to deal with child sexual abuse cases more quickly.[363] According to the National Fatwa Council, early marriages are no longer seen as a 'healthy' practice and should only be permitted where it is done 'to care for the child's needs'.[364] A 2016 UNICEF Malaysia poll suggests that public opinion may be turning against early marriage – particularly among young people – with 95 per cent of respondents saying that marrying a 14 year-old is wrong and 86 per cent saying the minimum age to get married should be set at 18.[365]

Islamic Family Law stipulates that Muslim women may only marry with the consent of a male guardian, but using force or threat to compel a woman to marry or to reject a proposal can lead to a fine or imprisonment. Malaysia's Law Reform (Marriage and Divorce) Act states that all marriage must be based on mutual consent, and using force or threat to compel a woman to marry against her will or to prevent her from getting married is punishable with a fine or imprisonment.[366] However, Islamic Family Law stipulates that marriages are not fully recognised without the consent of the 'wali', the woman's guardian.[367] A 'wali' may be the bride's birth father, paternal grandfather, brother, paternal uncle or any male relative from her paternal side.[368] They are responsible for the bride's life before she is married and are supposed to ensure that the proposed groom is a reliable and trustworthy person who will continue to meet his responsibilities towards the bride after marriage.[369] No information was

[354] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section 6, p.23
[355] Working Together – Case Studies in Domestic Violence Response, 2015 Report, Women's Aid Organisation, 2015 CISEC96CF14713, p.34
[356] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section 6, p.25
[357] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section 6, p.25
[358] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 3.130, p.29
[359] Child Marriage: Its Relationship with Religion, Culture and Patriarchy, Sisters in Islam & Asian-Pacific Resource and Research Centre for Women, June 2018, CIS7B839411448, p.21
[360] Child Marriage: Its Relationship with Religion, Culture and Patriarchy, Sisters in Islam & Asian-Pacific Resource and Research Centre for Women, June 2018, CIS7B839411448, p.21
[361] Country Information Report – Malaysia, Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B83941829, section 3.106, p.26
[362] Malaysia passes child sex crimes law, does not ban child marriage, Reuters, 5 April 2017, CXC90406611583
[363] Malaysia passes child sex crimes law, does not ban child marriage, Reuters, 5 April 2017, CXC90406611583
[364] Are child marriages Islamic? Not exactly, says fatwa council, Malaysiakini, 2 December 2015, CXBD6A0DE19512
[365] 95% of Respondents to UNICEF Opinion Poll – Marriage to 14-Year-Old Girl 'Not OK', United National Children's Fund (UNICEF), 12 August 2016, CX6A26A6E16907
[366] Social Institutions and Gender Index 2014 – Malaysia, Organisation for Economic Co-operation and Development, 2014, CISEDB50AD5657, p.1
[367] Social Institutions and Gender Index 2014 – Malaysia, Organisation for Economic Co-operation and Development, 2014, CISEDB50AD5657, p.1
[368] Wali, Singapore Government, 2015, CISEC96CF15597
[369] Wali, Singapore Government, 2015, CISEC96CF15597

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found suggesting that adult Malaysian Muslim women are routinely forced to marry unwillingly; however, a 2012 report said that the 'wali' system means that they do not necessarily have the same right to freely choose their spouse and enter into marriage.[370] Where a *wali* is not available, credible sources say that permission can be given by a judge or a person authorised by a judge, or a representative of the head of state.[371] A number of older reports from 2005 and 2006 refer to the practice of 'ijbar' in Kelantan and Kedah states, which allows a guardian to marry off an unmarried virgin without their consent.[372]

Female genital mutilation

Female Genital Mutilation (FGM or female circumcision) is widely practiced across Malaysia and is becoming increasingly common despite international criticism of the practice.
Malaysia's National Council of Islamic Religious Affairs issued a *fatwa* in 2009 that ruled female circumcision obligatory for Muslim women unless found to be physically harmful.[373] The Ministry of Health has developed guidelines on female circumcision and allows the practice to take place in healthcare facilities.[374] Female circumcision is often performed during infancy and a 2012 study found that 93 per cent of Muslim women respondents had undergone the practice.[375] In February 2018, representatives from Muslim-majority countries such as Bangladesh and Egypt criticised the practice as un-Islamic at the Constructive Dialogue session of the 69th session of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).[376]

[370] Washing the Tigers: Addressing Discrimination and Inequality in Malaysia, Equal Rights Trust and Tenaganita, November 2012, CIS28954, p.53
[371] Washing the Tigers: Addressing Discrimination and Inequality in Malaysia, Equal Rights Trust and Tenaganita, November 2012, CIS28954, p.53;
Marriage in the Absence of Wali Nasab: Procedural Difficulties in Obtaining Consent from a Wali Raja, Pertanika (official journal of the Universiti Putra Malaysia), 2015, CISEC96CF15598, p.306
[372] "Best Practices" – Progressive Family Laws in Muslim Countries, Woodrow Wilson International Center for Scholars, August 2005, CIS9BE2467857, p.17;
Knowing Our Rights: Women, family, laws and customs in the Muslim world, Women Living Under Mpauluslim Laws (WLUML), 2006, CIS23704, p.84
[373] Malaysia Still on the Wrong Path on Women's Rights, The Diplomat, 26 February 2018, CXBB8A1DA23247
[374] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section 6, p.24
[375] Malaysia Still on the Wrong Path on Women's Rights, The Diplomat, 26 February 2018, CXBB8A1DA23247
[376] Malaysia urged to abolish female genital mutilation, The Star Online, 22 February 2018, CXBB8A1DA2276

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Australian Government
Department of Home Affairs

Common Claims

Malaysia

Country of Origin Information Services Section (COISS)

Effective 27 September 2018

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Ethnicity

Ethnic demographics

Malays are the dominant ethnic group in Malaysia. Along with a small number of other indigenous groups, they comprise 68.1 per cent of the country's population and are collectively known as bumiputera.[1] Chinese (24.8 per cent) and Indians (7.1 per cent) are the other major ethnic groups in Malaysia.[2] It is estimated that 80 per cent of the Indian population are Tamil.[3] Although the Malaysian Constitution forbids discrimination against citizens on the basis of gender, religion and race, it accords a special position for bumiputera, in effect permitting affirmative action policies that are widely considered to be discriminatory against other ethnic groups.[4] Chinese are the country's highest median income earners, while Indians and bumiputera are the lowest median income earners – both below the national median.[5]

Bumiputera

Bumiputera enjoy a special position in Malaysia that is not afforded to ethnic Chinese or Indians. Following May 1969 race riots, the government passed legislation aimed to ensure Malay political supremacy, and in 1971 promulgated the New Economic Policy that provided extensive benefits to the bumiputera community.[6] Although the New Economic Policy officially ended in 1991, economic policies since have changed little in character and continue to include special rights for the bumiputera while at the same time promoting rapid economic growth to ensure that all ethnic groups benefit economically.[7] The government limits opportunities for non-bumiputera in higher education and government employment.[8] Many industries are subject to race-based requirements that mandate bumiputera ownership levels.[9] Government procurement and licensing policies favour bumiputera-owned businesses.[10]

Chinese

Chinese Malaysians generally do not experience discrimination or violence on a daily basis, are represented in government, but may face low-level of official discrimination when attempting to gain entry to tertiary education. The Malaysian Chinese Association, part of the Barisan National (BN) coalition, has traditionally been the largest Chinese political party.[11] However, an increasing number of Chinese support the Democratic Action Party (DAP), one of three opposition parties of the Pakatan Harapan coalition.[12] Lim Guan Eng, an ethnic Chinese, was appointed as

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[1] Country Information Report – Malaysia (Version 2) , Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 2.4, p.5
[2] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 2.4, p.5
[3] World Directory of Minorities and Indigenous Peoples - Malaysia Indians, Minority Rights Group International, January 2018, CIS7B83941338
[4] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 2.22, p.8
[5] Malaysian Indian Blueprint, Prime Minister's Office, 21 April 2017, CISEDB50AD7705, pp.8-9
[6] BTI 2018 Country report Malaysia, Bertelsmann Stiftung, 22 March 2018, CIS7B83941547, pp.4-5
[7] BTI 2018 Country report Malaysia, Bertelsmann Stiftung, 22 March 2018, CIS7B83941547, p.5 and p.31
[8] World Directory of Minorities and Indigenous Peoples - Malaysia Indians, Minority Rights Group International, January 2018, CIS7B83941338;
World Directory of Minorities and Indigenous Peoples - Malaysia: Chinese, Minority Rights Group International, January 2018, CIS7B83941344;
Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section 6, p.27;
Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section G1
[9] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section 6, p.27
[10] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section 6, p.27
[11] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 3.6, p.11
[12] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 3.6, p.11

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finance minister following May 2018 elections.[13] There are no laws or constitutional provisions that directly discriminate against Chinese Malaysians.[14] However, non-bumiputera communities experience systematic discrimination in the distribution of state benefits.[15] Chinese are able to access public education but increasingly attend one of the 1,295 Chinese schools due to concerns about the quality of education and perceptions that the public curriculum has a strong focus on Islam.[16] Despite the removal of government-sanctioned ethnic quotas for public universities in 2002, Malaysia's admission decisions favour ethnic Malays and some ethnic Chinese miss out on a university place despite having high marks.[17] Chinese form the bulk of students at Malaysia's non-government universities.[18]

Indians

Indian Malaysians generally do not experience discrimination or violence on a daily basis but may face low levels of discrimination when attempting to gain entry to tertiary education. There are no laws or constitutional provisions that directly discriminate against Indian Malaysians.[19] However, non-bumiputera communities experience systematic discrimination in the distribution of state benefits.[20] Indians are able to access public education, with 524 state-based Tamil-language schools across Malaysia.[21] However, access to state-based tertiary education remains low, with approximately six per cent of student places at public universities offered to Indian applicants.[22]

Since 2009 the government has mandated initiatives aimed to improve the socio-economic position of Indian Malaysians. In recent years, the government has focused socio-economic policies on helping the lower economic percentile of the Indian community (estate Indians) to attain better education outcomes,[23] resulting in spending allocations exceeding RM1 billion for Tamil schools.[24] In 2017, the government published its 10 year Malaysian Indian Blueprint that outlines policies and mechanisms that have been implemented since 2009 which aim to lift the socio-economic position of Malaysian Indians.[25]

Indian Malaysians participate extensively in political life however thepredominant use of the Malay language can be a barrier to Indian employment in the civil service. Indian Malaysians participate freely in political life and the Malaysian Indian Congress forms part of the BN coalition.[26] In recent years there have been several ethnic Indian members of parliament including ministers and a president of the upper house.[27] In June 2018, the Mahathir government appointed an ethnic Indian Christian, Tommy Thomas, as Attorney General.[28] The predominant use of the Malay language can be a barrier to Indian Malaysian employment in the civil service.[29] More than 50 per cent of Indian

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[13] Malaysia's ruling party may be gone, but its racial policies survive, The Economist, 7 June 2018, CXBB8A1DA28917; The shape of things to come under Mahathir 2.0, Asia Times, 13 May 2018, CXBB8A1DA27542
[14] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 3.4, p.10
[15] BTI 2018 Country report Malaysia, Bertelsmann Stiftung, 22 March 2018, CIS7B83941547, p.7 and p.24
[16] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 3.8, p.11
[17] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 3.8, p.11
[18] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 3.8, p.11
[19] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 3.11, p.11
[20] BTI 2018 Country report Malaysia, Bertelsmann Stiftung, 22 March 2018, CIS7B83941547, p.7
[21] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 3.11, p.12
[22] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 3.11, p.12
[23] Malaysia Indian Blueprint, Prime Minister's Office, 21 April 2017, CISEDB50AD7705
[24] I'm committed to transforming Indian community, says Najib, The Malaysian Insight, 3 December 2017, CXC90406618619
[25] Malaysia Indian Blueprint, Prime Minister's Office, 21 April 2017, CISEDB50AD7705
[26] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 3.16, p.12
[27] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 3.16, p.12
[28] The changing face of Malaysian justice, The changing face of Malaysian justice, Asia Times, 6 June 2018, CXBB8A1DA28835;
Malaysia's ruling party may be gone, but its racial policies survive, The Economist, 7 June 2018, CXBB8A1DA28917
[29] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 3.12, pp.11-12

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Malaysians are employed in low-income jobs but also represent a high proportion of professionals, including 38 per cent of the country's medical workforce.[30] In 2015, an Indian Malaysian was appointed as Chief of Police in Kuala Lumpur, the first non-Malay to hold this position.[31]

Religion

Islam is the dominant religion in Malaysia. Malaysia has continued its shift towards a more conservative approach to Islam, the majority religion.[32] Census figures from 2010 indicate that 61.3 per cent of the population practices Islam.[33] Significant religious minorities are Buddhists (19.8 per cent), Christians (9.2 per cent), Hindus (6.3 per cent) and Confucianists, Taoists and other traditional Chinese philosophies and religions (1.3 per cent).[34] The government automatically classes individuals born in Malaysia of Malay ethnicity as Muslim.[35] Rural areas – especially on the east coast of Peninsular Malaysia – are predominately Muslim, while the states of Sabah and Sarawak on the island of Borneo have higher numbers of non-Muslims.[36] A Muslim's status is recorded on their birth certificate and on their national identification card.[37] National identification cards do not distinguish between Sunni and Shi'a Muslims, instead the cards identify Muslims on their surface, but record other religious affiliation in encrypted form on a smart chip.[38] Following 2018 general elections, the new prime mistier ordered a review of the Malaysia's institution tasked with promoting Islam, the Islamic Development Department (Jakim), that would include how Islam is portrayed in society and its budget.[39]

Religious freedom

Sunni Islam is Malaysia's official interpretation of Islam. Although the Constitution states that Islam is the religion of the Federation and provides for religious freedom,[40] a 1996 *fatwa* supported by state laws, requires the country to follow Sunni teachings of the Shafi'i school and prohibits Muslims from possessing, publishing, or distributing material contrary to those teachings.[41] Non-Sunni interpretations of Islam are illegal and subject to action by religious authorities.[42] Sedition laws regulate and punish speech considered hostile to Islam.[43] Civil society activists have said that the government has selectively prosecuted speech allegedly denigrating Islam while largely ignoring criticism of other faiths.[44] During 2017, the government barred Muslims from converting to another religion, and imposed fines, detentions, and canings on those classified under the law as Muslim who contravened Sharia codes.[45]

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[30] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 3.12, pp.11-12
[31] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 3.12, p.12
[32] World Report 2018, Human Rights Watch, 18 January 2018, NGED867A63, p.355
[33] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section I, p.2
[34] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section I, p.2
[35] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 3.27, p.14
[36] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section I, p.2
[37] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 3.27, p.14
[38] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 3.27, p.14
[39] Malaysia's most powerful Islamic body faces scrutiny, The Straits Times, 18 June 2018, CXBB8A1DA29463
[40] Federal Constitution, Government of Malaysia, introduced 31 August 1957, amended 27 December 2007, reprinted 1 November 2010, The Commissioner of Law Revision, CISDCDCAAB1747, Article 11
[41] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p.3
[42] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, p.1
[43] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p.5
[44] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p.8
[45] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p.5

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Religious adherence

Apostasy is a crime under Sharia law in five Malaysian states, but no Sharia court has ever prosecuted anyone for leaving Islam, or attempting to do so. Individuals born in Malaysia of Malay ethnicity are automatically classed as Muslim.[46] Muslims who wish to convert to another religion must obtain approval from a Sharia court.[47] In practice, those born Muslim are not permitted to convert out of Islam by a Sharia court.[48] Only one (Negeri Sembilan) of Malaysia's thirteen states has a legal procedure that allows a non-Malay Muslim to legally 'leave Islam'.[49] Sharia courts show reluctance to allow for conversion out of Islam of those who had previously converted to Islam.[50] Apostasy from Islam is a criminal offence in Perak, Melaka, Sabah, and Pahang, punishable by a fine or jail, or up to six strokes of the cane in Pahang.[51] The maximum penalty for apostasy in the states of Kelantan and Terengganu is death.[52] However, this punishment is not enforceable due to restrictions by federal law.[53] Furthermore, there has not been a case when a Sharia court chief prosecutor has initiated criminal proceedings for apostasy or attempted apostasy against an individual seeking to officially change their religious status.[54] The Sharia Judiciary Department Malaysia (JKSM) acknowledged that its records show that no Malay Muslim has ever applied to change their religious status.[55]

Sharia courts only grant permission to convert out of Islam to individuals who were not born Muslim but converted to Islam during their life and then later seek reversion. Muslims who wish to convert to another religion must obtain approval from a Sharia court.[56] In practice, only those not born Muslim are granted permission to convert out of Islam by a Sharia court.[57] In a ten year period between 2000 and 2010 only 168 of 800 Muslims who attempted to convert out of Islam were given permission by Sharia courts, and these were all reversion cases.[58] It was reported in 2017 that 400 cases of Muslims were appealing to sharia courts to convert to another religion.[59] Only a Sharia court can provide a court order/letter of release from Islam that can be used to amend a person's religion on his/her identity card.[60]

Atheism is not illegal in Malaysia. In November 2017, the government stated that atheism was unconstitutional.[61] However, the Constitution provides for freedom of religion that includes the right not to practice a religion.[62] A Muslim should first obtain a certificate from a Sharia court to convert out

[46] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 3.27, p.14
[47] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p.3
[48] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p.3
[49] Negotiating Apostasy: Applying to "Leave Islam" in Malaysia, University of Salford Manchester, April 2014, Samuri, M A A and Quraishi, M M, CISEFCB23F7623, p.2 & pp.4-8
[50] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p.3
[51] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p.3
[52] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p.3
[53] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p.5, 9
[54] Path to leave Islam simple, but far from easy, Malay Mail, 12 July 2014, CX1B9ECAB12845
[55] Path to leave Islam simple, but far from easy, Malay Mail, 12 July 2014, CX1B9ECAB12845
[56] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p.3
[57] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p.3
[58] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 3.60, p.18
[59] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section III, p.14
[60] Sarawak Shariah Court can hear apostasy cases, rules apex court, Bernama, 27 February 2018, CXBB8A1DA23564
[61] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p.8
[62] Lawyers: Being atheist, promoting atheism protected by Constitution, Malaymail Online, 25 November 2017, CXC90406620451

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of Islam.[63] In August 2017 two senior ministers in the Malaysian government generated controversy after they called for an investigation after members of the Malaysian chapter of the Atheist Republic posted a photo of their initial gathering on Facebook.[64] The deputy minister in charge of religious affairs said that the government needed to determine whether any Muslims were in the Atheist Republic photo and suggested using the "soft" approach by sending them for counselling.[65] The other minister from the Prime Minister's Department said that "we have to bring them back to the right path".[66]

It is possible for an individual to live an atheist life in Malaysia. Population and Housing Census figures from 2010 suggested there were about 300,000 Malaysians who followed non-religious belief systems or did not believe in God.[67] Malaysian Muslims are generally not prosecuted for disbelief.[68] Some atheists maintain a low-profile in society and are known to socialise with likeminded people,[69] whereas other Muslims make no attempt to hide their atheism from society.[70] A range of atheist-focused organisations, Facebook pages, Twitter accounts and websites – some of which are no longer active – have been set up in recent years with the aim of allowing people who do not believe in God to come together.[71]

Religious discrimination

Malaysian authorities interfere in or prevent religious practice or worship of non-Sunni Islamic groups. The federal and state governments continued to forbid religious assembly and worship for groups considered to be deviant Islamic groups such as Shia, Ahmadiyya, and Al-Arqam.[72] Ahmadi Muslims have reported generally being able to maintain a worship centre but government religious authorities forbid them from holding Friday prayers stating that they could only be performed in an officially registered mosque.[73] In October 2017, the Muslim Consumer Association of Malaysia denounced the Ahmadiyya Muslim community in a press conference and police intervened to prevent a Muslim Consumer Association of Malaysia protest outside the Ahmadiyya Muslim headquarters.[74] During the past several years, local government authorities have permitted billboards stating that "Ahmadis are not Muslims" to be placed outside the Ahmadiyya Muslim headquarters.[75]

Malaysia's state government authorities may restrict the construction of official places of worship for some non-Islamic religious groups. Religious groups complain that the government has no transparent criteria for determining whether to register a religious group.[76] In cases where the government refuses to register a religious group, the group can attempt to register as a company.[77] In 2017, the government did not specifically allocate funds for non-Muslim religious groups, although some religious groups received sporadic funding for temple and church buildings and other activities.[78] Non-Muslim groups have reported some difficulties in obtaining permission from local authorities to build new places of worship, causing groups to use buildings zoned for residential or

[63] Atheism is not unconstitutional, legal minds tell deputy minister, Free Malaysia Today, 24 November 2017, CXC90406620452;
[64] Intolerance Rising: Atheists at Risk in Malaysia, The Diplomat, 22 August 2017, CXC90406612572
[65] Malaysia probes atheist group after uproar over Muslim apostates, Reuters, 7 August 2017, CXC90406620455
[66] Atheist Republic members need to be tracked down, says Malaysian Cabinet minister, The Straits Times, 8 August 2017, CXC90406620454
[67] Are Malaysia's atheists an endangered species or quietly burgeoning?, Malaysiakini, 13 July 2016, CX6A26A6E16914
[68] Intolerance Rising: Atheists at Risk in Malaysia, The Diplomat, 22 August 2017, CXC90406612572
[69] Intolerance Rising: Atheists at Risk in Malaysia, The Diplomat, 22 August 2017, CXC90406612572
[70] Moderation under threat as Malaysia faces Islamic tide, The Australian, 17 August 2017, CXC90406620453
[71] Are Malaysia's atheists an endangered species or quietly burgeoning?, Malaysiakini, 13 July 2016, CX6A26A6E16914
[72] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p.9
[73] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p.9
[74] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p.9
[75] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p.9
[76] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p.8
[77] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p.8
[78] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p.11

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commercial use for religious services.[79] However, in March 2017 the state government of Penang announced that 32 plots of state land would be made available to non-Muslim religious groups to build churches and temples after groups complained about the lack of suitable places to construct houses of worship.[80]

Sharia law

Malaysia maintains a dual legal system with the coexistence of Sharia law alongside civil law. Malaysia's secular legal system is based on English common law.[81] Muslims are subject to Sharia (Islamic law), the interpretation of which varies regionally, and the constitution's Article 121 stipulates that all matters related to Islam should be heard in Sharia courts.[82] The dual legal system results in different treatment of Muslims and non-Muslims in "moral" and family law cases.[83] Although Shariah courts have jurisdiction only over matters involving Muslims, they remain highly influential in general, because their decisions frequently involve conversions to Islam, which in turn affect such matters as child-custody, burial rites and inheritance.[84] Two states, Kelantan and Terengganu, have symbolically enacted *hudood* (Islamic penal law), but the Malaysian government has not allowed the code to be implemented.[85] Some penalties imposed by Sharia courts are limited by federal civil law.[86]

See also 'State Islamic religious enforcement officers'

Interfaith and mixed marriages

Non-Muslims wishing to marry a Muslim must convert to Islam for the marriage to be officially recognised. There are two primary statutes in Malaysia for marriage, for civil marriage, the Law Reform (Marriage and Divorce) Act 1976,[87] and for Muslim marriage, Islamic Family Law Act (Federal Territories) 1984.[88] The civil law marriage and divorce act states that it does not apply to Muslims.[89] The only exception for a Muslim to marry a non-Muslim is when a Muslim man marries a *Kitabayah* (Christian whose ancestors were Christian before the prophethood of Muhammod).[90] In practice it is almost impossible to prove this ancestry.[91] For a marriage to be officially recognised, a non-Muslim must convert to Islam to marry a Muslim.[92] Malaysian authorities do not recognise marriages between Muslims and non-Muslims and consider children born of such marriages illegitimate.[93] Some Sunni and Shia Muslims intermarry and have family members that practice either form of Islam.[94]

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[79] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p.10
[80] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p.10
[81] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section F2; International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p.5
[82] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section F2; International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p.5
[83] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section F2
[84] BTI 2018 Country report Malaysia, Bertelsmann Stiftung, 22 March 2018, CIS7B83941547, pp.7-8
[85] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p.5; BTI 2018 Country report Malaysia, Bertelsmann Stiftung, 22 March 2018, CIS7B83941547, p.8
[86] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 5.3, p.35
[87] Law Reform (Marriage and Divorce) Act (164) 1976 (Malaysia), Federal Government of Malaysia, 6 March 1976, (amendments to 1 January 2006), the Commissioner of Law Reform, CISBE8E6BE702
[88] Islamic Family Law Act (Federal Territories) Act (303) 1984 (Malaysia), Federal Government of Malaysia, 27 June 1984, amendments to 1 January 2006, the Commissioner of Law Reform, CIS883493140
[89] Law Reform (Marriage and Divorce) Act (164) 1976 (Malaysia), Federal Government of Malaysia, 6 March 1976, (amendments to 1 January 2006), the Commissioner of Law Reform, CISBE8E6BE702, Part I, article 3(3)
[90] Solving the syariah – civil conflict, New Straits Times, 19 August 2017, CXC90406617998
[91] Ethnic and religious discrimination big challenge for Malaysia's minorities, Minority Rights Group International, 25 May 2011, CXCB3E63421379
[92] 2016 Report on International Religious Freedom – Malaysia, US Department of State, 1 August 2017, OGD95BE927132, p.3
[93] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section 1, p.9
[94] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 3.41, p.16

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Although non-Muslim interfaith and ethnic mixed marriages are legal some may face opposition from their community, family or friends. Malaysian law does not restrict the rights of non-Muslims to marry.[95] Conversion sometimes takes place due to marriage, with one partner choosing to convert or both partners choosing to adopt a new faith; however, this is not compulsory.[96] Malaysian law does not restrict the rights of people from different ethnic groups to marry,[97] although as Malaysian law considers all Malays to be Muslim, a non-Muslim of another ethnicity intending to marry a Malay must convert.[98] Individuals in a mixed marriage sometimes face pressure or stigma from within their family, friends or community, while couples of different ethnicities may also encounter racism.[99]

Arranged marriages

Arranged marriages have declined sharply in recent decades, and most Malaysians are free to choose their own husband or wife. Malaysia's Law Reform (Marriage and Divorce) Act states that all marriages must be based on mutual consent, and no restriction is placed on the rights of people from different ethnic groups, or non-Muslims, to marry.[100] Individuals sometimes face pressure or stigma from within their family, friends or community based on religious, social or cultural difference.[101] Using force or threat to compel a woman to marry against her will or to prevent her from getting married is punishable with a fine or imprisonment.[102] However, Malaysia does not recognise marriages between Muslims and non-Muslims,[103] and Islamic family law stipulates that marriages are not fully recognised without the consent of the *wali*, a male family member – typically a woman's father, paternal grandfather, brother or paternal uncle – who acts as guardian for a woman prior to their marriage.[104] A 2012 report said that the *wali* system means that Muslim women do not necessarily have the same right to freely choose their spouse and enter into marriage.[105]

Shia Muslims

Shia Islam is considered a deviant form of Islam and is prohibited under Malaysian law. Eleven out of fourteen states ban Shia Islam, and a Shia Muslim found to be proselytising can expect to be detained and prosecuted.[106] During 2017, the government forbade non-Sunni practice of Islam and arrested at least 25 Shia and detained others for celebrating Ashura.[107] However, despite legal barriers to their worship, most Shia Muslims live free from discrimination and violence on a day-to-day basis.[108] Government enforcement efforts generally focus on conversions and proselytisers, not

[95] Registration of Marriage For Non-Muslim, National Registration Department – Ministry of Home Affairs, n.d., accessed 10 August 2017, CISEDB50AD5251
[96] A M'sian union – interracial couples share their stories, Malaysiakini, 16 September 2016, CX6A26A6E16886; Interracial marriage as beacon of light in upholding Malaysia's unity, The Rakyat Post, 14 July 2015, CXBD6A0DE19504
[97] Registration of Marriage For Non-Muslim, National Registration Department – Ministry of Home Affairs, n.d. accessed 10 August 2017, CISEDB50AD5251
[98] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, sections 2.6, p.5 and 5.32, p.40
[99] Interracial marriage as beacon of light in upholding Malaysia's diversity, The Rakyat Post, 14 July 2015, CXBD6A0DE19504; A M'sian union – interracial couples share their stories, Malaysiakini, 16 September 2016, CX6A26A6E16886
[100] Registration of Marriage For Non-Muslim, National Registration Department – Ministry of Home Affairs, n.d. (accessed 10 August 2017), CISEDB50AD5251
[101] Interracial marriage as beacon of light in upholding Malaysia's diversity, The Rakyat Post, 14 July 2015, CXBD6A0DE19504; A M'sian union – interracial couples share their stories, Malaysiakini, 16 September 2016, CX6A26A6E16886;
[102] Social Institutions and Gender Index 2014 – Malaysia, Organisation for Economic Co-operation and Development, 2014, CISEDB50AD5657, p.1
[103] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 3.104, p.25
[104] Social Institutions and Gender Index 2014 – Malaysia, Organisation for Economic Co-operation and Development, 2014, CISEDB50AD5657, p.1;
Wali, Singapore Government, 2015, CISEC96CF15597
[105] Washing the Tigers: Addressing Discrimination and Inequality in Malaysia, Equal Rights Trust and Tenaganita, November 2012, CIS28954, p.53
[106] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 3.42, p.16
[107] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p.5
[108] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 3.45, p.16

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assembly or worship, and very few arrests have resulted in charges being laid.[109] National identity cards do not distinguish Shias from other Muslims and there are no restrictions on their movement within Malaysia.[110]

Christians

Christians generally live free from discrimination and are free to practice their religion in Malaysia although they may face occasional harassment. Malaysian Christians are usually able to practise their religion without interference.[111] Official restrictions have been placed on their use of the word 'Allah' (Arabic for God), which Malaysian Christians claim to have used for centuries to practice their religion.[112] In 2008, the Home Affairs Ministry banned the Catholic newspaper, *The Herald*, from using 'Allah'.[113] This ban was upheld by both the Malaysian Court of Appeals and Federal Court.[114] In 2015, a protest took place in outside a Christian church in a predominately Muslim suburb in Medan demanding the removal of the cross on the church – the cross was removed.[115] Furthermore, in February 2017 an evangelical pastor suspected of converting Muslims to Christianity was abducted by masked individuals.[116] During 2017, the government cancelled a Christian prayer gathering to be held in Melaka State, saying it would upset the sensibilities of Muslims during Ramadan.[117]

Buddhists and Hindus

Buddhists and Hindus are normally able to practice their religion without interference and do not face official or societal discrimination on a day-to-day basis. Federal and state governments have supported the building of Hindu or Buddhist places of worship throughout Malaysia.[118] In 2013, the Malaysian Government allocated RM 2 million (AUD 660,533) for the building of a new Hindu complex in Selangor.[119] Hindus and Buddhists have faced some compulsory acquisitions of places of worship or occasional community backlash in response to relocated temples.[120] Fifty Muslim residents protested the relocation of a Hindu temple into their residential area by placing a severed cow's head at the front gate of the Selangor State Government office in 2009.[121] In January 2018 following the demolition of an illegally-constructed Hindu temple, the Johor Sultan offered support to obtain a new site, land for which the state government subsequently allocated, some 1.5 km away from the previous temple.[122]

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[109] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 3.44, p.16
[110] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 3.41, p.16
[111] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 3.52, p.17
[112] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 3.47, pp.16-17
[113] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 3.47, pp.16-17
[114] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 3.47, pp.16-17
[115] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 3.49, p.17
[116] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 3.50, p.17
[117] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, pp.5-6
[118] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 3.55, p.17
[119] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 3.55, p.17
[120] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 3.54, p.17
[121] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 3.54, p.17
[122] Hindu temple demolition Johor Sultan steps in as peacemaker, offers relocation aid, Malaymail Online, 21 January 2018, CXBB8A1DA20539

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Conversion

For apostasy see 'Religious adherence'

Non-Muslims are free to change their religious beliefs and affiliation, but they may face opposition from their community, family or friends. Malaysian law does not restrict the right of non-Muslims to convert to another religion.[123] A minor (under the age of 18, according to federal law) generally may not convert to another faith without the explicit permission of their parent or guardian, although some states allow conversion to Islam without parental permission after age 15.[124] Sometimes converts can face stigmatisation, especially those converting from Islam.[125] A non-Muslim wishing to marry a Muslim must convert to Islam for the marriage to be officially recognised.[126]

Unilateral conversion

On 29 January 2018 the Federal Court unanimously ruled that unilateral child conversion is unlawful but parliament has not legislated against it. The Federal Court ruled that a child from a civil marriage can only be converted to Islam if both parents consent.[127] The Constitution's article 12(4) in English uses the word "parent" in the singular sense while article 12(4) of the Bahasa Malaysia translation uses the words "*ibu atau bapa*" (mother or father); however the court ruled that the Constitution's eleventh schedule has a clause on interpreting words in the singular to include the plural and vice versa.[128] Legislative amendments to the Federal Constitution and the *Law Reform (Marriage and Divorce) Act 1976* have yet to occur.[129] In August 2017 the Law Reform (Marriage and Divorce) Act was amended without including Section 88A,[130] the section that aimed to prevent unilateral child conversion.[131]

Historically, cases of unilateral child conversions favoured the Muslim parent. Prior to a Federal Court 2018 judgement that ruled unilateral child conversion unlawful,[132] the consent of only one parent was required to convert a child under Sharia laws and allows the Muslim parent to gain sole custody.[133] Despite Sharia courts being constitutionally subordinate to civil courts, in January 2016 the Federal Court of Appeal ruled that matters of conversion to Islam were at the sole discretion of Sharia courts.[134] As a result, Sharia courts often decided child custody cases where one parent has converted to Islam while the other has not, and historically favoured the Muslim parent.[135] There have been some high-profile cases of unilateral child conversions, mostly concerning Hindu fathers converting to Islam and claiming custody of their children.[136] Previously, when there had been

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[123] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p.4
[124] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p.4
[125] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section III, p.14
[126] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p4
[127] Amid language clash, Federal Court says conversion needs consent of both parents, Malaymail Online, 31 January 2018, CXBB8A1DA20998
[128] Amid language clash, Federal Court says conversion needs consent of both parents, Malaymail Online, 31 January 2018, CXBB8A1DA20998;
Annual Report of the US Commission on International Religious Freedom, US Commission on International Religious Freedom, 25 April 2018, CIS7B8394186, p.194
[129] Malaysian Bar All legislation must adhere to Federal Constitution, The Star Online, 4 February 2018, CXBB8A1DA21244
[130] Law Reform (Marriage and Divorce) (Amendment) Act 2017, Government of Malaysia, gazetted 17 October 2017, Federal Gazette, CISEDB50AD9174
[131] Azalina dares Pakatan to ban unilateral child conversions, Malay Mail on line, 26 July 2018, CXBB8A1DA32321;
Make it right for all, The Star Online, 13 August 2017, CXC90406618029;
Strong support for Clause 88A, The Star Online, 1 February 2018, CXBB8A1DA36046
[132] Malaysian court says both parents must consent on children's religion, Reuters, 29 January 2018, CXBB8A1DA21004
[133] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 3.127, p.29
[134] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 3.128, p.29
[135] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p.11
[136] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 3.128, p.29

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competing orders by civil and Sharia courts regarding custody, police generally sided with Sharia decisions.[137]

Particular social groups

Lesbian, Gay, Bisexual, Transgender, Intersex (LGBTI)

Malaysian law criminalises homosexual acts. Section 377A of the Penal Code criminalises consensual same-sex sexual relations between adult men.[138] Punishment for same-sex sexual relations is up to 20 years in prison and some states apply their own penalties to Muslims under Sharia statues.[139] In practice, these sections of the Penal Code have infrequently been applied to homosexuals except where its application has been politically motivated.[140] Since 1938 the Penal Code has been invoked only seven times – four of those against former deputy prime minister Anwar Ibrahim.[141] Women found guilty of same-sex relations (*musahaqah*) can be punished by a fine, whipping or imprisonment.[142] The degree of severity and application of religious law varies from state to state.[143]

The LGBTI community face discrimination and harassment. The Malaysian Government has openly criticised LGBTI people in the past.[144] The government opposes LGBTI rights, including same-sex marriage.[145] In June 2017, the Ministry of Health was criticised for launching a video competition about how to 'prevent gender confusion' that included 'gay, lesbian, transgender, transvestite and tomboy'.[146] The ministry subsequently removed the controversial wording following a meeting between the ministry and a prominent Malaysian LGBT activist.[147] The Ministries of Health and Education conduct campaigns to 'prevent, overcome, and correct' symptoms of homosexuality in children, moreover the Ministry of Information banned television and radio shows depicting gay characters.[148] The Malaysian Islamic Development Department operates camps to "rehabilitate" transgender Muslims.[149]

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[137] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, OGD95BE927494, section II, p.11
[138] Amnesty International Report 2017/18, Amnesty International, 22 February 2018, NGED867A612, p.250
[139] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section F4
[140] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 3.115, p.27;
Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section F1;
Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section 6, p.28
[141] Malaysia: On the Record: Violence Against Lesbians, Bisexual Women and Transgender Persons In Malaysia, International Gay and Lesbian Human Rights Commission, 6 May 2014, CIS2F827D91966, p.33;
Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section F1
[142] Malaysia: On the Record: Violence Against Lesbians, Bisexual Women and Transgender Persons In Malaysia, International Gay and Lesbian Human Rights Commission, 6 May 2014, CIS2F827D91966, pp.37-38
[143] Malaysia: On the Record: Violence Against Lesbians, Bisexual Women and Transgender Persons In Malaysia, International Gay and Lesbian Human Rights Commission, 6 May 2014, CIS2F827D91966, pp.37-38
[144] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 3.116, p.27
[145] Mahathir: Malaysia cannot accept same-sex marriage, Reuters, 22 September 2018, CXBB8A1DA35827;
Anwar says he shares Mahathir's LGBT views, Asia News Network, 23 September 2018, CXBB8A1DA35823;
Suhakam does not support gay marriage, Malay Mail on line, 22 September 2018, CXBB8A1DA35835;
Malaysia sticks to stand on disallowing same-sex marriage, Bernama, 23 September 2018, CXBB8A1DA35842
[146] Amnesty International Report 2017/18, Amnesty International, 22 February 2018, NGED867A612, p.250;
Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section F4
[147] Amnesty International Report 2017/18, Amnesty International, 22 February 2018, NGED867A612, p.250;
World Report 2018, Human Rights Watch, 18 January 2018, NGED867A63, p.356
[148] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section F4
[149] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section F4

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Homosexuals (gays and lesbians)

Homosexuals lead discreet lives to avoid discrimination. The level and frequency of discrimination faced by LGBTI individuals differs according to their socio-economic status, religion, geographic location and degree of openness.[150] Some well-educated urban Malaysians of high socio-economic status can be open about their sexuality within their family and social circles whereas other, especially Muslims, hide their identity to avoid harassment.[151] Homosexuals can typically live a normal life in Kuala Lumpur which the most gay-friendly city in the country.[152] There are a number of gay and lesbian-focused venues, along with others that welcome them as patrons.[153] Smaller gay and lesbian scenes exist in other cities such as Kota Kinabalu and Penang.[154]

Numerous LGBTI organisations operate in Malaysia and provide information and support to the community. In addition to these, mainstream Christian churches and the Malaysian Consultative Council of Buddhism, Christianity, Hinduism, Sikhism and Taoism have also spoken out against discrimination and violence towards gay and lesbian people.[155] Sources suggest that hotels and other venues are generally not suspicious of people of the same sex who share a room, while gay and lesbian people who avoid known gay and lesbian venues are less likely to attract the attention of authorities.[156]

Transgender

Transgender individuals are subject to official discrimination and occasional violence. Cross-dressing is not technically illegal, but on occasion police have arrested transgender men under the *Minor Offenses Act* (1955) for public indecency and immorality and, where Muslim, under sharia-based law for impersonating women.[157] These laws have been used to impose fines and sentence transgender individuals to short jail terms, and in the past have predominately been applied to biological men dressing as women.[158] Imprisoned transgender individuals are held in male prisons and have been verbally and sexually assaulted by police and fellow detainees.[159] Transgender individuals may face discrimination in public healthcare facilities, including undergoing forcible HIV/AIDS testing or being housed in male wards where they can be exposed to violence and abuse.[160] Transgender individuals, especially Muslim men who cross-dress as women or identify as transgender, face a high risk of official and societal discrimination and are at moderate risk of societal

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[150] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 3.120, p.28;
Still in the Closet, Foreign Policy, 3 July 2014, CX1B9ECAB9835
[151] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 3.120, p.28;
Still in the Closet, Foreign Policy, 3 July 2014, CX1B9ECAB9835
[152] Kuala Lumpur City Guide, Travel Gay Asia, accessed 26 June 2017, CISEDB50AD4633;
Still in the Closet, Foreign Policy, 3 July 2014, CX1B9ECAB9835;
What is it like to be gay in Malaysia today?, Ditch the Label, 16 June 2016, CIS38A80128238
[153] Travel and Resources: KUALA LUMPUR & Vicinity (Klang Valley), Utopia, n.d., accessed 23 June 2017, CISEDB50AD4611
[154] Travel and Resources: PENANG, Utopia, n.d., accessed 23 June 2017, CISEDB50AD4612;
Travel and Resources: KOTA KINABALU, Utopia, n.d., accessed 8 August 2018, CIS7B839418919
[155] LGBT Organisations in Malaysia, Angloinfo Malaysia, n.d., accessed 29 June 2018, CISEDB50AD3776;
Beauty and the Beast censorship attempt shows the good, the bad and the ugly of LGBT rights in Malaysia, The Conversation, 29 March 2017, CXC9040667196
[156] The life of gay people in Malaysia, the female perspective, 1Dad1Kid.com, n.d., accessed 23 June 2017, CISEDB50AD4613
[157] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 3.121, p.28;
Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section 6, p.28
[158] Freedom in the World 2016: Malaysia, Freedom House, 23 August 2016, NGE43874C422, Section G, p.6;
Malaysia: Court Convicts 9 Transgender Women, Human Rights Watch, 22 June 2015, CXBD6A0DE8963
[159] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section 5, p.28
[160] Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Addendum: Visit to Malaysia (19 November–2 December 2014), United Nations Human Rights Council, May 2015, CISEC96CF14228, p.16;
How life is tough for transgenders in conservative Malaysia, who face violence, religious and official bias, and abusive me, South China Morning Post, 15 November 2017, CXC90406617584

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violence.[161] In August 2018, a transgender woman from a village in Negeri Sembilan state was beaten by a group of assailants – police arrested eight men for their suspected involvement.[162]

Women

Women participate in all aspects of Malaysian society. Although women are active in all areas of society, cultural and social barriers limit their levels of participation.[163] Furthermore, there is a lack of resources available to women to assist them re-entering the workforce after childbirth.[164] Malaysia has the lowest rate of women's workforce participation in Southeast Asia,[165] The rate of female labour-market participation recorded in 2014 was 44.4 per cent compared to 75 per cent for men.[166] Women's participation rates in the labour force have risen over the last decade, from 45 per cent in 2008 to an estimated 54.3 per cent in 2016, according to government statistics.[167] Following the May 2018 election, Azizah Ismail, wife of Mr Anwar, became the country's first female deputy prime minister.[168] However more generally, the most recent data from 2014 indicates that only 14.2 per cent of parliamentary seats were held by women.[169]

Muslim women may be adversely affected by sharia law. Malaysia's Constitution prohibits discrimination based on gender.[170] The Constitution gives women equal rights to inherit, acquire, manage or dispose of property, including land, while civil law gives non-Muslim mothers equal parental rights.[171] However, sharia law can deviate from these constitutional principles in some areas such as Islamic inheritance law that typically favours male children and male relatives.[172] A small but steadily increasing number of women have been able to obtain divorces under Sharia without their husband's consent.[173] Four states – Johor, Selangor, Negri Sembilan and Pahang – extend equal parental rights to Muslim mothers.[174] In January 2018, the Federal Court ruled that children from civil marriages can only be converted to Islam if both parents consent.[175]

Authorities take claims of sexual harassment seriously but a general reluctance by victims to report cases to the authorities and a cumbersome legal process results in a low number of prosecutions. The most recent statistics from Malaysia's Ministry of Home Affairs indicate that approximately 16 per cent of reported rape cases were taken to court, with a conviction rate of 2.7 per cent of all reported cases.[176] Amendments were made to the Employment Act in 2012 which made certain forms of workplace sexual harassment illegal, while the law prohibits a person in authority from using their position to intimidate a subordinate into having sexual relations.[177] A government voluntary

[161] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 3.125, p.29;
World Report 2018, Human Rights Watch, 18 January 2018, NGED867A63, p.356
[162] Rising concern in Malaysia's LGBT community after attack on transgender woman, Reuters, 24 August 2018, CXBB8A1DA34288
[163] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 3.102, p.25
[164] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 3.103, p.25
[165] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 3.103, p.25
[166] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, CIS7B83941547, p.24
[167] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 3.103, p.25
[168] Malaysia's ruling party may be gone, but its racial policies survive, The Economist, 7 June 2018, CXBB8A1DA28917
[169] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, CIS7B83941547, p.24
[170] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section 6, p.24
[171] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section 6, p.24
[172] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section 6, p.24
[173] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 3 March 2017, OGD95BE927312, section 6, p.24
[174] Country Reports on Human Rights Practices for 2017 – Malaysia, OGD95BE927312, section 6, p.24
[175] Amid language clash, Federal Court says conversion needs consent of both parents, Malaymail Online, 31 January 2018, CXBB8A1DA20998
[176] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section 6, p.23
[177] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade, 19 July 2016, CIS38A80121311, section 3.86, p.19;

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code of conduct provides a detailed definition of sexual harassment intended to raise public awareness of the problem.[178] Authorities take claims of sexual harassment seriously but victims are often reluctant to report cases because of embarrassment, the difficulty of proving the offence, and a lengthy trial process.[179]

Economic hardship

Malaysia is an upper-middle income country in which absolute poverty has been largely eradicated. Malaysia recorded average annual economic growth of more than 7 per cent between 1967 and 1997, while growth in recent years has continued to exceed 5 per cent.[180] Economic growth has been inclusive, with less than 1 per cent of the population living in extreme poverty.[181] Rates of poverty are low among Malays (0.8 per cent), Chinese (0.1 per cent), and Indians (0.6 per cent), although the poverty rate is higher in rural areas than in cities.[182] Malaysian authorities have turned their attention to reducing income inequality – which remains high in comparison to other East Asian countries, but is gradually declining – and addressing the well-being of the poorest 40 per cent of the population, who remain vulnerable to increases in the cost of living or economic shocks.[183] The UNDP's Human Development Index ranked Malaysia 59 out of 188 countries in 2016, placing it in the 'high human development' category.[184]

Malaysia has an expanding if still limited social welfare system, while traditional social roles mean that families provide support for the elderly and sick. Old age, survivor and disability payments and employment injury compensation are among the payments available to eligible individuals, although credible sources state that the overall scope of social welfare coverage remains limited.[185] In August 2017, the Malaysian Government introduced legislation into parliament that would provide unemployment benefits for three to six months.[186] The *Zakat* system – a levy imposed on Muslims which is equal to 2.5 per cent of their assets above a minimum figure – forms one of the main social protection programmes in the country, and payments are distributed to needy groups such as the poor and refugees.[187] In Malaysia, grown children typically provide financial or care support to elderly or sick parents.[188]

Political opinion

Malaysia is a constitutional monarchy in which executive power is vested in the prime minister and cabinet. The paramount ruler, the monarch and titular head of state, is elected for five-year terms by fellow hereditary rulers from 9 of Malaysia's 13 states.[189] The upper house of the bicameral Parliament, the Senate, or Dewan Negara, consists of 44 members appointed by the king and 26 members elected by the 13 state legislatures, serving three-year terms.[190] The House of

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NOTE: DFAT's Country Information Report – Malaysia (Version 2) published on 19 April 2018 does not contain a section on 'sexual harassment' or an update on information provided in the 19 July 2016 report.

[178] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section 6, p.24

[179] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section 6, p.24

[180] The World Bank in Malaysia, The World Bank, April 2017, CISEDB50AD5041;
The Growth Report: Strategies for Sustained Growth and Inclusive Development, The World Bank, 2008, CIS956B8881704, p.20

[181] The World Bank in Malaysia, The World Bank, April 2017, CISEDB50AD5041

[182] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 2.8, p.6

[183] OECD Economic Surveys – Malaysia, OECD, November 2016, CIS38A80124917, p.4;
The World Bank in Malaysia, The World Bank, April 2017, CISEDB50AD5041

[184] Table 1: Human Development Index and its components, UNDP, 21 March 2017, CISEDB50AD5042

[185] Social Security Programs Throughout the World: Asia and the Pacific, 2016 – Malaysia, US Social Security Administration Office of Retirement and Disability Policy, March 2017, CISEDB50AD5043;
A Decade of Social Protection Development in Selected Asian Countries, OECD, 11 May 2017, CISEDB50AD5044, pp.46-47

[186] New bill introduces conditional unemployment benefits, Malaysiakini, 1 August 2017, CXC90406611469

[187] A Decade of Social Protection Development in Selected Asian Countries, OECD, 11 May 2017, CISEDB50AD5044, p.60

[188] Report on Key Findings FIFTH MALAYSIAN POPULATION AND FAMILY SURVEY [MPFS-5] 2014, Ministry of Women, Family and Community Development and National Population and Family Development Board, 2016, CIS38A80124919, p.28

[189] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section A1

[190] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, CIS7B83941547, p.4;
Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section A2

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Representatives, or Dewan Rakyat, has 222 seats filled through regular elections.[191] The role of the king is largely ceremonial, though he retains the power to approve the prime minister.[192] Executive power lies with the prime minister and the cabinet.[193] Most major policy decisions are reached by the prime minister and the cabinet, sometimes with limited input from the remainder of the elected legislature.[194]

General elections have often been skewed by the ruling government. Suffrage in Malaysia is universal for citizens over the age of 21.[195] When in power, the Barisan Nasional coalition manipulated elections through the use of prohibitive media laws, extreme gerrymandering and malapportionment of constituencies, the use of government resources during campaigning, and electoral fraud including manipulation of voter registration rolls.[196] The Election Commission (EC) is officially independent but has previously comprised of the former prime minister and government allies and considered subordinate to the UMNO when in power.[197] The EC is responsible for maintaining voter rolls, and has been accused of enabling "phantom voting" by creating duplicate records of some voters, or by leaving deceased persons on the rolls.[198] The Registrar of Societies (ROS) oversees the registration of political parties and in the past has issued politicized decisions.[199] The military is not active in politics and foreign powers do not directly meddle with voting.[200]

Barisan Nasional

The UMNO is the dominant party within the oppositional Barisan Nasional alliance. Until May 2018, the government had been headed by the UMNO since independence and the Barisan Nasional coalition won every general election since its formation until and including 2013 elections.[201] The Barisan Nasional is an ethno-religious coalition of race-based political parties.[202] The Barisan Nasional alliance was formed by the UMNO, the Malaysian Indian Congress (MIC), and the Malaysian Chinese Association (MCA), but is largely dominated by the UMNO.[203] Following the 2018 general election, former Prime Minister Najib Razak resigned as head of the UMNO handing over to his deputy, Zahid Hamidi.[204] UMNO, the largest party within the Barisan Nasional coalition, lost power to the Pakatan Harapan coalition in the 9 May 2018 general elections.[205] The Barisan Nasional won only 79 parliamentary seats in the 2018 general election.[206] The UMNO and Parti Pesaka Bumiputera Bersatu (PBB) held most parliamentary seats in the alliance following the 2018 general election – UMNO 47 seats in Peninsular Malaysia, UMNO 13 seats in Sabah, and PBB 13 seats in Sarawak.[207] In June 2018, Sarawak's four ruling parties – Parti Pesaka Bumiputera Bersatu (PBB), Sarawak United Peoples' Party (SUPP), Parti Rakyat Sarawak (PRS), and Progressive Democratic Party (PDP) all quit the BN to form a new coalition, Gabungan Parti Sabah (GPS) that is friendly to the Pakatan Harapan federal government.[208] Other parties who have quit the BN include the United Pasokmomogun Kadazandusan Murut Organisation (Upko) and the Liberal Democratic Party (LDP).[209] BN component parties from Sabah and the People's Progressive Party (myPPP) also quit the BN reducing the alliance to just four parties, down from 13 prior to the 2018 election.[210]

[191] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section A2
[192] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section A1
[193] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, CIS7B83941547, p.4
[194] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section C1
[195] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section B4
[196] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, CIS7B83941547, p.9
[197] BTI 2018 Country report Malaysia, Bertelsmann Stiftung, 22 March 2018, CIS7B83941547, p.9; Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section A3
[198] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section A3
[199] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section B1
[200] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section B3
[201] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, CIS7B83941547, p.5
[202] The changing face of Malaysian justice, Asia Times, 6 June 2018, CXBB8A1DA28835
[203] GE14 numbers What it means for BN, Harapan and PAS, Malaysiakini, 10 May 2018, CXBB8A1DA26970
[204] After Surprising Election, How Much Will Malaysia Change, Chatham House, 15 May 2018, CXBB8A1DA27637
[205] The shape of things to come under Mahathir 2.0, Asia Times, 13 May 2018, CXBB8A1DA27542
[206] GE14 numbers What it means for BN, Harapan and PAS, Malaysiakini, 10 May 2018, CXBB8A1DA26970
[207] GE14 numbers What it means for BN, Harapan and PAS, Malaysiakini, 10 May 2018, CXBB8A1DA26970
[208] Khaled: S'wak BN dissolution a blow to two-party system, Malaysiakini, 13 June 2018, CXBB8A1DA29259; Sarawak parties quit BN to form coalition, The Straits Times, 13 June 2018, CXBB8A1DA29155
[209] The disintegration of BN - from 13 parties to four, Malaysiakini, 12 June 2018, CXBB8A1DA29153
[210] 'BN is dead, there is only Umno', Malaysiakini, 13 June 2018, CXBB8A1DA29258

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Pakatan Rakyat/Pakatan Harapan

The Pakatan Rakyat coalition regrouped as the Pakatan Harapan coalition in September 2015. The Pakatan Rakyat coalition previously led by the People's Justice Party, won more votes than BN but lost the 2013 election due to the country's first-past-the-post system.[211] The Pakatan Rakyat alleged that electoral irregularities and systemic disadvantages due to a lack of media access and gerrymandered districts favouring the ruling coalition.[212] Opposition Leader, and former Deputy Prime Minister Anwar Ibrahim was imprisoned for a five year term on sodomy charges that international observers view as politically motivated.[213] Pakatan Rakyat was dissolved in June 2015 and then re-configured as Pakatan Harapan.[214] Pakatan Harapan, a coalition[215] of four parties currently led by Prime Minister Mahathir Mohammad, agreed that if it won the 2018 general election, would accede leadership to Anwar Ibrahim after approximately two year from when he was given a royal pardon and released from prison and.[216]

Malaysia's Pakatan Harapan is the ruling coalition. On 9 May 2018, the Alliance of Hope or Pakatan Harapan (PH) won the general elections by securing enough seats to form a stable government.[217] PH is a pluralistic multi-ethnic alliance.[218] The coalition Pakatan Harapan coalition comprises of the dominant the People's Justice Party or Parti Keadilan Rakyat (PKR), the Democratic Action Party (DAP), the Malaysian United Indigenous Party or Parti Pribumi Bersatu Malaysia (Bersatu), the Parti Amanah Negara or National Trust Party (Amanah), and the Sabah-based Parti Warisan Sabah or Sabah Heritage Party (Warisan).[219] Malaysia's current prime minister is Dr Mahathir Mohamad, a former member of the UMNO, who previously led Malaysia as prime minister for 22 years until 2003.[220] Mahathir has said that he will remain prime minister for one to two years and that the prime ministership would be handed to Anwar Ibrahim.[221] Anwar was given a royal pardon and released from prison where he had been serving time on politically motivated charges.[222]

Freedom of expression

Most mainstream media is typically not independent and self-censors content. A 2012 amendment to the Printing Presses and Publications Act retains the home minister's authority to suspend or revoke publishing licenses but allows judicial review of such decisions.[223] Most private publications are controlled by political parties or businesses allied with the government, as are most private television stations, which generally censor programming according to government guidelines.[224] The internet is an outlet for the exposure of political corruption, but the Malaysian Communication and Multimedia Commission (MCMC) monitors websites and can order the removal of material considered provocative or subversive.[225] The government engages in legal harassment of critical voices, charging them under defamation laws, the Official Secrets Act, and the Sedition Act – all of which include imprisonment as a possible penalty.[226] In May 2017, the government launched its Communications and Multimedia Act prosecution of the CEO and the editor-in-chief of online news

[211] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, p.1
[212] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, p.1
[213] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section 1, pp.8-9
[214] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 2.20, pp.7-8
[215] Pakatan Harapan coalition: Leader Anwar Ibrahim, Chairman Mahathir Mohammad. Member parties: People's Justice Party, Malaysian United Indigenous Party, National Trust Party and Democratic Action Party.
[216] Mahathir Mohamad named opposition candidate for Malaysian PM, The Straits Times, 7 January 2018, CXBB8A1DA22794
[217] The shape of things to come under Mahathir 2.0, Asia Times, 13 May 2018, CXBB8A1DA27542
[218] The changing face of Malaysian justice, Asia Times, 6 June 2018, CXBB8A1DA28835
[219] GE14 numbers What it means for BN, Harapan and PAS, Malaysiakini, 10 May 2018, CXBB8A1DA26970
[220] Who is newly elected prime minister Mahathir Mohamad, ABC News (Australia), 10 May 2018, CXBB8A1DA27527
[221] Malaysia's Mahathir says he will remain leader for 1-2 years, Associated Press, 15 May 2018, CXBB8A1DA27515
[222] Malaysia's reformist icon Anwar freed, given royal pardon, Associated Press, 17 May 2018, CXBB8A1DA27514
[223] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section D1
[224] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section D1; BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, CIS7B83941547, p.11
[225] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section D1
[226] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section D1; BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, CIS7B83941547, pp.11-12

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portal *Malaysiakini* over a video the news portal carried criticising Attorney General Mohamed Apandi Ali for clearing the prime minister of corruption allegations.[227] In 2016, an independent Malaysian news site, the *Malaysian Insider*, shut down.[228] During 2017, four individuals were charged, and another convicted, under section 233 of the Communications and Multimedia Act.[229] The former Najib government introduced the Anti-Fake News Act just prior to the May 2018 general elections.[230] Prime Minister Dr Mahathir Mohamad described the law as "draconian" and indicated that the new government's first Parliament session in July 2018 would seek to abolish the law in accordance with the Pakatan Harapan's election promise.[231] In September 2018 Barisan Nasional leaders in the Upper House and members of Parti Islam SeMalaysia blocked the repeal of the Anti-Fake News Act after the Lower House of Parliament voted to replace it in August.[232]

Freedom of expression is constitutionally guaranteed but restricted in practice The Communications and Multimedia Act criminalises the 'misuse of network facilities' for criticising the government or for government-related satire.[233] Section 233(1) provides criminal penalties of up to one-year imprisonment for communication that is indecent, obscene, false, threatening, or offensive to another person.[234] During 2017, the Communications and Multimedia Act was used repeatedly to investigate and arrest those who criticised government officials in the media and on social media.[235] The Sedition Act has been used to target individuals who publically express ideas deemed sensitive by the state.[236] However, the application of the Sedition Act has reduced significantly since 2015.[237] Instructors and students espousing antigovernment views or engaging in political activity are subject to disciplinary action under the Universities and University Colleges Act (UUCA) of 1971.[238] Surveillance of private activities is largely limited to public personas, though areas deemed to be a threat to Islam are increasingly scrutinised.[239]

Freedom of assembly

In recent years, freedom of assembly has seen a notable improvement with less severe crackdowns and harassment against peaceful assemblies and organisers of assemblies. Freedom of assembly is limited on the grounds of maintaining security and public order.[240] Malaysian authorities regularly prosecute individuals who hold peaceful assemblies without giving notice or who participate in "street protests."[241] Street protests are generally prohibited, with high fines for noncompliance.[242] However, demonstrations often occur despite these restrictions, such as the September 2017 Purple March against Toxic Politics involving over 1,000 women gather in Kuala Lumpur to denounce corruption, electoral fraud, sexism, racism, and other forms of discrimination.[243] During 2017 sporadic arrests were made during some events, however assemblies were mostly peaceful.[244] Under Section 9 of Peaceful Assembly Act, activists and organisers of assemblies can be investigated for failure to provide a 10-day notice to the police or for organising an assembly near a restricted area.[245] The law delineates 21 public places where assemblies cannot be held – including

[227] World Report 2018, Human Rights Watch, 18 January 2018, NGED867A63, p.352
[228] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section D1;
BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, CIS7B83941547, p.11
[229] Amnesty International Report 2017/18, Amnesty International, 22 February 2018, NGED867A612, p.249
[230] Najib reveals fake news law gazetted at Journalists' Day launch, allays concerns, Malaysiakini, 11 April 2018, CXBB8A1DA25426
[231] Parliament session on July 16, GST and AFN to be scrapped, Malaysiakini, 6 June 2018, CXBB8A1DA28831
[232] Malaysian opposition blocks bid to repeal fake news law, Reuters, 13 September 2018, CXBB8A1DA35347
[233] Amnesty International Report 2017/18, Amnesty International, 22 February 2018, NGED867A612, p.249
[234] Freedom on the Net 2017 - Malaysia, Freedom House, 14 November 2017, NG2A465F5246;
World Report 2018, Human Rights Watch, 18 January 2018, NGED867A63, p.352
[235] World Report 2018, Human Rights Watch, 18 January 2018, NGED867A63, p.352
[236] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section D4
[237] SUARAM Human Rights Report 2017 Overview, Suara Rakyat Malaysia (SUARAM), 20 February 2018, CIS7B83941337, p.17
[238] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section D3
[239] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section D4
[240] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section E1
[241] World Report 2018, Human Rights Watch, 18 January 2018, NGED867A63, p.355
[242] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section E1
[243] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section E1
[244] SUARAM Human Rights Report 2017 Overview, Suara Rakyat Malaysia (SUARAM), 20 February 2018, CIS7B83941337, p.26
[245] SUARAM Human Rights Report 2017 Overview, Suara Rakyat Malaysia (SUARAM), 20 February 2018, CIS7B83941337, p.26

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within 50 metres of houses of worship, schools, and hospitals – and prohibits persons under the age of 15 from attending any public assembly.[246] During recent years, Malaysian authorities have prosecuted individuals who hold peaceful assemblies without giving notice.[247] In July 2017, the Kota Kinabalu High Court reversed an earlier acquittal by the Magistrate's Court of Sabah Berish 4.0 chairperson Jannie Lasimbang who had been charged under Section 9 of the Act.[248] Parliamentarians and activists were charged after joining the peaceful #KitaLawan (We Fight) protest rally.[249] Charges against Maria Chin Abdullah, Mandeep Singh and Sim Tze Tzin were initially dismissed by the courts, but brought again on 4 October 2017.[250]

Civil society organisations

A wide array of civil society groups operate in Malaysia. A number of domestic and international civil society and human rights organisations operate in Malaysia and actively comment on issues such as the legislative environment, the rights of women in Islam and government human rights practices.[251] While these organisations are generally able to function independently, some report that engagement with the government can be difficult and their advocacy is largely ignored.[252] Civil society groups can act only within the narrow limits set by Malaysian authorities.[253] In practice, this means that issues of race and religion, or criticism of the government, are out of bounds.[254] The government's registrar of societies has prevented the registration of organisations deemed unfriendly to the government, and authorities regularly use registration issues as a basis for investigating organisations.[255] The government cracked down on Bersih in 2015 and 2016, raiding the offices of various organizers and arresting its senior officials.[256] However in 2017, Bersih was able to operate somewhat more freely, with representatives able to make public statements and engage in other activities without incurring such serious reprisals.[257] Many smaller groups operate as well.[258] Civil society organizations played a critical role in the 2017 Purple March against Toxic Politics.[259]

State protection

Law enforcement

Law enforcement operates at both the federal and state level. The Royal Malaysian Police (RMP) reports to the federal Minister for Home Affairs and is responsible for law enforcement nationwide.[260] The National Department of Islamic Development (JAKIM) enforces Sharia law and has jurisdiction over Muslims in Kuala Lumpur and two other federal territories.[261] The People's Volunteer Corps (RELA), a federal paramilitary civilian corps under the Ministry of Home Affairs, assists security

[246] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section E1
[247] Amnesty International Report 2017/18, Amnesty International, 22 February 2018, NGED867A612, p.249
[248] Amnesty International Report 2017/18, Amnesty International, 22 February 2018, NGED867A612, p.249;
SUARAM Human Rights Report 2017 Overview, Suara Rakyat Malaysia (SUARAM), 20 February 2018, CIS7B83941337, p.26
[249] Amnesty International Report 2017/18, Amnesty International, 22 February 2018, NGED867A612, p.249;
SUARAM Human Rights Report 2017 Overview, Suara Rakyat Malaysia (SUARAM), 20 February 2018, CIS7B83941337, p.26
[250] Amnesty International Report 2017/18, Amnesty International, 22 February 2018, NGED867A612, p.249;
SUARAM Human Rights Report 2017 Overview, Suara Rakyat Malaysia (SUARAM), 20 February 2018, CIS7B83941337, p.26
[251] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 3.82, p.21
[252] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 3.82, p.21
[253] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, CIS7B83941547, p.17
[254] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, CIS7B83941547, p.17
[255] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, section 3.66, p.17;
BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, CIS7B83941547, p.10
[256] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section E2
[257] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section E2
[258] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section E2
[259] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section E2
[260] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 5.5, pp.35-36
[261] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, section 5.1, p.25

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forces.[262] RELA's engagement in law enforcement activities has significantly reduced in recent years.[263] NGOs have reported that inadequate training has led to abuses by RELA members such as extortion and theft.[264]

Royal Malaysian Police (RMP)

The RMP are a professional and effective force, but are prone to corruption. The RMP operates 837 police stations nationwide and employs 115,000 officers.[265] Local and international sources indicate the RMP is a professional and effective police force, although the quality of its members' responses varies depending on levels of training, capacity and engagement in corruption.[266] Some human rights training and workshop are made available to police officers.[267] In recent years, the RMP has launched crackdowns on criminal gangs, crime syndicates and loan sharks,[268] while in July 2017 a human trafficking hotline was set up through which reports will be submitted to police.[269] Malaysian law permits police to arrest and detain individuals for some offences without a warrant.[270] A 2017 Transparency International survey found that 57 per cent of Malaysian respondents thought that corruption was a problem within the RMP – a result that was significantly above the regional average.[271]

State Islamic religious enforcement officers

Religious enforcement officers conduct moral policing operations and can enforce Sharia law. Religious enforcement officers have a range of powers, depending on the particular Islamic laws that apply in each state.[272] State Islamic religious enforcement officers have the authority to accompany police on raids of private premises and public establishments, and to enforce sharia, including for violations such as indecent dress, distribution of banned publications, alcohol consumption, or *khalwat* (close proximity to a nonfamily member of the opposite sex).[273] Moral breaches of Sharia law typically result in a warning or a fine but may include caning or up to one month imprisonment for the most serious offences.[274] In January 2017, the Federal Territories Islamic Religious Department (JAWI) arrested a married couple for close proximity despite proof of their marriage.[275] The couple subsequently sued JAWI, accusing the agency of violently detaining them and causing injuries.[276] In September 2017, state religious authorities required a Muslim man to attend a "counselling session"

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[262] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, section 5.1, p.25
[263] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, section 5.1, p.25
[264] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 July 2016, CIS38A80121311, section 5.1, p.25
[265] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 5.5, pp.35-36
[266] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 5.5, pp.35-36
[267] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 5.5, pp.35-36
[268] Cops deal crime a crippling blow since Ops Cantas Khas launch, The Star Online, 23 September 2013, CXC28129414715; Op Cantas crackdown on triads: 1,444 arrested, Astro Awani, 13 August 2016, CX6A26A6E8262; Police bust largest money-lending syndicated (Updated), The Sun Daily, 23 May 2016, CX6A26A6E7820; 36 suspected underworld gang members arrested in Malaysia, Bernama, 20 February 2018, CXBB8A1DA22559
[269] Hotline set up in bid to tackle human trafficking, The Star Online, 31 July 2017, CXC90406611249
[270] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section 1, p.6
[271] Global Corruption Barometer – Asia Pacific, Transparency International, 28 February 2017, CISEDB50AD5225, p.41
[272] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 5.6, p.36
[273] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section II, p.8
[274] The female face of Islamic law in Malaysia, Aljazeera, 16 August 2017, CXC90406620329; Lawyer: Muslims can challenge khalwat offences, Free Malaysia Today, 7 December 2016, CX6A26A6E20451
[275] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section II, p.8
[276] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section II, p.8

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after he was stopped for wearing shorts in public.[277] According to some state laws, Muslims could be fined RM 1,000 ($250) if they did not attend “counselling” after being found guilty of wearing what the authorities deem to be immodest clothing.[278]

Criminal justice system

Legislation allows detention without trial under certain circumstances. The Prevention of Crime Act and the Prevention of Terrorism Act allows government-appointed boards the authority to impose detention without trial for up to two years, renewable indefinitely, to order electronic monitoring, and to impose other significant restrictions on freedom of movement and freedom of association, with no possibility of judicial review.[279] In August 2017, the government passed amendments to the Prevention of Crime Act that abolish the detainee’s right to appear before or make representations to either the inquiry officer responsible for presenting the case for detention or to the government-appointed Prevention of Crime Board (POCB) that makes the detention decision.[280] The 2012 Security Offences (Special Measures) Act (SOSMA) allows police to detain anyone for up to 28 days without judicial review for broadly defined "security offenses," and suspects may be held for 48 hours before being granted access to a lawyer.[281] During 2017, SOSMA was used to detain, prosecute and imprison people alleged to have committed security offences.[282]

Isolated incidents of mistreatment in custody and impunity for police/security forces personnel are reported. Allegations of torture and abuse, including deaths, in police custody continue, and a number of criminal offenses can be punished with caning.[283] During 2017, there were at least five deaths in custody.[284] In February, detainee Chandran Muniandy was hospitalized with multiple injuries to his head and body and most of his toenails missing; police claimed his injuries resulted from a fall in the toilet.[285] The Enforcement Agency Integrity Commission (EAIC) announced that it would investigate the death of S. Balamurugan, who died in custody in February, only after a post-mortem found evidence of blunt force injuries.[286] During 2017, at least two other individuals died in custody as a result of untreated medical conditions.[287]

Judiciary

The majority of cases in Malaysian courts are processed in accordance with the rule of law. Provisions in the constitution enshrine the rights of citizens in a trial.[288] Trials are public but judges may place restrictions on press coverage.[289] Defendants generally have adequate time to prepare a defence if they have the means to engage private counsel, although government legal aid resources are limited and often of poor quality.[290] Defendants have the right to counsel at public expense under certain circumstances, including when facing charges that carry the death penalty.[291] Defendants are

[277] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section II, p.8
[278] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section II, p.8
[279] World Report 2018, Human Rights Watch, 18 January 2018, NGED867A63, p.353
[280] World Report 2018, Human Rights Watch, 18 January 2018, NGED867A63, p.353
[281] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section F2
[282] Amnesty International Report 2017/18, Amnesty International, 22 February 2018, NGED867A612, p.250
[283] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section F3
[284] Amnesty International Report 2017/18, Amnesty International, 22 February 2018, NGED867A612, p.250
[285] World Report 2018, Human Rights Watch, 18 January 2018, NGED867A63, p.354
[286] World Report 2018, Human Rights Watch, 18 January 2018, NGED867A63, p.354
[287] World Report 2018, Human Rights Watch, 18 January 2018, NGED867A63, p.354
[288] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section 1, p.8
[289] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section 1, p.8
[290] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 5.12, p.37
[291] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section 1, p.8

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provided free interpretation in Malay, Mandarin, Tamil and some other commonly used dialects from the moment they are charged through all appeals.[292]

Judicial independence may be compromised by executive interference. The judiciary is subject to interference by the executive.[293] Malaysia's highest courts are partly influenced by political or religious affiliation that can lead to politically motivated outcomes.[294] Members of the bar, NGO representatives and other observers have cited a number of high-profile instances of arbitrary verdicts, selective prosecution and preferential treatment of some litigants and lawyers,[295] such as the conviction of former deputy prime minister and opposition leader Anwar Ibrahim on charges of corruption and sodomy in 1999, 2000 and 2014.[296] The Prime Minister plays a key role in the appointment of members of the Judicial Appointments Commission – the body which selects judges.[297] Judges receive relatively low salaries, limited training, and appointments are often made directly from university.[298] Defendants may appeal court decisions to higher courts, but only if the appeal raises a question of law or if material circumstances raise a reasonable doubt regarding conviction or sentencing – restrictions that the country's bar council has claimed are excessive.[299]

Sharia courts result in vastly different treatment of Muslims and non-Muslims in personal and family issues. Muslims are subject to Sharia law, the interpretation of which varies regionally, and Article 121 of the country's Constitution that stipulates all matters relating to Islam should be heard in Sharia courts.[300] This results in vastly different treatment of Muslims and non-Muslims regarding "moral" and family law issues.[301] The interpretation of Sharia varies regionally, and credible sources say the jurisdictional lines between Sharia and civil courts are increasingly indistinct.[302] State-level Sharia courts generally apply Sharia law in accordance with their rules of procedure.[303] Sharia court outcomes have a disproportionately negative impact on transgender individuals, domestic violence victims and women in child custody cases.[304]

Corruption

High-level corruption is a significant problem in Malaysia. Historically, high-level officeholders who break the law and engage in corruption are rarely prosecuted adequately.[305] However, at lower levels in the civil service, prosecution over corruption frequently occurs.[306] Institutional safeguards in Malaysia are weak and there is insufficient political will to substantially mitigate the problem.[307] Misuse of resources and favouritism are facilitated by the close nexus between political and economic elites, which blurs the distinction between public and private enterprises and creates opportunities for collusion and graft.[308] Transparency International's 2017 corruption index showed Malaysia fell seven places to 62nd globally.[309] Journalists, activists and politicians who have reported or criticised high-

[292] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section 1, p.8
[293] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, CIS7B83941547, p.14
[294] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 5.12, p.37
[295] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section 1, p.7
[296] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section F1
[297] Malaysia: anti-corruption measures need strengthening, Transparency International, 28 July 2015, CXBD6A0DE18759
[298] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 5.12, p.37
[299] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section 1, p.8
[300] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section F2
[301] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section F2
[302] United States Commission on International Religious Freedom – Malaysia Chapter – 2017 Annual Report, United States Commission on International Religious Freedom, 26 April 2017, CISEDB50AD4393 [CIS7B839419160]
[303] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 5.14, p. 37
[304] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 5.14, p.37
[305] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, CIS7B83941547, p.13
[306] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, CIS7B83941547, p.13
[307] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section C2
[308] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section C2
[309] Corruption Perceptions Index 2017, Transparency International, 21 February 2018, CIS7B83941307; NOW offers to create Malaysia's own corruption index, Malaysiakini, 27 February 2018, CXBB8A1DA23044

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level corruption have been harassed or prosecuted.[310] In July 2017, a coalition of civil society organisations called for the formation of an independent body to tackle corruption in the country.[311]

The previous UMNO dominated government used laws against internal and external opponents in relation to the 1Malaysia Development Berhad (1MDB) scandal. Former Prime Minister Najib Razak's mismanagement of and possible embezzlement from state development fund 1MDB has continued to be highly controversial domestically and internationally.[312] In an attempt to contain the fallout from 1MDB scandal, former Prime Minister Najib in 2015 replaced the attorney general and fired several cabinet members that had been critical of the scandal.[313] Najib promoted four members of a parliamentary committee investigating 1MDB to his cabinet, temporarily halting the committee's work.[314] In November 2016, a court found opposition politician Rafizi Ramli guilty of disclosing state secrets after he made public the Auditor General's report on the 1MDB scandal.[315] However following the Pakatan Harapan win in the 9 May general election, the 1MDB report was declassified, and subsequently the Court of Appeal let Rafizi Ramili off with a two-year good behaviour bond of RM10,000.[316]

Anti-corruption mechanisms

Malaysian law provides criminal penalties for corruption, but enforcement is typically focused on low level crime. The government is only partly willing to contain corruption, and the few integrity mechanisms implemented are mostly ineffective, however levels of corruption in the civil service are probably the lowest in the region after Singapore.[317] Senior government officials who break the law and engage in corruption are rarely prosecuted adequately.[318] The law provides criminal penalties for corruption by officials however enforcement typically is focused on small scale and low level crime.[319] Between August 2016 and August 2017, the Malaysian Anti-Corruption Commission (MACC) seized more than $US77 million worth of assets, 600 per cent more than the previous year.[320] Shortly after losing the prime ministership, authorities confiscated large sums of cash and luxury items from the residences of former Prime Minister Najib and Najib has been charged over missing funds from the 1MDB fund.[321] In August 2017, the MACC arrested the former chairman of a government agency over allegations of corruption related to the purchase of a London hotel for an above-market price, but he had not been charged by the year's end. [322] In July 2017, the Royal Malaysia Police (RMP) signed an anti-graft pledge of which anti-corruption bodies and civil society organisations said was a significant

[310] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section 4, p.22
[311] Civil Society Coalition Calls for Separate Independent Anti-Corruption Body, The Star Online, 19 July 2017, CXC90406610586
[312] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section C2;
Malaysia sets up new task force over 1MDB scandal, Aljazeera, 21 May 2018, CXBB8A1DA27639;
Malaysia seeks to lay multiple charges against ex-premier Najib over 1MDB PM Mahathir, Reuters, 19 June 2018, CXBB8A1DA29663
[313] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section C2;
BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, CIS7B83941547, p.10
[314] Freedom in the World 2017 – Malaysia, Freedom House, 12 July 2017, NG2A465F591, section C
[315] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, NGED867A631, section B1;
BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, CIS7B83941547, p.13
[316] Rafizi let off with good behaviour bond for OSA conviction, Malaysiakini, 1 June 2018, CXBB8A1DA28497
[317] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, CIS7B83941547, p.32
[318] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, CIS7B83941547, p.13
[319] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section 4, p.22
[320] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section 4, p.22
[321] Najib finished second round of questioning by anti-graft body, The Straits Times, 25 May 2018, CXBB8A1DA27951;
Former Malaysian PM Najib Razak interrogated by corruption commission as charges loom, ABC News (Australia), 23 May 2018, CXBB8A1DA27725;
Malaysia scrutiny of 'insolvent' 1MDB wealth fund intensifies as ex-PM Najib Razak is questioned again in corruption scandal, South China Morning Post, 24 May 2018, CXBB8A1DA27945;
Cash tally from condo raids More than $40m, Asia News Network, 24 May 2018, CXBB8A1DA27853;
Former Malaysian PM charged with money laundering, abuse of power, Reuters, 20 September 2018, CXBB8A1DA35852
[322] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section 4, p.22

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step towards accountability.[323] Rates of corruption in Malaysia remain relatively low in comparison to other countries in the region.[324]

Crime

Malaysian authorities periodically crack-down on criminal gangs and crime syndicates. In August 2013, the RMP launched Ops Cantas Khas, focusing on weapons seizures and targeting gang members, leaders and their assets.[325] Police claimed that they had identified 49 illegal gangs nationwide with 40,000 members – 70 per cent of whom were ethnic Indian[326] – who are linked to armed robberies, drug and prostitution rings, loan-sharking, gambling, and extortion and contract killings.[327] Authorities claim that the crackdown has led to a reduction in crime.[328] A second stage of the campaign – Op Cantas Khas 2 – was launched in August 2016.[329] In January 2018 a nationwide operation known as Operation Cantas Silver resulted in the arrest of 36 suspected members of Gang 04 who are allegedly involved in violent crimes including robbery, extortion, arson and drug trafficking.[330] Recently, Gang 360 Devan members previously charged under section 130 V of the Penal Code have had their charged downgraded to Section 43 of the Societies Act 1966 that carries a more lenient sentence.[331]

Loan sharks

The practice of illegal money lending is widespread in Malaysia but victims are often reluctant to report problems to police because of threats from loan sharks or embarrassment. Illegal money lending is an offence under Malaysian law and can attract a fine or five years in prison.[332] Loan sharks often target gamblers and drug addicts, and police have shown a willingness to take action against them.[333] However, a lack of cooperation from victims and other members of the public as a result of threats or embarrassment is a major barrier to prosecuting loan shark syndicates,[334] while Malaysian authorities may also view individuals who access loan shark services as having participated in an illegal practice.[335] In May 2016, police disrupted the largest illegal money-lending syndicate in Malaysia.[336] A non-governmental organisation, the Malaysian Muslim Consumers Association (PPIM), offers support for those encountering problems with loan sharks.[337]

Death penalty

Capital punishment applies in Malaysia for a number of offences, including drug trafficking, murder, acts of terrorism and offences against the King. In practice, the death penalty is most commonly applied for drug trafficking and premeditated murder.[338] People sentenced to death by the High Court have an automatic right to judicial review of their sentence by the Court of Appeal and the

[323] Anti-graft pledge by police hailed as a good move, The Star Online, 27 July 2017, CXC90406610992
[324] Malaysia Corruption Report, GAN Integrity, 1 November 2016, CIS38A80123529
[325] Cops deal crime a crippling blow since Ops Cantas Khas launch, The Star Online, 23 September 2013, CXC28129414715
[326] Malaysia's gang menace, Aljazeera, 11 July 2014, CX1B9ECAB10299
[327] Malaysia's gang menace, Aljazeera, 11 July 2014, CX1B9ECAB10299
[328] 79,414 individuals detained throughout 'Ops Cantas Khas', Bernama, 10 June 2014, CX1B9ECAB11435
[329] Op Cantas crackdown on triads: 1,444 arrested, Astro Awani, 13 August 2016, CX6A26A6E8262
[330] 36 suspected underworld gang members arrested in Malaysia, Bernama, 20 February 2018, CXBB8A1DA22559
[331] 57 go on trial in Kajang Prison for alleged links to Gang 360 Devan, Bernama, 6 September 2018, CXBB8A1DA34959
[332] KL Consumer Safety Association - No need to fear the loan sharks, Bernama, 17 February 2015, CXBD6A0DE1580
[333] Sabah Police probe nine Ah Long cases in 2013, The Malaysian Times, 3 January 2014, CX1B9ECAB11427;
Malacca police investigates 29 Ah long cases since January 2013, Malaysia Edition, 28 December 2013, CXC28129414704
[334] Police cooperate with Council to wipe out loan sharks, Daily Express, 28 December 2013, CX320164
[335] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 3.96, p.24
[336] Police bust largest money-lending syndicate (Updated), The Sun Daily, 23 May 2016, CX6A26A6E7820
[337] For Malaysia's sake, consumers group seeks to save civil servants trapped in debt, Malay Mail online, 3 August 2017, CXC90406624589;
Loan sharks sharpen their bite, The Star Online, 20 January 2018, CXBB8A1DA22631;
More than 10,000 people sought PPIM's help over Ah Long cases, Bernama, 18 October 2016, CX6A26A6E31142;
PPIM urges govt to put an end to 'ah long' posters, Bernama, 6 September 2018, CXBB8A1DA35970
[338] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 4.9, p.32

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Federal Court, and are also able to seek clemency from the relevant state ruler or the King.[339] Malaysia does not traditionally release data on the number of people executed, but the government reported that fifteen people were executed between 2014 and 2016.[340] Prisoners typically languish on death row for years and there is no established procedure for notifying families of scheduled executions.[341] During 2017, it was estimated that nearly 1,000 people were on death row.[342]

Malaysia introduced legislation that removes the mandatory death sentence for drug traffickers under limited circumstances. In November 2017, parliament passed the Dangerous Drugs (Amendment) Bill to remove the mandatory death sentence for drug-related offences by giving judges the discretion to punish drug offences with either life imprisonment or hanging.[343] However, judicial discretion is limited only to certain circumstances under specified in section 39B(2A) of the Bill;[344] namely where the accused is a merely a drug courier and has assisted law enforcement in disrupting drug trafficking activities.[345] The amendment Bill does not apply in retrospect for previous convictions.[346] At least 10 persons have received the mandatory death penalty for drug trafficking despite Parliament having already enacted the Bill to abolish the penalty.[347]

Domestic violence/familial abuse

Family violence

Domestic violence remains prevalent in Malaysia, despite laws prohibiting it. Malaysian law prohibits domestic violence, including physical injury and mental, emotional and psychological abuse.[348] A husband who harms his wife in order to force her to have sex – or who causes her to fear for her life – can be jailed for up to five years; however, non-consensual sex between a husband and wife is otherwise not considered rape under the country's penal code.[349] Domestic violence victims can obtain protection orders which attract a prison sentence of up to one year or a fine if breached.[350] Malaysia took a step forward in the protection of women's rights in 2017 by amending its domestic violence law to provide better protection for victims of domestic violence.[351] In August 2017, the country's parliament passed a law enlarging the definition of domestic violence to include the misappropriation of property, threatening a victim, communicating with or about a victim in a way that insults their 'modesty', as well as also ensuring protection for male victims.[352] However, contradictions between civil and Sharia law still affect the level of protection available to victims.[353]

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[339] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 4.10, p.32
[340] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 4.11, p.32
[341] Amnesty International, February 2017, NG2A465F54, p.243
[342] World Report 2018, Human Rights Watch, 18 January 2018, NGED867A63, p.353
[343] No more mandatory death sentence soon as amendments to Dangerous Drugs Act passed in Parliament, New Straits Times, 30 November 2017, CXC90406618546;
Group against death penalty warns amended Drug Act still has flaws, Malaymail Online, 15 March 2018, CXBB8A1DA23929
[344] A Call to End the Mandatory Death Penalty in Malaysia, Union Internationale des Avocates (UIA), 20 February 2018, CXBB8A1DA22745
[345] Amnesty International Report 2017/18, Amnesty International, 22 February 2018, NGED867A612, p.250
[346] Parliament removes mandatory death penalty for drug offences, judges to get discretion, Malaymail Online, 30 November 2017, CXC90406618547
[347] A Call to End the Mandatory Death Penalty in Malaysia, Union Internationale des Avocates (UIA), 20 February 2018, CXBB8A1DA22745
[348] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 3.105, p.25
[349] Penal Code, Government of Malaysia, 1 January 2015, CISEC96CF17379, p.197;
Why it's hard to make marital rape a crime, Free Malaysia Today, 12 March 2017, CXC90406616307;
WAO: Why criminalising marital rape is important, Free Malaysia Today, 23 March 2017, CXC90406616314
[350] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 3.105, p.25;
[351] World Report 2018, Human Rights Watch, 18 January 2018, NGED867A63, p.356;
Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 3.106, p.26
[352] Dewan Negara passes Domestic Violence (Amendment) Bill 2017 and Private Employment Agencies (Amendment) Bill 2017, New Straits Times, 14 August 2017, CXC90406612113
[353] Domestic Violence, Women's Aid Organisation, n.d., accessed 16 August 2017, CISD9559B12503

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Under Sharia law in many states, wives are prohibited from disobeying the 'lawful order' of their husbands, which can lead to ambiguous interpretations of the law.[354]

Government and non-government bodies provide shelter and wide-ranging assistance to victims of domestic violence, but these are often insufficient to meet the need. Almost every hospital in Malaysia has a crisis centre where victims of rape and domestic violence can make reports without going to a police station,[355] and which offer services such as examination by female doctors, evidence management, temporary shelter and legal assistance.[356] In 2011, UN Women reported that the One Stop Crisis Centre model was successful in combining clinical therapeutic responses with secondary preventive measures.[357] The RMP Criminal Investigation Division includes a Sexual Investigation Division.[358] The Ministry of Women, Family and Community Development organises legal literacy seminars designed to inform women of their rights in cases related to issues such as marital problems and divorce.[359] Changes to the country's domestic violence laws in August 2017 allow authorised social welfare officers to issue emergency protection orders for domestic violence victims.[360] There is a sexual investigations unit at each police headquarters to help victims of sexual crimes and abuse, and police sometimes assign psychologists or counsellors to provide emotional support.[361] Credible sources also suggest that access to facilities like shelter services are insufficient to meet the need.[362]

Early and forced marriage

Sharia courts typically approve applications for child marriage despite laws stipulating the minimum age at which girls can get married. In Malaysia, the minimum age of marriage is 18 years for men and 16 years for women.[363] However, Muslim women younger than 16 may marry with the approval of a Sharia court.[364] In 2017, Teo Nie Cheng of the opposition Democratic Action Party unsuccessfully proposed an amendment to the Sexual Offences Against Children bill to include a ban on child marriage.[365] In Malaysia, there were 152,835 persons aged 15-19 in a marriage according to the 2010 Population and Housing Census.[366] A further breakdown in terms of gender shows that there were more females (80,195) than males (72,640); and the most affected were the Malay Muslim community.[367] Women's groups claim that on average ten women are rapped each day and that more than half of these women are younger than 16 years old.[368]

Malaysian authorities have taken limited steps to regulate early marriages and the sexual abuse of young girls. Malaysia's parliament voted down an attempt to ban child marriage in April

[354] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 3.105, pp.25-26
[355] One Stop Crisis Centre (OSCC), One Stop Crisis Centre (OSCC) website, 2017, CISEDB50AD5269
[356] Knowledge, attitude and practice among healthcare staffs in the Emergency Department, Hospital Universiti Sains Malaysia towards Rape Victims In One Stop Crisis Centre (OSCC), Medical Journal of Malaysia, 3 June 2015, CISEC96CF15553, p.162; One Stop Crisis Centre (OSCC), One Stop Crisis Centre (OSCC) website, 2017, CISEDB50AD5269
[357] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 3.109, p.26.
[358] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 3.106, p.26
[359] Good Practices: Eliminating Violence Against Women and Children (EVAWC), Ministry of Women, Family and Community Development, Malaysia and ASEAN Commission on the Promotion and Protection of the Rights of Women and Children, n.d., accessed 15 August 2017, CISEDB50AD5272, p.38
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[361] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section 6, p.23
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[363] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section 6, p.25
[364] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section 6, p.25
[365] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 3.130, p.29
[366] Child Marriage: Its Relationship with Religion, Culture and Patriarchy, Sisters in Islam & Asian-Pacific Resource and Research Centre for Women, June 2018, CIS7B839411448, p.21
[367] Child Marriage: Its Relationship with Religion, Culture and Patriarchy, Sisters in Islam & Asian-Pacific Resource and Research Centre for Women, June 2018, CIS7B839411448, p.21
[368] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, CIS7B839419347, section 3.106, p.26

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2017, but passed a new child sex crimes law.[369] The law criminalises 'grooming' of minors, includes penalties for making and possessing pornography involving people aged under 18, and involves the establishment of a special court to deal with child sexual abuse cases more quickly.[370] According to the National Fatwa Council, early marriages are no longer seen as a 'healthy' practice and should only be permitted where it is done 'to care for the child's needs'.[371] A 2016 UNICEF Malaysia poll suggests that public opinion may be turning against early marriage – particularly among young people – with 95 per cent of respondents saying that marrying a 14 year-old is wrong and 86 per cent saying the minimum age to get married should be set at 18.[372]

Islamic Family Law stipulates that Muslim women may only marry with the consent of a male guardian, but using force or threat to compel a woman to marry or to reject a proposal can lead to a fine or imprisonment. Malaysia's Law Reform (Marriage and Divorce) Act states that all marriage must be based on mutual consent, and using force or threat to compel a woman to marry against her will or to prevent her from getting married is punishable with a fine or imprisonment.[373] However, Islamic Family Law stipulates that marriages are not fully recognised without the consent of the '*wali*', the woman's guardian.[374] A *wali* may be the bride's birth father, paternal grandfather, brother, paternal uncle or any male relative from her paternal side.[375] They are responsible for the bride's life before she is married and are supposed to ensure that the proposed groom is a reliable and trustworthy person who will continue to meet his responsibilities towards the bride after marriage.[376] No information was found suggesting that adult Malaysian Muslim women are routinely forced to marry unwillingly; however, a 2012 report said that the *wali* system means that they do not necessarily have the same right to freely choose their spouse and enter into marriage.[377] Where a *wali* is not available, credible sources say that permission can be given by a judge or a person authorised by a judge, or a representative of the head of state.[378] A number of older reports from 2005 and 2006 refer to the practice of '*ijbar*' in Kelantan and Kedah states, which allows a guardian to marry off an unmarried virgin without their consent.[379]

Female genital mutilation

Female Genital Mutilation (FGM or female circumcision) is widely practiced across Malaysia and is becoming increasingly common despite international criticism of the practice. Malaysia's National Council of Islamic Religious Affairs issued a *fatwa* in 2009 that ruled female circumcision obligatory for Muslim women unless found to be physically harmful.[380] The Ministry of Health has developed guidelines on female circumcision and allows the practice to take place in healthcare facilities.[381] Female circumcision is often performed during infancy and a 2012 study found that 93 per cent of Muslim women respondents had undergone the practice.[382] In February 2018, representatives from Muslim-majority countries such as Bangladesh and Egypt criticised the practice

[369] Malaysia passes child sex crimes law, does not ban child marriage, Reuters, 5 April 2017, CXC90406611583
[370] Malaysia passes child sex crimes law, does not ban child marriage, Reuters, 5 April 2017, CXC90406611583
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[373] Social Institutions and Gender Index 2014 – Malaysia, Organisation for Economic Co-operation and Development, 2014, CISEDB50AD5657, p.1
[374] Social Institutions and Gender Index 2014 – Malaysia, Organisation for Economic Co-operation and Development, 2014, CISEDB50AD5657, p.1
[375] Wali, Singapore Government, 2015, CISEC96CF15597
[376] Wali, Singapore Government, 2015, CISEC96CF15597
[377] Washing the Tigers: Addressing Discrimination and Inequality in Malaysia, Equal Rights Trust and Tenaganita, November 2012, CIS28954, p.53
[378] Washing the Tigers: Addressing Discrimination and Inequality in Malaysia, Equal Rights Trust and Tenaganita, November 2012, CIS28954, p.53;
Marriage in the Absence of Wali Nasab: Procedural Difficulties in Obtaining Consent from a Wali Raja, Pertanika (official journal of the Universiti Putra Malaysia), 2015, CISEC96CF15598, p.306
[379] "Best Practices" – Progressive Family Laws in Muslim Countries, Woodrow Wilson International Center for Scholars, August 2005, CIS9BE2467857, p.17;
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[380] Malaysia Still on the Wrong Path on Women's Rights, The Diplomat, 26 February 2018, CXBB8A1DA23247
[381] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, OGD95BE927312, section 6, p.24
[382] Malaysia Still on the Wrong Path on Women's Rights, The Diplomat, 26 February 2018, CXBB8A1DA23247

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as un-Islamic at the Constructive Dialogue session of the 69th session of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).[383]

[383] Malaysia urged to abolish female genital mutilation, The Star Online, 22 February 2018, CXBB8A1DA2276

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Australian Government
Department of Home Affairs

Common Claims

Malaysia

Country of Origin Information Services Section (COISS)

Effective 29 November 2018

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Ethnicity

Ethnic demographics

Malays are the dominant ethnic group in Malaysia. Along with a small number of other indigenous groups (including Orang Asli, Dayak, Anak Negeri), bumiputera comprise 61.7 per cent of the country's population.[1] Chinese (20.8 per cent) and Indians (6.2 per cent) are the other major ethnic groups in Malaysia.[2] It is estimated that 80 per cent of the Indian population are Tamil.[3] Although the Malaysian Constitution forbids discrimination against citizens on the basis of gender, religion and race, it accords a special position for bumiputera, in effect permitting affirmative action policies that are widely considered to be discriminatory against other ethnic groups.[4] Chinese are the country's highest median income earners, while Indians and bumiputera are the lowest median income earners – both below the national median.[5]

Bumiputera

Bumiputera enjoy a special position in Malaysia that is not afforded to ethnic Chinese or Indians. Following May 1969 race riots, the government passed legislation aimed to ensure Malay political supremacy, and in 1971 promulgated the New Economic Policy that provided extensive benefits to the bumiputera community.[6] Although the New Economic Policy officially ended in 1991, economic policies since have changed little in character and continue to include special rights for the bumiputera while at the same time promoting rapid economic growth to ensure that all ethnic groups benefit economically.[7] The government limits opportunities for non-bumiputera in higher education and government employment.[8] Many industries are subject to race-based requirements that mandate bumiputera ownership levels.[9] Government procurement and licensing policies favour bumiputera-owned businesses.[10] In July 2018, the Malaysian government indicated that it would review the New Economic Policy to align economic policies with need instead of race.[11] In November 2018, the government stated that it would not ratify the International Convention on the Elimination of All Forms of Racial Discrimination, following opposition and criticism that ratifying the convention would weaken the rights of bumiputera, Malay royals, and dilute Islam's position in Malaysia.[12]

Chinese

Chinese Malaysians generally do not experience discrimination or violence on a daily basis, are represented in government, but may face low-level of official discrimination when attempting to gain entry to tertiary education. The Malaysian Chinese Association, part of the

[1] The World Factbook Malaysia, Central Intelligence Agency, 23 October 2018, CIS7B8394110022
[2] The World Factbook Malaysia, Central Intelligence Agency, 23 October 2018, CIS7B8394110022
[3] World Directory of Minorities and Indigenous Peoples - Malaysia Indians, Minority Rights Group International, January 2018, CIS7B83941338
[4] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 2.22, p.8, CIS7B839419347
[5] Malaysian Indian Blueprint, Prime Minister's Office, 21 April 2017, pp.8-9, CISEDB50AD7705
[6] BTI 2018 Country report Malaysia, Bertelsmann Stiftung, 22 March 2018, pp.4-5, CIS7B83941547
[7] BTI 2018 Country report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.5 and p.31, CIS7B83941547
[8] World Directory of Minorities and Indigenous Peoples - Malaysia Indians, Minority Rights Group International, January 2018, CIS7B83941338;
World Directory of Minorities and Indigenous Peoples - Malaysia: Chinese, Minority Rights Group International, January 2018, CIS7B83941344;
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Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section G1, NGED867A631
[9] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, section 6, p.27, OGD95BE927312
[10] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, section 6, p.27, OGD95BE927312
[11] Malaysia to train Bumiputera to be more competitive rather than spoon-feed them Mahathir, The Straits Times, 1 September 2018, CXBB8A1DA34636
[12] Malaysia not ratifying UN human rights treaty, The Straits Times, 24 November 2018, CXBB8A1DA39228

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Barisan National (BN) coalition, has traditionally been the largest Chinese political party.[13] However, an increasing number of Chinese support the Democratic Action Party (DAP), one of three opposition parties of the Pakatan Harapan coalition.[14] Lim Guan Eng, an ethnic Chinese, was appointed as finance minister following May 2018 elections.[15] There are no laws or constitutional provisions that directly discriminate against Chinese Malaysians.[16] However, non-bumiputera communities experience systematic discrimination in the distribution of state benefits.[17] Chinese are able to access public education but increasingly attend one of the 1,295 Chinese schools due to concerns about the quality of education and perceptions that the public curriculum has a strong focus on Islam.[18] Despite the removal of government-sanctioned ethnic quotas for public universities in 2002, Malaysia's admission decisions favour ethnic Malays and some ethnic Chinese miss out on a university place despite having high marks.[19] Chinese form the bulk of students at Malaysia's non-government universities.[20]

Indians

Indian Malaysians generally do not experience discrimination or violence on a daily basis but may face low levels of discrimination when attempting to gain entry to tertiary education. There are no laws or constitutional provisions that directly discriminate against Indian Malaysians.[21] However, non-bumiputera communities experience systematic discrimination in the distribution of state benefits.[22] Indians are able to access public education, with 524 state-based Tamil-language schools across Malaysia.[23] However, access to state-based tertiary education remains low, with approximately six per cent of student places at public universities offered to Indian applicants.[24]

Since 2009 the government has mandated initiatives aimed to improve the socio-economic position of Indian Malaysians. In recent years, the government has focused socio-economic policies on helping the lower economic percentile of the Indian community (estate Indians) to attain better education outcomes,[25] resulting in spending allocations exceeding RM1 billion for Tamil schools.[26] In 2017, the government published its 10 year Malaysian Indian Blueprint that outlines policies and mechanisms that have been implemented since 2009 which aim to lift the socio-economic position of Malaysian Indians.[27]

Indian Malaysians participate extensively in political life but the predominant use of the Malay language can be a barrier to Indian employment in the civil service. Indian Malaysians participate freely in political life and the Malaysian Indian Congress forms part of the BN coalition.[28] In recent years, there have been several ethnic Indian members of parliament including ministers and a

[13] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.6, p.11, CIS7B839419347
[14] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.6, p.11, CIS7B839419347
[15] Malaysia's ruling party may be gone, but its racial policies survive, The Economist, 7 June 2018, CXBB8A1DA28917; The shape of things to come under Mahathir 2.0, Asia Times, 13 May 2018, CXBB8A1DA27542
[16] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.4, p.10, CIS7B839419347
[17] BTI 2018 Country report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.7, p.24, CIS7B83941547
[18] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.8, p.11, CIS7B839419347
[19] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.8, p.11, CIS7B839419347
[20] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.8, p.11, CIS7B839419347
[21] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.11, p.11, CIS7B839419347
[22] BTI 2018 Country report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.7, CIS7B83941547
[23] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.11, p.12, CIS7B839419347
[24] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.11, p.12, CIS7B839419347
[25] Malaysia Indian Blueprint, Prime Minister's Office, 21 April 2017, CISEDB50AD7705
[26] I'm committed to transforming Indian community, says Najib, The Malaysian Insight, 3 December 2017, CXC90406618619
[27] Malaysia Indian Blueprint, Prime Minister's Office, 21 April 2017, CISEDB50AD7705
[28] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.16, p.12, CIS7B839419347

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president of the upper house.[29] In June 2018, the Mahathir government appointed an ethnic Indian Christian, Tommy Thomas, as Attorney General.[30] The predominant use of the Malay language can be a barrier to Indian Malaysian employment in the civil service.[31] More than 50 per cent of Indian Malaysians are employed in low-income jobs but also represent a high proportion of professionals, including 38 per cent of the country's medical workforce.[32] In 2015, an Indian Malaysian was appointed as Chief of Police in Kuala Lumpur, the first non-Malay to hold this position.[33]

Religion

Islam is the dominant religion in Malaysia. Malaysia has continued its shift towards a more conservative approach to Islam, the majority religion.[34] Census figures from 2010 indicate that 61.3 per cent of the population practices Islam.[35] Significant religious minorities are Buddhists (19.8 per cent), Christians (9.2 per cent), Hindus (6.3 per cent) and Confucianists, Taoists and other traditional Chinese philosophies and religions (1.3 per cent).[36] The government automatically classes individuals born in Malaysia of Malay ethnicity as Muslim.[37] Rural areas – especially on the east coast of Peninsular Malaysia – are predominately Muslim, while the states of Sabah and Sarawak on the island of Borneo have higher numbers of non-Muslims.[38] A Muslim's status is recorded on their birth certificate and on their national identification card.[39] National identification cards do not distinguish between Sunni and Shi'a Muslims, instead the cards identify Muslims on their surface, but record other religious affiliation in encrypted form on a smart chip.[40] Following 2018 general elections, the new prime mistier ordered a review of the Malaysia's institution tasked with promoting Islam, the Islamic Development Department (Jakim), that would include how Islam is portrayed in society and its budget.[41]

Religious freedom

Sunni Islam is Malaysia's official interpretation of Islam. Although the Constitution states that Islam is the religion of the Federation and provides for religious freedom,[42] a 1996 *fatwa* supported by state laws, requires the country to follow Sunni teachings of the Shafi'i school and prohibits Muslims from possessing, publishing, or distributing material contrary to those teachings.[43] Non-Sunni interpretations of Islam are illegal and subject to action by religious authorities.[44] Sedition laws

[29] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.16, p.12, CIS7B839419347
[30] The changing face of Malaysian justice, The changing face of Malaysian justice, Asia Times, 6 June 2018, CXBB8A1DA28835;
Malaysia's ruling party may be gone, but its racial policies survive, The Economist, 7 June 2018, CXBB8A1DA28917
[31] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.12, pp.11-12, CIS7B839419347
[32] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.12, pp.11-12, CIS7B839419347
[33] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.12, p.12, CIS7B839419347
[34] World Report 2018, Human Rights Watch, 18 January 2018, p.355, NGED867A63
[35] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section I, p.2, OGD95BE927494
[36] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section I, p.2, OGD95BE927494
[37] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.27, p.14, CIS7B839419347 section 3.27, p.14
[38] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section I, p.2, OGD95BE927494
[39] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.27, p.14, CIS7B839419347
[40] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.27, p.14, CIS7B839419347
[41] Malaysia's most powerful Islamic body faces scrutiny, The Straits Times, 18 June 2018, CXBB8A1DA29463
[42] Federal Constitution, Government of Malaysia, introduced 31 August 1957, amended 27 December 2007, reprinted 1 November 2010, The Commissioner of Law Revision, Article 11, CISDCDCAAB1747
[43] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.3, OGD95BE927494
[44] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, p.1, OGD95BE927494

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regulate and punish speech considered hostile to Islam.[45] Civil society activists have said that the government has selectively prosecuted speech allegedly denigrating Islam while largely ignoring criticism of other faiths.[46] During 2017, the government barred Muslims from converting to another religion, and imposed fines, detentions, and canings on those classified under the law as Muslim who contravened Sharia codes.[47]

Religious adherence

Apostasy is a crime under Sharia law in five Malaysian states, but no Sharia court has ever prosecuted anyone for leaving Islam, or attempting to do so. Individuals born in Malaysia of Malay ethnicity are automatically classed as Muslim.[48] Muslims who wish to convert to another religion must obtain approval from a Sharia court.[49] In practice, those born Muslim are not permitted to convert out of Islam by a Sharia court.[50] Only one (Negeri Sembilan) of Malaysia's thirteen states has a legal procedure that allows a non-Malay Muslim to legally 'leave Islam'.[51] Sharia courts show reluctance to allow for conversion out of Islam of those who had previously converted to Islam.[52] Apostasy from Islam is a criminal offence in Perak, Melaka, Sabah, and Pahang, punishable by a fine or jail, or up to six strokes of the cane in Pahang.[53] The maximum penalty for apostasy in the states of Kelantan and Terengganu is death.[54] However, this punishment is not enforceable due to restrictions by federal law.[55] Furthermore, there has not been a case when a Sharia court chief prosecutor has initiated criminal proceedings for apostasy or attempted apostasy against an individual seeking to officially change their religious status.[56] The Sharia Judiciary Department Malaysia (JKSM) acknowledged that its records show that no Malay Muslim has ever applied to change their religious status.[57]

Sharia courts only grant permission to convert out of Islam to individuals who were not born Muslim but converted to Islam during their life and then later seek reversion. Muslims who wish to convert to another religion must obtain approval from a Sharia court.[58] In practice, only those not born Muslim are granted permission to convert out of Islam by a Sharia court.[59] In a ten year period between 2000 and 2010 only 168 of 800 Muslims who attempted to convert out of Islam were given permission by Sharia courts, and these were all reversion cases.[60] It was reported in 2017 that 400 cases of Muslims were appealing to sharia courts to convert to another religion.[61] Only a Sharia court

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[45] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.5, OGD95BE927494
[46] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.8, OGD95BE927494
[47] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.5, OGD95BE927494
[48] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.27, p.14, CIS7B839419347
[49] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.3, OGD95BE927494
[50] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.3, OGD95BE927494
[51] Negotiating Apostasy: Applying to "Leave Islam" in Malaysia, University of Salford Manchester, April 2014, Samuri, M A A, Quraishi, M M, p.2, pp.4-8, CISEFCB23F7623
[52] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.3, OGD95BE927494
[53] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.3, OGD95BE927494
[54] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.3, OGD95BE927494
[55] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.5, 9, OGD95BE927494
[56] Path to leave Islam simple, but far from easy, Malay Mail, 12 July 2014, CX1B9ECAB12845
[57] Path to leave Islam simple, but far from easy, Malay Mail, 12 July 2014, CX1B9ECAB12845
[58] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.3, OGD95BE927494
[59] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.3, OGD95BE927494
[60] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.60, p.18, CIS7B839419347
[61] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section III, p.14, OGD95BE927494

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can provide a court order/letter of release from Islam that can be used to amend a person's religion on his/her identity card.[62]

Atheism is not illegal in Malaysia. In November 2017, the government stated that atheism was unconstitutional.[63] However, the Constitution provides for freedom of religion that includes the right not to practice a religion.[64] A Muslim should first obtain a certificate from a Sharia court to convert out of Islam.[65] In August 2017 two senior ministers in the Malaysian government generated controversy after they called for an investigation after members of the Malaysian chapter of the Atheist Republic posted a photo of their initial gathering on Facebook.[66] The deputy minister in charge of religious affairs said that the government needed to determine whether any Muslims were in the Atheist Republic photo and suggested using the "soft" approach by sending them for counselling.[67] The other minister from the Prime Minister's Department said that "we have to bring them back to the right path".[68]

It is possible for an individual to live an atheist life in Malaysia. Population and Housing Census figures from 2010 suggested there were about 300,000 Malaysians who followed non-religious belief systems or did not believe in God.[69] Malaysian Muslims are generally not prosecuted for disbelief.[70] Some atheists maintain a low-profile in society and are known to socialise with likeminded people,[71] whereas other Muslims make no attempt to hide their atheism from society.[72] A range of atheist-focused organisations, Facebook pages, Twitter accounts and websites – some of which are no longer active – have been set up in recent years with the aim of allowing people who do not believe in God to come together.[73]

Religious discrimination

Malaysian authorities interfere in or prevent religious practice or worship of non-Sunni Islamic groups. The federal and state governments continued to forbid religious assembly and worship for groups considered to be deviant Islamic groups such as Shia, Ahmadiyya, and Al-Arqam.[74] Ahmadi Muslims have reported generally being able to maintain a worship centre but government religious authorities forbid them from holding Friday prayers stating that they could only be performed in an officially registered mosque.[75] In October 2017, the Muslim Consumer Association of Malaysia denounced the Ahmadiyya Muslim community in a press conference and police intervened to prevent a Muslim Consumer Association of Malaysia protest outside the Ahmadiyya Muslim headquarters.[76] During the past several years, local government authorities have permitted billboards stating that "Ahmadis are not Muslims" to be placed outside the Ahmadiyya Muslim headquarters.[77]

Malaysia's state government authorities may restrict the construction of official places of worship for some non-Islamic religious groups. Religious groups complain that the government

[62] Sarawak Shariah Court can hear apostasy cases, rules apex court, Bernama, 27 February 2018, CXBB8A1DA23564
[63] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.8, OGD95BE927494,
[64] Lawyers: Being atheist, promoting atheism protected by Constitution, Malaymail Online, 25 November 2017, CXC90406620451
[65] Atheism is not unconstitutional, legal minds tell deputy minister, Free Malaysia Today, 24 November 2017, CXC90406620452;
[66] Intolerance Rising: Atheists at Risk in Malaysia, The Diplomat, 22 August 2017, CXC90406612572
[67] Malaysia probes atheist group after uproar over Muslim apostates, Reuters, 7 August 2017, CXC90406620455
[68] Atheist Republic members need to be tracked down, says Malaysian Cabinet minister, The Straits Times, 8 August 2017, CXC90406620454
[69] Are Malaysia's atheists an endangered species or quietly burgeoning?, Malaysiakini, 13 July 2016, CX6A26A6E16914
[70] Intolerance Rising: Atheists at Risk in Malaysia, The Diplomat, 22 August 2017, CXC90406612572
[71] Intolerance Rising: Atheists at Risk in Malaysia, The Diplomat, 22 August 2017, CXC90406612572
[72] Moderation under threat as Malaysia faces Islamic tide, The Australian, 17 August 2017, CXC90406620453
[73] Are Malaysia's atheists an endangered species or quietly burgeoning?, Malaysiakini, 13 July 2016, CX6A26A6E16914
[74] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.9, OGD95BE927494
[75] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.9, OGD95BE927494
[76] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.9, OGD95BE927494
[77] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.9, OGD95BE927494

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has no transparent criteria for determining whether to register a religious group.[78] In cases where the government refuses to register a religious group, the group can attempt to register as a company.[79] In 2017, the government did not specifically allocate funds for non-Muslim religious groups, although some religious groups received sporadic funding for temple and church buildings and other activities.[80] Non-Muslim groups have reported some difficulties in obtaining permission from local authorities to build new places of worship, causing groups to use buildings zoned for residential or commercial use for religious services.[81] However, in March 2017 the state government of Penang announced that 32 plots of state land would be made available to non-Muslim religious groups to build churches and temples after groups complained about the lack of suitable places to construct houses of worship.[82]

Sharia law

Malaysia maintains a dual legal system with the coexistence of Sharia law alongside civil law. Malaysia's secular legal system is based on English common law.[83] Muslims are subject to Sharia (Islamic law), the interpretation of which varies regionally, and the constitution's Article 121 stipulates that all matters related to Islam should be heard in Sharia courts.[84] The dual legal system results in different treatment of Muslims and non-Muslims in "moral" and family law cases.[85] Although Shariah courts have jurisdiction only over matters involving Muslims, they remain highly influential in general, because their decisions frequently involve conversions to Islam, which in turn affect such matters as child-custody, burial rites and inheritance.[86] Two states, Kelantan and Terengganu, have symbolically enacted *hudood* (Islamic penal law), but the Malaysian government has not allowed the code to be implemented.[87] Some penalties imposed by Sharia courts are limited by federal civil law.[88]

See also 'State Islamic religious enforcement officers'

Interfaith and mixed marriages

Non-Muslims wishing to marry a Muslim must convert to Islam for the marriage to be officially recognised. There are two primary statutes in Malaysia for marriage, for civil marriage, the Law Reform (Marriage and Divorce) Act 1976,[89] and for Muslim marriage, Islamic Family Law Act (Federal Territories) 1984.[90] The civil law marriage and divorce act states that it does not apply to Muslims.[91] The only exception for a Muslim to marry a non-Muslim is when a Muslim man marries a *Kitabayah* (Christian whose ancestors were Christian before the prophethood of Muhammod).[92] In practice it is

[78] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.8, OGD95BE927494
[79] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.8, OGD95BE927494,
[80] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.11, OGD95BE927494
[81] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.10, OGD95BE927494
[82] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.10, OGD95BE927494
[83] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section F2, NGED867A631;
International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.5, OGD95BE927494
[84] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section F2, NGED867A631;
International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.5, OGD95BE927494
[85] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section F2, NGED867A631
[86] BTI 2018 Country report Malaysia, Bertelsmann Stiftung, 22 March 2018, pp.7-8, CIS7B83941547
[87] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.5, OGD95BE927494;
BTI 2018 Country report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.8, CIS7B83941547
[88] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 5.3, p.35, CIS7B839419347
[89] Law Reform (Marriage and Divorce) Act (164) 1976 (Malaysia), Federal Government of Malaysia, 6 March 1976, (amendments to 1 January 2006), the Commissioner of Law Reform, CISBE8E6BE702
[90] Islamic Family Law Act (Federal Territories) Act (303) 1984 (Malaysia), Federal Government of Malaysia, 27 June 1984, amendments to 1 January 2006, the Commissioner of Law Reform, CIS883493140
[91] Law Reform (Marriage and Divorce) Act (164) 1976 (Malaysia), Federal Government of Malaysia, 6 March 1976, (amendments to 1 January 2006), the Commissioner of Law Reform, Part I, article 3(3), CISBE8E6BE702
[92] Solving the syariah – civil conflict, New Straits Times, 19 August 2017, CXC90406617998

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almost impossible to prove this ancestry.[93] For a marriage to be officially recognised, a non-Muslim must convert to Islam to marry a Muslim.[94] Malaysian authorities do not recognise marriages between Muslims and non-Muslims and consider children born of such marriages illegitimate.[95] Some Sunni and Shia Muslims intermarry and have family members that practice either form of Islam.[96]

Although non-Muslim interfaith and ethnic mixed marriages are legal some may face opposition from their community, family or friends. Malaysian law does not restrict the rights of non-Muslims to marry.[97] Conversion sometimes takes place due to marriage, with one partner choosing to convert or both partners choosing to adopt a new faith; however, this is not compulsory.[98] Malaysian law does not restrict the rights of people from different ethnic groups to marry,[99] although as Malaysian law considers all Malays to be Muslim, a non-Muslim of another ethnicity intending to marry a Malay must convert.[100] Individuals in a mixed marriage sometimes face pressure or stigma from within their family, friends or community, while couples of different ethnicities may also encounter racism.[101]

Arranged marriages

Arranged marriages have declined sharply in recent decades, and most Malaysians are free to choose their own husband or wife. Malaysia's Law Reform (Marriage and Divorce) Act states that all marriages must be based on mutual consent, and no restriction is placed on the rights of people from different ethnic groups, or non-Muslims, to marry.[102] Individuals sometimes face pressure or stigma from within their family, friends or community based on religious, social or cultural difference.[103] Using force or threat to compel a woman to marry against her will or to prevent her from getting married is punishable with a fine or imprisonment.[104] However, Malaysia does not recognise marriages between Muslims and non-Muslims,[105] and Islamic family law stipulates that marriages are not fully recognised without the consent of the *wali*, a male family member – typically a woman's father, paternal grandfather, brother or paternal uncle – who acts as guardian for a woman prior to their marriage.[106] A 2012 report said that the *wali* system means that Muslim women do not necessarily have the same right to freely choose their spouse and enter into marriage.[107]

Shia Muslims

Shia Islam is considered a deviant form of Islam and is prohibited under Malaysian law. Eleven out of fourteen states ban Shia Islam, and a Shia Muslim found to be proselytising can expect to be

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[93] Ethnic and religious discrimination big challenge for Malaysia's minorities, Minority Rights Group International, 25 May 2011, CXCB3E63421379
[94] 2016 Report on International Religious Freedom – Malaysia, US Department of State, 1 August 2017, p.3, OGD95BE927132
[95] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, section 1, p.9, OGD95BE927312
[96] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.41, p.16, CIS7B839419347
[97] Registration of Marriage For Non-Muslim, National Registration Department – Ministry of Home Affairs, n.d., accessed 10 August 2017, CISEDB50AD5251
[98] A M'sian union – interracial couples share their stories, Malaysiakini, 16 September 2016, CX6A26A6E16886;
Interracial marriage as beacon of light in upholding Malaysia's unity, The Rakyat Post, 14 July 2015, CXBD6A0DE19504
[99] Registration of Marriage For Non-Muslim, National Registration Department – Ministry of Home Affairs, n.d. accessed 10 August 2017, CISEDB50AD5251
[100] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, sections 2.6, p.5; 5.32, p.40, CIS7B839419347
[101] Interracial marriage as beacon of light in upholding Malaysia's diversity, The Rakyat Post, 14 July 2015, CXBD6A0DE19504;
A M'sian union – interracial couples share their stories, Malaysiakini, 16 September 2016, CX6A26A6E16886
[102] Registration of Marriage For Non-Muslim, National Registration Department – Ministry of Home Affairs, n.d. (accessed 10 August 2017), CISEDB50AD5251
[103] Interracial marriage as beacon of light in upholding Malaysia's diversity, The Rakyat Post, 14 July 2015, CXBD6A0DE19504;
A M'sian union – interracial couples share their stories, Malaysiakini, 16 September 2016, CX6A26A6E16886;
[104] Social Institutions and Gender Index 2014 – Malaysia, Organisation for Economic Co-operation and Development, 2014, p.1, CISEDB50AD5657
[105] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.104, p.25, CIS7B839419347
[106] Social Institutions and Gender Index 2014 – Malaysia, Organisation for Economic Co-operation and Development, 2014, p.1, CISEDB50AD5657;
Wali, Singapore Government, 2015, CISEC96CF15597
[107] Washing the Tigers: Addressing Discrimination and Inequality in Malaysia, Equal Rights Trust and Tenaganita, November 2012, p.53, CIS28954

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detained and prosecuted.[108] During 2017, the government forbade non-Sunni practice of Islam and arrested at least 25 Shia and detained others for celebrating Ashura.[109] However, despite legal barriers to their worship, most Shia Muslims live free from discrimination and violence on a day-to-day basis.[110] Government enforcement efforts generally focus on conversions and proselytisers, not assembly or worship, and very few arrests have resulted in charges being laid.[111] National identity cards do not distinguish Shias from other Muslims and there are no restrictions on their movement within Malaysia.[112]

Christians

Christians generally live free from discrimination and are free to practice their religion in Malaysia although they may face occasional harassment. Malaysian Christians are usually able to practise their religion without interference.[113] Official restrictions have been placed on their use of the word 'Allah' (Arabic for God), which Malaysian Christians claim to have used for centuries to practice their religion.[114] In 2008, the Home Affairs Ministry banned the Catholic newspaper, *The Herald*, from using 'Allah'.[115] This ban was upheld by both the Malaysian Court of Appeals and Federal Court.[116] In 2015, a protest took place in outside a Christian church in a predominately Muslim suburb in Medan demanding the removal of the cross on the church – the cross was removed.[117] Furthermore, in February 2017 an evangelical pastor suspected of converting Muslims to Christianity was abducted by masked individuals.[118] During 2017, the government cancelled a Christian prayer gathering to be held in Melaka State, saying it would upset the sensibilities of Muslims during Ramadan.[119]

Buddhists and Hindus

Buddhists and Hindus are normally able to practice their religion without interference and do not face official or societal discrimination on a day-to-day basis. Federal and state governments have supported the building of Hindu or Buddhist places of worship throughout Malaysia.[120] In 2013, the Malaysian Government allocated RM 2 million (AUD 660,533) for the building of a new Hindu complex in Selangor.[121] Hindus and Buddhists have faced some compulsory acquisitions of places of worship or occasional community backlash in response to relocated temples.[122] Fifty Muslim residents protested the relocation of a Hindu temple into their residential area by placing a severed cow's head at the front gate of the Selangor State Government office in 2009.[123] In January 2018 following the

[108] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.42, p.16, CIS7B839419347
[109] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.5, OGD95BE927494
[110] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.45, p.16, CIS7B839419347
[111] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.44, p.16, CIS7B839419347
[112] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.41, p.16, CIS7B839419347
[113] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.52, p.17, CIS7B839419347
[114] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.47, pp.16-17, CIS7B839419347
[115] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.47, pp.16-17, CIS7B839419347
[116] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.47, pp.16-17, CIS7B839419347
[117] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.49, p.17, CIS7B839419347
[118] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.50, p.17, CIS7B839419347
[119] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, pp.5-6, OGD95BE927494
[120] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.55, p.17, CIS7B839419347
[121] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.55, p.17, CIS7B839419347
[122] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.54, p.17, CIS7B839419347
[123] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.54, p.17, CIS7B839419347

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demolition of an illegally-constructed Hindu temple, the Johor Sultan offered support to obtain a new site, land for which the state government subsequently allocated, some 1.5 km away from the previous temple.[124]

Conversion

For apostasy see 'Religious adherence'

Non-Muslims are free to change their religious beliefs and affiliation, but they may face opposition from their community, family or friends. Malaysian law does not restrict the right of non-Muslims to convert to another religion.[125] A minor (under the age of 18, according to federal law) generally may not convert to another faith without the explicit permission of their parent or guardian, although some states allow conversion to Islam without parental permission after age 15.[126] Sometimes converts can face stigmatisation, especially those converting from Islam.[127] A non-Muslim wishing to marry a Muslim must convert to Islam for the marriage to be officially recognised.[128]

Unilateral conversion

On 29 January 2018 the Federal Court unanimously ruled that unilateral child conversion is unlawful but parliament has not legislated against it. The Federal Court ruled that a child from a civil marriage can only be converted to Islam if both parents consent.[129] The Constitution's article 12(4) in English uses the word "parent" in the singular sense while article 12(4) of the Bahasa Malaysia translation uses the words "*ibu atau bapa*" (mother or father); however the court ruled that the Constitution's eleventh schedule has a clause on interpreting words in the singular to include the plural and vice versa.[130] Legislative amendments to the Federal Constitution and the *Law Reform (Marriage and Divorce) Act 1976* have yet to occur.[131] In August 2017 the Law Reform (Marriage and Divorce) Act was amended without including Section 88A,[132] the section that aimed to prevent unilateral child conversion.[133]

Historically, cases of unilateral child conversions favoured the Muslim parent. Prior to a Federal Court 2018 judgement that ruled unilateral child conversion unlawful,[134] the consent of only one parent was required to convert a child under Sharia laws and allows the Muslim parent to gain sole custody.[135] Despite Sharia courts being constitutionally subordinate to civil courts, in January 2016 the Federal Court of Appeal ruled that matters of conversion to Islam were at the sole discretion of Sharia courts.[136] As a result, Sharia courts often decided child custody cases where one parent has

[124] Hindu temple demolition Johor Sultan steps in as peacemaker, offers relocation aid, Malaymail Online, 21 January 2018, CXBB8A1DA20539
[125] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.4, OGD95BE927494
[126] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.4, OGD95BE927494
[127] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section III, p.14, OGD95BE927494
[128] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.4, OGD95BE927494
[129] Amid language clash, Federal Court says conversion needs consent of both parents, Malaymail Online, 31 January 2018, CXBB8A1DA20998
[130] Amid language clash, Federal Court says conversion needs consent of both parents, Malaymail Online, 31 January 2018, CXBB8A1DA20998;
Annual Report of the US Commission on International Religious Freedom, US Commission on International Religious Freedom, 25 April 2018, p.194, CIS7B8394186
[131] Malaysian Bar All legislation must adhere to Federal Constitution, The Star Online, 4 February 2018, CXBB8A1DA21244
[132] Law Reform (Marriage and Divorce) (Amendment) Act 2017, Government of Malaysia, gazetted 17 October 2017, Federal Gazette, CISEDB50AD9174
[133] Azalina dares Pakatan to ban unilateral child conversions, Malay Mail Online, 26 July 2018, CXBB8A1DA32321;
Make it right for all, The Star Online, 13 August 2017, CXC90406618029;
Strong support for Clause 88A, The Star Online, 1 February 2018, CXBB8A1DA36046
[134] Malaysian court says both parents must consent on children's religion, Reuters, 29 January 2018, CXBB8A1DA21004
[135] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.127, p.29, CIS7B839419347
[136] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.128, p.29, CIS7B839419347

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converted to Islam while the other has not, and historically favoured the Muslim parent.[137] There have been some high-profile cases of unilateral child conversions, mostly concerning Hindu fathers converting to Islam and claiming custody of their children.[138] Previously, when there had been competing orders by civil and Sharia courts regarding custody, police generally sided with Sharia decisions.[139]

Particular social groups

Lesbian, Gay, Bisexual, Transgender, Intersex (LGBTI)

Malaysian secular law criminalises same-sex sexual acts but in practice the law is rarely invoked. A former British colony, Malaysia has retained its colonial-era law against sodomy.[140] Malaysia's Penal Code criminalises sodomy (homosexual) and oral sex (homosexual and heterosexual) acts, but authorities rarely enforce the law.[141] Secular law that criminalises male-male sexual acts has been extended to female-female acts.[142] Sodomy laws have only been invoked seven times since 1938, four of those instances against former Deputy Prime Ministry Anwar Ibrahim.[143] International observers and human rights organisations viewed sodomy charges against prominent political figure, Anwar Ibrahim, as politically motivated.[144] Those found guilty under section 377A of the Penal Code for 'carnal intercourse against the order of nature' are liable for imprisonment of up to twenty years and a whipping.[145]

Islamic laws in several states prohibit same-sex sexual acts. Some Malaysian states apply their own penalties to Muslims under sharia statues.[146] Under sharia law in several Malaysian states, same-sex sexual acts between Muslims are illegal and can incur jail terms and mandatory whipping.[147] The caning of women is banned under civil law, but allowed under Islamic laws in some states.[148] In October 2018, Terengganu state was the first state in Malaysia to cane two LGBT Muslim women under sharia law for attempting to have lesbian sex.[149] The Prime Minister denounced the

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[137] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.11, OGD95BE927494
[138] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.128, p.29, CIS7B839419347
[139] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.11, OGD95BE927494
[140] Anwar Ibrahim's rebirth and Malaysia's LBGT+ rights, Pursuit (University of Melbourne), 27 May 2018, CIS7B839411105
[141] Amnesty International Report 2017/18, Amnesty International, 22 February 2018, p.250, NGED867A612;
Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, section 6, p.28, OGD95BE927312;
Penal Code, Government of Malaysia, enacted 1936, amended 31 December 2014, sections 377A, 377B, CISEDB50AD9259;
[142] State-Sponsored Homophobia 2017 – A World Survey of Sexual Orientation Laws: Criminalisation, Protection and Recognition, International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), 1 May 2017, CISEDB50AD4462, pp.130-131, p.169

[144] Anwar Ibrahim's rebirth and Malaysia's LBGT+ rights, Pursuit (University of Melbourne), 27 May 2018, CIS7B839411105;
Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, section 1e, p.8, OGD95BE927312;
Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section F1, NGED867A631;
Convictions for sodomy follow unfair trials, Amnesty International, 8 October 1998, CIS11891;
State-Sponsored Homophobia 2017 – A World Survey of Sexual Orientation Laws: Criminalisation, Protection and Recognition, International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), 1 May 2017, CISEDB50AD4462, p.131
[145] Penal Code, Government of Malaysia, enacted 1936, amended 31 December 2014, sections 377A, 377B, CISEDB50AD9259;
Criminalisation of Homosexuality, Human Dignity Trust, 25 October 2015, CISEC96CF110372
[146] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section F4, NGED867A631
[147] State-Sponsored Homophobia 2017 – A World Survey of Sexual Orientation Laws: Criminalisation, Protection and Recognition, International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), 1 May 2017, CISEDB50AD4462, pp.130-131, p.169;
Criminalisation of Homosexuality, Human Dignity Trust, 25 October 2015, CISEC96CF110372
[148] Two Malaysian Muslim women caned in public for attempting to have sex in car, Australian Broadcasting Corporation News (ABC News), 4 September 2018, CXBB8A1DA39062
[149] How public caning is performed in Terengganu, Malaysiakini, 5 September 2018, CXBB8A1DA34939

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caning of two lesbian women in Terengganu state under sharia law, considering the punishment too harsh.[150] Prior to Terengganu, some heterosexual couples convicted of adultery have received caning as punishment.[151]

See also 'Sharia law'

The Malaysian government and society largely oppose LGBT lifestyles that are seen as inconsistent with conservative values and members of the LGBTI community may be subject to official and societal discrimination. Prime Minister Mahathir publically acknowledged that his government does not support LGBT unions, which it see as an element of human rights in Western society rather than aligning with Malaysian values.[152] A Deputy Minister in the Prime Minister's Department said that the government "disagree with the behaviour of the LGBT" but "will not allow discrimination to occur", instead supporting rehabilitation of LGBT individuals.[153] In November 2018, a Malaysian delegate to its Universal Periodic Review on human rights said in response to questioning about discrimination against the LGBT community that the government "upholds the rights and dignity of all person in Malaysia in accordance to the law" and cited article 8(2) of the constitution that prohibits discrimination against gender.[154] LGBT activists and NGO representatives criticised the Malaysian delegation's response to LGBT issues as weak.[155] The Human Rights Commission of Malaysia (Suhakam) said that although it does not support same-sex marriage, the LGBT community should not be discriminated against.[156] Malaysia's Islamic authorities have published an e-book and conduct outreach activities encouraging Muslim LGBT persons to undergo sexuality rehabilitation.[157] The Ministries of Health and Education conduct campaigns aiming to 'prevent, overcome, and correct' homosexuality in children.[158] The results of a 2013 global survey on the acceptance of homosexuality found that an 'overwhelming majority' of Muslim countries, including 86 per cent of persons surveyed in Malaysia, reject homosexuality.[159] DFAT assess that LGBTI individuals face a moderate risk of official and societal discrimination determined by their socio-economic status, religion, geographic location and degree of openness.[160]

Transgender individuals face discrimination and sometimes occasional violence. Authorities often charge cross-dressing transgender individuals with 'indecent behaviour' and 'importuning for immoral purposes' in public.[161] Those convicted face a maximum fine of RM25 and maximum of 14 day in prison or a maximum fine of RM100 and three months prison respectively.[162] Imprisoned transgender individuals have previously been held in male prisons and some verbally and sexually

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Two Malaysian women caned for lesbian sex, Agence France Presse, 4 September 2018, CXBB8A1DA34672

[150] Malaysia PM denounces caning of two women for lesbian sex, Agence France Presse, 7 September 2018, CXBB8A1DA34969

[151] Sabah, not Kelantan, first to carry out public canings: Sabah Shariah chief judge, New Straits Times, 14 July 2017, CXC90406624835;
Sabah Syariah Court records 3 open whipping sentences, Borneo Post Online, 15 July 2017, CXC90406624836

[152] Mahathir Malaysia cannot accept same-sex marriage, Reuters, 22 September 2018, CXBB8A1DA35827;
'Don't force' LGBT rights on Malaysia, Mahathir says, Agence France Presse, 25 October 2018, CXBB8A1DA37446

[153] Malaysia sticks to stand on disallowing same-sex marriage, Bernama, 23 September 2018, CXBB8A1DA35842

[154] Under UN review, Putrajaya defends female circumcision, insists no LGBT bias, Malay Mail Online, 9 November 2018, CXBB8A1DA38176

[155] Virtual shield useless against real violence towards LGBT, Putrajaya told, Malay Mail Online, 9 November 2018, CXBB8A1DA38179

[156] Suhakam does not support gay marriage, Malay Mail online, 22 September 2018, CXBB8A1DA35835

[157] Jakim issues e-book on LGBT rehab; minister says phenomenon 'under control', Malay Mail online, 24 October 2018, CXBB8A1DA37286;
New M'sia should find 'right path' on LGBT rights, Malaysiakini, 7 August 2018, CXBB8A1DA39089

[158] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section F4, NGED867A631

[159] The Global Divide on Homosexuality: Greater Acceptance in More Secular and Affluent Countries, Pew Research Center, 4 June 2013, p.3, CIS26344

[160] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.120, p.28, CIS7B839419347

[161] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.121, p.28, CIS7B839419347;
Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, section 6, p.28, OGD95BE927312;
Criminalisation of Homosexuality, Human Dignity Trust, 25 October 2015, CISEC96CF110372

[162] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, section 6, p.28, OGD95BE927312

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assaulted by police and fellow detainees.[163] Transgender individuals may face discrimination in public healthcare facilities, including undergoing forcible HIV/AIDS testing or being housed in male wards where they can be exposed to violence and abuse.[164] During 2017, three transgender individuals were killed according to transgender advocacy groups Justice for Sisters.[165] A survey by a local transgender rights group reported more than two-thirds of transgender women experienced some form of physical or emotional abuse.[166]

Numerous organisations operate in Malaysia providing support to the LGBTI community. Mainstream Christian churches and the Malaysian Consultative Council of Buddhism, Christianity, Hinduism, Sikhism and Taoism have also spoken out against discrimination and violence towards gay and lesbian people.[167] Leadership Program for Gays (LPG) is based in Kuala Lumpur and aims to build a network for LGBT business people. Activities organised by the group include gatherings and sports events.[168] PLUPenang is an LGBT organisation based in Penang State designed to support, empower and foster friendship between its members arranging recreational events and provides a safe space for LGBT people to express themselves.[169] Pertubuhan Kebajkan dan Persekitaran Positif Malaysia or SEED is an officially registered community organisation that provides support services, including a drop-in centre, primarily for the transgender community.[170] Justice for Sisters is a campaign organised to raise public awareness about issues pertaining to transgender individuals and raise funds to finance court cases against transgender individuals in sharia courts.[171] The PT Foundation provide support to the LGBTI community, including those affected with HIV/AIDS, offering services such as healthcare and drop-in services, and offers seminars, operates a telephone counselling line and offers outreach programmes at third-party venues.[172] Seksualiti Merdeka works to empower Malaysians that have been marginalised for their sexual orientation and gender identity. The group also aims to champion sexuality rights as human rights, and provide a platform for LGBT human rights issues.[173]

Women

Women participate in all aspects of Malaysian society. Although women are active in all areas of society, cultural and social barriers limit their levels of participation.[174] Furthermore, there is a lack of resources available to women to assist them re-entering the workforce after childbirth.[175] Malaysia

[163] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, section 5, p.28, OGD95BE927312
[164] Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Addendum: Visit to Malaysia (19 November–2 December 2014), United Nations Human Rights Council, May 2015, p.16, CISEC96CF14228;
How life is tough for transgenders in conservative Malaysia, who face violence, religious and official bias, and abusive me, South China Morning Post, 15 November 2017, CXC90406617584;
Submission by Human Rights Watch to the United Nations Committee on the Elimination of Discrimination against Women 69th pre-sessional working group, Human Rights Watch, May 2017, CISEDB50AD4317
[165] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, section 6, p.28, OGD95BE927312;
Rising concern in Malaysia's LGBT community after attack on transgender woman, Reuters, 24 August 2018, CXBB8A1DA34288
[166] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, section 5, p.28, OGD95BE927312
[167] LGBT Organisations in Malaysia, Angloinfo Malaysia, n.d., accessed 29 June 2018, CISEDB50AD3776;
Beauty and the Beast censorship attempt shows the good, the bad and the ugly of LGBT rights in Malaysia, The Conversation, 29 March 2017, CXC9040667196
[168] LPG Community, Yahoo Groups, n.d., accessed 23 November 2018, CIS7B8394110273
[169] PLUPenang website, PLUPenang, n.d., accessed 23 November 2018, CIS7B8394110276
[170] About SEED, Pertubuhan Kebajkan dan Persekitaran Positif Malaysia (SEED), n.d., accessed 8 November 2018, CIS7B8394110070
[171] About Justice for Sisters, Justice for Sisters, n.d., accessed 8 November 2018, CIS7B8394110071;
Justice for Sisters, Astraea Lesbian Foundation For Justice, n.d., accessed 8 November 2018, CIS7B8394110072
[172] About Us PT Foundation, PT Foundation, n.d., accessed 8 November 2018, CIS7B8394110073
[173] Seksualiti Merdeka Facebook page, Facebook, n.d., accessed 23 November 2018, CIS7B8394110278
[174] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.102, p.25, CIS7B839419347
[175] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.103, p.25, CIS7B839419347

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has the lowest rate of women's workforce participation in Southeast Asia,[176] The rate of female labour-market participation recorded in 2014 was 44.4 per cent compared to 75 per cent for men.[177] Women's participation rates in the labour force have risen over the last decade, from 45 per cent in 2008 to an estimated 54.3 per cent in 2016, according to government statistics.[178] In the Global Gender Gap Report 2017, Malaysia ranked 70th, an improvement from the previous year.[179] Following the May 2018 election, Azizah Ismail, wife of Mr Anwar, became the country's first female deputy prime minister.[180] Between 2011 and 2017, approximately 10 percent of seats in parliament have been held by women.[181] However, that number increased considerably following the 2018 general election with 13.9 and 22.1 per cent of the lower and upper house seats won by women respectively.[182]

Muslim women may be adversely affected by sharia law. Malaysia's Constitution prohibits discrimination based on gender.[183] The Constitution gives women equal rights to inherit, acquire, manage or dispose of property, including land, while civil law gives non-Muslim mothers equal parental rights.[184] However, sharia law can deviate from these constitutional principles in some areas such as Islamic inheritance law that typically favours male children and male relatives.[185] A small but steadily increasing number of women have been able to obtain divorces under Sharia without their husband's consent.[186] Four states – Johor, Selangor, Negri Sembilan and Pahang – extend equal parental rights to Muslim mothers.[187] In January 2018, the Federal Court ruled that children from civil marriages can only be converted to Islam if both parents consent.[188]

Authorities take claims of sexual harassment seriously but a general reluctance by victims to report cases to the authorities and a cumbersome legal process results in a low number of prosecutions. The most recent statistics from Malaysia's Ministry of Home Affairs indicate that approximately 16 per cent of reported rape cases were taken to court, with a conviction rate of 2.7 per cent of all reported cases.[189] Amendments were made to the Employment Act in 2012 which made certain forms of workplace sexual harassment illegal, while the law prohibits a person in authority from using their position to intimidate a subordinate into having sexual relations.[190] A government voluntary code of conduct provides a detailed definition of sexual harassment intended to raise public awareness of the problem.[191] Authorities take claims of sexual harassment seriously but victims are often reluctant to report cases because of embarrassment, the difficulty of proving the offence, and a lengthy trial process.[192]

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[176] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.103, p.25, CIS7B839419347
[177] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.24, CIS7B83941547
[178] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.103, p.25, CIS7B839419347
[179] Malaysia improves ranking in Global Gender Gap Report, Bernama, 15 November 2018, CXBB8A1DA38722
[180] Malaysia's ruling party may be gone, but its racial policies survive, The Economist, 7 June 2018, CXBB8A1DA28917
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[182] World Classification, Women in Parliament, 1 October 2018, CIS7B8394110256
[183] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, section 6, p.24, OGD95BE927312
[184] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, section 6, p.24, OGD95BE927312
[185] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, section 6, p.24, OGD95BE927312
[186] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 3 March 2017, section 6, p.24, OGD95BE927312
[187] Country Reports on Human Rights Practices for 2017 – Malaysia, section 6, p.24, OGD95BE927312
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[190] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade, 19 July 2016, section 3.86, p.19, CIS38A80121311;
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[191] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, section 6, p.24, OGD95BE927312
[192] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, section 6, p.24, OGD95BE927312

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Economic hardship

Malaysia is an upper-middle income country in which absolute poverty has been largely eradicated. Malaysia recorded average annual economic growth of more than 7 per cent between 1967 and 1997, while growth in recent years has continued to exceed 5 per cent.[193] Economic growth has been inclusive, with less than 1 per cent of the population living in extreme poverty.[194] Rates of poverty are low among Malays (0.8 per cent), Chinese (0.1 per cent), and Indians (0.6 per cent), although the poverty rate is higher in rural areas than in cities.[195] Malaysian authorities have turned their attention to reducing income inequality – which remains high in comparison to other East Asian countries, but is gradually declining – and addressing the well-being of the poorest 40 per cent of the population, who remain vulnerable to increases in the cost of living or economic shocks.[196] The UNDP's Human Development Index ranked Malaysia 59 out of 188 countries in 2016, placing it in the 'high human development' category.[197]

Malaysia has an expanding if still limited social welfare system, while traditional social roles mean that families provide support for the elderly and sick. Old age, survivor and disability payments and employment injury compensation are among the payments available to eligible individuals, although credible sources state that the overall scope of social welfare coverage remains limited.[198] In August 2017, the Malaysian Government introduced legislation into parliament that would provide unemployment benefits for three to six months.[199] The *Zakat* system – a levy imposed on Muslims which is equal to 2.5 per cent of their assets above a minimum figure – forms one of the main social protection programmes in the country, and payments are distributed to needy groups such as the poor and refugees.[200] In Malaysia, grown children typically provide financial or care support to elderly or sick parents.[201]

Political opinion

Malaysia is a constitutional monarchy in which executive power is vested in the prime minister and cabinet. The paramount ruler, the monarch and titular head of state, is elected for five-year terms by fellow hereditary rulers from 9 of Malaysia's 13 states.[202] The upper house of the bicameral Parliament, the Senate, or Dewan Negara, consists of 44 members appointed by the king and 26 members elected by the 13 state legislatures, serving three-year terms.[203] The House of Representatives, or Dewan Rakyat, has 222 seats filled through regular elections.[204] The role of the king is largely ceremonial, though he retains the power to approve the prime minister.[205] Executive power lies with the prime minister and the cabinet.[206] Most major policy decisions are reached by the prime minister and the cabinet, sometimes with limited input from the remainder of the elected legislature.[207]

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[193] The World Bank in Malaysia, The World Bank, April 2017, CISEDB50AD5041;
The Growth Report: Strategies for Sustained Growth and Inclusive Development, The World Bank, 2008, p.20, CIS956B8881704
[194] The World Bank in Malaysia, The World Bank, April 2017, CISEDB50AD5041
[195] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 2.8, p.6, CIS7B839419347
[196] OECD Economic Surveys – Malaysia, OECD, November 2016, p.4, CIS38A80124917;
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[197] Table 1: Human Development Index and its components, UNDP, 21 March 2017, CISEDB50AD5042
[198] Social Security Programs Throughout the World: Asia and the Pacific, 2016 – Malaysia, US Social Security Administration Office of Retirement and Disability Policy, March 2017, CISEDB50AD5043;
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[200] A Decade of Social Protection Development in Selected Asian Countries, OECD, 11 May 2017, p.60, CISEDB50AD5044
[201] Report on Key Findings FIFTH MALAYSIAN POPULATION AND FAMILY SURVEY [MPFS-5] 2014, Ministry of Women, Family and Community Development and National Population and Family Development Board, 2016, p.28, CIS38A80124919
[202] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section A1, NGED867A631
[203] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.4, CIS7B83941547;
Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section A2, NGED867A631
[204] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section A2, NGED867A631
[205] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section A1, NGED867A631
[206] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.4, CIS7B83941547
[207] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section C1, NGED867A631

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General elections have often been skewed by the ruling government. Suffrage in Malaysia is universal for citizens over the age of 21.[208] When in power, the Barisan Nasional coalition manipulated elections through the use of prohibitive media laws, extreme gerrymandering and malapportionment of constituencies, the use of government resources during campaigning, and electoral fraud including manipulation of voter registration rolls.[209] The Election Commission (EC) is officially independent but has previously comprised of the former prime minister and government allies and considered subordinate to the UMNO when in power.[210] The EC is responsible for maintaining voter rolls, and has been accused of enabling "phantom voting" by creating duplicate records of some voters, or by leaving deceased persons on the rolls.[211] The Registrar of Societies (ROS) oversees the registration of political parties and in the past has issued politicized decisions.[212] The military is not active in politics and foreign powers do not directly meddle with voting.[213]

Barisan Nasional

The UMNO is the dominant party within the oppositional Barisan Nasional alliance. Until May 2018, the government had been headed by the UMNO since independence and the Barisan Nasional coalition won every general election since its formation until and including 2013 elections.[214] The Barisan Nasional is an ethno-religious coalition of race-based political parties.[215] The Barisan Nasional alliance was formed by the UMNO, the Malaysian Indian Congress (MIC), and the Malaysian Chinese Association (MCA), but is largely dominated by the UMNO.[216] Following the 2018 general election, former Prime Minister Najib Razak resigned as head of the UMNO handing over to his deputy, Zahid Hamidi.[217] UMNO, the largest party within the Barisan Nasional coalition, lost power to the Pakatan Harapan coalition in the 9 May 2018 general elections.[218] The Barisan Nasional won only 79 parliamentary seats in the 2018 general election.[219] The UMNO and Parti Pesaka Bumiputera Bersatu (PBB) held most parliamentary seats in the alliance following the 2018 general election – UMNO 47 seats in Peninsular Malaysia, UMNO 13 seats in Sabah, and PBB 13 seats in Sarawak.[220] In June 2018, Sarawak's four ruling parties – Parti Pesaka Bumiputera Bersatu (PBB), Sarawak United Peoples' Party (SUPP), Parti Rakyat Sarawak (PRS), and Progressive Democratic Party (PDP) all quit the BN to form a new coalition, Gabungan Parti Sabah (GPS) that is friendly to the Pakatan Harapan federal government.[221] Other parties who have quit the BN include the United Pasokmomogun Kadazandusan Murut Organisation (Upko) and the Liberal Democratic Party (LDP).[222] BN component parties from Sabah and the People's Progressive Party (myPPP) also quit the BN reducing the alliance to just four parties, down from 13 prior to the 2018 election.[223]

Pakatan Rakyat/Pakatan Harapan

The Pakatan Rakyat coalition regrouped as the Pakatan Harapan coalition in September 2015. The Pakatan Rakyat coalition previously led by the People's Justice Party, won more votes than BN but lost the 2013 election due to the country's first-past-the-post system.[224] The Pakatan Rakyat alleged that electoral irregularities and systemic disadvantages due to a lack of media access and

[208] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section B4, NGED867A631
[209] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.9, CIS7B83941547
[210] BTI 2018 Country report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.9, CIS7B83941547; Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section A3, NGED867A631
[211] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section A3, NGED867A631
[212] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section B1, NGED867A631
[213] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section B3, NGED867A631
[214] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.5, CIS7B83941547
[215] The changing face of Malaysian justice, Asia Times, 6 June 2018, CXBB8A1DA28835
[216] GE14 numbers What it means for BN, Harapan and PAS, Malaysiakini, 10 May 2018, CXBB8A1DA26970
[217] After Surprising Election, How Much Will Malaysia Change, Chatham House, 15 May 2018, CXBB8A1DA27637
[218] The shape of things to come under Mahathir 2.0, Asia Times, 13 May 2018, CXBB8A1DA27542
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[222] The disintegration of BN - from 13 parties to four, Malaysiakini, 12 June 2018, CXBB8A1DA29153
[223] 'BN is dead, there is only Umno', Malaysiakini, 13 June 2018, CXBB8A1DA29258
[224] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, p.1, OGD95BE927312

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gerrymandered districts favouring the ruling coalition.[225] Opposition Leader, and former Deputy Prime Minister Anwar Ibrahim was imprisoned for a five year term on sodomy charges that international observers view as politically motivated.[226] Pakatan Rakyat was dissolved in June 2015 and then re-configured as Pakatan Harapan.[227] Currently Pakatan Harapan is a ruling coalition of four parties led by Prime Minister Mahathir Mohammad.[228] In November, Prime Minister Mahathir reiterated that he will keep his promise to step down after two years to give way to Anwar Ibrahim.[229]

Malaysia's Pakatan Harapan is the ruling coalition. On 9 May 2018, the Alliance of Hope or Pakatan Harapan (PH) won the general elections by securing enough seats to form a stable government.[230] PH is a pluralistic multi-ethnic alliance.[231] The Pakatan Harapan coalition comprises of the dominant the People's Justice Party or Parti Keadilan Rakyat (PKR), the Democratic Action Party (DAP), the Malaysian United Indigenous Party or Parti Pribumi Bersatu Malaysia (Bersatu), the Parti Amanah Negara or National Trust Party (Amanah), and the Sabah-based Parti Warisan Sabah or Sabah Heritage Party (Warisan).[232] Malaysia's current prime minister is Dr Mahathir Mohamad, a former member of the UMNO, who previously led Malaysia as prime minister for 22 years until 2003.[233]

Freedom of expression

Most mainstream media is typically not independent and self-censors content. A 2012 amendment to the Printing Presses and Publications Act retains the home minister's authority to suspend or revoke publishing licenses but allows judicial review of such decisions.[234] Most private publications are controlled by political parties or businesses allied with the government, as are most private television stations, which generally censor programming according to government guidelines.[235] The internet is an outlet for the exposure of political corruption, but the Malaysian Communication and Multimedia Commission (MCMC) monitors websites and can order the removal of material considered provocative or subversive.[236] The government engages in legal harassment of critical voices, charging them under defamation laws, the Official Secrets Act, and the Sedition Act – all of which include imprisonment as a possible penalty.[237] In May 2017, the government launched its Communications and Multimedia Act prosecution of the CEO and the editor-in-chief of online news portal *Malaysiakini* over a video the news portal carried criticising Attorney General Mohamed Apandi Ali for clearing the prime minister of corruption allegations.[238] In 2016, an independent Malaysian news site, the *Malaysian Insider*, shut down.[239] During 2017, four individuals were charged, and another convicted, under section 233 of the Communications and Multimedia Act.[240] The former Najib government introduced the Anti-Fake News Act just prior to the May 2018 general elections.[241] Prime Minister Dr Mahathir Mohamad described the law as "draconian" and indicated that the new government's first Parliament session in July 2018 would seek to abolish the law in accordance with

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[225] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, p.1, OGD95BE927312
[226] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, section 1, pp.8-9, OGD95BE927312
[227] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 2.20, pp.7-8, CIS7B839419347
[228] Pakatan Harapan coalition: Leader Anwar Ibrahim, Chairman Mahathir Mohammad. Member parties: People's Justice Party, Malaysian United Indigenous Party, National Trust Party and Democratic Action Party.
[229] Mahathir Mohamad named opposition candidate for Malaysian PM, The Straits Times, 7 January 2018, CXBB8A1DA22794; Dr M: I will keep my promise to Anwar, I am the only 'dictator' who resigned, The Star Online, 3 November 2018, CXBB8A1DA39181
[230] The shape of things to come under Mahathir 2.0, Asia Times, 13 May 2018, CXBB8A1DA27542
[231] The changing face of Malaysian justice, Asia Times, 6 June 2018, CXBB8A1DA28835
[232] GE14 numbers What it means for BN, Harapan and PAS, Malaysiakini, 10 May 2018, CXBB8A1DA26970
[233] Who is newly elected prime minister Mahathir Mohamad, ABC News (Australia), 10 May 2018, CXBB8A1DA27527
[234] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section D1, NGED867A631
[235] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section D1, NGED867A631; BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.11, CIS7B83941547
[236] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section D1, NGED867A631
[237] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section D1, NGED867A631; BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, pp.11-12, CIS7B83941547
[238] World Report 2018, Human Rights Watch, 18 January 2018, p.352, NGED867A63
[239] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section D1, NGED867A631; BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.11, CIS7B83941547
[240] Amnesty International Report 2017/18, Amnesty International, 22 February 2018, p.249, NGED867A612
[241] Najib reveals fake news law gazetted at Journalists' Day launch, allays concerns, Malaysiakini, 11 April 2018, CXBB8A1DA25426

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the Pakatan Harapan's election promise.[242] In September 2018 Barisan Nasional leaders in the Upper House and members of Parti Islam SeMalaysia blocked the repeal of the Anti-Fake News Act after the Lower House of Parliament voted to replace it in August.[243]

Freedom of expression is constitutionally guaranteed but restricted in practice The Communications and Multimedia Act (CMA) criminalises the 'misuse of network facilities' for criticising the government or for government-related satire.[244] Section 233(1) provides criminal penalties of up to one-year imprisonment for communication that is indecent, obscene, false, threatening, or offensive to another person.[245] During 2017, the Communications and Multimedia Act was used repeatedly to investigate and arrest those who criticised government officials in the media and on social media.[246] In November 2018, the High Court prosecuted a graphic designer under section 233 of the CMA for uploading an offensive image of former prime minister Najib Abdul Razak on social media but set aside the prison sentence and reduced the fine from RM30,000 to RM10,000.[247]The Sedition Act has been used to target individuals who publically express ideas deemed sensitive by the state.[248] However, the application of the Sedition Act has reduced significantly since 2015.[249] Instructors and students espousing antigovernment views or engaging in political activity are subject to disciplinary action under the Universities and University Colleges Act (UUCA) of 1971.[250] Surveillance of private activities is largely limited to public personas, though areas deemed to be a threat to Islam are increasingly scrutinised.[251]

Freedom of assembly

In recent years, freedom of assembly has seen a notable improvement with less severe crackdowns and harassment against peaceful assemblies and organisers of assemblies. Freedom of assembly is limited on the grounds of maintaining security and public order.[252] Malaysian authorities regularly prosecute individuals who hold peaceful assemblies without giving notice or who participate in street protests.[253] Street protests are generally prohibited, with high fines for noncompliance.[254] However, demonstrations often occur despite these restrictions, such as the September 2017 Purple March against Toxic Politics involving over 1,000 women gather in Kuala Lumpur to denounce corruption, electoral fraud, sexism, racism, and other forms of discrimination.[255] During 2017 sporadic arrests were made during some events, however assemblies were mostly peaceful.[256] Under Section 9 of Peaceful Assembly Act, activists and organisers of assemblies can be investigated for failure to provide a 10-day notice to the police or for organising an assembly near a restricted area.[257] The law delineates 21 public places where assemblies cannot be held – including within 50 metres of houses of worship, schools, and hospitals – and prohibits persons under the age of 15 from attending any public assembly.[258] During recent years, Malaysian authorities have prosecuted individuals who hold peaceful assemblies without giving notice.[259] In July 2017, the Kota Kinabalu High Court reversed an earlier acquittal by the Magistrate's Court of Sabah Berish 4.0 chairperson Jannie Lasimbang who had been charged under Section 9 of the Act.[260] Parliamentarians

[242] Parliament session on July 16, GST and AFN to be scrapped, Malaysiakini, 6 June 2018, CXBB8A1DA28831
[243] Malaysian opposition blocks bid to repeal fake news law, Reuters, 13 September 2018, CXBB8A1DA35347
[244] Amnesty International Report 2017/18, Amnesty International, 22 February 2018, p.249, NGED867A612
[245] Freedom on the Net 2018 - Malaysia, Freedom House, 1 November 2018, NGED867A6126;
World Report 2018, Human Rights Watch, 18 January 2018, p.352, NGED867A63
[246] World Report 2018, Human Rights Watch, 18 January 2018, p.352, NGED867A63
[247] Fahmi Reza escapes jail term, fine reduced over Najib caricature, Malaysiakini, 12 November 2018, CXBB8A1DA38302
[248] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section D4, NGED867A631
[249] SUARAM Human Rights Report 2017 Overview, Suara Rakyat Malaysia (SUARAM), 20 February 2018, p.17, CIS7B83941337
[250] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section D3, NGED867A631
[251] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section D4, NGED867A631
[252] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section E1, NGED867A631
[253] World Report 2018, Human Rights Watch, 18 January 2018, p.355, NGED867A63
[254] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section E1, NGED867A631
[255] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section E1, NGED867A631
[256] SUARAM Human Rights Report 2017 Overview, Suara Rakyat Malaysia (SUARAM), 20 February 2018, p.26, CIS7B83941337
[257] SUARAM Human Rights Report 2017 Overview, Suara Rakyat Malaysia (SUARAM), 20 February 2018, p.26, CIS7B83941337
[258] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section E1, NGED867A631
[259] Amnesty International Report 2017/18, Amnesty International, 22 February 2018, p.249, NGED867A612
[260] Amnesty International Report 2017/18, Amnesty International, 22 February 2018, p.249, NGED867A612;
SUARAM Human Rights Report 2017 Overview, Suara Rakyat Malaysia (SUARAM), 20 February 2018, p.26, CIS7B83941337

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and activists were charged after joining the peaceful #KitaLawan (We Fight) protest rally.[261] Charges against Maria Chin Abdullah, Mandeep Singh and Sim Tze Tzin were initially dismissed by the courts, but brought again on 4 October 2017.[262]

Civil society organisations

A wide array of civil society groups operate in Malaysia. A number of domestic and international civil society and human rights organisations operate in Malaysia and actively comment on issues such as the legislative environment, the rights of women in Islam and government human rights practices.[263] While these organisations are generally able to function independently, some report that engagement with the government can be difficult and their advocacy is largely ignored.[264] Civil society groups can act only within the narrow limits set by Malaysian authorities.[265] In practice, this means that issues of race and religion, or criticism of the government, are out of bounds.[266] The government's registrar of societies has prevented the registration of organisations deemed unfriendly to the government, and authorities regularly use registration issues as a basis for investigating organisations.[267] The government cracked down on Bersih in 2015 and 2016, raiding the offices of various organizers and arresting its senior officials.[268] However in 2017, Bersih was able to operate somewhat more freely, with representatives able to make public statements and engage in other activities without incurring such serious reprisals.[269] Many smaller groups operate as well.[270] Civil society organizations played a critical role in the 2017 Purple March against Toxic Politics.[271]

State protection

Law enforcement

Law enforcement operates at both the federal and state level. The Royal Malaysian Police (RMP) reports to the federal Minister for Home Affairs and is responsible for law enforcement nationwide.[272] The National Department of Islamic Development (JAKIM) enforces Sharia law and has jurisdiction over Muslims in Kuala Lumpur and two other federal territories.[273] The People's Volunteer Corps (RELA), a federal paramilitary civilian corps under the Ministry of Home Affairs, assists security forces.[274] RELA's engagement in law enforcement activities has significantly reduced in recent years.[275] NGOs have reported that inadequate training has led to abuses by RELA members such as extortion and theft.[276]

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[261] Amnesty International Report 2017/18, Amnesty International, 22 February 2018, p.249, NGED867A612;
SUARAM Human Rights Report 2017 Overview, Suara Rakyat Malaysia (SUARAM), 20 February 2018, p.26, CIS7B83941337
[262] Amnesty International Report 2017/18, Amnesty International, 22 February 2018, p.249, NGED867A612;
SUARAM Human Rights Report 2017 Overview, Suara Rakyat Malaysia (SUARAM), 20 February 2018, p.26, CIS7B83941337
[263] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.82, p.21, CIS7B839419347
[264] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.82, p.21, CIS7B839419347
[265] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.17, CIS7B83941547
[266] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.17, CIS7B83941547
[267] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 July 2016, section 3.66, p.17, CIS38A80121311;
BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.10, CIS7B83941547
[268] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section E2, NGED867A631
[269] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section E2, NGED867A631
[270] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section E2, NGED867A631
[271] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section E2, NGED867A631
[272] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 5.5, pp.35-36, CIS7B839419347
[273] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 July 2016, section 5.1, p.25, CIS38A80121311
[274] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 July 2016, section 5.1, p.25, CIS38A80121311
[275] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 July 2016, section 5.1, p.25, CIS38A80121311
[276] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 July 2016, section 5.1, p.25, CIS38A80121311

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Royal Malaysian Police (RMP)

The RMP are a professional and effective force, but are prone to corruption. The RMP operates 837 police stations nationwide and employs 115,000 officers.[277] Local and international sources indicate the RMP is a professional and effective police force, although the quality of its members' responses varies depending on levels of training, capacity and engagement in corruption.[278] Some human rights training and workshop are made available to police officers.[279] In recent years, the RMP has launched crackdowns on criminal gangs, crime syndicates and loan sharks,[280] while in July 2017 a human trafficking hotline was set up through which reports will be submitted to police.[281] Malaysian law permits police to arrest and detain individuals for some offences without a warrant.[282] A 2017 Transparency International survey found that 57 per cent of Malaysian respondents thought that corruption was a problem within the RMP – a result that was significantly above the regional average.[283]

State Islamic religious enforcement officers

Religious enforcement officers conduct moral policing operations and can enforce Sharia law. Religious enforcement officers have a range of powers, depending on the particular Islamic laws that apply in each state.[284] State Islamic religious enforcement officers have the authority to accompany police on raids of private premises and public establishments, and to enforce sharia, including for violations such as indecent dress, distribution of banned publications, alcohol consumption, or *khalwat* (close proximity to a nonfamily member of the opposite sex).[285] Moral breaches of Sharia law typically result in a warning or a fine but may include caning or up to one month imprisonment for the most serious offences.[286] In January 2017, the Federal Territories Islamic Religious Department (JAWI) arrested a married couple for close proximity despite proof of their marriage. [287] The couple subsequently sued JAWI, accusing the agency of violently detaining them and causing injuries.[288] In September 2017, state religious authorities required a Muslim man to attend a "counselling session" after he was stopped for wearing shorts in public.[289] According to some state laws, Muslims could be fined RM 1,000 ($250) if they did not attend "counselling" after being found guilty of wearing what the authorities deem to be immodest clothing.[290]

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[277] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 5.5, pp.35-36, CIS7B839419347
[278] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 5.5, pp.35-36, CIS7B839419347
[279] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 5.5, pp.35-36, CIS7B839419347
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Four loan shark operations busted with arrest of 29 people, The Star Online, 4 August 2017, CXC90406611700;
Loan shark ring busted, 31 nabbed in nationwide raids, The Sun Daily, 18 April 2017, CXC9040665990;
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Criminal justice system

Legislation allows detention without trial under certain circumstances. The Prevention of Crime Act and the Prevention of Terrorism Act allows government-appointed boards the authority to impose detention without trial for up to two years, renewable indefinitely, to order electronic monitoring, and to impose other significant restrictions on freedom of movement and freedom of association, with no possibility of judicial review.[291] In August 2017, the government passed amendments to the Prevention of Crime Act that abolish the detainee's right to appear before or make representations to either the inquiry officer responsible for presenting the case for detention or to the government-appointed Prevention of Crime Board (POCB) that makes the detention decision.[292] The 2012 Security Offences (Special Measures) Act (SOSMA) allows police to detain anyone for up to 28 days without judicial review for broadly defined 'security offenses,' and suspects may be held for 48 hours before being granted access to a lawyer.[293] During 2017, SOSMA was used to detain, prosecute and imprison people alleged to have committed security offences.[294]

Isolated incidents of mistreatment in custody and impunity for police/security forces personnel are reported. Allegations of torture and abuse, including deaths, in police custody continue, and a number of criminal offenses can be punished with caning.[295] During 2017, there were at least five deaths in custody.[296] In February, detainee Chandran Muniandy was hospitalized with multiple injuries to his head and body and most of his toenails missing; police claimed his injuries resulted from a fall in the toilet.[297] The Enforcement Agency Integrity Commission (EAIC) announced that it would investigate the death of S. Balamurugan, who died in custody in February, only after a post-mortem found evidence of blunt force injuries.[298] During 2017, at least two other individuals died in custody as a result of untreated medical conditions.[299] The government is expected to table a new Bill to set-up the Independent Police Complaints and Misconduct Commission (IPCMC) in the first parliament session of 2019.[300]

Judiciary

The majority of cases in Malaysian courts are processed in accordance with the rule of law. Provisions in the constitution enshrine the rights of citizens in a trial.[301] Trials are public but judges may place restrictions on press coverage.[302] Defendants generally have adequate time to prepare a defence if they have the means to engage private counsel, although government legal aid resources are limited and often of poor quality.[303] Defendants have the right to counsel at public expense under certain circumstances, including when facing charges that carry the death penalty.[304] Defendants are provided free interpretation in Malay, Mandarin, Tamil and some other commonly used dialects from the moment they are charged through all appeals.[305]

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Judicial independence may be compromised by executive interference. The judiciary is subject to interference by the executive.[306] Malaysia's highest courts are partly influenced by political or religious affiliation that can lead to politically motivated outcomes.[307] Members of the bar, NGO representatives and other observers have cited a number of high-profile instances of arbitrary verdicts, selective prosecution and preferential treatment of some litigants and lawyers,[308] such as the conviction of former deputy prime minister and opposition leader Anwar Ibrahim on charges of corruption and sodomy in 1999, 2000 and 2014.[309] The Prime Minister plays a key role in the appointment of members of the Judicial Appointments Commission – the body which selects judges.[310] Judges receive relatively low salaries, limited training, and appointments are often made directly from university.[311] Defendants may appeal court decisions to higher courts, but only if the appeal raises a question of law or if material circumstances raise a reasonable doubt regarding conviction or sentencing – restrictions that the country's bar council has claimed are excessive.[312]

Sharia courts result in vastly different treatment of Muslims and non-Muslims in personal and family issues. Muslims are subject to Sharia law, the interpretation of which varies regionally, and Article 121 of the country's Constitution that stipulates all matters relating to Islam should be heard in Sharia courts.[313] This results in vastly different treatment of Muslims and non-Muslims regarding "moral" and family law issues.[314] The interpretation of Sharia varies regionally, and credible sources say the jurisdictional lines between Sharia and civil courts are increasingly indistinct.[315] State-level Sharia courts generally apply Sharia law in accordance with their rules of procedure.[316] Sharia court outcomes have a disproportionately negative impact on transgender individuals, domestic violence victims and women in child custody cases.[317]

Corruption

High-level corruption is a significant problem in Malaysia. In July 2018, Prime Minister Mahathir commented that "[m]ost of the top echelon in the Government are corrupt".[318] Historically, high-level officeholders who break the law and engage in corruption are rarely prosecuted adequately.[319] However, at lower levels in the civil service, prosecution over corruption frequently occurs.[320] Institutional safeguards in Malaysia are weak and there is insufficient political will to substantially mitigate the problem.[321] Misuse of resources and favouritism are facilitated by the close nexus between political and economic elites, which blurs the distinction between public and private enterprises and creates opportunities for collusion and graft.[322] Transparency International's 2017 corruption index showed Malaysia fell seven places to 62nd globally.[323] Journalists, activists and politicians who have reported or criticised high-level corruption have been harassed or prosecuted.[324]

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In July 2017, a coalition of civil society organisations called for the formation of an independent body to tackle corruption in the country.[325]

The previous UMNO-dominated government used laws against internal and external opponents in relation to the 1Malaysia Development Berhad (1MDB) scandal. Former Prime Minister Najib Razak's mismanagement of and possible embezzlement from state development fund 1MDB has continued to be highly controversial domestically and internationally.[326] In an attempt to contain the fallout from 1MDB scandal, former Prime Minister Najib in 2015 replaced the attorney general and fired several cabinet members who had been critical of the scandal.[327] Najib promoted four members of a parliamentary committee investigating 1MDB to his cabinet, temporarily halting the committee's work.[328] In November 2016, a court found opposition politician Rafizi Ramli guilty of disclosing state secrets after he made public the Auditor General's report on the 1MDB scandal.[329] However following the Pakatan Harapan win in the 9 May general election, the 1MDB report was declassified, and subsequently the Court of Appeal let Rafizi Ramili off with a two-year good behaviour bond of RM10,000.[330]

Anti-corruption mechanisms

Malaysian law provides criminal penalties for corruption, but enforcement is typically focused on low level crime. The government is only partly willing to contain corruption, and the few integrity mechanisms implemented are mostly ineffective, however levels of corruption in the civil service are probably the lowest in the region after Singapore.[331] Senior government officials who break the law and engage in corruption are rarely prosecuted adequately.[332] The law provides criminal penalties for corruption by officials however enforcement typically is focused on small scale and low level crime.[333] Between August 2016 and August 2017, the Malaysian Anti-Corruption Commission (MACC) seized more than $US77 million worth of assets, 600 per cent more than the previous year.[334] Shortly after losing the prime ministership, authorities confiscated large sums of cash and luxury items from the residences of former Prime Minister Najib and Najib has been charged over missing funds from the 1MDB fund.[335] In August 2017, the MACC arrested the former chairman of a government agency over allegations of corruption related to the purchase of a London hotel for an above-market price, but he had not been charged by the year's end. [336] In July 2017, the Royal Malaysia Police (RMP) signed an anti-graft pledge of which anti-corruption bodies and civil society organisations said was a significant step towards accountability.[337] Rates of corruption in Malaysia remain relatively low in comparison to other countries in the region.[338]

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Crime

Malaysian authorities periodically crack-down on criminal gangs and crime syndicates. In August 2013, the RMP launched Ops Cantas Khas, focusing on weapons seizures and targeting gang members, leaders and their assets.[339] Police claimed that they had identified 49 illegal gangs nationwide with 40,000 members – 70 per cent of whom were ethnic Indian[340] – who are linked to armed robberies, drug and prostitution rings, loan-sharking, gambling, and extortion and contract killings.[341] Authorities claim that the crackdown has led to a reduction in crime.[342] A second stage of the campaign – Op Cantas Khas 2 – was launched in August 2016.[343] In January 2018 a nationwide operation known as Operation Cantas Silver resulted in the arrest of 36 suspected members of Gang 04 who are allegedly involved in violent crimes including robbery, extortion, arson and drug trafficking.[344] Recently, Gang 360 Devan members previously charged under section 130 V of the Penal Code have had their charged downgraded to Section 43 of the Societies Act 1966 that carries a more lenient sentence.[345]

Loan sharks

Malaysian police both respond to victim reports of threats and harassment from illegal moneylenders and conduct operations against illegal money lending syndicates, both of which often lead to prosecution of illegal moneylenders and their employees under the *Moneylenders Act 1951*. Illegal money lending is an offence under Malaysian law, and section 5(2) of the *Moneylenders Act 1951* carries a fine of RM20,000 not exceeding RM100,000, or imprisonment not exceeding five years, or both for unlicensed moneylending.[346] Section 29AA of the *Moneylenders Act 1951* carries a fine not exceeding RM20,000, imprisonment for up to two years, or both for any person who assists an unlicensed moneylender.[347] Section 29B(1) of the *Moneylenders Act 1951* carries a fine of up to RM200,000 or imprisonment of up to three years, or both for harassment or intimidation of a borrower, a borrower's family or their associates.[348] During recent years, police have responded to complaints of harassment and intimidation by illegal moneylenders and have conducted numerous operations targeting illegal moneylending operations, resulting in the prosecution of persons under the *Moneylenders Act 1951*.[349] In December 2017, Malaysia's central bank cautioned the public about illegal money lending activities conducted by companies using fake licences purportedly issued by the central bank, advising the public to report such instances to the police for investigation.[350] A non-governmental organisation, the Malaysian Muslim Consumers Association (PPIM), offers support for those encountering problems with loan sharks.[351]

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Death penalty

A moratorium on executions is in place. Malaysia announced a moratorium on executions in July 2018.[352] According to the Malaysian government, as of 29 October 2018, there are 1,281 death row inmates among 65,222 prisoners.[353] Of the 1,279 on death row, 932 were sentenced to death under section 39B of the Dangerous Drugs Act 1952, while 317 people were convicted of murder.[354] There were four executions by hanging during 2017.[355] People sentenced to death by the High Court have an automatic right to judicial review of their sentence by the Court of Appeal and the Federal Court, and are also able to seek clemency from the relevant state ruler or the King.[356] Prisoners typically languish on death row for years and there is no established procedure for notifying families of scheduled executions.[357]

Malaysia introduced legislation that removes the mandatory death sentence for drug traffickers under limited circumstances. In November 2017, parliament passed the Dangerous Drugs (Amendment) Bill to remove the mandatory death sentence for drug-related offences by giving judges the discretion to punish drug offences with either life imprisonment or hanging.[358] However, judicial discretion is limited only to certain circumstances under specified in section 39B(2A) of the Bill;[359] namely where the accused is a merely a drug courier and has assisted law enforcement in disrupting drug trafficking activities.[360] The amendment Bill does not apply in retrospect for previous convictions.[361] At least 10 persons have received the mandatory death penalty for drug trafficking despite Parliament having already enacted the Bill to abolish the penalty.[362]

Domestic violence/familial abuse

Family violence

Domestic violence remains prevalent in Malaysia, despite laws prohibiting it. Malaysian law prohibits domestic violence, including physical injury and mental, emotional and psychological abuse.[363] A husband who harms his wife in order to force her to have sex – or who causes her to fear for her life – can be jailed for up to five years; however, non-consensual sex between a husband and wife is otherwise not considered rape under the country's penal code.[364] Domestic violence victims can obtain protection orders which attract a prison sentence of up to one year or a fine if breached.[365] Malaysia took a step forward in the protection of women's rights in 2017 by amending its domestic violence law to provide better protection for victims of domestic violence.[366] In August 2017, the

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country's parliament passed a law enlarging the definition of domestic violence to include the misappropriation of property, threatening a victim, communicating with or about a victim in a way that insults their 'modesty', as well as also ensuring protection for male victims.[367] However, contradictions between civil and Sharia law still affect the level of protection available to victims.[368] Under Sharia law in many states, wives are prohibited from disobeying the 'lawful order' of their husbands, which can lead to ambiguous interpretations of the law.[369]

Government and non-government bodies provide shelter and wide-ranging assistance to victims of domestic violence, but these are often insufficient to meet the need. Almost every hospital in Malaysia has a crisis centre where victims of rape and domestic violence can make reports without going to a police station,[370] and which offer services such as examination by female doctors, evidence management, temporary shelter and legal assistance.[371] In 2011, UN Women reported that the One Stop Crisis Centre model was successful in combining clinical therapeutic responses with secondary preventive measures.[372] The RMP Criminal Investigation Division includes a Sexual Investigation Division.[373] The Ministry of Women, Family and Community Development organises legal literacy seminars designed to inform women of their rights in cases related to issues such as marital problems and divorce.[374] Changes to the country's domestic violence laws in August 2017 allow authorised social welfare officers to issue emergency protection orders for domestic violence victims.[375] There is a sexual investigations unit at each police headquarters to help victims of sexual crimes and abuse, and police sometimes assign psychologists or counsellors to provide emotional support.[376] Credible sources also suggest that access to facilities like shelter services are insufficient to meet the need.[377]

Child marriage and sexual abuse

Sharia courts approve approximately 80 per cent of applications for marriages involving a female under the age of 16. The minimum legal marriage age for Muslims is 18 for men and 16 for women.[378] For non-Muslims, it is 18 for both men and women.[379] Child marriage is thus defined as marriage below the minimum legal age which requires the approval of a Shariah court judge for Muslims or the Menteri Besar / Chief Minister for non-Muslims.[380] In 2017, Teo Nie Cheng of the opposition Democratic Action Party unsuccessfully proposed an amendment to the Sexual Offences Against Children bill to include a ban on child marriage.[381] In Malaysia, there were 152,835 persons aged 15-19 in a marriage according to the 2010 Population and Housing Census.[382] One report

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[382] Child Marriage: Its Relationship with Religion, Culture and Patriarchy, Sisters in Islam & Asian-Pacific Resource and Research Centre for Women, June 2018, p.21, CIS7B839411448

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indicates that between 2005 and 2015, 10,240 Muslims applied for child marriages while 7,719 non-Muslim men applied to marriage a girl aged between 16 and 18 from 2000 to 2014.[383] Another report indicates that there are nearly 9,000 case of child marriage between 2010 and 2015, consisting of 6,268 Muslim and 2,775 non-Muslim.[384] The approval rate of under 16 year old marriage by Sharia courts in 2015 was 81 per cent, in 2014 74 per cent, in 2012 87.7 per cent and in 2011 86.1 per cent, representing an approximately 80 per cent approval rate.[385]

Malaysian authorities have taken limited steps to regulate early marriages and the sexual abuse of young girls. Malaysia's parliament voted down an attempt to ban child marriage in April 2017, but passed a new child sex crimes law.[386] The law criminalises 'grooming' of minors, includes penalties for making and possessing pornography involving people aged under 18, and involves the establishment of a special court to deal with child sexual abuse cases more quickly.[387] On 12 November 2018, an arrest was made following three reports lodged against a man, making it Malaysia's first sexual grooming case.[388] Women's groups claim that on average ten women are raped each day and that more than half of these women are younger than 16 years old.[389] A 2016 UNICEF Malaysia poll suggests that public opinion may be turning against early marriage – particularly among young people – with 95 per cent of respondents saying that marrying a 14 year-old is wrong and 86 per cent saying the minimum age to get married should be set at 18.[390]

Islamic Family Law stipulates that Muslim women may only marry with the consent of a male guardian, but using force or threat to compel a woman to marry or to reject a proposal can lead to a fine or imprisonment. Malaysia's Law Reform (Marriage and Divorce) Act states that all marriage must be based on mutual consent, and using force or threat to compel a woman to marry against her will or to prevent her from getting married is punishable with a fine or imprisonment.[391] Islamic Family Law stipulates that marriages are not fully recognised without the consent of the '*wali*', the woman's guardian.[392] A *wali* or a guardian such as the father is required in Islam to give away a woman for marriage and to solemnise the marriage.[393]

Female genital circumcision

Female circumcision is considered an Islamic cultural practice and is widely practiced across Malaysia despite international criticism of the practice. Malaysia's National Council of Islamic Religious Affairs issued a *fatwa* in 2009 that ruled female circumcision obligatory for Muslim women unless found to be physically harmful.[394] Female circumcision is often performed during infancy and a 2012 study found that 93 per cent of Muslim women respondents had undergone the practice.[395] In February 2018, representatives from Muslim-majority countries such as Bangladesh and Egypt criticised the practice as un-Islamic at the Constructive Dialogue session of the 69th session of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).[396] At Malaysia's Universal Periodic Review on human rights on 8 November 2018, a representative of the Women, Family and Community Development Ministry defended the on-going practice of the

[383] Thousands in Malaysia want to wed teenage girls, Asia News Network, 24 October 2018, CXBB8A1DA37296
[384] Child Marriages in Malaysia: Reality, Resistance and Recourse, Penang Institute, 10 July 2017, CXC90406624846
[385] Child Marriages in Malaysia Reality, Resistance and Recourse, Penang Institute, 10 July 2017, CXC90406624846
[386] Malaysia passes child sex crimes law, does not ban child marriage, Reuters, 5 April 2017, CXC90406611583; Child Marriages in Malaysia Reality, Resistance and Recourse, Penang Institute, 10 July 2017, CXC90406624846
[387] Malaysia passes child sex crimes law, does not ban child marriage, Reuters, 5 April 2017, CXC90406611583
[388] Alleged paedophile arrested in 'first sexual grooming case in Malaysia', Asia News Network, 13 November 2018, CXBB8A1DA38556
[389] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.106, p.26, CIS7B839419347
[390] 95% of Respondents to UNICEF Opinion Poll – Marriage to 14-Year-Old Girl 'Not OK', United National Children's Fund (UNICEF), 12 August 2016, CX6A26A6E16907
[391] Social Institutions and Gender Index 2014 – Malaysia, Organisation for Economic Co-operation and Development, 2014, p.1, CISEDB50AD5657

[393] Lawyer: Couple not trying to legitimise illegitimate child, just removing 'bin Abdullah' stigma, Malay Mail Online, 8 February, CXBB8A1DA38635
[394] Malaysia Still on the Wrong Path on Women's Rights, The Diplomat, 26 February 2018, CXBB8A1DA23247
[395] Malaysia Still on the Wrong Path on Women's Rights, The Diplomat, 26 February 2018, CXBB8A1DA23247; Female circumcision Culture and religion in Malaysia see millions of girls undergo cut, Australian Broadcasting Corporation (News), 13 November 2018, CXBB8A1DA38323
[396] Malaysia urged to abolish female genital mutilation, The Star Online, 22 February 2018, CXBB8A1DA2276

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circumcision of female infants in the country as a "cultural obligation".[397] The Malaysian government's stance was reaffirmed by the Deputy Prime Minister and Women, Family and Community Development Minister, Datuk Seri Dr Wan Azizah Wan Ismail, who later said that female circumcision in Malaysia is a cultural practice and unlike female genital mutilation that is practiced in Africa.[398]

[397] Women's ministry defends infant female circumcision at UN human rights review, Malaysiakini, 9 November 2018, CXBB8A1DA38229
[398] DPM maintains that female circumcision is part of Malaysian culture, The Star Online, 15 November 2018, CXBB8A1DA38729

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Australian Government
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Common Claims

Malaysia

Country of Origin Information Services Section (COISS)

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Ethnicity

Ethnic demographics

Malays are the dominant ethnic group in Malaysia. Along with a small number of other indigenous groups (including Orang Asli, Dayak, Anak Negeri), bumiputera comprise 61.7 per cent of the country's population.[1] Chinese (20.8 per cent) and Indians (6.2 per cent) are the other major ethnic groups in Malaysia.[2] It is estimated that 80 per cent of the Indian population are Tamil.[3] Although the Malaysian Constitution forbids discrimination against citizens on the basis of gender, religion and race, it accords a special position for bumiputera, in effect permitting affirmative action policies that are widely considered to be discriminatory against other ethnic groups.[4] Chinese are the country's highest median income earners, while Indians and bumiputera are the lowest median income earners – both below the national median.[5]

Bumiputera

Bumiputera enjoy a special position in Malaysia that is not afforded to ethnic Chinese or Indians. Following May 1969 race riots, the government passed legislation aimed to ensure Malay political supremacy, and in 1971 promulgated the New Economic Policy that provided extensive benefits to the bumiputera community.[6] Although the New Economic Policy officially ended in 1991, economic policies since have changed little in character and continue to include special rights for the bumiputera while at the same time promoting rapid economic growth to ensure that all ethnic groups benefit economically.[7] The government limits opportunities for non-bumiputera in higher education and government employment.[8] Many industries are subject to race-based requirements that mandate bumiputera ownership levels.[9] Government procurement and licensing policies favour bumiputera-owned businesses.[10] In July 2018, the Malaysian government indicated that it would review the New Economic Policy to align economic policies with need instead of race.[11] In November 2018, the government stated that it would not ratify the International Convention on the Elimination of All Forms of Racial Discrimination, following opposition and criticism that ratifying the convention would weaken the rights of bumiputera, Malay royals, and dilute Islam's position in Malaysia.[12]

Chinese

Chinese Malaysians are represented in government and generally do not experience discrimination or violence on a daily basis, but may face low-level of official discrimination when attempting to gain entry to tertiary education. The Malaysian Chinese Association, part of

[1] The World Factbook Malaysia, Central Intelligence Agency, 23 October 2018, CIS7B8394110022
[2] The World Factbook Malaysia, Central Intelligence Agency, 23 October 2018, CIS7B8394110022
[3] World Directory of Minorities and Indigenous Peoples - Malaysia Indians, Minority Rights Group International, January 2018, CIS7B83941338
[4] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 2.22, p.8, CIS7B839419347
[5] Malaysian Indian Blueprint, Prime Minister's Office, 21 April 2017, pp.8-9, CISEDB50AD7705
[6] BTI 2018 Country report Malaysia, Bertelsmann Stiftung, 22 March 2018, pp.4-5, CIS7B83941547
[7] BTI 2018 Country report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.5 and p.31, CIS7B83941547
[8] World Directory of Minorities and Indigenous Peoples - Malaysia Indians, Minority Rights Group International, January 2018, CIS7B83941338;
World Directory of Minorities and Indigenous Peoples - Malaysia: Chinese, Minority Rights Group International, January 2018, CIS7B83941344;
Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, section 6, p.27, OGD95BE927312;
Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section G1, NGED867A631
[9] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, section 6, p.27, OGD95BE927312
[10] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, section 6, p.27, OGD95BE927312
[11] Malaysia to train Bumiputera to be more competitive rather than spoon-feed them Mahathir, The Straits Times, 1 September 2018, CXBB8A1DA34636
[12] Malaysia not ratifying UN human rights treaty, The Straits Times, 24 November 2018, CXBB8A1DA39228

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the Barisan National (BN) coalition, has traditionally been the largest Chinese political party.[13] However, an increasing number of Chinese support the Democratic Action Party (DAP), one of three opposition parties of the Pakatan Harapan coalition.[14] Lim Guan Eng, an ethnic Chinese, was appointed as finance minister following May 2018 elections.[15] There are no laws or constitutional provisions that directly discriminate against Chinese Malaysians.[16] However, non-bumiputera communities experience systematic discrimination in the distribution of state benefits.[17] Chinese are able to access public education but increasingly attend one of the 1,295 Chinese schools due to concerns about the quality of education and perceptions that the public curriculum has a strong focus on Islam.[18] Despite the removal of government-sanctioned ethnic quotas for public universities in 2002, Malaysia's admission decisions favour ethnic Malays and some ethnic Chinese miss out on a university place despite having high marks.[19] Chinese form the bulk of students at Malaysia's non-government universities.[20]

Indians

Indian Malaysians generally do not experience discrimination or violence on a daily basis but may face low levels of discrimination when attempting to gain entry to tertiary education. There are no laws or constitutional provisions that directly discriminate against Indian Malaysians.[21] However, non-bumiputera communities experience systematic discrimination in the distribution of state benefits.[22] Indians are able to access public education, with 524 state-based Tamil-language schools across Malaysia.[23] However, access to state-based tertiary education remains low, with approximately six per cent of student places at public universities offered to Indian applicants.[24]

Since 2009 the government has mandated initiatives aimed to improve the socio-economic position of Indian Malaysians. In recent years, the government has focused socio-economic policies on helping the lower economic percentile of the Indian community (estate Indians) to attain better education outcomes,[25] resulting in spending allocations exceeding RM1 billion for Tamil schools.[26] In 2017, the government published its 10 year Malaysian Indian Blueprint that outlines policies and mechanisms that have been implemented since 2009 which aim to lift the socio-economic position of Malaysian Indians.[27]

Indian Malaysians participate extensively in political life but the predominant use of the Malay language can be a barrier to Indian employment in the civil service. Indian Malaysians participate freely in political life and the Malaysian Indian Congress forms part of the BN coalition.[28] In recent years, there have been several ethnic Indian members of parliament including ministers and a

[13] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.6, p.11, CIS7B839419347
[14] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.6, p.11, CIS7B839419347
[15] Malaysia's ruling party may be gone, but its racial policies survive, The Economist, 7 June 2018, CXBB8A1DA28917; The shape of things to come under Mahathir 2.0, Asia Times, 13 May 2018, CXBB8A1DA27542
[16] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.4, p.10, CIS7B839419347
[17] BTI 2018 Country report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.7, p.24, CIS7B83941547
[18] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.8, p.11, CIS7B839419347
[19] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.8, p.11, CIS7B839419347
[20] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.8, p.11, CIS7B839419347
[21] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.11, p.11, CIS7B839419347
[22] BTI 2018 Country report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.7, CIS7B83941547
[23] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.11, p.12, CIS7B839419347
[24] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.11, p.12, CIS7B839419347
[25] Malaysia Indian Blueprint, Prime Minister's Office, 21 April 2017, CISEDB50AD7705
[26] I'm committed to transforming Indian community, says Najib, The Malaysian Insight, 3 December 2017, CXC90406618619
[27] Malaysia Indian Blueprint, Prime Minister's Office, 21 April 2017, CISEDB50AD7705
[28] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.16, p.12, CIS7B839419347

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president of the upper house.[29] In June 2018, the Mahathir government appointed an ethnic Indian Christian, Tommy Thomas, as Attorney General.[30] The predominant use of the Malay language can be a barrier to Indian Malaysian employment in the civil service.[31] More than 50 per cent of Indian Malaysians are employed in low-income jobs but also represent a high proportion of professionals, including 38 per cent of the country's medical workforce.[32] In 2015, an Indian Malaysian was appointed as Chief of Police in Kuala Lumpur, the first non-Malay to hold this position.[33]

Religion

Islam is the dominant religion in Malaysia. Malaysia has continued its shift towards a more conservative approach to Islam, the majority religion.[34] Census figures from 2010 indicate that 61.3 per cent of the population practices Islam.[35] Significant religious minorities are Buddhists (19.8 per cent), Christians (9.2 per cent), Hindus (6.3 per cent) and Confucianists, Taoists and other traditional Chinese philosophies and religions (1.3 per cent).[36] The government automatically classes individuals born in Malaysia of Malay ethnicity as Muslim.[37] Rural areas – especially on the east coast of Peninsular Malaysia – are predominately Muslim, while the states of Sabah and Sarawak on the island of Borneo have higher numbers of non-Muslims.[38] A Muslim's status is recorded on their birth certificate and on their national identification card.[39] National identification cards do not distinguish between Sunni and Shi'a Muslims, instead the cards identify Muslims on their surface, but record other religious affiliation in encrypted form on a smart chip.[40] Following 2018 general elections, the new prime mistier ordered a review of the Malaysia's institution tasked with promoting Islam, the Islamic Development Department (Jakim), that would include how Islam is portrayed in society and its budget.[41]

Religious freedom

Sunni Islam is Malaysia's official interpretation of Islam. Although the Constitution states that Islam is the religion of the Federation and provides for religious freedom,[42] a 1996 *fatwa* supported by state laws, requires the country to follow Sunni teachings of the Shafi'i school and prohibits Muslims from possessing, publishing, or distributing material contrary to those teachings.[43] Non-Sunni interpretations of Islam are illegal and subject to action by religious authorities.[44] Sedition laws

[29] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.16, p.12, CIS7B839419347
[30] The changing face of Malaysian justice, The changing face of Malaysian justice, Asia Times, 6 June 2018, CXBB8A1DA28835;
Malaysia's ruling party may be gone, but its racial policies survive, The Economist, 7 June 2018, CXBB8A1DA28917
[31] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.12, pp.11-12, CIS7B839419347
[32] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.12, pp.11-12, CIS7B839419347
[33] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.12, p.12, CIS7B839419347
[34] World Report 2018, Human Rights Watch, 18 January 2018, p.355, NGED867A63
[35] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section I, p.2, OGD95BE927494
[36] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section I, p.2, OGD95BE927494
[37] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.27, p.14, CIS7B839419347 section 3.27, p.14
[38] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section I, p.2, OGD95BE927494
[39] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.27, p.14, CIS7B839419347
[40] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.27, p.14, CIS7B839419347
[41] Malaysia's most powerful Islamic body faces scrutiny, The Straits Times, 18 June 2018, CXBB8A1DA29463
[42] Federal Constitution, Government of Malaysia, introduced 31 August 1957, amended 27 December 2007, reprinted 1 November 2010, The Commissioner of Law Revision, Article 11, CISDCDCAAB1747
[43] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.3, OGD95BE927494
[44] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, p.1, OGD95BE927494

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regulate and punish speech considered hostile to Islam.[45] Civil society activists have said that the government has selectively prosecuted speech allegedly denigrating Islam while largely ignoring criticism of other faiths.[46] During 2017, the government barred Muslims from converting to another religion, and imposed fines, detentions, and canings on those classified under the law as Muslim who contravened Sharia codes.[47]

Religious adherence

Apostasy is a crime under Sharia law in five Malaysian states, but no Sharia court has ever prosecuted anyone for leaving Islam, or attempting to do so. Individuals born in Malaysia of Malay ethnicity are automatically classed as Muslim.[48] Muslims who wish to convert to another religion must obtain approval from a Sharia court.[49] In practice, those born Muslim are not permitted to convert out of Islam by a Sharia court.[50] Only one (Negeri Sembilan) of Malaysia's thirteen states has a legal procedure that allows a non-Malay Muslim to legally 'leave Islam'.[51] Sharia courts show reluctance to allow for conversion out of Islam of those who had previously converted to Islam.[52] Apostasy from Islam is a criminal offence in Perak, Melaka, Sabah, and Pahang, punishable by a fine or jail, or up to six strokes of the cane in Pahang.[53] The maximum penalty for apostasy in the states of Kelantan and Terengganu is death.[54] However, this punishment is not enforceable due to restrictions by federal law.[55] Furthermore, there has not been a case when a Sharia court chief prosecutor has initiated criminal proceedings for apostasy or attempted apostasy against an individual seeking to officially change their religious status.[56] The Sharia Judiciary Department Malaysia (JKSM) acknowledged that its records show that no Malay Muslim has ever applied to change their religious status.[57]

Sharia courts only grant permission to convert out of Islam to individuals who were not born Muslim but converted to Islam during their life and then later seek reversion. Muslims who wish to convert to another religion must obtain approval from a Sharia court.[58] In practice, only those not born Muslim are granted permission to convert out of Islam by a Sharia court.[59] In a ten year period between 2000 and 2010 only 168 of 800 Muslims who attempted to convert out of Islam were given permission by Sharia courts, and these were all reversion cases.[60] It was reported in 2017 that 400 cases of Muslims were appealing to sharia courts to convert to another religion.[61] Only a Sharia court

[45] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.5, OGD95BE927494
[46] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.8, OGD95BE927494
[47] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.5, OGD95BE927494
[48] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.27, p.14, CIS7B839419347
[49] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.3, OGD95BE927494
[50] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.3, OGD95BE927494
[51] Negotiating Apostasy: Applying to "Leave Islam" in Malaysia, University of Salford Manchester, April 2014, Samuri, M A A, Quraishi, M M, p.2, pp.4-8, CISEFCB23F7623
[52] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.3, OGD95BE927494
[53] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.3, OGD95BE927494
[54] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.3, OGD95BE927494
[55] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.5, 9, OGD95BE927494
[56] Path to leave Islam simple, but far from easy, Malay Mail, 12 July 2014, CX1B9ECAB12845
[57] Path to leave Islam simple, but far from easy, Malay Mail, 12 July 2014, CX1B9ECAB12845
[58] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.3, OGD95BE927494
[59] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.3, OGD95BE927494
[60] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.60, p.18, CIS7B839419347
[61] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section III, p.14, OGD95BE927494

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can provide a court order/letter of release from Islam that can be used to amend a person's religion on his/her identity card.[62]

Atheism is not illegal in Malaysia. In November 2017, the government stated that atheism was unconstitutional.[63] However, the Constitution provides for freedom of religion that includes the right not to practice a religion.[64] A Muslim should first obtain a certificate from a Sharia court to convert out of Islam.[65] In August 2017 two senior ministers in the Malaysian government generated controversy after they called for an investigation after members of the Malaysian chapter of the Atheist Republic posted a photo of their initial gathering on Facebook.[66] The deputy minister in charge of religious affairs said that the government needed to determine whether any Muslims were in the Atheist Republic photo and suggested using the "soft" approach by sending them for counselling.[67] The other minister from the Prime Minister's Department said that "we have to bring them back to the right path".[68]

It is possible for an individual to live an atheist life in Malaysia. Population and Housing Census figures from 2010 suggested there were about 300,000 Malaysians who followed non-religious belief systems or did not believe in God.[69] Malaysian Muslims are generally not prosecuted for disbelief.[70] Some atheists maintain a low-profile in society and are known to socialise with likeminded people,[71] whereas other Muslims make no attempt to hide their atheism from society.[72] A range of atheist-focused organisations, Facebook pages, Twitter accounts and websites – some of which are no longer active – have been set up in recent years with the aim of allowing people who do not believe in God to come together.[73]

Religious discrimination

Malaysian authorities interfere in or prevent religious practice or worship of non-Sunni Islamic groups. The federal and state governments continued to forbid religious assembly and worship for groups considered to be deviant Islamic groups such as Shia, Ahmadiyya, and Al-Arqam.[74] Ahmadi Muslims have reported generally being able to maintain a worship centre but government religious authorities forbid them from holding Friday prayers stating that they could only be performed in an officially registered mosque.[75] In October 2017, the Muslim Consumer Association of Malaysia denounced the Ahmadiyya Muslim community in a press conference and police intervened to prevent a Muslim Consumer Association of Malaysia protest outside the Ahmadiyya Muslim headquarters.[76] During the past several years, local government authorities have permitted billboards stating that "Ahmadis are not Muslims" to be placed outside the Ahmadiyya Muslim headquarters.[77]

Malaysia's state government authorities may restrict the construction of official places of worship for some non-Islamic religious groups. Religious groups complain that the government

[62] Sarawak Shariah Court can hear apostasy cases, rules apex court, Bernama, 27 February 2018, CXBB8A1DA23564
[63] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.8, OGD95BE927494,
[64] Lawyers: Being atheist, promoting atheism protected by Constitution, Malaymail Online, 25 November 2017, CXC90406620451
[65] Atheism is not unconstitutional, legal minds tell deputy minister, Free Malaysia Today, 24 November 2017, CXC90406620452;
[66] Intolerance Rising: Atheists at Risk in Malaysia, The Diplomat, 22 August 2017, CXC90406612572
[67] Malaysia probes atheist group after uproar over Muslim apostates, Reuters, 7 August 2017, CXC90406620455
[68] Atheist Republic members need to be tracked down, says Malaysian Cabinet minister, The Straits Times, 8 August 2017, CXC90406620454
[69] Are Malaysia's atheists an endangered species or quietly burgeoning?, Malaysiakini, 13 July 2016, CX6A26A6E16914
[70] Intolerance Rising: Atheists at Risk in Malaysia, The Diplomat, 22 August 2017, CXC90406612572
[71] Intolerance Rising: Atheists at Risk in Malaysia, The Diplomat, 22 August 2017, CXC90406612572
[72] Moderation under threat as Malaysia faces Islamic tide, The Australian, 17 August 2017, CXC90406620453
[73] Are Malaysia's atheists an endangered species or quietly burgeoning?, Malaysiakini, 13 July 2016, CX6A26A6E16914
[74] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.9, OGD95BE927494
[75] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.9, OGD95BE927494
[76] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.9, OGD95BE927494
[77] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.9, OGD95BE927494

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has no transparent criteria for determining whether to register a religious group.[78] In cases where the government refuses to register a religious group, the group can attempt to register as a company.[79] In 2017, the government did not specifically allocate funds for non-Muslim religious groups, although some religious groups received sporadic funding for temple and church buildings and other activities.[80] Non-Muslim groups have reported some difficulties in obtaining permission from local authorities to build new places of worship, causing groups to use buildings zoned for residential or commercial use for religious services.[81] However, in March 2017 the state government of Penang announced that 32 plots of state land would be made available to non-Muslim religious groups to build churches and temples after groups complained about the lack of suitable places to construct houses of worship.[82]

Sharia law

Malaysia maintains a dual legal system with the coexistence of Sharia law alongside civil law. Malaysia's secular legal system is based on English common law.[83] Muslims are subject to Sharia (Islamic law), the interpretation of which varies regionally, and the constitution's Article 121 stipulates that all matters related to Islam should be heard in Sharia courts.[84] The dual legal system results in different treatment of Muslims and non-Muslims in "moral" and family law cases.[85] Although Shariah courts have jurisdiction only over matters involving Muslims, they remain highly influential in general, because their decisions frequently involve conversions to Islam, which in turn affect such matters as child-custody, burial rites and inheritance.[86] Two states, Kelantan and Terengganu, have symbolically enacted *hudood* (Islamic penal law), but the Malaysian government has not allowed the code to be implemented.[87] Some penalties imposed by Sharia courts are limited by federal civil law.[88] In April 2018, a high court ruled that the Ahmadi community cannot be charged with offenses under the sharia law system anywhere in Malaysia.[89]

See also 'State Islamic religious enforcement officers'

Interfaith and mixed marriages

Non-Muslims wishing to marry a Muslim must convert to Islam for the marriage to be officially recognised. There are two primary statutes in Malaysia for marriage, for civil marriage, the Law Reform (Marriage and Divorce) Act 1976,[90] and for Muslim marriage, Islamic Family Law Act (Federal Territories) 1984.[91] The civil law marriage and divorce act states that it does not apply to Muslims.[92]

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[78] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.8, OGD95BE927494
[79] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.8, OGD95BE927494,
[80] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.11, OGD95BE927494
[81] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.10, OGD95BE927494
[82] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.10, OGD95BE927494
[83] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section F2, NGED867A631;
International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.5, OGD95BE927494
[84] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section F2, NGED867A631;
International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.5, OGD95BE927494
[85] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section F2, NGED867A631
[86] BTI 2018 Country report Malaysia, Bertelsmann Stiftung, 22 March 2018, pp.7-8, CIS7B83941547
[87] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.5, OGD95BE927494;
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[88] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 5.3, p.35, CIS7B839419347
[89] World Report 2019, Human Rights Watch, 17 January 2018, p.369, 20190118091502
[90] Law Reform (Marriage and Divorce) Act (164) 1976 (Malaysia), Federal Government of Malaysia, 6 March 1976, (amendments to 1 January 2006), the Commissioner of Law Reform, CISBE8E6BE702
[91] Islamic Family Law Act (Federal Territories) Act (303) 1984 (Malaysia), Federal Government of Malaysia, 27 June 1984, amendments to 1 January 2006, the Commissioner of Law Reform, CIS883493140
[92] Law Reform (Marriage and Divorce) Act (164) 1976 (Malaysia), Federal Government of Malaysia, 6 March 1976, (amendments to 1 January 2006), the Commissioner of Law Reform, Part I, article 3(3), CISBE8E6BE702

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The only exception for a Muslim to marry a non-Muslim is when a Muslim man marries a *Kitabayah* (Christian whose ancestors were Christian before the prophethood of Muhammod).[93] In practice it is almost impossible to prove this ancestry.[94] For a marriage to be officially recognised, a non-Muslim must convert to Islam to marry a Muslim.[95] Malaysian authorities do not recognise marriages between Muslims and non-Muslims and consider children born of such marriages illegitimate.[96] Some Sunni and Shia Muslims intermarry and have family members that practice either form of Islam.[97]

Although non-Muslim interfaith and ethnic mixed marriages are legal some individuals in such marriages may face opposition from their community, family or friends. Malaysian law does not restrict the rights of non-Muslims to marry.[98] Conversion sometimes takes place due to marriage, with one partner choosing to convert or both partners choosing to adopt a new faith; however, this is not compulsory.[99] Malaysian law does not restrict the rights of people from different ethnic groups to marry,[100] although as Malaysian law considers all Malays to be Muslim, a non-Muslim of another ethnicity intending to marry a Malay must convert.[101] Individuals in a mixed marriage sometimes face pressure or stigma from within their family, friends or community, while couples of different ethnicities may also encounter racism.[102]

Arranged marriages

Arranged marriages have declined sharply in recent decades, and most Malaysians are free to choose their own husband or wife. Malaysia's Law Reform (Marriage and Divorce) Act states that all marriages must be based on mutual consent, and no restriction is placed on the rights of people from different ethnic groups, or non-Muslims, to marry.[103] Individuals sometimes face pressure or stigma from within their family, friends or community based on religious, social or cultural difference.[104] Using force or threat to compel a woman to marry against her will or to prevent her from getting married is punishable with a fine or imprisonment.[105] However, Malaysia does not recognise marriages between Muslims and non-Muslims,[106] and Islamic family law stipulates that marriages are not fully recognised without the consent of the *wali*, a male family member – typically a woman's father, paternal grandfather, brother or paternal uncle – who acts as guardian for a woman prior to their marriage.[107] A 2012 report said that the *wali* system means that Muslim women do not necessarily have the same right to freely choose their spouse and enter into marriage.[108]

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[94] Ethnic and religious discrimination big challenge for Malaysia's minorities, Minority Rights Group International, 25 May 2011, CXCB3E63421379
[95] 2016 Report on International Religious Freedom – Malaysia, US Department of State, 1 August 2017, p.3, OGD95BE927132
[96] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, section 1, p.9, OGD95BE927312
[97] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.41, p.16, CIS7B839419347
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A M'sian union – interracial couples share their stories, Malaysiakini, 16 September 2016, CX6A26A6E16886
[103] Registration of Marriage For Non-Muslim, National Registration Department – Ministry of Home Affairs, n.d. (accessed 10 August 2017), CISEDB50AD5251
[104] Interracial marriage as beacon of light in upholding Malaysia's diversity, The Rakyat Post, 14 July 2015, CXBD6A0DE19504;
A M'sian union – interracial couples share their stories, Malaysiakini, 16 September 2016, CX6A26A6E16886;
[105] Social Institutions and Gender Index 2014 – Malaysia, Organisation for Economic Co-operation and Development, 2014, p.1, CISEDB50AD5657
[106] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.104, p.25, CIS7B839419347
[107] Social Institutions and Gender Index 2014 – Malaysia, Organisation for Economic Co-operation and Development, 2014, p.1, CISEDB50AD5657;
Wali, Singapore Government, 2015, CISEC96CF15597
[108] Washing the Tigers: Addressing Discrimination and Inequality in Malaysia, Equal Rights Trust and Tenaganita, November 2012, p.53, CIS28954

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Shia Muslims

Shia Islam is considered a deviant form of Islam and is prohibited under Malaysian law. Eleven out of fourteen states ban Shia Islam, and a Shia Muslim found to be proselytising can expect to be detained and prosecuted.[109] In September 2018, 50 Shia were arrested in Kelantan for practicing their religion.[110] Reportedly, the Shia followers had been conducting their activities on the same premises for several years.[111] During 2017, the government forbade non-Sunni practice of Islam and arrested at least 25 Shia and detained others for celebrating Ashura.[112] However, despite legal barriers to their worship, most Shia Muslims live free from discrimination and violence on a day-to-day basis.[113] Government enforcement efforts generally focus on conversions and proselytisers, not assembly or worship, and very few arrests have resulted in charges being laid.[114] National identity cards do not distinguish Shias from other Muslims and there are no restrictions on their movement within Malaysia.[115]

Christians

Christians generally live free from discrimination and are free to practice their religion in Malaysia although they may face occasional harassment. Malaysian Christians are usually able to practise their religion without interference.[116] Official restrictions have been placed on their use of the word 'Allah' (Arabic for God), which Malaysian Christians claim to have used for centuries to practice their religion.[117] In 2008, the Home Affairs Ministry banned the Catholic newspaper, *The Herald*, from using 'Allah'.[118] This ban was upheld by both the Malaysian Court of Appeals and Federal Court.[119] In 2015, a protest took place in outside a Christian church in a predominately Muslim suburb in Medan demanding the removal of the cross on the church – the cross was removed.[120] Furthermore, in February 2017 an evangelical pastor suspected of converting Muslims to Christianity was abducted by masked individuals.[121] During 2017, the government cancelled a Christian prayer gathering to be held in Melaka State, saying it would upset the sensibilities of Muslims during Ramadan.[122]

Buddhists and Hindus

Buddhists and Hindus are normally able to practice their religion without interference and do not face official or societal discrimination on a day-to-day basis. Federal and state governments have supported the building of Hindu or Buddhist places of worship throughout Malaysia.[123] In 2013, the Malaysian Government allocated RM 2 million (AUD 660,533) for the building of a new Hindu

[109] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.42, p.16, CIS7B839419347
[110] World Report 2019, Human Rights Watch, 17 January 2019, p.369, 20190118091502
[111] 50 suspected Syiah followers detained in Kota Baru, New Straits Times, 31 August 2018, 20190125145959
[112] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.5, OGD95BE927494
[113] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.45, p.16, CIS7B839419347
[114] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.44, p.16, CIS7B839419347
[115] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.41, p.16, CIS7B839419347
[116] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.52, p.17, CIS7B839419347
[117] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.47, pp.16-17, CIS7B839419347
[118] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.47, pp.16-17, CIS7B839419347
[119] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.47, pp.16-17, CIS7B839419347
[120] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.49, p.17, CIS7B839419347
[121] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.50, p.17, CIS7B839419347
[122] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, pp.5-6, OGD95BE927494
[123] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.55, p.17, CIS7B839419347

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complex in Selangor.[124] Hindus and Buddhists have faced some compulsory acquisitions of places of worship or occasional community backlash in response to relocated temples.[125] Fifty Muslim residents protested the relocation of a Hindu temple into their residential area by placing a severed cow's head at the front gate of the Selangor State Government office in 2009.[126] In January 2018 following the demolition of an illegally-constructed Hindu temple, the Johor Sultan offered support to obtain a new site, land for which the state government subsequently allocated, some 1.5 km away from the previous temple.[127]

Conversion

For apostasy see 'Religious adherence'

Non-Muslims are free to change their religious beliefs and affiliation, but they may face opposition from their community, family or friends. Malaysian law does not restrict the right of non-Muslims to convert to another religion.[128] A minor (under the age of 18, according to federal law) generally may not convert to another faith without the explicit permission of their parent or guardian, although some states allow conversion to Islam without parental permission after age 15.[129] Sometimes converts can face stigmatisation, especially those converting from Islam.[130] A non-Muslim wishing to marry a Muslim must convert to Islam for the marriage to be officially recognised.[131]

Unilateral conversion

On 29 January 2018 the Federal Court unanimously ruled that unilateral child conversion is unlawful but parliament has not legislated against it. The Federal Court ruled that a child from a civil marriage can only be converted to Islam if both parents consent.[132] The Constitution's article 12(4) in English uses the word "parent" in the singular sense while article 12(4) of the Bahasa Malaysia translation uses the words "*ibu atau bapa*" (mother or father); however the court ruled that the Constitution's eleventh schedule has a clause on interpreting words in the singular to include the plural and vice versa.[133] Legislative amendments to the Federal Constitution and the *Law Reform (Marriage and Divorce) Act 1976* have yet to occur.[134] In August 2017 the Law Reform (Marriage and Divorce) Act was amended without including Section 88A,[135] the section that aimed to prevent unilateral child conversion.[136]

Historically, cases of unilateral child conversions favoured the Muslim parent. Prior to a Federal Court 2018 judgement that ruled unilateral child conversion unlawful,[137] the consent of only one

[124] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.55, p.17, CIS7B839419347
[125] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.54, p.17, CIS7B839419347
[126] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.54, p.17, CIS7B839419347
[127] Hindu temple demolition Johor Sultan steps in as peacemaker, offers relocation aid, Malaymail Online, 21 January 2018, CXBB8A1DA20539
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[130] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section III, p.14, OGD95BE927494
[131] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.4, OGD95BE927494
[132] Amid language clash, Federal Court says conversion needs consent of both parents, Malaymail Online, 31 January 2018, CXBB8A1DA20998
[133] Amid language clash, Federal Court says conversion needs consent of both parents, Malaymail Online, 31 January 2018, CXBB8A1DA20998;
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[134] Malaysian Bar All legislation must adhere to Federal Constitution, The Star Online, 4 February 2018, CXBB8A1DA21244
[135] Law Reform (Marriage and Divorce) (Amendment) Act 2017, Government of Malaysia, gazetted 17 October 2017, Federal Gazette, CISEDB50AD9174
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Strong support for Clause 88A, The Star Online, 1 February 2018, CXBB8A1DA36046
[137] Malaysian court says both parents must consent on children's religion, Reuters, 29 January 2018, CXBB8A1DA21004

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parent was required to convert a child under Sharia laws and allows the Muslim parent to gain sole custody.[138] Despite Sharia courts being constitutionally subordinate to civil courts, in January 2016 the Federal Court of Appeal ruled that matters of conversion to Islam were at the sole discretion of Sharia courts.[139] As a result, Sharia courts often decided child custody cases where one parent has converted to Islam while the other has not, and historically favoured the Muslim parent.[140] There have been some high-profile cases of unilateral child conversions, mostly concerning Hindu fathers converting to Islam and claiming custody of their children.[141] Previously, when there had been competing orders by civil and Sharia courts regarding custody, police generally sided with Sharia decisions.[142]

Particular social groups

Lesbian, Gay, Bisexual, Transgender, Intersex (LGBTI)

Malaysian secular law criminalises same-sex sexual acts but in practice the law is rarely invoked. A former British colony, Malaysia has retained its colonial-era law against sodomy.[143] Malaysia's Penal Code criminalises sodomy (homosexual) and oral sex (homosexual and heterosexual) acts, but authorities rarely enforce the law.[144] Secular law that criminalises male-male sexual acts has been extended to female-female acts.[145] Sodomy laws have only been invoked seven times since 1938, four of those instances against former Deputy Prime Ministry Anwar Ibrahim.[146] International observers and human rights organisations viewed sodomy charges against prominent political figure, Anwar Ibrahim, as politically motivated.[147] Those found guilty under section 377A of the Penal Code for 'carnal intercourse against the order of nature' are liable for imprisonment of up to twenty years and a whipping.[148]

Islamic laws in several states prohibit same-sex sexual acts. Some Malaysian states apply their own penalties to Muslims under sharia statues.[149] Under sharia law in several Malaysian states, same-sex sexual acts between Muslims are illegal and can incur jail terms and mandatory

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[138] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.127, p.29, CIS7B839419347
[139] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.128, p.29, CIS7B839419347
[140] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.11, OGD95BE927494
[141] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.128, p.29, CIS7B839419347
[142] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.11, OGD95BE927494
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Penal Code, Government of Malaysia, enacted 1936, amended 31 December 2014, sections 377A, 377B, CISEDB50AD9259;
[145] State-Sponsored Homophobia 2017 – A World Survey of Sexual Orientation Laws: Criminalisation, Protection and Recognition, International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), 1 May 2017, CISEDB50AD4462, pp.130-131, p.169
[146] Malaysia: On the Record: Violence Against Lesbians, Bisexual Women and Transgender Persons In Malaysia, International Gay and Lesbian Human Rights Commission, 6 May 2014, CIS2F827D91966, p.33;
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[148] Penal Code, Government of Malaysia, enacted 1936, amended 31 December 2014, sections 377A, 377B, CISEDB50AD9259;
Criminalisation of Homosexuality, Human Dignity Trust, 25 October 2015, CISEC96CF110372
[149] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section F4, NGED867A631

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whipping.[150] The caning of women is banned under civil law, but allowed under Islamic laws in some states.[151] In October 2018, Terengganu state was the first state in Malaysia to cane two LGBT Muslim women under sharia law for attempting to have lesbian sex.[152] The Prime Minister denounced the caning of two lesbian women in Terengganu state under sharia law, considering the punishment too harsh.[153] Prior to Terengganu, some heterosexual couples convicted of adultery have received caning as punishment.[154]

See also 'Sharia law'

The Malaysian government and society largely oppose LGBT lifestyles that are considered inconsistent with conservative values. The results of a 2013 global survey on the acceptance of homosexuality found that an 'overwhelming majority' of Muslim countries, including 86 per cent of persons surveyed in Malaysia, reject homosexuality.[155] Prime Minister Mahathir publically acknowledged that his government does not support LGBT unions, which it see as an element of human rights in Western society rather than aligning with Malaysian values.[156] A Deputy Minister in the Prime Minister's Department said that the government "disagree with the behaviour of the LGBT" but "will not allow discrimination to occur", instead supporting rehabilitation of LGBT individuals.[157] In November 2018, a Malaysian delegate to its Universal Periodic Review on human rights said in response to questioning about discrimination against the LGBT community that the government "upholds the rights and dignity of all person in Malaysia in accordance to the law" and cited article 8(2) of the constitution that prohibits discrimination against gender.[158] LGBT activists and NGO representatives criticised the Malaysian delegation's response to LGBT issues as weak.[159] The Human Rights Commission of Malaysia (Suhakam) said that although it does not support same-sex marriage, the LGBT community should not be discriminated against.[160]

Malaysian authorities promote heterosexual lifestyles amongst the LGBT community. Malaysia's Islamic authorities have published an e-book and conduct outreach activities encouraging Muslim LGBT persons to undergo sexuality rehabilitation.[161] The Malaysian Islamic Development Department (JAKIM) facilitates an outreach program (Mukhayyam) to rehabilitate LGBT individuals.[162] The program, a three-day camp held eight times each year, has been criticised by the Malaysian Aids Council as having become a place where LGBT are being "converted" to the "right path" instead of its original intent of to "provide a safe, non-judgmental space" to the transgender community.[163] The Ministries of Health and Education conduct campaigns aiming to 'prevent, overcome, and correct'

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[150] State-Sponsored Homophobia 2017 – A World Survey of Sexual Orientation Laws: Criminalisation, Protection and Recognition, International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), 1 May 2017, CISEDB50AD4462, pp.130-131, p.169;
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[151] Two Malaysian Muslim women caned in public for attempting to have sex in car, Australian Broadcasting Corporation News (ABC News), 4 September 2018, CXBB8A1DA39062
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[153] Malaysia PM denounces caning of two women for lesbian sex, Agence France Presse, 7 September 2018, CXBB8A1DA34969
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[160] Suhakam does not support gay marriage, Malay Mail online, 22 September 2018, CXBB8A1DA35835
[161] Jakim issues e-book on LGBT rehab; minister says phenomenon 'under control', Malay Mail online, 24 October 2018, CXBB8A1DA37286;
New M'sia should find 'right path' on LGBT rights, Malaysiakini, 7 August 2018, CXBB8A1DA39089
[162] Malaysia Should Find 'Right Path' on LGBT Rights, Human Rights Watch, 7 August 2018, 20190206102849
[163] AIDS council slams Jakim's 'conversion therapy' for LGBTs, Free Malaysia Today, 24 December 2018, 20190125114340

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homosexuality in children.[164] In 2018 a nightclub frequented by the LGBT community was raided by police and government officials resulting in twenty men being detained and ordered to undergo counselling for "illicit behaviour".[165] DFAT assess that LGBTI individuals face a moderate risk of official and societal discrimination determined by their socio-economic status, religion, geographic location and degree of openness.[166]

Transgender individuals face discrimination and occasional violence. Authorities often charge cross-dressing transgender individuals with 'indecent behaviour' and 'importuning for immoral purposes' in public.[167] Those convicted face a maximum fine of RM25 and maximum of 14 day in prison or a maximum fine of RM100 and three months prison respectively.[168] Imprisoned transgender individuals have previously been held in male prisons and some verbally and sexually assaulted by police and fellow detainees.[169] Transgender individuals may face discrimination in public healthcare facilities, including undergoing forcible HIV/AIDS testing or being housed in male wards where they can be exposed to violence and abuse.[170] In December 2018 and January 2019 two transgender individuals were murdered in the same place in Klang however police have ruled out hate motives for both of these murders.[171] During 2017, three transgender individuals were killed according to transgender advocacy groups Justice for Sisters.[172] A survey by a local transgender rights group reported more than two-thirds of transgender women experienced some form of physical or emotional abuse.[173]

Numerous organisations operate in Malaysia providing support to the LGBT community. Mainstream Christian churches and the Malaysian Consultative Council of Buddhism, Christianity, Hinduism, Sikhism and Taoism have also spoken out against discrimination and violence towards gay and lesbian people.[174] Leadership Program for Gays (LPG) is based in Kuala Lumpur and aims to build a network for LGBT business people. Activities organised by the group include gatherings and sports events.[175] PLUPenang is an LGBT organisation based in Penang State designed to support, empower and foster friendship between its members arranging recreational events and provides a safe space for LGBT people to express themselves.[176] Pertubuhan Kebajkan dan Persekitaran Positif

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[165] Magazine: PH govt among '10 biggest homophobes and transphobes of 2018', Free Malaysia Today, 2 January 2018, 20190125103916
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[167] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.121, p.28, CIS7B839419347;
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[169] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, section 5, p.28, OGD95BE927312
[170] Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Addendum: Visit to Malaysia (19 November–2 December 2014), United Nations Human Rights Council, May 2015, p.16, CISEC96CF14228;
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[171] NGOs raise alarm over yet another murder of a transgender woman, Free Malaysia Today, 3 January 2019, 20190125100210;
Klang Transgender Dies From Cracked Skull After Brutal Assault By Men, SAYS, 14 December 2018, 20190125120728
[172] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, section 6, p.28, OGD95BE927312;
Rising concern in Malaysia's LGBT community after attack on transgender woman, Reuters, 24 August 2018, CXBB8A1DA34288
[173] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, section 5, p.28, OGD95BE927312
[174] LGBT Organisations in Malaysia, Angloinfo Malaysia, n.d., accessed 29 June 2018, CISEDB50AD3776;
Beauty and the Beast censorship attempt shows the good, the bad and the ugly of LGBT rights in Malaysia, The Conversation, 29 March 2017, CXC9040667196
[175] LPG Community, Yahoo Groups, n.d., accessed 23 November 2018, CIS7B8394110273
[176] PLUPenang website, PLUPenang, n.d., accessed 23 November 2018, CIS7B8394110276

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Malaysia or SEED is an officially registered community organisation that provides support services, including a drop-in centre, primarily for the transgender community.[177] Justice for Sisters is a campaign organised to raise public awareness about issues pertaining to transgender individuals and raise funds to finance court cases against transgender individuals in sharia courts.[178] The PT Foundation provide support to the LGBTI community, including those affected with HIV/AIDS, offering services such as healthcare and drop-in services, and offers seminars, operates a telephone counselling line and offers outreach programmes at third-party venues.[179] Seksualiti Merdeka works to empower Malaysians that have been marginalised for their sexual orientation and gender identity. The group also aims to champion sexuality rights as human rights, and provide a platform for LGBT human rights issues.[180]

Women

Women participate in all aspects of Malaysian society. Although women are active in all areas of society, cultural and social barriers limit their levels of participation.[181] Furthermore, there is a lack of resources available to women to assist them re-entering the workforce after childbirth.[182] Malaysia has the lowest rate of women's workforce participation in Southeast Asia,[183] The rate of female labour-market participation recorded in 2014 was 44.4 per cent compared to 75 per cent for men.[184] Women's participation rates in the labour force have risen over the last decade, from 45 per cent in 2008 to an estimated 54.3 per cent in 2016, according to government statistics.[185] In the Global Gender Gap Report 2017, Malaysia ranked 70th, an improvement from the previous year.[186] Following the May 2018 election, Azizah Ismail, wife of Mr Anwar, became the country's first female deputy prime minister.[187] Between 2011 and 2017, approximately 10 percent of seats in parliament have been held by women.[188] However, that number increased considerably following the 2018 general election with 13.9 and 22.1 per cent of the lower and upper house seats won by women respectively.[189]

Muslim women may be adversely affected by sharia law. Malaysia's Constitution prohibits discrimination based on gender.[190] The Constitution gives women equal rights to inherit, acquire, manage or dispose of property, including land, while civil law gives non-Muslim mothers equal parental rights.[191] However, sharia law can deviate from these constitutional principles in some areas such as Islamic inheritance law that typically favours male children and male relatives.[192] A small but steadily increasing number of women have been able to obtain divorces under Sharia without their husband's consent.[193] Four states – Johor, Selangor, Negri Sembilan and Pahang – extend equal

[177] About SEED, Pertubuhan Kebajkan dan Persekitaran Positif Malaysia (SEED), n.d., accessed 8 November 2018, CIS7B8394110070
[178] About Justice for Sisters, Justice for Sisters, n.d., accessed 8 November 2018, CIS7B8394110071; Justice for Sisters, Astraea Lesbian Foundation For Justice, n.d., accessed 8 November 2018, CIS7B8394110072
[179] About Us PT Foundation, PT Foundation, n.d., accessed 8 November 2018, CIS7B8394110073
[180] Seksualiti Merdeka Facebook page, Facebook, n.d., accessed 23 November 2018, CIS7B8394110278
[181] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.102, p.25, CIS7B839419347
[182] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.103, p.25, CIS7B839419347
[183] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.103, p.25, CIS7B839419347
[184] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.24, CIS7B83941547
[185] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.103, p.25, CIS7B839419347
[186] Malaysia improves ranking in Global Gender Gap Report, Bernama, 15 November 2018, CXBB8A1DA38722
[187] Malaysia's ruling party may be gone, but its racial policies survive, The Economist, 7 June 2018, CXBB8A1DA28917
[188] Proportion of seats held by women in national parliaments (%), World Bank, n.d., accessed 22 November 2018, CIS7B8394110255
[189] World Classification, Women in Parliament, 1 October 2018, CIS7B8394110256
[190] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, section 6, p.24, OGD95BE927312
[191] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, section 6, p.24, OGD95BE927312
[192] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, section 6, p.24, OGD95BE927312
[193] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 3 March 2017, section 6, p.24, OGD95BE927312

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parental rights to Muslim mothers.[194] In January 2018, the Federal Court ruled that children from civil marriages can only be converted to Islam if both parents consent.[195]

Authorities take claims of sexual harassment seriously but a general reluctance by victims to report cases to the authorities and a cumbersome legal process results in a low number of prosecutions. The most recent statistics from Malaysia's Ministry of Home Affairs indicate that approximately 16 per cent of reported rape cases were taken to court, with a conviction rate of 2.7 per cent of all reported cases.[196] Amendments were made to the Employment Act in 2012 which made certain forms of workplace sexual harassment illegal, while the law prohibits a person in authority from using their position to intimidate a subordinate into having sexual relations.[197] A government voluntary code of conduct provides a detailed definition of sexual harassment intended to raise public awareness of the problem.[198] Authorities take claims of sexual harassment seriously but victims are often reluctant to report cases because of embarrassment, the difficulty of proving the offence, and a lengthy trial process.[199]

Economic hardship

Malaysia is an upper-middle income country in which absolute poverty has been largely eradicated. Malaysia recorded average annual economic growth of more than 7 per cent between 1967 and 1997, while growth in recent years has continued to exceed 5 per cent.[200] Economic growth has been inclusive, with less than 1 per cent of the population living in extreme poverty.[201] Rates of poverty are low among Malays (0.8 per cent), Chinese (0.1 per cent), and Indians (0.6 per cent), although the poverty rate is higher in rural areas than in cities.[202] Malaysian authorities have turned their attention to reducing income inequality – which remains high in comparison to other East Asian countries, but is gradually declining – and addressing the well-being of the poorest 40 per cent of the population, who remain vulnerable to increases in the cost of living or economic shocks.[203] The UNDP's Human Development Index ranked Malaysia 59 out of 188 countries in 2016, placing it in the 'high human development' category.[204]

Malaysia has an expanding if still limited social welfare system, while traditional social roles mean that families provide support for the elderly and sick. Old age, survivor and disability payments and employment injury compensation are among the payments available to eligible individuals, although credible sources state that the overall scope of social welfare coverage remains limited.[205] In August 2017, the Malaysian Government introduced legislation into parliament that would provide unemployment benefits for three to six months.[206] The *Zakat* system – a levy imposed on Muslims which is equal to 2.5 per cent of their assets above a minimum figure – forms one of the main social protection programmes in the country, and payments are distributed to needy groups such as

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[194] Country Reports on Human Rights Practices for 2017 – Malaysia, section 6, p.24, OGD95BE927312
[195] Amid language clash, Federal Court says conversion needs consent of both parents, Malaymail Online, 31 January 2018, CXBB8A1DA20998
[196] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, section 6, p.23, OGD95BE927312
[197] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade, 19 July 2016, section 3.86, p.19, CIS38A80121311;
NOTE: DFAT's Country Information Report – Malaysia (Version 2) published on 19 April 2018 does not contain a section on 'sexual harassment' or an update on information provided in the 19 July 2016 report.
[198] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, section 6, p.24, OGD95BE927312
[199] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, section 6, p.24, OGD95BE927312
[200] The World Bank in Malaysia, The World Bank, April 2017, CISEDB50AD5041;
The Growth Report: Strategies for Sustained Growth and Inclusive Development, The World Bank, 2008, p.20, CIS956B8881704
[201] The World Bank in Malaysia, The World Bank, April 2017, CISEDB50AD5041
[202] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 2.8, p.6, CIS7B839419347
[203] OECD Economic Surveys – Malaysia, OECD, November 2016, p.4, CIS38A80124917;
The World Bank in Malaysia, The World Bank, April 2017, CISEDB50AD5041
[204] Table 1: Human Development Index and its components, UNDP, 21 March 2017, CISEDB50AD5042
[205] Social Security Programs Throughout the World: Asia and the Pacific, 2016 – Malaysia, US Social Security Administration Office of Retirement and Disability Policy, March 2017, CISEDB50AD5043;
A Decade of Social Protection Development in Selected Asian Countries, OECD, 11 May 2017, pp.46-47, CISEDB50AD5044
[206] New bill introduces conditional unemployment benefits, Malaysiakini, 1 August 2017, CXC90406611469

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the poor and refugees.[207] In Malaysia, grown children typically provide financial or care support to elderly or sick parents.[208]

Political opinion

Malaysia is a constitutional monarchy in which executive power is vested in the prime minister and cabinet. The paramount ruler, the monarch and titular head of state, is elected for five-year terms by fellow hereditary rulers from 9 of Malaysia's 13 states.[209] The upper house of the bicameral Parliament, the Senate, or Dewan Negara, consists of 44 members appointed by the king and 26 members elected by the 13 state legislatures, serving three-year terms.[210] The House of Representatives, or Dewan Rakyat, has 222 seats filled through regular elections.[211] The role of the king is largely ceremonial, though he retains the power to approve the prime minister.[212] Executive power lies with the prime minister and the cabinet.[213] Most major policy decisions are reached by the prime minister and the cabinet, sometimes with limited input from the remainder of the elected legislature.[214]

General elections have often been skewed by the ruling government. Suffrage in Malaysia is universal for citizens over the age of 21.[215] When in power, the Barisan Nasional coalition manipulated elections through the use of prohibitive media laws, extreme gerrymandering and malapportionment of constituencies, the use of government resources during campaigning, and electoral fraud including manipulation of voter registration rolls.[216] The Election Commission (EC) is officially independent but has previously comprised of the former prime minister and government allies and considered subordinate to the UMNO when in power.[217] The EC is responsible for maintaining voter rolls, and has been accused of enabling "phantom voting" by creating duplicate records of some voters, or by leaving deceased persons on the rolls.[218] The Registrar of Societies (ROS) oversees the registration of political parties and in the past has issued politicized decisions.[219] The military is not active in politics and foreign powers do not directly meddle with voting.[220]

Barisan Nasional

The UMNO is the dominant party within the oppositional Barisan Nasional alliance. Until May 2018, the government had been headed by the UMNO since independence and the Barisan Nasional coalition won every general election since its formation until and including 2013 elections.[221] The Barisan Nasional is an ethno-religious coalition of race-based political parties.[222] The Barisan Nasional alliance was formed by the UMNO, the Malaysian Indian Congress (MIC), and the Malaysian Chinese Association (MCA), but is largely dominated by the UMNO.[223] Following the 2018 general election, former Prime Minister Najib Razak resigned as head of the UMNO handing over to his deputy, Zahid Hamidi.[224] UMNO, the largest party within the Barisan Nasional coalition, lost power to the Pakatan Harapan coalition in the 9 May 2018 general elections.[225] The Barisan Nasional won only

[207] A Decade of Social Protection Development in Selected Asian Countries, OECD, 11 May 2017, p.60, CISEDB50AD5044
[208] Report on Key Findings FIFTH MALAYSIAN POPULATION AND FAMILY SURVEY [MPFS-5] 2014, Ministry of Women, Family and Community Development and National Population and Family Development Board, 2016, p.28, CIS38A80124919
[209] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section A1, NGED867A631
[210] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.4, CIS7B83941547; Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section A2, NGED867A631
[211] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section A2, NGED867A631
[212] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section A1, NGED867A631
[213] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.4, CIS7B83941547
[214] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section C1, NGED867A631
[215] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section B4, NGED867A631
[216] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.9, CIS7B83941547
[217] BTI 2018 Country report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.9, CIS7B83941547; Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section A3, NGED867A631
[218] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section A3, NGED867A631
[219] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section B1, NGED867A631
[220] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section B3, NGED867A631
[221] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.5, CIS7B83941547
[222] The changing face of Malaysian justice, Asia Times, 6 June 2018, CXBB8A1DA28835
[223] GE14 numbers What it means for BN, Harapan and PAS, Malaysiakini, 10 May 2018, CXBB8A1DA26970
[224] After Surprising Election, How Much Will Malaysia Change, Chatham House, 15 May 2018, CXBB8A1DA27637
[225] The shape of things to come under Mahathir 2.0, Asia Times, 13 May 2018, CXBB8A1DA27542

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79 parliamentary seats in the 2018 general election.[226] The UMNO and Parti Pesaka Bumiputera Bersatu (PBB) held most parliamentary seats in the alliance following the 2018 general election – UMNO 47 seats in Peninsular Malaysia, UMNO 13 seats in Sabah, and PBB 13 seats in Sarawak.[227] In June 2018, Sarawak's four ruling parties – Parti Pesaka Bumiputera Bersatu (PBB), Sarawak United Peoples' Party (SUPP), Parti Rakyat Sarawak (PRS), and Progressive Democratic Party (PDP) all quit the BN to form a new coalition, Gabungan Parti Sabah (GPS) that is friendly to the Pakatan Harapan federal government.[228] Other parties who have quit the BN include the United Pasokmomogun Kadazandusan Murut Organisation (Upko) and the Liberal Democratic Party (LDP).[229] BN component parties from Sabah and a faction of the split People's Progressive Party (myPPP) also quit the BN reducing the alliance to just four parties, down from 13 prior to the 2018 election.[230]

Pakatan Rakyat/Pakatan Harapan

The Pakatan Rakyat coalition regrouped as the Pakatan Harapan coalition in September 2015. The Pakatan Rakyat coalition previously led by the People's Justice Party, won more votes than BN but lost the 2013 election due to the country's first-past-the-post system.[231] The Pakatan Rakyat alleged that electoral irregularities and systemic disadvantages due to a lack of media access and gerrymandered districts favouring the ruling coalition.[232] Opposition Leader, and former Deputy Prime Minister Anwar Ibrahim was imprisoned for a five year term on sodomy charges that international observers view as politically motivated.[233] Pakatan Rakyat was dissolved in June 2015 and then re-configured as Pakatan Harapan.[234] Currently Pakatan Harapan is a ruling coalition of four parties led by Prime Minister Mahathir Mohammad.[235] In November, Prime Minister Mahathir reiterated that he will keep his promise to step down after two years to give way to Anwar Ibrahim.[236]

Malaysia's Pakatan Harapan is the ruling coalition. On 9 May 2018, the Alliance of Hope or Pakatan Harapan (PH) won the general elections by securing enough seats to form a stable government.[237] PH is a pluralistic multi-ethnic alliance.[238] The Pakatan Harapan coalition comprises of the dominant the People's Justice Party or Parti Keadilan Rakyat (PKR), the Democratic Action Party (DAP), the Malaysian United Indigenous Party or Parti Pribumi Bersatu Malaysia (Bersatu), the Parti Amanah Negara or National Trust Party (Amanah), and the Sabah-based Parti Warisan Sabah or Sabah Heritage Party (Warisan).[239] The Pakatan Harapan coalition has increased its number of parliamentary seats from 122 won at the general elections to 134, and is now 14 shy of a two-thirds majority.[240] Malaysia's current prime minister is Dr Mahathir Mohamad, a former member of the UMNO, who previously led Malaysia as prime minister for 22 years until 2003.[241]

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[226] GE14 numbers What it means for BN, Harapan and PAS, Malaysiakini, 10 May 2018, CXBB8A1DA26970
[227] GE14 numbers What it means for BN, Harapan and PAS, Malaysiakini, 10 May 2018, CXBB8A1DA26970
[228] Khaled: S'wak BN dissolution a blow to two-party system, Malaysiakini, 13 June 2018, CXBB8A1DA29259; Sarawak parties quit BN to form coalition, The Straits Times, 13 June 2018, CXBB8A1DA29155
[229] The disintegration of BN - from 13 parties to four, Malaysiakini, 12 June 2018, CXBB8A1DA29153
[230] 'BN is dead, there is only Umno', Malaysiakini, 13 June 2018, CXBB8A1DA29258; Umno chief rebukes MCA for asking that BN be dissolved, Straits Times, 4 December 2018, CXBB8A1DA39766
[231] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, p.1, OGD95BE927312
[232] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, p.1, OGD95BE927312
[233] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, section 1, pp.8-9, OGD95BE927312
[234] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 2.20, pp.7-8, CIS7B839419347
[235] Pakatan Harapan coalition: Leader Anwar Ibrahim, Chairman Mahathir Mohammad. Member parties: People's Justice Party, Malaysian United Indigenous Party, National Trust Party and Democratic Action Party.
[236] Mahathir Mohamad named opposition candidate for Malaysian PM, The Straits Times, 7 January 2018, CXBB8A1DA22794; Dr M: I will keep my promise to Anwar, I am the only 'dictator' who resigned, The Star Online, 3 November 2018, CXBB8A1DA39181
[237] The shape of things to come under Mahathir 2.0, Asia Times, 13 May 2018, CXBB8A1DA27542
[238] The changing face of Malaysian justice, Asia Times, 6 June 2018, CXBB8A1DA28835
[239] GE14 numbers What it means for BN, Harapan and PAS, Malaysiakini, 10 May 2018, CXBB8A1DA26970
[240] GE14 numbers What it means for BN, Harapan and PAS, Malaysiakini, 10 May 2018, CXBB8A1DA26970; Mahathir edges closer to two-thirds majority in Parliament, Malaysiakini, 12 February 2018, 20190213080939
[241] Who is newly elected prime minister Mahathir Mohamad, ABC News (Australia), 10 May 2018, CXBB8A1DA27527

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Freedom of expression

Most mainstream media is not independent and self-censors content. A 2012 amendment to the Printing Presses and Publications Act retains the home minister's authority to suspend or revoke publishing licenses but allows judicial review of such decisions.[242] Most private publications are controlled by political parties or businesses allied with the government, as are most private television stations, which generally censor programming according to government guidelines.[243] The internet is an outlet for the exposure of political corruption, but the Malaysian Communication and Multimedia Commission (MCMC) monitors websites and can order the removal of material considered provocative or subversive.[244] The government engages in legal harassment of critical voices, charging them under defamation laws, the Official Secrets Act, and the Sedition Act – all of which include imprisonment as a possible penalty.[245] In May 2017, the government launched its Communications and Multimedia Act prosecution of the CEO and the editor-in-chief of online news portal *Malaysiakini* over a video the news portal carried criticising Attorney General Mohamed Apandi Ali for clearing the prime minister of corruption allegations.[246] In 2016, an independent Malaysian news site, the *Malaysian Insider*, shut down.[247] During 2017, four individuals were charged, and another convicted, under section 233 of the Communications and Multimedia Act.[248] The former Najib government introduced the Anti-Fake News Act just prior to the May 2018 general elections.[249] Prime Minister Dr Mahathir Mohamad described the law as “draconian” and indicated that the new government’s first Parliament session in July 2018 would seek to abolish the law in accordance with the Pakatan Harapan’s election promise.[250] In September 2018 Barisan Nasional leaders in the Upper House and members of Parti Islam SeMalaysia blocked the repeal of the Anti-Fake News Act after the Lower House of Parliament voted to replace it in August.[251]

Freedom of expression is constitutionally guaranteed but restricted in practice. The Communications and Multimedia Act (CMA) criminalises the ‘misuse of network facilities’ for criticising the government or for government-related satire.[252] Section 233(1) provides criminal penalties of up to one-year imprisonment for communication that is indecent, obscene, false, threatening, or offensive to another person.[253] During 2017, the Communications and Multimedia Act was used repeatedly to investigate and arrest those who criticised government officials in the media and on social media.[254] In November 2018, the High Court prosecuted a graphic designer under section 233 of the CMA for uploading an offensive image of former prime minister Najib Abdul Razak on social media but set aside the prison sentence and reduced the fine from RM30,000 to RM10,000.[255]The Sedition Act has been used to target individuals who publically express ideas deemed sensitive by the state.[256] However, the application of the Sedition Act has reduced significantly since 2015.[257] Instructors and students espousing antigovernment views or engaging in political activity are subject to disciplinary action under the Universities and University Colleges Act (UUCA) of 1971.[258] Surveillance of private

[242] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section D1, NGED867A631
[243] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section D1, NGED867A631; BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.11, CIS7B83941547
[244] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section D1, NGED867A631
[245] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section D1, NGED867A631; BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, pp.11-12, CIS7B83941547
[246] World Report 2018, Human Rights Watch, 18 January 2018, p.352, NGED867A63
[247] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section D1, NGED867A631; BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.11, CIS7B83941547
[248] Amnesty International Report 2017/18, Amnesty International, 22 February 2018, p.249, NGED867A612
[249] Najib reveals fake news law gazetted at Journalists' Day launch, allays concerns, Malaysiakini, 11 April 2018, CXBB8A1DA25426
[250] Parliament session on July 16, GST and AFN to be scrapped, Malaysiakini, 6 June 2018, CXBB8A1DA28831
[251] Malaysian opposition blocks bid to repeal fake news law, Reuters, 13 September 2018, CXBB8A1DA35347
[252] Amnesty International Report 2017/18, Amnesty International, 22 February 2018, p.249, NGED867A612
[253] Freedom on the Net 2018 - Malaysia, Freedom House, 1 November 2018, NGED867A6126; World Report 2018, Human Rights Watch, 18 January 2018, p.352, NGED867A63
[254] World Report 2018, Human Rights Watch, 18 January 2018, p.352, NGED867A63
[255] Fahmi Reza escapes jail term, fine reduced over Najib caricature, Malaysiakini, 12 November 2018, CXBB8A1DA38302
[256] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section D4, NGED867A631
[257] SUARAM Human Rights Report 2017 Overview, Suara Rakyat Malaysia (SUARAM), 20 February 2018, p.17, CIS7B83941337
[258] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section D3, NGED867A631

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activities is largely limited to public personas, though areas deemed to be a threat to Islam are increasingly scrutinised.[259]

Freedom of assembly

In recent years, fewer restrictions and less severe crackdowns have been applied to public protests and assemblies and their organisers. Freedom of assembly is limited on the grounds of maintaining security and public order.[260] Under the new government, Malaysian authorities have continued to prosecute individuals who have allegedly held illegal protests.[261] Street protests are generally prohibited, with high fines for noncompliance.[262] However, demonstrations often occur despite these restrictions, such as the September 2017 Purple March against Toxic Politics involving over 1,000 women gather in Kuala Lumpur to denounce corruption, electoral fraud, sexism, racism, and other forms of discrimination.[263] During 2017 sporadic arrests were made during some events, however assemblies were mostly peaceful.[264] Under Section 9 of Peaceful Assembly Act, activists and organisers of assemblies can be investigated for failure to provide a 10-day notice to the police or for organising an assembly near a restricted area.[265] The law delineates 21 public places where assemblies cannot be held – including within 50 metres of houses of worship, schools, and hospitals – and prohibits persons under the age of 15 from attending any public assembly.[266] During recent years, Malaysian authorities have prosecuted individuals who hold peaceful assemblies without giving notice.[267] In July 2017, the Kota Kinabalu High Court reversed an earlier acquittal by the Magistrate's Court of Sabah Berish 4.0 chairperson Jannie Lasimbang who had been charged under Section 9 of the Act.[268] Parliamentarians and activists were charged after joining the peaceful #KitaLawan (We Fight) protest rally.[269] Charges against Maria Chin Abdullah, Mandeep Singh and Sim Tze Tzin were initially dismissed by the courts, but brought again on 4 October 2017.[270]

Civil society organisations

A wide array of civil society groups operate in Malaysia. A number of domestic and international civil society and human rights organisations operate in Malaysia and actively comment on issues such as the legislative environment, the rights of women in Islam and government human rights practices.[271] While these organisations are generally able to function independently, some report that engagement with the government can be difficult and their advocacy is largely ignored.[272] Civil society groups can act only within the narrow limits set by Malaysian authorities.[273] In practice, this means that issues of race and religion, or criticism of the government, are out of bounds.[274] The government's registrar of societies has prevented the registration of organisations deemed unfriendly to the government, and authorities regularly use registration issues as a basis for investigating organisations.[275] The government cracked down on Bersih in 2015 and 2016, raiding the offices of

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[259] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section D4, NGED867A631
[260] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section E1, NGED867A631
[261] World Report 2019, Human Rights Watch, 17 January 2018, p.369, 20190118091502
[262] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section E1, NGED867A631
[263] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section E1, NGED867A631
[264] SUARAM Human Rights Report 2017 Overview, Suara Rakyat Malaysia (SUARAM), 20 February 2018, p.26, CIS7B83941337
[265] SUARAM Human Rights Report 2017 Overview, Suara Rakyat Malaysia (SUARAM), 20 February 2018, p.26, CIS7B83941337
[266] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section E1, NGED867A631
[267] Amnesty International Report 2017/18, Amnesty International, 22 February 2018, p.249, NGED867A612
[268] Amnesty International Report 2017/18, Amnesty International, 22 February 2018, p.249, NGED867A612; SUARAM Human Rights Report 2017 Overview, Suara Rakyat Malaysia (SUARAM), 20 February 2018, p.26, CIS7B83941337
[269] Amnesty International Report 2017/18, Amnesty International, 22 February 2018, p.249, NGED867A612; SUARAM Human Rights Report 2017 Overview, Suara Rakyat Malaysia (SUARAM), 20 February 2018, p.26, CIS7B83941337
[270] Amnesty International Report 2017/18, Amnesty International, 22 February 2018, p.249, NGED867A612; SUARAM Human Rights Report 2017 Overview, Suara Rakyat Malaysia (SUARAM), 20 February 2018, p.26, CIS7B83941337
[271] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.82, p.21, CIS7B839419347
[272] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.82, p.21, CIS7B839419347
[273] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.17, CIS7B83941547
[274] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.17, CIS7B83941547
[275] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 July 2016, section 3.66, p.17, CIS38A80121311; BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.10, CIS7B83941547

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various organizers and arresting its senior officials.[276] However in 2017, Bersih was able to operate somewhat more freely, with representatives able to make public statements and engage in other activities without incurring such serious reprisals.[277] Many smaller groups operate as well.[278] Civil society organizations played a critical role in the 2017 Purple March against Toxic Politics.[279]

State protection

Law enforcement

Law enforcement operates at both the federal and state level. The Royal Malaysian Police (RMP) reports to the federal Minister for Home Affairs and is responsible for law enforcement nationwide.[280] The National Department of Islamic Development (JAKIM) enforces Sharia law and has jurisdiction over Muslims in Kuala Lumpur and two other federal territories.[281] The People's Volunteer Corps (RELA), a federal paramilitary civilian corps under the Ministry of Home Affairs, assists security forces.[282] RELA's engagement in law enforcement activities has significantly reduced in recent years.[283] NGOs have reported that inadequate training has led to abuses by RELA members such as extortion and theft.[284]

Royal Malaysian Police (RMP)

The RMP are a professional and effective force, but are prone to corruption. The RMP operates 837 police stations nationwide and employs 115,000 officers.[285] Local and international sources indicate the RMP is a professional and effective police force, although the quality of its members' responses varies depending on levels of training, capacity and engagement in corruption.[286] Some human rights training and workshop are made available to police officers.[287] In recent years, the RMP has launched crackdowns on criminal gangs, crime syndicates and loan sharks,[288] while in July 2017 a human trafficking hotline was set up through which reports will be submitted to police.[289] Malaysian law permits police to arrest and detain individuals for some offences without a warrant.[290] A 2017 Transparency International survey found that 57 per cent of Malaysian respondents thought that corruption was a problem within the RMP – a result that was significantly above the regional

[276] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section E2, NGED867A631
[277] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section E2, NGED867A631
[278] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section E2, NGED867A631
[279] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section E2, NGED867A631
[280] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 5.5, pp.35-36, CIS7B839419347
[281] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 July 2016, section 5.1, p.25, CIS38A80121311
[282] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 July 2016, section 5.1, p.25, CIS38A80121311
[283] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 July 2016, section 5.1, p.25, CIS38A80121311
[284] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 July 2016, section 5.1, p.25, CIS38A80121311
[285] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 5.5, pp.35-36, CIS7B839419347
[286] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 5.5, pp.35-36, CIS7B839419347
[287] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 5.5, pp.35-36, CIS7B839419347
[288] Cops deal crime a crippling blow since Ops Cantas Khas launch, The Star Online, 23 September 2013, CXC28129414715;
Op Cantas crackdown on triads: 1,444 arrested, Astro Awani, 13 August 2016, CX6A26A6E8262;
Police bust largest money-lending syndicated (Updated), The Sun Daily, 23 May 2016, CX6A26A6E7820;
36 suspected underworld gang members arrested in Malaysia, Bernama, 20 February 2018, CXBB8A1DA22559;
Police detain 35 in action against illegal money-lending, Bernama, 25 August 2017, CXC90406624824;
Four loan shark operations busted with arrest of 29 people, The Star Online, 4 August 2017, CXC90406611700;
Loan shark ring busted, 31 nabbed in nationwide raids, The Sun Daily, 18 April 2017, CXC9040665990;
26 loan sharks nabbed, RM2m seized, Daily Express, 13 January 2017, CXC904066572
[289] Hotline set up in bid to tackle human trafficking, The Star Online, 31 July 2017, CXC90406611249
[290] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, section 1, p.6, OGD95BE927312

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average.[291] In July 2017, the Royal Malaysia Police (RMP) signed an anti-graft pledge of which anti-corruption bodies and civil society organisations said was a significant step towards accountability.[292]

State Islamic religious enforcement officers

Religious enforcement officers conduct moral policing operations and can enforce Sharia law. Religious enforcement officers have a range of powers, depending on the particular Islamic laws that apply in each state.[293] State Islamic religious enforcement officers have the authority to accompany police on raids of private premises and public establishments, and to enforce sharia, including for violations such as indecent dress, distribution of banned publications, alcohol consumption, or *khalwat* (close proximity to a nonfamily member of the opposite sex).[294] Moral breaches of Sharia law typically result in a warning or a fine but may include caning or up to one month imprisonment for the most serious offences.[295] In January 2017, the Federal Territories Islamic Religious Department (JAWI) arrested a married couple for close proximity despite proof of their marriage. [296] The couple subsequently sued JAWI, accusing the agency of violently detaining them and causing injuries.[297] In September 2017, state religious authorities required a Muslim man to attend a "counselling session" after he was stopped for wearing shorts in public.[298] According to some state laws, Muslims could be fined RM 1,000 ($250) if they did not attend "counselling" after being found guilty of wearing what the authorities deem to be immodest clothing.[299]

Criminal justice system

Legislation allows detention without trial under certain circumstances. The Prevention of Crime Act and the Prevention of Terrorism Act allows government-appointed boards the authority to impose detention without trial for up to two years, renewable indefinitely, to order electronic monitoring, and to impose other significant restrictions on freedom of movement and freedom of association, with no possibility of judicial review.[300] In August 2017, the government passed amendments to the Prevention of Crime Act that abolish the detainee's right to appear before or make representations to either the inquiry officer responsible for presenting the case for detention or to the government-appointed Prevention of Crime Board (POCB) that makes the detention decision.[301] The 2012 Security Offences (Special Measures) Act (SOSMA) allows police to detain anyone for up to 28 days without judicial review for broadly defined 'security offenses,' and suspects may be held for 48 hours before being granted access to a lawyer.[302] During 2017, SOSMA was used to detain, prosecute and imprison people alleged to have committed security offences.[303]

Isolated incidents of mistreatment in custody and impunity for police/security forces personnel are reported. Allegations of torture and abuse, including deaths, in police custody continue, and a number of criminal offenses can be punished with caning.[304] During 2017, there were

[291] Global Corruption Barometer – Asia Pacific, Transparency International, 28 February 2017, p.41, CISEDB50AD5225
[292] Anti-graft pledge by police hailed as a good move, The Star Online, 27 July 2017, CXC90406610992
[293] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 5.6, p.36, CIS7B839419347
[294] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, section II, p.8, OGD95BE927312
[295] The female face of Islamic law in Malaysia, Aljazeera, 16 August 2017, CXC90406620329;
Lawyer: Muslims can challenge khalwat offences, Free Malaysia Today, 7 December 2016, CX6A26A6E20451
[296] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, section II, p.8, OGD95BE927312
[297] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, section II, p.8, OGD95BE927312
[298] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, section II, p.8, OGD95BE927312
[299] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, section II, p.8, OGD95BE927312
[300] World Report 2019, Human Rights Watch, 17 January 2018, p.367, 20190118091502
[301] World Report 2018, Human Rights Watch, 18 January 2018, p.353, NGED867A63
[302] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section F2, NGED867A631
[303] Amnesty International Report 2017/18, Amnesty International, 22 February 2018, p.250, NGED867A612
[304] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section F3, NGED867A631

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at least five deaths in custody.[305] In February, detainee Chandran Muniandy was hospitalized with multiple injuries to his head and body and most of his toenails missing; police claimed his injuries resulted from a fall in the toilet.[306] The Enforcement Agency Integrity Commission (EAIC) announced that it would investigate the death of S. Balamurugan, who died in custody in February, only after a post-mortem found evidence of blunt force injuries.[307] During 2017, at least two other individuals died in custody as a result of untreated medical conditions.[308] The government is expected to table a new Bill to set-up the Independent Police Complaints and Misconduct Commission (IPCMC) in the first parliament session of 2019.[309]

Judiciary

The majority of cases in Malaysian courts are processed in accordance with the rule of law. Provisions in the constitution enshrine the rights of citizens in a trial.[310] Trials are public but judges may place restrictions on press coverage.[311] Defendants generally have adequate time to prepare a defence if they have the means to engage private counsel, although government legal aid resources are limited and often of poor quality.[312] Defendants have the right to counsel at public expense under certain circumstances, including when facing charges that carry the death penalty.[313] Defendants are provided free interpretation in Malay, Mandarin, Tamil and some other commonly used dialects from the moment they are charged through all appeals.[314]

Judicial independence may be compromised by executive interference. The judiciary is subject to interference by the executive.[315] Malaysia's highest courts are partly influenced by political or religious affiliation that can lead to politically motivated outcomes.[316] Members of the bar, NGO representatives and other observers have cited a number of high-profile instances of arbitrary verdicts, selective prosecution and preferential treatment of some litigants and lawyers,[317] such as the conviction of former deputy prime minister and opposition leader Anwar Ibrahim on charges of corruption and sodomy in 1999, 2000 and 2014.[318] The Prime Minister plays a key role in the appointment of members of the Judicial Appointments Commission – the body which selects judges.[319] Judges receive relatively low salaries, limited training, and appointments are often made directly from university.[320] Defendants may appeal court decisions to higher courts, but only if the appeal raises a question of law or if material circumstances raise a reasonable doubt regarding conviction or sentencing – restrictions that the country's bar council has claimed are excessive.[321]

Sharia courts result in vastly different treatment of Muslims and non-Muslims in personal and family issues. Muslims are subject to Sharia law, the interpretation of which varies regionally, and Article 121 of the country's Constitution that stipulates all matters relating to Islam should be heard in

[305] Amnesty International Report 2017/18, Amnesty International, 22 February 2018, p.250, NGED867A612
[306] World Report 2018, Human Rights Watch, 18 January 2018, p.354, NGED867A63
[307] World Report 2018, Human Rights Watch, 18 January 2018, p.354, NGED867A63
[308] World Report 2018, Human Rights Watch, 18 January 2018, p.354, NGED867A63
[309] IPCMC Bill expected to be tabled next year - minister, Malaysiakini, 13 November 2018, CXBB8A1DA38407; Make the IPCMC a Legislative Priority, The Malaysian Bar, 25 September 2018, CXBB8A1DA38496
[310] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, section 1, p.8, OGD95BE927312
[311] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, section 1, p.8, OGD95BE927312
[312] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 5.12, p.37, CIS7B839419347
[313] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, section 1, p.8, OGD95BE927312
[314] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, section 1, p.8, OGD95BE927312
[315] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.14, CIS7B83941547
[316] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 5.12, p.37, CIS7B839419347
[317] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, section 1, p.7, OGD95BE927312
[318] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section F1, NGED867A631
[319] Malaysia: anti-corruption measures need strengthening, Transparency International, 28 July 2015, CXBD6A0DE18759
[320] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 5.12, p.37, CIS7B839419347
[321] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, section 1, p.8, OGD95BE927312

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Sharia courts.[322] This results in vastly different treatment of Muslims and non-Muslims regarding "moral" and family law issues.[323] The interpretation of Sharia varies regionally, and credible sources say the jurisdictional lines between Sharia and civil courts are increasingly indistinct.[324] State-level Sharia courts generally apply Sharia law in accordance with their rules of procedure.[325] Sharia court outcomes have a disproportionately negative impact on transgender individuals, domestic violence victims and women in child custody cases.[326]

Corruption

High-level corruption is a significant problem in Malaysia. In July 2018, Prime Minister Mahathir commented that "[m]ost of the top echelon in the Government are corrupt".[327] Historically, high-level officeholders who break the law and engage in corruption are rarely prosecuted adequately.[328] However, at lower levels in the civil service, prosecution over corruption frequently occurs.[329] Institutional safeguards in Malaysia are weak and there is insufficient political will to substantially mitigate the problem.[330] Misuse of resources and favouritism are facilitated by the close nexus between political and economic elites, which blurs the distinction between public and private enterprises and creates opportunities for collusion and graft.[331] Transparency International's 2017 corruption index showed Malaysia fell seven places to 62nd globally.[332] In the following year, Transparency International's 2018 index saw Malaysia move up to 61st.[333] Journalists, activists and politicians who have reported or criticised high-level corruption have been harassed or prosecuted.[334] In July 2017, a coalition of civil society organisations called for the formation of an independent body to tackle corruption in the country.[335]

The previous UMNO-dominated government used laws against internal and external opponents in relation to the 1Malaysia Development Berhad (1MDB) scandal. Former Prime Minister Najib Razak's mismanagement of and possible embezzlement from state development fund 1MDB has continued to be highly controversial domestically and internationally.[336] In an attempt to contain the fallout from 1MDB scandal, former Prime Minister Najib in 2015 replaced the attorney general and fired several cabinet members who had been critical of the scandal.[337] Najib promoted four members of a parliamentary committee investigating 1MDB to his cabinet, temporarily halting the committee's work.[338] In November 2016, a court found opposition politician Rafizi Ramli guilty of disclosing state secrets after he made public the Auditor General's report on the 1MDB scandal.[339] However following the Pakatan Harapan win in the 9 May general election, the 1MDB report was

[322] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section F2, NGED867A631
[323] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section F2, NGED867A631
[324] United States Commission on International Religious Freedom – Malaysia Chapter – 2017 Annual Report, United States Commission on International Religious Freedom, 26 April 2017, CISEDB50AD4393 [CIS7B839419160]
[325] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 5.14, p. 37, CIS7B839419347
[326] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 5.14, p.37, CIS7B839419347
[327] I inherited a Malaysian government riddled with corruption PM Mahathir in CNN interview, The Straits Times, 27 July 2018, CXBB8A1DA32263
[328] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.13, CIS7B83941547
[329] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.13, CIS7B83941547
[330] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section C2, NGED867A631
[331] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section C2, NGED867A631
[332] Corruption Perceptions Index 2017, Transparency International, 21 February 2018, CIS7B83941307;
NOW offers to create Malaysia's own corruption index, Malaysiakini, 27 February 2018, CXBB8A1DA23044
[333] 'Malaysia moves one spot in latest corruption index', New Straits Times, 30 January 2019, 20190130152450
[334] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, section 4, p.22, OGD95BE927312
[335] Civil Society Coalition Calls for Separate Independent Anti-Corruption Body, The Star Online, 19 July 2017, CXC90406610586
[336] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section C2, NGED867A631;
Malaysia sets up new task force over 1MDB scandal, Aljazeera, 21 May 2018, CXBB8A1DA27639;
Malaysia seeks to lay multiple charges against ex-premier Najib over 1MDB PM Mahathir, Reuters, 19 June 2018, CXBB8A1DA29663
[337] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section C2, NGED867A631;
BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.10, CIS7B83941547
[338] Freedom in the World 2017 – Malaysia, Freedom House, 12 July 2017, section C, NG2A465F591
[339] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section B1, NGED867A631;
BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.13, CIS7B83941547

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declassified, and subsequently the Court of Appeal let Rafizi Ramili off with a two-year good behaviour bond of RM10,000.[340]

Anti-corruption mechanisms

Malaysian law provides criminal penalties for corruption, but enforcement is typically focused on low level crime. In the past, the government was only partly willing to contain corruption, and the few integrity mechanisms implemented are mostly ineffective, however levels of corruption in the civil service are probably the lowest in the region after Singapore.[341] Senior government officials who break the law and engage in corruption are rarely prosecuted adequately.[342] The law provides criminal penalties for corruption by officials however enforcement typically is focused on small scale and low level crime.[343] Between August 2016 and August 2017, the Malaysian Anti-Corruption Commission (MACC) seized more than $US77 million worth of assets, 600 per cent more than the previous year.[344] Shortly after losing the prime ministership, authorities confiscated large sums of cash and luxury items from the residences of former Prime Minister Najib and Najib has been charged over missing funds from the 1MDB fund.[345] In August 2017, the MACC arrested the former chairman of a government agency over allegations of corruption related to the purchase of a London hotel for an above-market price, but he had not been charged by the year's end. [346] On 29 January 2019, the prime minister launched the National Anti-Corruption Plan (NACP) saying that the government will review how appointments to key government posts are made, introduce new laws on political funding, and will require politicians and high-ranking civil servants to declare their assets.[347] The NACP, developed by the National Centre for Governance, Integrity and Anti-Corruption (GIACC), incorporates 115 initiatives which cover six sectors, namely politics, law enforcement, public procurement, legal and judiciary, public administration and corporate management.[348]

Crime

Malaysian authorities periodically crack-down on criminal gangs and crime syndicates. In August 2013, the RMP launched Ops Cantas Khas, focusing on weapons seizures and targeting gang members, leaders and their assets.[349] Police claimed that they had identified 49 illegal gangs nationwide with 40,000 members – 70 per cent of whom were ethnic Indian[350] – who are linked to armed robberies, drug and prostitution rings, loan-sharking, gambling, and extortion and contract killings.[351] Authorities claim that the crackdown has led to a reduction in crime.[352] A second stage of the campaign – Op Cantas Khas 2 – was launched in August 2016.[353] In January 2018 a nationwide operation known as Operation Cantas Silver resulted in the arrest of 36 suspected members of Gang 04 who are allegedly involved in violent crimes including robbery, extortion, arson and drug trafficking.[354] Recently, Gang 360 Devan members previously charged under section 130 V of the

[340] Rafizi let off with good behaviour bond for OSA conviction, Malaysiakini, 1 June 2018, CXBB8A1DA28497
[341] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.32, CIS7B83941547
[342] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.13, CIS7B83941547
[343] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, section 4, p.22, OGD95BE927312
[344] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, section 4, p.22, OGD95BE927312
[345] Najib finished second round of questioning by anti-graft body, The Straits Times, 25 May 2018, CXBB8A1DA27951;
Former Malaysian PM Najib Razak interrogated by corruption commission as charges loom, ABC News (Australia), 23 May 2018, CXBB8A1DA27725;
Malaysia scrutiny of 'insolvent' 1MDB wealth fund intensifies as ex-PM Najib Razak is questioned again in corruption scandal, South China Morning Post, 24 May 2018, CXBB8A1DA27945;
Cash tally from condo raids More than $40m, Asia News Network, 24 May 2018, CXBB8A1DA27853;
Former Malaysian PM charged with money laundering, abuse of power, Reuters, 20 September 2018, CXBB8A1DA35852
[346] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, section 4, p.22, OGD95BE927312
[347] 'Malaysia launches ambitious anti-corruption plan', Straits Times, The, 29 January 2019, 20190130081803
[348] 'NACP launched, aims to tackle corruption for next five years', Malaysiakini, 29 January 2019, 20190130090502
[349] Cops deal crime a crippling blow since Ops Cantas Khas launch, The Star Online, 23 September 2013, CXC28129414715
[350] Malaysia's gang menace, Aljazeera, 11 July 2014, CX1B9ECAB10299
[351] Malaysia's gang menace, Aljazeera, 11 July 2014, CX1B9ECAB10299
[352] 79,414 individuals detained throughout 'Ops Cantas Khas', Bernama, 10 June 2014, CX1B9ECAB11435
[353] Op Cantas crackdown on triads: 1,444 arrested, Astro Awani, 13 August 2016, CX6A26A6E8262
[354] 36 suspected underworld gang members arrested in Malaysia, Bernama, 20 February 2018, CXBB8A1DA22559

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Penal Code have had their charged downgraded to Section 43 of the Societies Act 1966 that carries a more lenient sentence.[355]

Loan sharks

Malaysian police both respond to victim reports of threats and harassment from illegal moneylenders and conduct operations against illegal money lending syndicates, both of which often lead to prosecution of illegal moneylenders and their employees under the *Moneylenders Act 1951*. Illegal money lending is an offence under Malaysian law, and section 5(2) of the *Moneylenders Act 1951* carries a fine of RM20,000 not exceeding RM100,000, or imprisonment not exceeding five years, or both for unlicensed moneylending.[356] Section 29AA of the *Moneylenders Act 1951* carries a fine not exceeding RM20,000, imprisonment for up to two years, or both for any person who assists an unlicensed moneylender.[357] Section 29B(1) of the *Moneylenders Act 1951* carries a fine of up to RM200,000 or imprisonment of up to three years, or both for harassment or intimidation of a borrower, a borrower's family or their associates.[358] During recent years, police have responded to complaints of harassment and intimidation by illegal moneylenders and have conducted numerous operations targeting illegal moneylending operations, resulting in the prosecution of persons under the *Moneylenders Act 1951*.[359] In December 2017, Malaysia's central bank cautioned the public about illegal money lending activities conducted by companies using fake licences purportedly issued by the central bank, advising the public to report such instances to the police for investigation.[360] A non-governmental organisation, the Malaysian Muslim Consumers Association (PPIM), offers support for those encountering problems with loan sharks.[361]

Death penalty

A moratorium on executions is in place. Malaysia announced a moratorium on executions in July 2018.[362] According to the Malaysian government, as of 29 October 2018, there are 1,281 death row inmates among 65,222 prisoners.[363] Of the 1,279 on death row, 932 were sentenced to death under section 39B of the Dangerous Drugs Act 1952, while 317 people were convicted of murder.[364] There were four executions by hanging during 2017.[365] People sentenced to death by the High Court have an automatic right to judicial review of their sentence by the Court of Appeal and the Federal Court, and are also able to seek clemency from the relevant state ruler or the King.[366] Prisoners typically

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[355] 57 go on trial in Kajang Prison for alleged links to Gang 360 Devan, Bernama, 6 September 2018, CXBB8A1DA34959
[356] Moneylenders Act 1951 (Malaysia), amended 15 April 2011, Attorney General's Chambers of Malaysia, section 5(2), CISEC96CF110366
[357] Moneylenders Act 1951 (Malaysia), amended 15 April 2011, Attorney General's Chambers of Malaysia, section 29AA, CISEC96CF110366
[358] Moneylenders Act 1951 (Malaysia), amended 15 April 2011, Attorney General's Chambers of Malaysia, section 29B(1), CISEC96CF110366
[359] Unlicensed money lenders claim trial for harassing, threatening borrowers, New Straits Times, 6 September 2018, CXBB8A1DA37862;
Malaysian man unwittingly borrows money from loan sharks so son could have 'dream wedding', Asia News Network, 19 April 2018, CXBB8A1DA37866;
Police detain 35 in action against illegal money-lending, Bernama, 25 August 2017, CXC90406624824;
Four loan shark operations busted with arrest of 29 people, The Star Online, 4 August 2017, CXC90406611700;
Loan shark ring busted, 31 nabbed in nationwide raids, The Sun Daily, 18 April 2017, CXC9040665990;
Rich loan sharks nabbed, The Star Online, 13 January 2017, CXC904066329;
26 loan sharks nabbed, RM2m seized, Daily Express, 13 January 2017, CXC904066572;
4 loan sharks fined RM8,000 each for red paint splashed on debtor home, Bernama, 5 November 2016, CX6A26A6E12449
[360] BNM warns of illegal money lenders, Bernama, 6 December 2017, CXC90406624823
[361] For Malaysia's sake, consumers group seeks to save civil servants trapped in debt, Malay Mail Online, 3 August 2017, CXC90406624589;
Loan sharks sharpen their bite, The Star Online, 20 January 2018, CXBB8A1DA22631;
More than 10,000 people sought PPIM's help over Ah Long cases, Bernama, 18 October 2016, CX6A26A6E31142;
PPIM urges govt to put an end to 'ah long' posters, Bernama, 6 September 2018, CXBB8A1DA35970
[362] Parliament must consign death penalty to the history books, Amnesty International, 10 October 2018, CXBB8A1DA38216
[363] Liew Govt committed to doing away with death penalty, Free Malaysia Today, 27 November 2018, CXBB8A1DA39510
[364] Death penalty: Six things you need to know, Malaysiakini, 12 November 2018, CXBB8A1DA38232
[365] Malaysian Government's plans to abolish death penalty could save Sydney grandmother's life, Australian Broadcasting Corporation (ABC) News, 11 October 2018, CXBB8A1DA38223
[366] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 4.10, p.32, CIS7B839419347

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languish on death row for years and there is no established procedure for notifying families of scheduled executions.[367]

Malaysia introduced legislation that removes the mandatory death sentence for drug traffickers under limited circumstances. In November 2017, parliament passed the Dangerous Drugs (Amendment) Bill to remove the mandatory death sentence for drug-related offences by giving judges the discretion to punish drug offences with either life imprisonment or hanging.[368] However, judicial discretion is limited only to certain circumstances under specified in section 39B(2A) of the Bill;[369] namely where the accused is a merely a drug courier and has assisted law enforcement in disrupting drug trafficking activities.[370] The amendment Bill does not apply in retrospect for previous convictions.[371] At least 10 persons have received the mandatory death penalty for drug trafficking despite Parliament having already enacted the Bill to abolish the penalty.[372]

Domestic violence/familial abuse

Family violence

Domestic violence remains prevalent in Malaysia, despite laws prohibiting it. Malaysian law prohibits domestic violence, including physical injury and mental, emotional and psychological abuse.[373] A husband who harms his wife in order to force her to have sex – or who causes her to fear for her life – can be jailed for up to five years; however, non-consensual sex between a husband and wife is otherwise not considered rape under the country's penal code.[374] Domestic violence victims can obtain protection orders which attract a prison sentence of up to one year or a fine if breached.[375] Malaysia took a step forward in the protection of women's rights in 2017 by amending its domestic violence law to provide better protection for victims of domestic violence.[376] In August 2017, the country's parliament passed a law enlarging the definition of domestic violence to include the misappropriation of property, threatening a victim, communicating with or about a victim in a way that insults their 'modesty', as well as also ensuring protection for male victims.[377] However, contradictions between civil and Sharia law still affect the level of protection available to victims.[378] Under Sharia law in many states, wives are prohibited from disobeying the 'lawful order' of their husbands, which can lead to ambiguous interpretations of the law.[379]

Government and non-government bodies provide shelter and wide-ranging assistance to victims of domestic violence, but these are often insufficient to meet the need. Almost every hospital in Malaysia has a crisis centre where victims of rape and domestic violence can make reports

[367] Amnesty International Report 2016-2017, Amnesty International, 22 February 2017, p.243, NG2A465F54
[368] No more mandatory death sentence soon as amendments to Dangerous Drugs Act passed in Parliament, New Straits Times, 30 November 2017, CXC90406618546;
Group against death penalty warns amended Drug Act still has flaws, Malaymail Online, 15 March 2018, CXBB8A1DA23929
[369] A Call to End the Mandatory Death Penalty in Malaysia, Union Internationale des Avocates (UIA), 20 February 2018, CXBB8A1DA22745
[370] Amnesty International Report 2017/18, Amnesty International, 22 February 2018, p.250, NGED867A612
[371] Parliament removes mandatory death penalty for drug offences, judges to get discretion, Malaymail Online, 30 November 2017, CXC90406618547
[372] A Call to End the Mandatory Death Penalty in Malaysia, Union Internationale des Avocates (UIA), 20 February 2018, CXBB8A1DA22745
[373] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.105, p.25, CIS7B839419347
[374] Penal Code, Government of Malaysia, enacted 1936, amended 1 September 2017, section 375A, CISEDB50AD9259; A brief history of marital rape — New Sin Yew, Malay Mail Online, 4 November 2018, CXBB8A1DA38587
[375] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.105, p.25, CIS7B839419347;
[376] World Report 2018, Human Rights Watch, 18 January 2018, p.356, NGED867A63;
Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.106, p.26, CIS7B839419347
[377] Dewan Negara passes Domestic Violence (Amendment) Bill 2017 and Private Employment Agencies (Amendment) Bill 2017, New Straits Times, 14 August 2017, CXC90406612113
[378] Domestic Violence, Women's Aid Organisation, n.d., accessed 16 August 2017, CISD9559B12503
[379] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.105, pp.25-26, CIS7B839419347

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without going to a police station,[380] and which offer services such as examination by female doctors, evidence management, temporary shelter and legal assistance.[381] In 2011, UN Women reported that the One Stop Crisis Centre model was successful in combining clinical therapeutic responses with secondary preventive measures.[382] The RMP Criminal Investigation Division includes a Sexual Investigation Division.[383] The Ministry of Women, Family and Community Development organises legal literacy seminars designed to inform women of their rights in cases related to issues such as marital problems and divorce.[384] Changes to the country's domestic violence laws in August 2017 allow authorised social welfare officers to issue emergency protection orders for domestic violence victims.[385] There is a sexual investigations unit at each police headquarters to help victims of sexual crimes and abuse, and police sometimes assign psychologists or counsellors to provide emotional support.[386] Credible sources also suggest that access to facilities like shelter services are insufficient to meet the need.[387]

Child marriage and sexual abuse

Sharia courts approve approximately 80 per cent of applications for marriages involving a female under the age of 16. The minimum legal marriage age for Muslims is 18 for men and 16 for women.[388] For non-Muslims, it is 18 for both men and women.[389] Child marriage is thus defined as marriage below the minimum legal age which requires the approval of a Shariah court judge for Muslims or the Menteri Besar / Chief Minister for non-Muslims.[390] In 2017, Teo Nie Cheng of the opposition Democratic Action Party unsuccessfully proposed an amendment to the Sexual Offences Against Children bill to include a ban on child marriage.[391] In Malaysia, there were 152,835 persons aged 15-19 in a marriage according to the 2010 Population and Housing Census.[392] One report indicates that between 2005 and 2015, 10,240 Muslims applied for child marriages while 7,719 non-Muslim men applied to marriage a girl aged between 16 and 18 from 2000 to 2014.[393] Another report indicates that there are nearly 9,000 case of child marriage between 2010 and 2015, consisting of 6,268 Muslim and 2,775 non-Muslim.[394] The approval rate of under 16 year old marriage by Sharia courts in 2015 was 81 per cent, in 2014 74 per cent, in 2012 87.7 per cent and in 2011 86.1 per cent, representing an approximately 80 per cent approval rate.[395]

Malaysian authorities have taken limited steps to regulate early marriages and the sexual abuse of young girls. Malaysia's parliament voted down an attempt to ban child marriage in April 2017, but passed a new child sex crimes law.[396] The law criminalises 'grooming' of minors, includes penalties for making and possessing pornography involving people aged under 18, and involves the

[380] One Stop Crisis Centre (OSCC), One Stop Crisis Centre (OSCC) website, 2017, CISEDB50AD5269
[381] Knowledge, attitude and practice among healthcare staffs in the Emergency Department, Hospital Universiti Sains Malaysia towards Rape Victims In One Stop Crisis Centre (OSCC), Medical Journal of Malaysia, 3 June 2015, p.162, CISEC96CF15553; One Stop Crisis Centre (OSCC), One Stop Crisis Centre (OSCC) website, 2017, CISEDB50AD5269
[382] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.109, p.26, CIS7B839419347
[383] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.106, p.26, CIS7B839419347
[384] Good Practices: Eliminating Violence Against Women and Children (EVAWC), Ministry of Women, Family and Community Development, Malaysia and ASEAN Commission on the Promotion and Protection of the Rights of Women and Children, n.d., accessed 15 August 2017, p.38, CISEDB50AD5272
[385] Minister urges victims of domestic violence to come forward, Bernama, 15 August 2017, CXC90406612117
[386] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, section 6, p.23, OGD95BE927312
[387] Working Together – Case Studies in Domestic Violence Response, 2015 Report, Women's Aid Organisation, 2015 p.34, CISEC96CF14713
[388] Child Marriages in Malaysia: Reality, Resistance and Recourse, Penang Institute, 10 July 2017, CXC90406624846
[389] Child Marriages in Malaysia: Reality, Resistance and Recourse, Penang Institute, 10 July 2017, CXC90406624846
[390] Child Marriages in Malaysia: Reality, Resistance and Recourse, Penang Institute, 10 July 2017, CXC90406624846
[391] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.130, p.29, CIS7B839419347;
Child Marriages in Malaysia: Reality, Resistance and Recourse, Penang Institute, 10 July 2017, CXC90406624846
[392] Child Marriage: Its Relationship with Religion, Culture and Patriarchy, Sisters in Islam & Asian-Pacific Resource and Research Centre for Women, June 2018, p.21, CIS7B839411448
[393] Thousands in Malaysia want to wed teenage girls, Asia News Network, 24 October 2018, CXBB8A1DA37296
[394] Child Marriages in Malaysia: Reality, Resistance and Recourse, Penang Institute, 10 July 2017, CXC90406624846
[395] Child Marriages in Malaysia Reality, Resistance and Recourse, Penang Institute, 10 July 2017, CXC90406624846
[396] Malaysia passes child sex crimes law, does not ban child marriage, Reuters, 5 April 2017, CXC90406611583;
Child Marriages in Malaysia Reality, Resistance and Recourse, Penang Institute, 10 July 2017, CXC90406624846

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establishment of a special court to deal with child sexual abuse cases more quickly.[397] On 12 November 2018, an arrest was made following three reports lodged against a man, making it Malaysia's first sexual grooming case.[398] Women's groups claim that on average ten women are raped each day and that more than half of these women are younger than 16 years old.[399] A 2016 UNICEF Malaysia poll suggests that public opinion may be turning against early marriage – particularly among young people – with 95 per cent of respondents saying that marrying a 14 year-old is wrong and 86 per cent saying the minimum age to get married should be set at 18.[400]

Islamic Family Law stipulates that Muslim women may only marry with the consent of a male guardian, but using force or threat to compel a woman to marry or to reject a proposal can lead to a fine or imprisonment. Malaysia's Law Reform (Marriage and Divorce) Act states that all marriage must be based on mutual consent, and using force or threat to compel a woman to marry against her will or to prevent her from getting married is punishable with a fine or imprisonment.[401] Islamic Family Law stipulates that marriages are not fully recognised without the consent of the '*wali*', the woman's guardian.[402] A *wali* or a guardian such as the father is required in Islam to give away a woman for marriage and to solemnise the marriage.[403]

Female genital circumcision

Female circumcision is considered an Islamic cultural practice and is widely practiced across Malaysia despite international criticism of the practice. Malaysia's National Council of Islamic Religious Affairs issued a *fatwa* in 2009 that ruled female circumcision obligatory for Muslim women unless found to be physically harmful.[404] Female circumcision is often performed during infancy and a 2012 study found that 93 per cent of Muslim women respondents had undergone the practice.[405] In February 2018, representatives from Muslim-majority countries such as Bangladesh and Egypt criticised the practice as un-Islamic at the Constructive Dialogue session of the 69th session of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).[406] At Malaysia's Universal Periodic Review on human rights on 8 November 2018, a representative of the Women, Family and Community Development Ministry defended the on-going practice of the circumcision of female infants in the country as a "cultural obligation".[407] The Malaysian government's stance was reaffirmed by the Deputy Prime Minister and Women, Family and Community Development Minister, Datuk Seri Dr Wan Azizah Wan Ismail, who later said that female circumcision in Malaysia is a cultural practice and unlike female genital mutilation that is practiced in Africa.[408]

[397] Malaysia passes child sex crimes law, does not ban child marriage, Reuters, 5 April 2017, CXC90406611583
[398] Alleged paedophile arrested in 'first sexual grooming case in Malaysia', Asia News Network, 13 November 2018, CXBB8A1DA38556
[399] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.106, p.26, CIS7B839419347
[400] 95% of Respondents to UNICEF Opinion Poll – Marriage to 14-Year-Old Girl 'Not OK', United National Children's Fund (UNICEF), 12 August 2016, CX6A26A6E16907
[401] Social Institutions and Gender Index 2014 – Malaysia, Organisation for Economic Co-operation and Development, 2014, p.1, CISEDB50AD5657
[402] Social Institutions and Gender Index 2014 – Malaysia, Organisation for Economic Co-operation and Development, 2014, CISEDB50AD5657, p.1
[403] Lawyer: Couple not trying to legitimise illegitimate child, just removing 'bin Abdullah' stigma, Malay Mail Online, 8 February, CXBB8A1DA38635
[404] Malaysia Still on the Wrong Path on Women's Rights, The Diplomat, 26 February 2018, CXBB8A1DA23247
[405] Malaysia Still on the Wrong Path on Women's Rights, The Diplomat, 26 February 2018, CXBB8A1DA23247; Female circumcision Culture and religion in Malaysia see millions of girls undergo cut, Australian Broadcasting Corporation (News), 13 November 2018, CXBB8A1DA38323
[406] Malaysia urged to abolish female genital mutilation, The Star Online, 22 February 2018, CXBB8A1DA2276
[407] Women's ministry defends infant female circumcision at UN human rights review, Malaysiakini, 9 November 2018, CXBB8A1DA38229
[408] DPM maintains that female circumcision is part of Malaysian culture, The Star Online, 15 November 2018, CXBB8A1DA38729

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Common Claims

Malaysia

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Ethnicity

Ethnic demographics

Malays are the dominant ethnic group in Malaysia. Along with a small number of other indigenous groups (including *Orang Asli, Dayak, Anak Negeri*), *Bumiputera* comprise 61.7 per cent of the country's population.[1] Chinese (20.8 per cent) and Indians (6.2 per cent) are the other major ethnic groups in Malaysia.[2] It is estimated that 80 per cent of the Indian population are Tamil.[3] Although the Malaysian Constitution forbids discrimination against citizens on the basis of gender, religion and race, it accords a special position for *Bumiputera*, in effect permitting affirmative action policies that are widely considered to be discriminatory against other ethnic groups.[4] Chinese are the country's highest median income earners, while Indians and *Bumiputera* are the lowest median income earners – both below the national median.[5]

Bumiputera

***Bumiputera* are Ethnic Malays (who are constitutionally defined as Muslim) comprise more than half the country's population and benefit from affirmative action policies not afforded to other ethnic groups.** Following May 1969 race riots, the government passed legislation aimed to ensure Malay political supremacy, and in 1971 promulgated the New Economic Policy that provided extensive benefits to the *Bumiputera* community.[6] These special privileges are allocated strictly on the basis of ethnicity, and by extension, adherence to Islam.[7] Although the New Economic Policy officially ended in 1991, economic policies since have changed little in character and continue to include special rights for the *Bumiputera* while at the same time promoting rapid economic growth to ensure that all ethnic groups benefit economically.[8] The government limits opportunities for non-*Bumiputera* in higher education and government employment.[9] Many industries are subject to race-based requirements that mandate *Bumiputera* ownership levels.[10] Government procurement and licensing policies favour *Bumiputera*-owned businesses.[11] Although these policies are somewhat controversial, Malays have been reluctant to give up their preferential status, resulting in a mostly unspoken social contract in which non-Malays enjoy the benefits of Malaysian citizenship, but must also accept second-class status in Malaysian society.[12] In July 2018, the Malaysian government indicated that it

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[1] The World Factbook Malaysia, Central Intelligence Agency, 23 October 2018, CIS7B8394110022
[2] The World Factbook Malaysia, Central Intelligence Agency, 23 October 2018, CIS7B8394110022
[3] World Directory of Minorities and Indigenous Peoples - Malaysia Indians, Minority Rights Group International, January 2018, CIS7B83941338
[4] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 2.22, p.8, CIS7B839419347
[5] Malaysian Indian Blueprint, Prime Minister's Office, 21 April 2017, pp.8-9, CISEDB50AD7705
[6] BTI 2018 Country report Malaysia, Bertelsmann Stiftung, 22 March 2018, pp.4-5, CIS7B83941547
[7] United States Commission on International Religious Freedom Annual Report 2019, United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.210, 20190508143726
[8] BTI 2018 Country report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.5 and p.31, CIS7B83941547
[9] World Directory of Minorities and Indigenous Peoples - Malaysia Indians, Minority Rights Group International, January 2018, CIS7B83941338;
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Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, sections F4, G1, 20190402081615
[10] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 6, p.28, 20190314091511;
Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section F4, 20190402081615;
Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 6, p.28, 20190314091511
[11] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 6, p.28, 20190314091511
[12] United States Commission on International Religious Freedom Annual Report 2019, United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.212, 20190508143726

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would review the New Economic Policy to align economic policies with need instead of race.[13] However, in October 2018, Prime Minister Mahathir publicly asserted these policies were still necessary to bridge the economic gap between Malays and non-Malays and would remain in place for the foreseeable future.[14] Then in November 2018, the government stated that it would not ratify the International Convention on the Elimination of All Forms of Racial Discrimination, following opposition and criticism that ratifying the convention would weaken the rights of *Bumiputera*, Malay royals, and dilute Islam's position in Malaysia.[15]

Chinese

Chinese Malaysians are represented in government and generally do not experience discrimination or violence on a daily basis, but may face low-level of official discrimination when attempting to gain entry to tertiary education. The Malaysian Chinese Association, part of the *Barisan National* (BN) coalition, has traditionally been the largest Chinese political party.[16] However, an increasing number of Chinese support the Democratic Action Party (DAP), one of three opposition parties of the *Pakatan Harapan* coalition.[17] Lim Guan Eng, an ethnic Chinese, was appointed as finance minister following May 2018 elections.[18] There are no laws or constitutional provisions that directly discriminate against Chinese Malaysians.[19] However, non-*Bumiputera* communities experience systematic discrimination in the distribution of state benefits.[20] Chinese are able to access public education but increasingly attend one of the 1,295 Chinese schools due to concerns about the quality of education and perceptions that the public curriculum has a strong focus on Islam.[21] Despite the removal of government-sanctioned ethnic quotas for public universities in 2002, Malaysia's admission decisions favour ethnic Malays and some ethnic Chinese miss out on a university place despite having high marks.[22] Chinese form the bulk of students at Malaysia's non-government universities.[23]

Indians

Indian Malaysians generally do not experience discrimination or violence on a daily basis but may face low levels of discrimination when attempting to gain entry to tertiary education. There are no laws or constitutional provisions that directly discriminate against Indian Malaysians.[24] However, non-*Bumiputera* communities experience systematic discrimination in the distribution of state benefits.[25] Indians are able to access public education, with 524 state-based Tamil-language schools across Malaysia.[26] However, access to state-based tertiary education remains low, with

[13] Malaysia to train Bumiputera to be more competitive rather than spoon-feed them Mahathir, The Straits Times, 1 September 2018, CXBB8A1DA34636
[14] United States Commission on International Religious Freedom Annual Report 2019, United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.212, 20190508143726
[15] Malaysia not ratifying UN human rights treaty, The Straits Times, 24 November 2018, CXBB8A1DA39228
[16] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.6, p.11, CIS7B839419347
[17] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.6, p.11, CIS7B839419347
[18] Malaysia's ruling party may be gone, but its racial policies survive, The Economist, 7 June 2018, CXBB8A1DA28917; The shape of things to come under Mahathir 2.0, Asia Times, 13 May 2018, CXBB8A1DA27542
[19] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.4, p.10, CIS7B839419347
[20] BTI 2018 Country report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.7, p.24, CIS7B83941547
[21] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.8, p.11, CIS7B839419347
[22] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.8, p.11, CIS7B839419347
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[25] BTI 2018 Country report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.7, CIS7B83941547
[26] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.11, p.12, CIS7B839419347

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approximately six per cent of student places at public universities offered to Indian applicants.[27]

Since 2009 the government has mandated initiatives aimed to improve the socio-economic position of Indian Malaysians. In recent years, the government has focused socio-economic policies on helping the lower economic percentile of the Indian community (estate Indians) to attain better education outcomes,[28] resulting in spending allocations exceeding RM1 billion for Tamil schools.[29] In 2017, the government published its 10 year Malaysian Indian Blueprint that outlines policies and mechanisms that have been implemented since 2009 which aim to lift the socio-economic position of Malaysian Indians.[30]

Indian Malaysians participate extensively in political life but the predominant use of the Malay language can be a barrier to Indian employment in the civil service. Indian Malaysians participate freely in political life and the Malaysian Indian Congress forms part of the BN coalition.[31] In recent years, there have been several ethnic Indian members of parliament including ministers and a president of the upper house.[32] In June 2018, the Mahathir government appointed an ethnic Indian Christian, Tommy Thomas, as Attorney General.[33] The predominant use of the Malay language can be a barrier to Indian Malaysian employment in the civil service.[34] More than 50 per cent of Indian Malaysians are employed in low-income jobs but also represent a high proportion of professionals, including 38 per cent of the country's medical workforce.[35] In 2015, an Indian Malaysian was appointed as Chief of Police in Kuala Lumpur, the first non-Malay to hold this position.[36]

Religion

Islam is the dominant religion in Malaysia. Census figures from 2010 indicate that 61.3 per cent of the population practices Islam.[37] Significant religious minorities are Buddhists (19.8 per cent), Christians (9.2 per cent), Hindus (6.3 per cent) and Confucianists, Taoists and other traditional Chinese philosophies and religions (1.3 per cent).[38] The government automatically classes individuals born in Malaysia of Malay ethnicity as Muslim.[39] Rural areas – especially on the east coast of Peninsular Malaysia – are predominately Muslim, while the states of Sabah and Sarawak on the island of Borneo have higher numbers of non-Muslims.[40] A Muslim's status is recorded on their birth certificate and on their national identification card.[41] National identification cards do not distinguish between *Sunni* and *Shia* Muslims, instead the cards identify Muslims on their surface, but record other

[27] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.11, p.12, CIS7B839419347
[28] Malaysia Indian Blueprint, Prime Minister's Office, 21 April 2017, CISEDB50AD7705
[29] I'm committed to transforming Indian community, says Najib, The Malaysian Insight, 3 December 2017, CXC90406618619
[30] Malaysia Indian Blueprint, Prime Minister's Office, 21 April 2017, CISEDB50AD7705
[31] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.16, p.12, CIS7B839419347
[32] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.16, p.12, CIS7B839419347
[33] The changing face of Malaysian justice, The changing face of Malaysian justice, Asia Times, 6 June 2018, CXBB8A1DA28835;
Malaysia's ruling party may be gone, but its racial policies survive, The Economist, 7 June 2018, CXBB8A1DA28917
[34] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.12, pp.11-12, CIS7B839419347
[35] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.12, pp.11-12, CIS7B839419347
[36] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.12, p.12, CIS7B839419347
[37] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section I, p.2, OGD95BE927494
[38] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section I, p.2, OGD95BE927494
[39] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.27, p.14, CIS7B839419347 section 3.27, p.14
[40] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section I, p.2, OGD95BE927494
[41] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.27, p.14, CIS7B839419347

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religious affiliation in encrypted form on a smart chip.[42] Following 2018 14th General Elections, the new prime mistier ordered a review of Malaysia's institution tasked with promoting Islam, the Islamic Development Department (JAKIM), that would include how Islam is portrayed in society and its budget.[43]

Religious freedom

***Sunni* Islam is Malaysia's official interpretation of Islam.** Although the Constitution states that Islam is the religion of the Federation and provides for religious freedom,[44] a 1996 *fatwa* supported by state laws, requires the country to follow *Sunni* teachings of the *Shafi'i* school and prohibits Muslims from possessing, publishing, or distributing material contrary to those teachings.[45] Non-*Sunni* interpretations of Islam are illegal and subject to action by religious authorities,[46] Federal and state-level government authorities forbid so-called "deviant" religious minority groups (including *Shia* Muslims, *Ahmadiyya* Muslims, *Baha'is*, and the *Al-Arqam* sect) from assembling or worshipping in public.[47] Sedition laws regulate and punish speech considered hostile to Islam.[48] Civil society activists have said that the government has selectively prosecuted speech allegedly denigrating Islam while largely ignoring criticism of other faiths.[49] The government bars Muslims from converting to another religion, and has imposed fines, detentions, and canings on those classified under the law as Muslim who contravened Sharia codes.[50]

Religious adherence

Apostasy is a crime under *Sharia* law in five Malaysian states, but no *Sharia* court has ever prosecuted anyone for leaving Islam, or attempting to do so. Individuals born in Malaysia of Malay ethnicity are automatically classed as Muslim.[51] Muslims who wish to convert to another religion must obtain approval from a *Sharia* court.[52] In practice, those born Muslim are not permitted to convert out of Islam by a *Sharia* court.[53] *Sharia* courts have been known to impose penalties on Muslims who request permission to convert out of Islam, and have sometimes detained those who persistently try in so-called "rehabilitation" camps for attempting to leave Islam.[54] Only one (Negeri Sembilan) of Malaysia's thirteen states has a legal procedure that allows a non-Malay Muslim to legally 'leave Islam'.[55] *Sharia* courts show reluctance to allow for conversion out of Islam of those who

[42] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.27, p.14, CIS7B839419347
[43] Malaysia's most powerful Islamic body faces scrutiny, The Straits Times, 18 June 2018, CXBB8A1DA29463
[44] Federal Constitution, Government of Malaysia, introduced 31 August 1957, amended 27 December 2007, reprinted 1 November 2010, The Commissioner of Law Revision, Article 11, CISDCDCAAB1747
[45] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.3, OGD95BE927494
[46] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, p.1, OGD95BE927494
[47] United States Commission on International Religious Freedom Annual Report 2019, United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.211, 20190508143726
[48] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.5, OGD95BE927494
[49] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.8, OGD95BE927494
[50] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.5, OGD95BE927494;
United States Commission on International Religious Freedom Annual Report 2019, United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.211, 20190508143726
[51] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.27, p.14, CIS7B839419347
[52] United States Commission on International Religious Freedom Annual Report 2019, United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.213, 20190508143726
[53] United States Commission on International Religious Freedom Annual Report 2019, United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.213, 20190508143726
[54] United States Commission on International Religious Freedom Annual Report 2019, United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.213, 20190508143726
[55] Negotiating Apostasy: Applying to "Leave Islam" in Malaysia, University of Salford Manchester, April 2014, Samuri, M A A, Quraishi, M M, p.2, pp.4-8, CISEFCB23F7623

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had previously converted to Islam.[56] Apostasy from Islam is a criminal offence in Perak, Melaka, Sabah, and Pahang, punishable by a fine or jail, or up to six strokes of the cane in Pahang.[57] The maximum penalty for apostasy in the states of Kelantan and Terengganu is death.[58] However, this punishment is not enforceable due to restrictions by federal law.[59] Furthermore, there has not been a case when a *Sharia* court chief prosecutor has initiated criminal proceedings for apostasy or attempted apostasy against an individual seeking to officially change their religious status.[60] The *Sharia* Judiciary Department Malaysia (JKSM) acknowledged that its records show that no Malay Muslim has ever applied to change their religious status.[61]

***Sharia* courts only grant permission to convert out of Islam to individuals who were not born Muslim but converted to Islam during their life and then later seek reversion.** Muslims who wish to convert to another religion must obtain approval from a *Sharia* court.[62] In practice, only those not born Muslim are granted permission to convert out of Islam by a *Sharia* court.[63] In a ten year period between 2000 and 2010 only 168 of 800 Muslims who attempted to convert out of Islam were given permission by *Sharia* courts, and these were all reversion cases.[64] It was reported in 2017 that 400 cases of Muslims were appealing to sharia courts to convert to another religion.[65] Only a Sharia court can provide a court order/letter of release from Islam that can be used to amend a person's religion on his/her identity card.[66] Malaysians who have successfully converted to another religion have at times reported difficulty changing this field to reflect their current beliefs.[67]

Atheism is not illegal in Malaysia. In November 2017, the government stated that atheism was unconstitutional.[68] However, the Constitution provides for freedom of religion that includes the right not to practice a religion.[69] A Muslim should first obtain a certificate from a *Sharia* court to convert out of Islam.[70] In August 2017 two senior ministers in the Malaysian government generated controversy after they called for an investigation after members of the Malaysian chapter of the Atheist Republic posted a photo of their initial gathering on Facebook.[71] The deputy minister in charge of religious affairs said that the government needed to determine whether any Muslims were in the Atheist Republic photo and suggested using the "soft" approach by sending them for counselling.[72] The other minister from the Prime Minister's Department said that "we have to bring them back to the right path".[73]

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[56] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.3, OGD95BE927494
[57] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.3, OGD95BE927494
[58] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.3, OGD95BE927494
[59] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.5, 9, OGD95BE927494
[60] Path to leave Islam simple, but far from easy, Malay Mail, 12 July 2014, CX1B9ECAB12845
[61] Path to leave Islam simple, but far from easy, Malay Mail, 12 July 2014, CX1B9ECAB12845
[62] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.3, OGD95BE927494
[63] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.3, OGD95BE927494
[64] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.60, p.18, CIS7B839419347
[65] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section III, p.14, OGD95BE927494
[66] Sarawak Shariah Court can hear apostasy cases, rules apex court, Bernama, 27 February 2018, CXBB8A1DA23564
[67] United States Commission on International Religious Freedom Annual Report 2019, United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.214, 20190508143726
[68] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.8, OGD95BE927494
[69] Lawyers: Being atheist, promoting atheism protected by Constitution, Malaymail Online, 25 November 2017, CXC90406620451
[70] Atheism is not unconstitutional, legal minds tell deputy minister, Free Malaysia Today, 24 November 2017, CXC90406620452;
[71] Intolerance Rising: Atheists at Risk in Malaysia, The Diplomat, 22 August 2017, CXC90406612572
[72] Malaysia probes atheist group after uproar over Muslim apostates, Reuters, 7 August 2017, CXC90406620455
[73] Atheist Republic members need to be tracked down, says Malaysian Cabinet minister, The Straits Times, 8 August 2017, CXC90406620454

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It is possible for an individual to live an atheist life in Malaysia. Population and Housing Census figures from 2010 suggested there were about 300,000 Malaysians who followed non-religious belief systems or did not believe in God.[74] Malaysian Muslims are generally not prosecuted for disbelief.[75] Some atheists maintain a low-profile in society and are known to socialise with likeminded people,[76] whereas other Muslims make no attempt to hide their atheism from society.[77] A range of atheist-focused organisations, Facebook pages, Twitter accounts and websites – some of which are no longer active – have been set up in recent years with the aim of allowing people who do not believe in God to come together.[78]

Religious discrimination

Malaysian authorities interfere in or prevent religious practice or worship of non-*Sunni* Islamic groups. The Constitution grants state and federal government officials the authority to forbid proselytising to *Sunni* Muslims, however *Sunni* Muslims are free to proselytise unimpeded.[79] Individuals who identify with minority faiths face possible criminal charges such as caning or imprisonment for attempting to do so.[80] However members of all minority faiths are allowed to proselytise amongst minority communities.[81] The federal and state governments continued to forbid religious assembly and worship for groups considered to be deviant Islamic groups such as *Shia, Ahmadiyya, Baha'i* and *Al-Arqam*.[82] Ahmadi Muslims have reported generally being able to maintain a worship centre but government religious authorities forbid them from holding Friday prayers stating that they could only be performed in an officially registered mosque.[83] In October 2017, the Muslim Consumer Association of Malaysia denounced the *Ahmadiyya* Muslim community in a press conference and police intervened to prevent a Muslim Consumer Association of Malaysia protest outside the *Ahmadiyya* Muslim headquarters.[84] During the past several years, local government authorities have permitted billboards stating that "*Ahmadis* are not Muslims" to be placed outside the *Ahmadiyya* Muslim headquarters.[85]

Malaysia's state government authorities may restrict the construction of official places of worship for some non-Islamic religious groups. Religious groups complain that the government has no transparent criteria for determining whether to register a religious group.[86] In cases where the government refuses to register a religious group, the group can attempt to register as a company.[87] In 2017, the government did not specifically allocate funds for non-Muslim religious groups, although some religious groups received sporadic funding for temple and church buildings and other activities.[88] Non-Muslim groups have reported some difficulties in obtaining permission from local

[74] Are Malaysia's atheists an endangered species or quietly burgeoning?, Malaysiakini, 13 July 2016, CX6A26A6E16914
[75] Intolerance Rising: Atheists at Risk in Malaysia, The Diplomat, 22 August 2017, CXC90406612572
[76] Intolerance Rising: Atheists at Risk in Malaysia, The Diplomat, 22 August 2017, CXC90406612572
[77] Moderation under threat as Malaysia faces Islamic tide, The Australian, 17 August 2017, CXC90406620453
[78] Are Malaysia's atheists an endangered species or quietly burgeoning?, Malaysiakini, 13 July 2016, CX6A26A6E16914
[79] United States Commission on International Religious Freedom Annual Report 2019, United States Commission on International Religious Freedom (USCIRF), 29 April 2019, pp.211-212, 20190508143726
[80] United States Commission on International Religious Freedom Annual Report 2019, United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.210, 20190508143726
[81] United States Commission on International Religious Freedom Annual Report 2019, United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.211, 20190508143726
[82] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.9, OGD95BE927494;
United States Commission on International Religious Freedom Annual Report 2019, United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.211, 20190508143726
[83] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.9, OGD95BE927494
[84] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.9, OGD95BE927494
[85] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.9, OGD95BE927494
[86] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.8, OGD95BE927494
[87] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.8, OGD95BE927494,
[88] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.11, OGD95BE927494

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authorities to build new places of worship, causing groups to use buildings zoned for residential or commercial use for religious services.[89] However, in March 2017 the state government of Penang announced that 32 plots of state land would be made available to non-Muslim religious groups to build churches and temples after groups complained about the lack of suitable places to construct houses of worship.[90]

Interfaith and mixed marriages

Non-Muslims wishing to marry a Muslim must convert to Islam for the marriage to be officially recognised. There are two primary statutes in Malaysia for marriage, for civil marriage, the *Law Reform (Marriage and Divorce) Act* (1976),[91] and for Muslim marriage, *Islamic Family Law Act (Federal Territories)* (1984).[92] The civil law marriage and divorce act states that it does not apply to Muslims.[93] The only exception for a Muslim to marry a non-Muslim is when a Muslim man marries a *Kitabayah* (Christian whose ancestors were Christian before the prophethood of Muhammod).[94] In practice it is almost impossible to prove this ancestry.[95] For a marriage to be officially recognised, a non-Muslim must convert to Islam to marry a Muslim.[96] Malaysian authorities do not recognise marriages between Muslims and non-Muslims and consider children born of such marriages illegitimate.[97] Some *Sunni* and *Shia* Muslims intermarry and have family members that practice either form of Islam.[98]

Although non-Muslim interfaith and ethnic mixed marriages are legal some individuals in such marriages may face opposition from their community, family or friends. Malaysian law does not restrict the rights of non-Muslims to marry.[99] Conversion sometimes takes place due to marriage, with one partner choosing to convert or both partners choosing to adopt a new faith; however, this is not compulsory.[100] Malaysian law does not restrict the rights of people from different ethnic groups to marry,[101] although as Malaysian law considers all Malays to be Muslim, a non-Muslim of another ethnicity intending to marry a Malay must convert.[102] Individuals in a mixed marriage sometimes face pressure or stigma from within their family, friends or community, while couples of different ethnicities may also encounter racism.[103]

Arranged marriages

Arranged marriages have declined sharply in recent decades, and most Malaysians are free to choose their own husband or wife. Malaysia's *Law Reform (Marriage and Divorce) Act* states that

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[89] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.10, OGD95BE927494
[90] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.10, OGD95BE927494
[91] Law Reform (Marriage and Divorce) Act (164) 1976 (Malaysia), Federal Government of Malaysia, 6 March 1976, (amendments to 1 January 2006), the Commissioner of Law Reform, CISBE8E6BE702
[92] Islamic Family Law Act (Federal Territories) Act (303) 1984 (Malaysia), Federal Government of Malaysia, 27 June 1984, amendments to 1 January 2006, the Commissioner of Law Reform, CIS883493140
[93] Law Reform (Marriage and Divorce) Act (164) 1976 (Malaysia), Federal Government of Malaysia, 6 March 1976, (amendments to 1 January 2006), the Commissioner of Law Reform, Part I, article 3(3), CISBE8E6BE702
[94] Solving the syariah – civil conflict, New Straits Times, 19 August 2017, CXC90406617998
[95] Ethnic and religious discrimination big challenge for Malaysia's minorities, Minority Rights Group International, 25 May 2011, CXCB3E63421379
[96] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 May 2018, p.4, OGD95BE927494
[97] Country Reports on Human Rights Practices for 2018 - Malaysia, 13 March 2019, section 1, p.9, 20190314091511
[98] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.41, p.16, CIS7B839419347
[99] Registration of Marriage For Non-Muslim, National Registration Department – Ministry of Home Affairs, n.d., accessed 10 August 2017, CISEDB50AD5251
[100] A M'sian union – interracial couples share their stories, Malaysiakini, 16 September 2016, CX6A26A6E16886; Interracial marriage as beacon of light in upholding Malaysia's unity, The Rakyat Post, 14 July 2015, CXBD6A0DE19504
[101] Registration of Marriage For Non-Muslim, National Registration Department – Ministry of Home Affairs, n.d. accessed 10 August 2017, CISEDB50AD5251
[102] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, sections 2.6, p.5; 5.32, p.40, CIS7B839419347
[103] Interracial marriage as beacon of light in upholding Malaysia's diversity, The Rakyat Post, 14 July 2015, CXBD6A0DE19504; A M'sian union – interracial couples share their stories, Malaysiakini, 16 September 2016, CX6A26A6E16886

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all marriages must be based on mutual consent, and no restriction is placed on the rights of people from different ethnic groups, or non-Muslims, to marry.[104] Individuals sometimes face pressure or stigma from within their family, friends or community based on religious, social or cultural difference.[105] Using force or threat to compel a woman to marry against her will or to prevent her from getting married is punishable with a fine or imprisonment.[106] However, Malaysia does not recognise marriages between Muslims and non-Muslims,[107] and Islamic family law stipulates that marriages are not fully recognised without the consent of the *wali*, a male family member – typically a woman's father, paternal grandfather, brother or paternal uncle – who acts as guardian for a woman prior to their marriage.[108] A 2012 report said that the *wali* system means that Muslim women do not necessarily have the same right to freely choose their spouse and enter into marriage.[109]

Shia Muslims

***Shia* Islam is considered a deviant form of Islam and is prohibited under Malaysian law.** Eleven out of fourteen states ban *Shia* Islam, and a *Shia* Muslim found to be proselytising can expect to be detained and prosecuted.[110] In September 2018, 50 *Shia* were arrested in Kelantan for practicing their religion.[111] Reportedly, the *Shia* followers had been conducting their activities on the same premises for several years.[112] During 2017, the government forbade non-*Sunni* practice of Islam and arrested at least 25 *Shia* and detained others for celebrating *Ashura*.[113] However, despite legal barriers to their worship, most *Shia* Muslims live free from discrimination and violence on a day-to-day basis.[114] Government enforcement efforts generally focus on conversions and proselytisers, not assembly or worship, and very few arrests have resulted in charges being laid.[115] National identity cards do not distinguish *Shia* from other Muslims and there are no restrictions on their movement within Malaysia.[116]

Christians

Christians generally live free from discrimination and are free to practice their religion in Malaysia although they may face occasional harassment. Malaysian Christians are usually able to practise their religion without interference.[117] Official restrictions have been placed on their use of the word '*Allah*' (Arabic for God), which Malaysian Christians claim to have used for centuries to practice their religion.[118] In 2008, the Home Affairs Ministry banned the Catholic newspaper, *The Herald*, from

[104] Registration of Marriage For Non-Muslim, National Registration Department – Ministry of Home Affairs, n.d. (accessed 10 August 2017), CISEDB50AD5251
[105] Interracial marriage as beacon of light in upholding Malaysia's diversity, The Rakyat Post, 14 July 2015, CXBD6A0DE19504; A M'sian union – interracial couples share their stories, Malaysiakini, 16 September 2016, CX6A26A6E16886;
[106] Social Institutions and Gender Index 2014 – Malaysia, Organisation for Economic Co-operation and Development, 2014, p.1, CISEDB50AD5657
[107] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.104, p.25, CIS7B839419347
[108] Social Institutions and Gender Index 2014 – Malaysia, Organisation for Economic Co-operation and Development, 2014, p.1, CISEDB50AD5657;
Wali, Singapore Government, 2015, CISEC96CF15597
[109] Washing the Tigers: Addressing Discrimination and Inequality in Malaysia, Equal Rights Trust and Tenaganita, November 2012, p.53, CIS28954
[110] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.42, p.16, CIS7B839419347
[111] World Report 2019, Human Rights Watch, 17 January 2019, p.369, 20190118091502
[112] 50 suspected Syiah followers detained in Kota Baru, New Straits Times, 31 August 2018, 20190125145959
[113] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.5, OGD95BE927494
[114] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.45, p.16, CIS7B839419347
[115] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.44, p.16, CIS7B839419347
[116] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.41, p.16, CIS7B839419347
[117] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.52, p.17, CIS7B839419347
[118] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.47, pp.16-17, CIS7B839419347

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using '*Allah*'.[119] This ban was upheld by both the Malaysian Court of Appeals and Federal Court.[120] In 2015, a protest took place in outside a Christian church in a predominately Muslim suburb in Medan demanding the removal of the cross on the church – the cross was removed.[121] Furthermore, in February 2017 an evangelical pastor suspected of converting Muslims to Christianity was abducted by masked individuals.[122] During 2017, the government cancelled a Christian prayer gathering to be held in Melaka State, saying it would upset the sensibilities of Muslims during *Ramadan*.[123]

Buddhists and Hindus

Buddhists and Hindus are normally able to practice their religion without interference and do not face official or societal discrimination on a day-to-day basis. Federal and state governments have supported the building of Hindu or Buddhist places of worship throughout Malaysia.[124] In 2013, the Malaysian Government allocated RM 2 million (AUD 660,533) for the building of a new Hindu complex in Selangor.[125] Hindus and Buddhists have faced some compulsory acquisitions of places of worship or occasional community backlash in response to relocated temples.[126] Fifty Muslim residents protested the relocation of a Hindu temple into their residential area by placing a severed cow's head at the front gate of the Selangor State Government office in 2009.[127] In January 2018 following the demolition of an illegally-constructed Hindu temple, the Johor Sultan offered support to obtain a new site, land for which the state government subsequently allocated, some 1.5 km away from the previous temple.[128] In November 2018, rioting occurred outside Seafield *Sri Maha Mariamman*, a Hindu temple in Selangor, killing one person and injuring another dozen.[129] Authorities initially described the incident as a rivalry between temple factions and went on to arrest 83 Muslim men for their involvement.[130] However, details later emerged that these men were likely hired to foment unrest and that the resulting chaos stemmed primarily from an ongoing property dispute.[131]

Conversion

For apostasy see 'Religious adherence'

Non-Muslims are free to change their religious beliefs and affiliation, but they may face opposition from their community, family or friends. Malaysian law does not restrict the right of non-Muslims to convert to another religion.[132] A minor (under the age of 18, according to federal law) generally may not convert to another faith without the explicit permission of their parent or guardian,

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[119] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.47, pp.16-17, CIS7B839419347
[120] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.47, pp.16-17, CIS7B839419347
[121] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.49, p.17, CIS7B839419347
[122] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.50, p.17, CIS7B839419347
[123] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 May 2018, section II, p.6, OGD95BE927494
[124] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.55, p.17, CIS7B839419347
[125] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.55, p.17, CIS7B839419347
[126] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.54, p.17, CIS7B839419347
[127] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.54, p.17, CIS7B839419347
[128] Hindu temple demolition Johor Sultan steps in as peacemaker, offers relocation aid, Malaymail Online, 21 January 2018, CXBB8A1DA20539
[129] United States Commission on International Religious Freedom Annual Report 2019, United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.213, 20190508143726
[130] United States Commission on International Religious Freedom Annual Report 2019, United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.213, 20190508143726
[131] United States Commission on International Religious Freedom Annual Report 2019, United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.213, 20190508143726
[132] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 May 2018, section II, p.6, section II, p.4, OGD95BE927494

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although some states allow conversion to Islam without parental permission after age 15.[133] Sometimes converts can face severe stigmatisation, especially those converting from Islam.[134] A non-Muslim wishing to marry a Muslim must convert to Islam for the marriage to be officially recognised.[135]

Unilateral child conversion

On 29 January 2018 the Federal Court unanimously ruled that unilateral child conversion is unlawful but parliament has not legislated against it. The existence of a parallel legal system of civil law and *sharia* enactments and the lack of legal clarity in family and religious matters and in relation to different definitions of the child lead to legal loopholes in the protection of children, including on the basis of their religion.[136] Despite the Federal Court decision of 29 January 2018 on unilateral conversion in the Indira Gandhi case, in which it held, *inter alia*, that the civil courts are the sole guardians of constitutional rights with the "power to review the lawfulness of executive action", the divide between civil and *sharia* jurisdictions, and whether religious *fatwas* should be followed by federal government departments, remains to be clarified.[137] The Federal Court ruled that a child from a civil marriage can only be converted to Islam if both parents consent.[138] The Constitution's article 12(4) in English uses the word "parent" in the singular sense while article 12(4) of the Bahasa Malaysia translation uses the words "*ibu atau bapa*" (mother or father); however the court ruled that the Constitution's eleventh schedule has a clause on interpreting words in the singular to include the plural and vice versa.[139] In August 2017 the *Law Reform (Marriage and Divorce) Act* (1976) was amended without including Section 88A,[140] the section that aimed to prevent unilateral child conversion.[141] Legislative amendments to the Federal Constitution and the *Law Reform (Marriage and Divorce) Act* (1976) seems unlikely to occur since the Home Minister stated that in several cases the Federal Court has decided against unilateral conversion.[142]

Historically, cases of unilateral child conversions favoured the Muslim parent. Prior to a Federal Court 2018 judgement that ruled unilateral child conversion unlawful,[143] the consent of only one parent was required to convert a child under *Sharia* laws and allows the Muslim parent to gain sole custody.[144] Despite *Sharia* courts being constitutionally subordinate to civil courts, in January 2016 the Federal Court of Appeal ruled that matters of conversion to Islam were at the sole discretion of *Sharia* courts.[145] As a result, *Sharia* courts often decided child custody cases where one parent has

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[133] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 May 2018, section II, p.6, section II, p.4, OGD95BE927494
[134] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 May 2018, section III, p.14, OGD95BE927494
[135] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 May 2018, section II, p.4, OGD95BE927494
[136] Report of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material on her visit to Malaysia, United Nations Human Rights Council, 17 January 2019, p.10, 20190325141806
[137] Report of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material on her visit to Malaysia, United Nations Human Rights Council, 17 January 2019, p.10, 20190325141806
[138] Amid language clash, Federal Court says conversion needs consent of both parents, Malaymail Online, 31 January 2018, CXBB8A1DA20998
[139] Amid language clash, Federal Court says conversion needs consent of both parents, Malaymail Online, 31 January 2018, CXBB8A1DA20998;
United States Commission on International Religious Freedom Annual Report 2019, United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.213, 20190508143726
[140] Law Reform (Marriage and Divorce) (Amendment) Act 2017, Government of Malaysia, gazetted 17 October 2017, Federal Gazette, CISEDB50AD9174
[141] Azalina dares Pakatan to ban unilateral child conversions, Malay Mail Online, 26 July 2018, CXBB8A1DA32321;
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Strong support for Clause 88A, The Star Online, 1 February 2018, CXBB8A1DA36046
[142] Muhyiddin: No need to amend marriage law to deal with unilateral conversion of minors, Star Online, 4 April 2019, 20190605090122;
Govt's decision a big let-down, say lawyers, Star Online, 10 April 2019, 20190605090351
[143] Malaysian court says both parents must consent on children's religion, Reuters, 29 January 2018, CXBB8A1DA21004
[144] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.127, p.29, CIS7B839419347
[145] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.128, p.29, CIS7B839419347

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converted to Islam while the other has not, and historically favoured the Muslim parent.[146] There have been some high-profile cases of unilateral child conversions, mostly concerning Hindu fathers converting to Islam and claiming custody of their children.[147] Previously, when there had been competing orders by civil and *Sharia* courts regarding custody, police generally sided with *Sharia* decisions.[148]

Particular social groups

Lesbian, Gay, Bisexual, Transgender, Intersex (LGBTI)

Malaysian secular law criminalises same-sex sexual acts but in practice the law is rarely invoked. A former British colony, Malaysia has retained its colonial-era law against sodomy.[149] Malaysia's Penal Code criminalises sodomy (homosexual) and oral sex (homosexual and heterosexual) acts, but authorities rarely enforce the law.[150] Secular law that criminalizes male-male sexual acts has been extended to female-female acts.[151] Sodomy laws have only been invoked seven times since 1938, four of those instances against former Deputy Prime Ministry Anwar Ibrahim.[152] International observers and human rights organisations viewed sodomy charges against prominent political figure, Anwar Ibrahim, as politically motivated.[153] Those found guilty under section 377A of the Penal Code for 'carnal intercourse against the order of nature' are liable for imprisonment of up to twenty years and a whipping.[154]

Islamic laws in several states prohibit same-sex sexual acts. Some Malaysian states apply their own penalties to Muslims under sharia statues.[155] Under sharia law in several Malaysian states, same-sex sexual acts between Muslims are illegal and can incur jail terms and mandatory whipping.[156] The caning of women is banned under civil law, but allowed under Islamic laws in some

[146] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.11, OGD95BE927494
[147] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.128, p.29, CIS7B839419347
[148] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.11, OGD95BE927494
[149] Anwar Ibrahim's rebirth and Malaysia's LBGT+ rights, Pursuit (University of Melbourne), 27 May 2018, CIS7B839411105; State-Sponsored Homophobia 2019, Lucas Ramón Mendos, International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), 20 March 2019, p.450, 20190327100813
[150] Amnesty International Report 2017/18, Amnesty International, 22 February 2018, p.250, NGED867A612; Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, section 6, p.28, OGD95BE927312; Penal Code, Government of Malaysia, enacted 1936, amended 31 December 2014, sections 377A, 377B, CISEDB50AD9259;
[151] State-Sponsored Homophobia 2017 – A World Survey of Sexual Orientation Laws: Criminalisation, Protection and Recognition, International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), 1 May 2017, CISEDB50AD4462, p.169
[152] Malaysia: On the Record: Violence Against Lesbians, Bisexual Women and Transgender Persons In Malaysia, International Gay and Lesbian Human Rights Commission, 6 May 2014, CIS2F827D91966, p.33; Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section F1, 20190402081615
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[154] Penal Code, Government of Malaysia, enacted 1936, amended 31 December 2014, sections 377A, 377B, CISEDB50AD9259; Criminalisation of Homosexuality, Human Dignity Trust, 25 October 2015, CISEC96CF110372
[155] Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section F4, 20190402081615; State-Sponsored Homophobia 2019, Lucas Ramón Mendos, International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), 20 March 2019, p.450, 20190327100813
[156] State-Sponsored Homophobia 2019, Lucas Ramón Mendos, International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), 20 March 2019, p.450, 20190327100813; Criminalisation of Homosexuality, Human Dignity Trust, 25 October 2015, CISEC96CF110372

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states.[157] In October 2018, Terengganu state was the first state in Malaysia to cane two LGBT Muslim women under *Sharia* law for *musahaqah* (attempting to have lesbian sex).[158] The Prime Minister denounced the caning of two lesbian women in Terengganu state under *Sharia* law, considering the punishment too harsh.[159] Prior to Terengganu, some heterosexual couples convicted of adultery have received caning as punishment.[160]

See also 'Sharia law'

The Malaysian government and society largely oppose LGBT lifestyles that are considered inconsistent with conservative values. The results of a 2013 global survey on the acceptance of homosexuality found that an 'overwhelming majority' of Muslim countries, including 86 per cent of persons surveyed in Malaysia, reject homosexuality.[161] Prime Minister Mahathir publically acknowledged that his government does not support LGBT unions, which it see as an element of human rights in Western society rather than aligning with Malaysian values.[162] A Deputy Minister in the Prime Minister's Department said that the government "disagree with the behaviour of the LGBT" but "will not allow discrimination to occur", instead supporting rehabilitation of LGBT individuals.[163] In November 2018, a Malaysian delegate to its Universal Periodic Review on human rights said in response to questioning about discrimination against the LGBT community that the government "upholds the rights and dignity of all person in Malaysia in accordance to the law" and cited article 8(2) of the Constitution that prohibits discrimination against gender.[164] LGBT activists and NGO representatives criticised the Malaysian delegation's response to LGBT issues as weak.[165] The Human Rights Commission of Malaysia (SUKAKAM) said that although it does not support same-sex marriage, the LGBT community should not be discriminated against.[166]

Malaysian authorities promote heterosexual lifestyles amongst the LGBT community. Malaysia's Islamic authorities have published an e-book and conduct outreach activities encouraging Muslim LGBT persons to undergo sexuality rehabilitation.[167] The Malaysian Islamic Development Department (JAKIM) facilitates an outreach program (*Mukhayyam*) to rehabilitate LGBT individuals.[168] The program, a three-day camp held eight times each year, has been criticised by the Malaysian Aids Council as having become a place where LGBT are being "converted" to the "right path" instead of its original intent of to "provide a safe, non-judgmental space" to the transgender community.[169] The Ministries of Health and Education conduct campaigns aiming to 'prevent, overcome, and correct' homosexuality in children.[170] In 2018 a nightclub frequented by the LGBT community was raided by police and government officials resulting in twenty men being detained and ordered to undergo

[157] Two Malaysian Muslim women caned in public for attempting to have sex in car, Australian Broadcasting Corporation News (ABC News), 4 September 2018, CXBB8A1DA39062;
State-Sponsored Homophobia 2019, Lucas Ramón Mendos, International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), 20 March 2019, p.450, 20190327100813
[158] How public caning is performed in Terengganu, Malaysiakini, 5 September 2018, CXBB8A1DA34939
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[159] Malaysia PM denounces caning of two women for lesbian sex, Agence France Presse, 7 September 2018, CXBB8A1DA34969
[160] Sabah, not Kelantan, first to carry out public canings: Sabah Shariah chief judge, New Straits Times, 14 July 2017, CXC90406624835;
Sabah Syariah Court records 3 open whipping sentences, Borneo Post Online, 15 July 2017, CXC90406624836
[161] The Global Divide on Homosexuality: Greater Acceptance in More Secular and Affluent Countries, Pew Research Center, 4 June 2013, p.3, CIS26344
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'Don't force' LGBT rights on Malaysia, Mahathir says, Agence France Presse, 25 October 2018, CXBB8A1DA37446
[163] Malaysia sticks to stand on disallowing same-sex marriage, Bernama, 23 September 2018, CXBB8A1DA35842
[164] Under UN review, Putrajaya defends female circumcision, insists no LGBT bias, Malay Mail Online, 9 November 2018, CXBB8A1DA38176
[165] Virtual shield useless against real violence towards LGBT, Putrajaya told, Malay Mail Online, 9 November 2018, CXBB8A1DA38179
[166] Suhakam does not support gay marriage, Malay Mail online, 22 September 2018, CXBB8A1DA35835
[167] Jakim issues e-book on LGBT rehab; minister says phenomenon 'under control', Malay Mail online, 24 October 2018, CXBB8A1DA37286;
New M'sia should find 'right path' on LGBT rights, Malaysiakini, 7 August 2018, CXBB8A1DA39089
[168] Malaysia Should Find 'Right Path' on LGBT Rights, Human Rights Watch, 7 August 2018, 20190206102849
[169] AIDS council slams Jakim's 'conversion therapy' for LGBTs, Free Malaysia Today, 24 December 2018, 20190125114340
[170] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section F4, NGED867A631

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counselling for "illicit behaviour".[171] DFAT assess that LGBTI individuals face a moderate risk of official and societal discrimination determined by their socio-economic status, religion, geographic location and degree of openness.[172]

Transgender individuals face discrimination and occasional violence. Authorities often charge transgender persons for cross-dressing with "indecent behaviour" and also for "importuning for immoral purposes" in public.[173] Those convicted of a first offense faced a maximum fine of RM25 ($6.25) and a maximum sentence of 14 days in jail.[174] The sentences for subsequent convictions may be maximum fines of RM100 ($25) and a maximum three months in jail.[175] Local advocates contend that imprisoned transgender women served their sentences in prisons designated for men and that police and inmates often abused them verbally and sexually.[176] Justice for Sisters (JFS), an advocacy group for the lesbian, gay, bisexual and transgender (LGBT) community, said it has experienced difficulty obtaining legal representation for its clients who were charged under anti-crossdressing state Islamic laws.[177] Transgender individuals may face discrimination in public healthcare facilities, including undergoing forcible HIV/AIDS testing or being housed in male wards where they can be exposed to violence and abuse.[178] In December 2018 and January 2019 two transgender individuals were murdered in the same place in Klang.[179] During 2017, three transgender individuals were killed according to transgender advocacy groups Justice for Sisters.[180] A survey by a local transgender rights group reported more than two-thirds of transgender women experienced some form of physical or emotional abuse.[181]

Numerous organisations operate in Malaysia providing support to the LGBT community. Mainstream Christian churches and the Malaysian Consultative Council of Buddhism, Christianity, Hinduism, Sikhism and Taoism have also spoken out against discrimination and violence towards gay and lesbian people.[182] Leadership Program for Gays (LPG) is based in Kuala Lumpur and aims to build a network for LGBT business people. Activities organised by the group include gatherings and sports events.[183] PLUPenang is an LGBT organisation based in Penang State designed to support, empower and foster friendship between its members arranging recreational events and provides a safe space for LGBT people to express themselves.[184] *Pertubuhan Kebajkan dan Persekitaran Positif*

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[171] Magazine: PH govt among '10 biggest homophobes and transphobes of 2018', Free Malaysia Today, 2 January 2018, 20190125103916
[172] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.120, p.28, CIS7B839419347
[173] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 6, p.29, 20190314091511
[174] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 6, p.29, 20190314091511
[175] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 6, p.29, 20190314091511
[176] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 6, p.29, 20190314091511
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[178] Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Addendum: Visit to Malaysia (19 November–2 December 2014), United Nations Human Rights Council, May 2015, p.16, CISEC96CF14228;
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[179] NGOs raise alarm over yet another murder of a transgender woman, Free Malaysia Today, 3 January 2019, 20190125100210;
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[180] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, section 6, p.28, OGD95BE927312;
Rising concern in Malaysia's LGBT community after attack on transgender woman, Reuters, 24 August 2018, CXBB8A1DA34288
[181] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 6, p.29, 20190314091511
[182] LGBT Organisations in Malaysia, Angloinfo Malaysia, n.d., accessed 29 June 2018, CISEDB50AD3776;
Beauty and the Beast censorship attempt shows the good, the bad and the ugly of LGBT rights in Malaysia, The Conversation, 29 March 2017, CXC9040667196
[183] LPG Community, Yahoo Groups, n.d., accessed 23 November 2018, CIS7B8394110273
[184] PLUPenang website, PLUPenang, n.d., accessed 23 November 2018, CIS7B8394110276

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Malaysia or SEED is an officially registered community organisation that provides support services, including a drop-in centre, primarily for the transgender community.[185] Justice for Sisters is a campaign organised to raise public awareness about issues pertaining to transgender individuals and raise funds to finance court cases against transgender individuals in sharia courts.[186] The PT Foundation provide support to the LGBTI community, including those affected with HIV/AIDS, offering services such as healthcare and drop-in services, and offers seminars, operates a telephone counselling line and offers outreach programmes at third-party venues.[187] *Seksualiti Merdeka* works to empower Malaysians that have been marginalised for their sexual orientation and gender identity. The group also aims to champion sexuality rights as human rights, and provide a platform for LGBT human rights issues.[188]

Women

Women participate in all aspects of Malaysian society. Although women are active in all areas of society, cultural and social barriers limit their levels of participation.[189] Furthermore, women's interests remain generally underrepresented in politics.[190] There is a lack of resources available to women to assist them re-entering the workforce after childbirth.[191] Malaysia has the lowest rate of women's workforce participation in Southeast Asia,[192] The rate of female labour-market participation recorded in 2014 was 44.4 per cent compared to 75 per cent for men.[193] Women's participation rates in the labour force have risen over the last decade, from 45 per cent in 2008 to an estimated 54.3 per cent in 2016, according to government statistics.[194] In the Global Gender Gap Report 2017, Malaysia ranked 70th, an improvement from the previous year.[195] Following the May 2018 election, Azizah Ismail, wife of Mr Anwar, became the country's first female deputy prime minister.[196] Between 2011 and 2017, approximately 10 percent of seats in parliament have been held by women.[197] However, that number increased considerably following the 2018 14th General Election with 13.9 and 22.1 per cent of the lower and upper house seats won by women respectively.[198]

Muslim women may be adversely affected by *Sharia* law. Malaysia's Constitution prohibits discrimination based on gender.[199] The Constitution gives women equal rights to inherit, acquire, manage or dispose of property, including land, while civil law gives non-Muslim mothers equal parental rights.[200] However, sharia law can deviate from these constitutional principles in some areas such as Islamic inheritance law that typically favours male children and male relatives.[201] A small but steadily increasing number of women have been able to obtain divorces under Sharia without their

[185] About SEED, Pertubuhan Kebajkan dan Persekitaran Positif Malaysia (SEED), n.d., accessed 8 November 2018, CIS7B8394110070
[186] About Justice for Sisters, Justice for Sisters, n.d., accessed 8 November 2018, CIS7B8394110071;
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[189] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.102, p.25, CIS7B839419347
[190] Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section B4, 20190402081615
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[192] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.103, p.25, CIS7B839419347
[193] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.24, CIS7B83941547
[194] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.103, p.25, CIS7B839419347
[195] Malaysia improves ranking in Global Gender Gap Report, Bernama, 15 November 2018, CXBB8A1DA38722
[196] Malaysia's ruling party may be gone, but its racial policies survive, The Economist, 7 June 2018, CXBB8A1DA28917
[197] Proportion of seats held by women in national parliaments (%), World Bank, n.d., accessed 22 November 2018, CIS7B8394110255
[198] World Classification, Women in Parliament, 1 October 2018, CIS7B8394110256
[199] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 6, p.25, 20190314091511
[200] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 6, p.25, 20190314091511
[201] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 6, p.25, 20190314091511;
Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section G2, 20190402081615

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husband's consent.[202] Four states – Johor, Selangor, Negri Sembilan and Pahang – extend equal parental rights to Muslim mothers.[203] In January 2018, the Federal Court ruled that children from civil marriages can only be converted to Islam if both parents consent.[204]

Authorities take claims of sexual harassment seriously but a general reluctance by victims to report cases to the authorities and a cumbersome legal process results in a low number of prosecutions. The most recent statistics from Malaysia's Ministry of Home Affairs indicate that approximately 16 per cent of reported rape cases were taken to court, with a conviction rate of 2.7 per cent of all reported cases.[205] Amendments were made to the *Employment Act* in 2012 which made certain forms of workplace sexual harassment illegal, while the law prohibits a person in authority from using their position to intimidate a subordinate into having sexual relations.[206] A government voluntary code of conduct provides a detailed definition of sexual harassment intended to raise public awareness of the problem.[207] Authorities take claims of sexual harassment seriously but victims are often reluctant to report cases because of embarrassment, the difficulty of proving the offence, and a lengthy trial process.[208]

Economic hardship

Malaysia is an upper-middle income country in which absolute poverty has been largely eradicated. Malaysia recorded average annual economic growth of more than 7 per cent between 1967 and 1997, while growth in recent years has continued to exceed 5 per cent.[209] Economic growth has been inclusive, with less than 1 per cent of the population living in extreme poverty.[210] Rates of poverty are low among Malays (0.8 per cent), Chinese (0.1 per cent), and Indians (0.6 per cent), although the poverty rate is higher in rural areas than in cities.[211] Malaysian authorities have turned their attention to reducing income inequality – which remains high in comparison to other East Asian countries, but is gradually declining – and addressing the well-being of the poorest 40 per cent of the population, who remain vulnerable to increases in the cost of living or economic shocks.[212] The UNDP's Human Development Index ranked Malaysia 57 out of 189 countries in 2017, placing it in the 'high human development' category.[213]

Malaysia has an expanding if still limited social welfare system, while traditional social roles mean that families provide support for the elderly and sick. Old age, survivor and disability payments and employment injury compensation are among the payments available to eligible individuals, although credible sources state that the overall scope of social welfare coverage remains

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[202] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 3 March 2017, section 6, p.24, OGD95BE927312
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[206] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade, 19 July 2016, section 3.86, p.19, CIS38A80121311;
NOTE: DFAT's Country Information Report – Malaysia (Version 2) published on 19 April 2018 does not contain a section on 'sexual harassment' or an update on information provided in the 19 July 2016 report.
[207] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 6, pp.24-25, 20190314091511
[208] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 1, p.6, 20190314091511
[209] The World Bank in Malaysia, The World Bank, April 2017, CISEDB50AD5041;
The Growth Report: Strategies for Sustained Growth and Inclusive Development, The World Bank, 2008, p.20, CIS956B8881704
[210] The World Bank in Malaysia, The World Bank, April 2017, CISEDB50AD5041
[211] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 2.8, p.6, CIS7B839419347
[212] OECD Economic Surveys – Malaysia, OECD, November 2016, p.4, CIS38A80124917;
The World Bank in Malaysia, The World Bank, April 2017, CISEDB50AD5041
[213] Human Development Indices and Indicators - 2018 Statistical Update, UNDP, 01 January 2018, CIS7B839419962

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limited.[214] In August 2017, the Malaysian Government introduced legislation into parliament that would provide unemployment benefits for three to six months.[215] The *Zakat* system – a levy imposed on Muslims which is equal to 2.5 per cent of their assets above a minimum figure – forms one of the main social protection programmes in the country, and payments are distributed to needy groups such as the poor and refugees.[216] In Malaysia, grown children typically provide financial or care support to elderly or sick parents.[217]

Political opinion

Malaysia is a constitutional monarchy in which executive power is vested in the prime minister and cabinet. The paramount ruler, the monarch and titular head of state, is elected for five-year terms by fellow hereditary rulers from 9 of Malaysia's 13 states.[218] The upper house of the bicameral Parliament, the Senate, or *Dewan Negara*, consists of 44 members appointed by the king and 26 members elected by the 13 state legislatures, serving three-year terms.[219] The House of Representatives, or *Dewan Rakyat*, has 222 seats filled through regular elections.[220] The role of the king is largely ceremonial, though he retains the power to approve the prime minister.[221] Executive power lies with the prime minister and the cabinet.[222] Decision-making power has typically been concentrated in the hands of the prime minister and his close advisers, though the PH government showed some signs of broader consultation in 2018.[223]

General elections have often been skewed by the ruling government. Suffrage in Malaysia is universal for citizens over the age of 21.[224] When in power, the *Barisan Nasional* coalition manipulated elections through the use of prohibitive media laws, extreme gerrymandering and malapportionment of constituencies, the use of government resources during campaigning, and electoral fraud including manipulation of voter registration rolls.[225] The Election Commission (EC) is officially independent but has previously comprised of the former prime minister and government allies and considered subordinate to the UMNO when in power.[226] The EC is responsible for maintaining voter rolls, and has been accused of enabling "phantom voting" by creating duplicate records of some voters, or by leaving deceased persons on the rolls.[227] The Registrar of Societies (ROS) oversees the registration of political parties and in the past has issued politicized decisions.[228] The military is not active in politics and foreign powers do not directly meddle with voting.[229]

Barisan Nasional

The UMNO is the dominant party within the oppositional *Barisan Nasional* alliance. Until May 2018, the government had been headed by the UMNO since independence and the *Barisan Nasional* coalition won every general election since its formation until and including 2013 elections.[230] The

[214] Social Security Programs Throughout the World: Asia and the Pacific, 2016 – Malaysia, US Social Security Administration Office of Retirement and Disability Policy, March 2017, CISEDB50AD5043;
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[220] Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section A2, 20190402081615
[221] Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section A1, 20190402081615
[222] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.4, CIS7B83941547
[223] Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section C1, 20190402081615
[224] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section B4, NGED867A631
[225] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.9, CIS7B83941547
[226] BTI 2018 Country report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.9, CIS7B83941547;
Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section A3, NGED867A631
[227] Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section A3, 20190402081615
[228] Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section B1, 20190402081615
[229] Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section B3, 20190402081615
[230] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.5, CIS7B83941547

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Barisan Nasional is an ethno-religious coalition of race-based political parties.[231] The *Barisan Nasional* alliance was formed by the UMNO, the Malaysian Indian Congress (MIC), and the Malaysian Chinese Association (MCA), but is largely dominated by the UMNO.[232] Following the 2018 14th General Election, former Prime Minister Najib Razak resigned as head of the UMNO handing over to his deputy, Zahid Hamidi.[233] UMNO, the largest party within the *Barisan Nasional* coalition, lost power to the *Pakatan Harapan* coalition in the election.[234] The *Barisan Nasional* won only 79 parliamentary seats in the election.[235] The UMNO and *Parti Pesaka Bumiputera Bersatu* (PBB) held most parliamentary seats in the alliance following the election – UMNO 47 seats in Peninsular Malaysia, UMNO 13 seats in Sabah, and PBB 13 seats in Sarawak.[236] In June 2018, Sarawak's four ruling parties – *Parti Pesaka Bumiputera Bersatu* (PBB), Sarawak United Peoples' Party (SUPP), *Parti Rakyat Sarawak* (PRS), and Progressive Democratic Party (PDP) all quit the BN to form a new coalition, *Gabungan Parti Sabah* (GPS) that is friendly to the *Pakatan Harapan* federal government.[237] Other parties who have quit the BN include the United *Pasokmomogun Kadazandusan Murut* Organisation (Upko) and the Liberal Democratic Party (LDP).[238] BN component parties from Sabah and a faction of the split People's Progressive Party (myPPP) also quit the BN reducing the alliance to just four parties, down from 13 prior to the 2018 election.[239] In March 2017, eight former Sabah UMNO leaders were officially accepted into *Parti Pribumi Bersatu Malaysia*, one of the four member parties of the ruling *Pakatan Harapan* alliance.[240]

Pakatan Rakyat/Pakatan Harapan

The *Pakatan Rakyat* coalition regrouped as the *Pakatan Harapan* coalition in September 2015. The *Pakatan Rakyat* coalition previously led by the People's Justice Party, won more votes than BN but lost the 2013 election due to the country's first-past-the-post system.[241] The *Pakatan Rakyat* alleged that electoral irregularities and systemic disadvantages due to a lack of media access and gerrymandered districts favouring the ruling coalition.[242] Opposition Leader, and former Deputy Prime Minister Anwar Ibrahim was imprisoned for a five year term on sodomy charges that international observers view as politically motivated.[243] *Pakatan Rakyat* was dissolved in June 2015 and then re-configured as *Pakatan Harapan*.[244] Currently *Pakatan Harapan* is a ruling coalition of four parties led by Prime Minister Mahathir Mohammad.[245] In November, Prime Minister Mahathir reiterated that he will keep his promise to step down after two years to give way to Anwar Ibrahim.[246]

Malaysia's Pakatan Harapan is the ruling coalition. On 9 May 2018, the Alliance of Hope or *Pakatan Harapan* won the 14th General Election by securing enough seats to form a stable

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[231] The changing face of Malaysian justice, Asia Times, 6 June 2018, CXBB8A1DA28835
[232] GE14 numbers What it means for BN, Harapan and PAS, Malaysiakini, 10 May 2018, CXBB8A1DA26970
[233] After Surprising Election, How Much Will Malaysia Change, Chatham House, 15 May 2018, CXBB8A1DA27637
[234] The shape of things to come under Mahathir 2.0, Asia Times, 13 May 2018, CXBB8A1DA27542
[235] GE14 numbers What it means for BN, Harapan and PAS, Malaysiakini, 10 May 2018, CXBB8A1DA26970
[236] GE14 numbers What it means for BN, Harapan and PAS, Malaysiakini, 10 May 2018, CXBB8A1DA26970
[237] Khaled: S'wak BN dissolution a blow to two-party system, Malaysiakini, 13 June 2018, CXBB8A1DA29259; Sarawak parties quit BN to form coalition, The Straits Times, 13 June 2018, CXBB8A1DA29155
[238] The disintegration of BN - from 13 parties to four, Malaysiakini, 12 June 2018, CXBB8A1DA29153
[239] 'BN is dead, there is only Umno', Malaysiakini, 13 June 2018, CXBB8A1DA29258; Umno chief rebukes MCA for asking that BN be dissolved, Straits Times, 4 December 2018, CXBB8A1DA39766
[240] 'More ex-Umno leaders join Mahathir's PPBM', Straits Times, The, 17 March 2019, 20190318081604
[241] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, p.1, OGD95BE927312
[242] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, p.1, OGD95BE927312
[243] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, section 1, pp.8-9, OGD95BE927312
[244] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 2.20, pp.7-8, CIS7B839419347
[245] Pakatan Harapan coalition: Leader Anwar Ibrahim, Chairman Mahathir Mohammad. Member parties: People's Justice Party, Malaysian United Indigenous Party, National Trust Party and Democratic Action Party.
[246] Mahathir Mohamad named opposition candidate for Malaysian PM, The Straits Times, 7 January 2018, CXBB8A1DA22794; Dr M: I will keep my promise to Anwar, I am the only 'dictator' who resigned, The Star Online, 3 November 2018, CXBB8A1DA39181

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government.[247] *Pakatan Harapan* is a pluralistic multi-ethnic alliance.[248] The *Pakatan Harapan* coalition comprises of the dominant the People's Justice Party or *Parti Keadilan Rakyat* (PKR), the Democratic Action Party (DAP), the Malaysian United Indigenous Party or *Parti Pribumi Bersatu Malaysia (Bersatu)*, the *Parti Amanah Negara* or National Trust Party (*Amanah*), and the Sabah-based *Parti Warisan Sabah* or Sabah Heritage Party (Warisan).[249] The *Pakatan Harapan* coalition has increased its number of parliamentary seats from 122 won at election to 134, and is now 14 shy of a two-thirds majority.[250] Malaysia's current prime minister is Dr Mahathir Mohamad, a former member of the UMNO, who previously led Malaysia as prime minister for 22 years until 2003.[251]

Freedom of expression

Freedom of speech and expression are recognised but limited in the Constitution. The Constitution allows restrictions on the freedom of expression 'in the interest of the security of the Federation…[or] public order.'[252] The former *Barisan Nasional* led government regularly restricted freedom of expression for the media and civil society, citing reasons such as upholding Islam and the special status of ethnic Malays, protecting national security, maintaining public order, and preserving friendly relations with other countries.[253]

Freedom of speech and expression in the media industry is limited but has improved following the 2018 change in administration. Prior to the 14th General Election in 2018, most private publications were controlled by political parties or businesses allied with the government, as were most private television stations, which generally censored programming according to government guidelines.[254] However the market began to change after the *Pakatan Harapan* government took power, with some *Barisan Nasional*-linked outlets suffering financially and others producing more neutral coverage, even as independent outlets benefited from a reduction in political pressure and harassment.[255] The *Pakatan Harapan* government pledged to reform restrictive media laws, but its progress has been limited. The House of Representatives voted in August 2018 to repeal the *Anti–Fake News Act*, which the *Barisan Nasional* had hastily adopted in April that year, but the Senate (still controlled by the *Barisan Nasional*) blocked the repeal in September.[256] The law prescribes large fines and up to six years in prison for the publication of wholly or partly false news.[257] The Malaysian Communication and Multimedia Commission monitors websites and can order the removal of material considered provocative or subversive.[258] A 2012 amendment to the 1950 *Evidence Act* holds owners and editors of websites, providers of web-hosting services, and owners of computers or mobile devices accountable for information published through their services or property. [259] While there were no major reforms to the legal framework for online media in 2018, the Malaysian Communication and Multimedia Commission did end blocking a number of websites in May 2018, including *Sarawak Report* and the blogging platform Medium.[260]

The government may use sedition law occasionally to curb hate speech and defamation of government officials. The *Pakatan Harapan* government temporarily suspended the *Sedition Act*

[247] The shape of things to come under Mahathir 2.0, Asia Times, 13 May 2018, CXBB8A1DA27542
[248] The changing face of Malaysian justice, Asia Times, 6 June 2018, CXBB8A1DA28835
[249] GE14 numbers What it means for BN, Harapan and PAS, Malaysiakini, 10 May 2018, CXBB8A1DA26970
[250] GE14 numbers What it means for BN, Harapan and PAS, Malaysiakini, 10 May 2018, CXBB8A1DA26970; Mahathir edges closer to two-thirds majority in Parliament, Malaysiakini, 12 February 2018, 20190213080939
[251] Who is newly elected prime minister Mahathir Mohamad, ABC News (Australia), 10 May 2018, CXBB8A1DA27527
[252] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 2a, p.10, 20190314091511
[253] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 2a, p.10, 20190314091511
[254] Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section D1, 20190402081615; BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.11, CIS7B83941547
[255] Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section D1, 20190402081615
[256] Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section D1, 20190402081615
[257] Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section D1, 20190402081615
[258] Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section D1, 20190402081615
[259] Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section D1, 20190402081615
[260] Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section D1, 20190402081615

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(1948) in October 2018 pending amendment or repeal.[261] However it lifted the suspension in response to violence that erupted surrounding an incident at a Hindu temple, and used it during that year over alleged hate speech and defamation of government officials.[262] The *Sedition Act* (1948) has been used to target individuals who publically express ideas deemed sensitive by the state.[263] Sedition charges often followed comments by vocal civil society or opposition leaders.[264] Civil society groups claimed the former government generally failed to investigate and prosecute similar statements made by pro-government or pro-Malay persons.[265] Under the *Pakatan Harapan* administration, authorities dropped sedition cases against prominent public figures who had criticized the former *Barisan Nasional* government.[266]

Freedom of speech and expression is limited in social media. The *Communications and Multimedia Act* (1998) criminalises the 'misuse of network facilities' for criticising the government or for government-related satire.[267] Section 233(1) provides criminal penalties of up to one-year imprisonment for communication that is indecent, obscene, false, threatening, or offensive to another person.[268] During 2017, the *Communications and Multimedia Act* (1998) was used repeatedly to investigate and arrest those who criticised government officials in the media and on social media.[269] In August 2018 prosecutors charged a member of the opposition United Malays National Organisation under the *Communications and Multimedia Act* (1998) for allegedly insulting another United Malays National Organisation member on Facebook.[270] In November 2018, the High Court prosecuted a graphic designer under section 233 of the *Communications and Multimedia Act* (1998) for uploading an offensive image of former Prime Minister Najib Abdul Razak on social media but set aside the prison sentence and reduced the fine from RM30, 000 to RM10, 000.[271]

Freedom of assembly

In recent years, fewer restrictions and less severe crackdowns have been applied to public protests and assemblies and their organisers. Although freedom of assembly can be limited on the grounds of maintaining security and public order, demonstrations are often held.[272] The law delineates 21 public places where assemblies cannot be held and prohibits persons under the age of 15 from attending any public assembly, and those who proceed with a banned protest are subject to penalties including high fines.[273] Police continued to enforce existing laws under the *Pakatan Harapan* government, arresting and charging unauthorised protesters on multiple occasions during 2018, though authorities approved the large opposition-led protest against ratification of ICERD in December 2018.[274]

Civil society organisations

A wide array of civil society groups operate in Malaysia. A number of domestic and international civil society and human rights organisations operate in Malaysia and actively comment on issues such

[261] Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section D4, 20190402081615
[262] Suaram's human rights overview on Malaysia 2018, SUARAM, 28 November 2018, p.5, CIS7B8394110621; Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section D4, 20190402081615
[263] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section D4, NGED867A631
[264] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 2a, p.10, 20190314091511
[265] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 2a, p.10, 20190314091511
[266] Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section D4, 20190402081615
[267] Amnesty International Report 2017/18, Amnesty International, 22 February 2018, p.249, NGED867A612
[268] Freedom on the Net 2018 - Malaysia, Freedom House, 1 November 2018, NGED867A6126; World Report 2018, Human Rights Watch, 18 January 2018, p.352, NGED867A63
[269] World Report 2018, Human Rights Watch, 18 January 2018, p.352, NGED867A63
[270] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 2a, p.13, 20190314091511
[271] Fahmi Reza escapes jail term, fine reduced over Najib caricature, Malaysiakini, 12 November 2018, CXBB8A1DA38302
[272] Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section E1, 20190402081615
[273] Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section E1, 20190402081615
[274] Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section E1, 20190402081615

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as the legislative environment, the rights of women in Islam and government human rights practices.[275] While these organisations are generally able to function independently, some report that engagement with the government can be difficult and their advocacy is largely ignored.[276] Civil society groups can act only within the narrow limits set by Malaysian authorities.[277] In practice, this means that issues of race and religion, or criticism of the government, are out of bounds.[278] During 2018, the government's registrar of societies has prevented the registration of organisations deemed unfriendly to the government, and authorities regularly use registration issues as a basis for investigating organisations.[279]

State protection

Law enforcement

Law enforcement operates at both the federal and state level. The Royal Malaysian Police (RMP) reports to the federal Minister for Home Affairs and is responsible for law enforcement nationwide.[280] The National Department of Islamic Development (JAKIM) enforces *Sharia* law and has jurisdiction over Muslims in Kuala Lumpur and two other federal territories.[281] The People's Volunteer Corps (RELA), a federal paramilitary civilian corps under the Ministry of Home Affairs, assists security forces.[282] RELA's engagement in law enforcement activities has significantly reduced in recent years.[283] NGOs have reported that inadequate training has led to abuses by RELA members such as extortion and theft.[284]

Royal Malaysian Police (RMP)

The RMP are a professional and effective force, but are prone to corruption. The RMP operates 837 police stations nationwide,[285] and employs approximately 102, 000 officers.[286] Local and international sources indicate the RMP is a professional and effective police force, although the quality of its members' responses varies depending on levels of training, capacity and engagement in corruption.[287] Some human rights training and workshop are made available to police officers.[288] In recent years, the RMP has launched crackdowns on criminal gangs, crime syndicates and loan

[275] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.82, p.21, CIS7B839419347
[276] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.82, p.21, CIS7B839419347
[277] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.17, CIS7B83941547
[278] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.17, CIS7B83941547
[279] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 July 2016, section 3.66, p.17, CIS38A80121311;
BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.10, CIS7B83941547;
Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section B1, 20190402081615
[280] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 5.5, pp.35-36, CIS7B839419347
[281] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 July 2016, section 5.1, p.25, CIS38A80121311
[282] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 July 2016, section 5.1, p.25, CIS38A80121311
[283] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 July 2016, section 5.1, p.25, CIS38A80121311
[284] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 July 2016, section 5.1, p.25, CIS38A80121311
[285] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 5.5, pp.35-36, CIS7B839419347
[286] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 1d, p.5, 20190314091511
[287] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 5.5, pp.35-36, CIS7B839419347
[288] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 5.5, pp.35-36, CIS7B839419347

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sharks,[289] while in July 2017 a human trafficking hotline was set up through which reports will be submitted to police.[290] Malaysian law permits police to arrest and detain individuals for some offences without a warrant.[291] A 2017 Transparency International survey found that 57 per cent of Malaysian respondents thought that corruption was a problem within the RMP – a result that was significantly above the regional average.[292] In July 2017, the Royal Malaysia Police (RMP) signed an anti-graft pledge of which anti-corruption bodies and civil society organisations said was a significant step towards accountability.[293]

State Islamic religious enforcement officers

Religious enforcement officers conduct moral policing operations and can enforce Sharia law. Religious enforcement officers have a range of powers, depending on the particular Islamic laws that apply in each state.[294] State Islamic religious enforcement officers have the authority to accompany police on raids of private premises and public establishments, and to enforce *Sharia*, including for violations such as indecent dress, distribution of banned publications, alcohol consumption, or *khalwat* (close proximity to a nonfamily member of the opposite sex).[295] Moral breaches of *Sharia* law typically result in a warning or a fine but may include caning or up to one month imprisonment for the most serious offences.[296] Kelantan's Islamic Affairs and Religious Department fined 39 women for dressing sexily and behaving indecently in public during the Ramadan in 2019.[297] In Johor, Segamat Municipal Council enforcement officers disguised themselves as food stall operators, cooks and waiters in a bid to catch Muslims who do not fast during Ramadan in 2019.[298] Under Section 15 of the state's *Shariah Criminal Offences Enactment* (1997), those who sell food to fasting Muslims or Muslims who skip from fasting can be penalised with a fine not more than RM1,000, imprisoned not more than six months, or both, for their first offence.[299]

Criminal justice system

A number of existing laws undermine due process guarantees. The 2012 *Security Offences (Special Measures) Act* that allows police to detain anyone for up to 28 days without judicial review for broadly defined "security offenses," and to hold suspects for 48 hours before being granted access to a lawyer was renewed for another five years in 2017.[300] Also in 2017, lawmakers amended the *Prevention of Crime Act* (a law ostensibly aimed at combating organized crime) to revoke detainees' right to address the government-appointed Prevention of Crime Board, which is empowered to order the detention of individuals listed by the Home Ministry for renewable two-year terms without trial or

[289] Cops deal crime a crippling blow since Ops Cantas Khas launch, The Star Online, 23 September 2013, CXC28129414715;
Op Cantas crackdown on triads: 1,444 arrested, Astro Awani, 13 August 2016, CX6A26A6E8262;
Police bust largest money-lending syndicated (Updated), The Sun Daily, 23 May 2016, CX6A26A6E7820;
36 suspected underworld gang members arrested in Malaysia, Bernama, 20 February 2018, CXBB8A1DA22559;
Police detain 35 in action against illegal money-lending, Bernama, 25 August 2017, CXC90406624824;
Four loan shark operations busted with arrest of 29 people, The Star Online, 4 August 2017, CXC90406611700;
Loan shark ring busted, 31 nabbed in nationwide raids, The Sun Daily, 18 April 2017, CXC9040665990;
26 loan sharks nabbed, RM2m seized, Daily Express, 13 January 2017, CXC904066572
[290] Hotline set up in bid to tackle human trafficking, The Star Online, 31 July 2017, CXC90406611249
[291] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 1, p.6, 20190314091511
[292] Global Corruption Barometer – Asia Pacific, Transparency International, 28 February 2017, p.41, CISEDB50AD5225
[293] Anti-graft pledge by police hailed as a good move, The Star Online, 27 July 2017, CXC90406610992
[294] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 5.6, p.36, CIS7B839419347
[295] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 2, p.5, 20190314091511
[296] The female face of Islamic law in Malaysia, Aljazeera, 16 August 2017, CXC90406620329;
Lawyer: Muslims can challenge khalwat offences, Free Malaysia Today, 7 December 2016, CX6A26A6E20451
[297] 'Sisters In Islam urge Kelantan religious authorities to stop policing the way women dress', Malay Mail Online, 13 May 2019, 20190605152041
[298] 'Segamat council officers go undercover as cooks, secretly photograph non-fasting Muslims', Malay Mail Online, 23 May 2019, 20190605151847
[299] 'Segamat council officers go undercover as cooks, secretly photograph non-fasting Muslims', Malay Mail Online, 23 May 2019, 20190605151847
[300] Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section F2, 20190402081615

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legal representation.[301] The 2015 *Prevention of Terrorism Act* together with the *National Security Council Act* (2016) from the same year gives the *National Security Council Act* (2016) (led by the prime minister) wide powers of arrest, search, and seizure without a warrant in areas deemed as security risks and in the context of countering terrorism.[302]

Incidents of mistreatment in custody and impunity for police/security forces personnel are reported. Torture and abuse in police custody remain problems, and prisons are often overcrowded and unsafe.[303] Incidents of physical violence inflicted upon detainees under remand or during investigation are prevalent especially when there are elements of chain remand or detention under security laws.[304] A number of criminal offenses can be punished with caning, including immigration violations.[305] Malaysian human rights organisation Suara Rakyat Malaysia (SUARAM) reported as of 31 October 2018, four deaths occurred in police custody and there were two known incidences of death in prison custody.[306] These numbers are comparatively low and may not reflect actual numbers as official figures are not yet available.[307] Investigation into use of deadly force by a police officer occurs only if the attorney general initiates the investigation or if the attorney general approves an application for an investigation by family members of the deceased.[308] When the attorney general orders an official inquiry, a coroner's court convenes, and the hearing is open to the public.[309] In such cases, courts generally issued an "open verdict," meaning that there would be no further action against police.[310]The government was expected to table a new Bill to set-up the Independent Police Complaints and Misconduct Commission (IPCMC) in the first parliament session of 2019,[311] however this has not come to fruition.[312]

Judiciary

The majority of cases in Malaysian courts are processed in accordance with the rule of law. Provisions in the Constitution enshrine the rights of citizens in a trial.[313] The civil law system is based on British common law and defendants are presumed innocent until proven guilty.[314] Defendants have the right to be informed promptly of the charges against them and the right to a timely trial and the right to be present at their trial.[315] Defendants have the right to communicate with an attorney of their choice or to be appointed counsel at public expense if they face charges that carry the death penalty.[316] Defendants also may apply for a public defender in certain other cases.[317] According to the

[301] Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section F2, 20190402081615
[302] Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section F2, 20190402081615
[303] Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section F3, 20190402081615
[304] Suaram's Human Rights Overview Report on Malaysia 2018, Suara Rakyat Malaysia (SUARAM), 28 November 2018, p.17, CIS7B8394110621
[305] Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section F3, 20190402081615
[306] Suaram's Human Rights Overview Report on Malaysia 2018, Suara Rakyat Malaysia (SUARAM), 28 November 2018, p.13, CIS7B8394110621
[307] Suaram's Human Rights Overview Report on Malaysia 2018, Suara Rakyat Malaysia (SUARAM), 28 November 2018, p.13, CIS7B8394110621
[308] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 1a, p.2, 20190314091511
[309] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 1a, p.2, 20190314091511
[310] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 1a, p.2, 20190314091511
[311] IPCMC Bill expected to be tabled next year - minister, Malaysiakini, 13 November 2018, CXBB8A1DA38407
[312] 'The IPCMC: What you need to know, and why it matters now more than ever', Malay Mail Online, 5 April 2019, 20190605144053;
'Police, GIACC agree on need to set up IPCMC', New Straits Times, 10 May 2019, 20190605144613
[313] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 1e, p.8, 20190314091511
[314] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 1e, p.8, 20190314091511
[315] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 1e, p.8, 20190314091511
[316] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 1e, p.8, 20190314091511
[317] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 1e, p.8, 20190314091511

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Malaysian Bar Council, defendants generally had adequate time and facilities to prepare a defence if they had the means to engage private counsel [318] Otherwise, defendants must rely on legal aid and the amount of time to prepare for trial is at the discretion of the judge.[319] Authorities provide defendants free interpretation in Mandarin, Tamil, and some other commonly used dialects from the moment charged through all appeals.[320] The right to confront witnesses is limited by provisions allowing the identity of prosecution witnesses to be kept secret from the defence before a trial, which inhibits cross-examination of those witnesses.[321] Defendants may present witnesses and evidence on their behalf.[322] Defendants may appeal court decisions to higher courts, but only if the appeal raises a question of law or if material circumstances raise a reasonable doubt regarding conviction or sentencing – restrictions that the Malaysia Bar Council has claimed are excessive.[323]

Judicial independence may be compromised by executive interference. Three constitutional articles provide the basis for an independent judiciary; however, other constitutional provisions, legislation restricting judicial review, and executive influence over judicial appointments limit judicial independence and strengthened executive influence over the judiciary.[324] Malaysia's highest courts are partly influenced by political or religious affiliation that can lead to politically motivated outcomes.[325] According to Lawyers for Liberty, the former *Barisan Nasional* government was guilty of 'concerted attempts to politicize the judiciary,' including forcing judicial officers to attend a political lecture in May 2017 'in flagrant breach of the doctrine of separation of powers and the concept of an independent judiciary.'[326] Members of the bar, NGO representatives and other observers have cited a number of high-profile instances of arbitrary verdicts, selective prosecution and preferential treatment of some litigants and lawyers,[327] such as the conviction of former deputy prime minister and opposition leader Anwar Ibrahim on charges of corruption and sodomy in 1999, 2000 and 2014.[328] The Prime Minister plays a key role in the appointment of members of the Judicial Appointments Commission – the body which selects judges.[329]

Sharia law

Malaysia maintains a dual legal system with the coexistence of *Sharia* law alongside civil law. Malaysia's secular legal system is based on English common law.[330] Muslims are subject to *Sharia* (Islamic law), the interpretation of which varies regionally, and the Constitution's Article 121 stipulates that all matters related to Islam should be heard in *Sharia* courts.[331] Sharia courts have jurisdiction

[318] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 1e, p.8, 20190314091511
[319] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 1e, p.8, 20190314091511
[320] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 1e, p.8, 20190314091511
[321] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 1e, p.8, 20190314091511
[322] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 1e, p.8, 20190314091511
[323] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 1e, p.8, 20190314091511
[324] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 1e, p.7, 20190314091511;
BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.14, CIS7B83941547
[325] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 5.12, p.37, CIS7B839419347
[326] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 1e, p.7, 20190314091511
[327] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 1e, p.7, 20190314091511
[328] Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section F1, 20190402081615
[329] Malaysia: anti-corruption measures need strengthening, Transparency International, 28 July 2015, CXBD6A0DE18759
[330] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section F2, NGED867A631;
International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.5, OGD95BE927494
[331] Human Rights Watch World Report 2019, Human Rights Watch, 17 January 2019, section F2, 20190118091502;
International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.5, OGD95BE927494

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over Muslims in matters of family law and religious observance, but when the two legal systems intersect, civil courts typically cede to *Sharia* courts.[332] The dual legal system results in different treatment of Muslims and non-Muslims in 'moral' and family law cases.[333] *Sharia* courts are highly influential in general, because their decisions frequently involve conversions to Islam, which in turn affect such matters as child-custody, burial rites and inheritance.[334] Some penalties imposed by *Sharia* courts are limited by federal civil law.[335] In April 2018, a high court ruled that the *Ahmadi* community cannot be charged with offenses under the sharia law system anywhere in Malaysia.[336] Two states, Kelantan and Terengganu, have symbolically enacted *hudood* (Islamic penal law) for criminal offenses such as apostasy, slander, adultery, and alcohol consumption.[337] The conservative Pan Malaysian Islamic Party (PAS) has pushed for *hudood* penalties for various criminal offenses in the staunchly conservative northern states. However, the federal government has not shown willingness to amend the Constitution to allow for *hudood.*[338]

Also see 'State Islamic religious enforcement officers'

Corruption

High-level corruption is a significant problem in Malaysia. In July 2018, Prime Minister Mahathir commented that "[m]ost of the top echelon in the Government are corrupt".[339] Historically, high-level officeholders who break the law and engage in corruption are rarely prosecuted adequately.[340] However, at lower levels in the civil service, prosecution over corruption frequently occurs.[341] Institutional safeguards in Malaysia are weak and there is insufficient political will to substantially mitigate the problem.[342] Misuse of resources and favouritism are facilitated by the close nexus between political and economic elites, which blurs the distinction between public and private enterprises and creates opportunities for collusion and graft.[343] Transparency International's 2017 corruption index showed Malaysia fell seven places to 62nd globally.[344] In the following year, Transparency International's 2018 index saw Malaysia move up to 61st.[345] Journalists, activists and politicians who have reported or criticised high-level corruption have been harassed or prosecuted.[346]

The previous UMNO-dominated government used laws against internal and external opponents in relation to the 1Malaysia Development Berhad (1MDB) scandal. Former Prime Minister Najib Razak's mismanagement of and possible embezzlement from state development fund 1MDB has continued to be highly controversial domestically and internationally.[347] In an attempt to contain the fallout from 1MDB scandal, former Prime Minister Najib in 2015 replaced the attorney

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[332] United States Commission on International Religious Freedom Annual Report 2019, United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.213, 20190508143726
[333] Human Rights Watch World Report 2019, Human Rights Watch, 17 January 2019, section F2, 20190118091502
[334] BTI 2018 Country report Malaysia, Bertelsmann Stiftung, 22 March 2018, pp.7-8, CIS7B83941547
[335] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 5.3, p.35, CIS7B839419347
[336] World Report 2019, Human Rights Watch, 17 January 2018, p.369, 20190118091502
[337] United States Commission on International Religious Freedom Annual Report 2019, United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.214, 20190508143726;
BTI 2018 Country report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.8, CIS7B83941547
[338] United States Commission on International Religious Freedom Annual Report 2019, United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.214, 20190508143726
[339] I inherited a Malaysian government riddled with corruption PM Mahathir in CNN interview, The Straits Times, 27 July 2018, CXBB8A1DA32263
[340] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.13, CIS7B83941547
[341] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.13, CIS7B83941547
[342] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section C2, NGED867A631
[343] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section C2, NGED867A631
[344] Corruption Perceptions Index 2017, Transparency International, 21 February 2018, CIS7B83941307;
NOW offers to create Malaysia's own corruption index, Malaysiakini, 27 February 2018, CXBB8A1DA23044
[345] 'Malaysia moves one spot in latest corruption index', New Straits Times, 30 January 2019, 20190130152450
[346] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 4, p.22, 20190314091511
[347] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section C2, NGED867A631;
Malaysia sets up new task force over 1MDB scandal, Aljazeera, 21 May 2018, CXBB8A1DA27639;
Malaysia seeks to lay multiple charges against ex-premier Najib over 1MDB PM Mahathir, Reuters, 19 June 2018, CXBB8A1DA29663

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general and fired several cabinet members who had been critical of the scandal.[348] Najib promoted four members of a parliamentary committee investigating 1MDB to his cabinet, temporarily halting the committee's work.[349] In November 2016, a court found opposition politician Rafizi Ramli guilty of disclosing state secrets after he made public the Auditor General's report on the 1MDB scandal.[350] However following the *Pakatan Harapan* win in the 14th General Election, the 1MDB report was declassified, and subsequently the Court of Appeal let Rafizi Ramili off with a two-year good behaviour bond of RM10, 000.[351]

Anti-corruption mechanisms

Malaysian law provides criminal penalties for corruption, but enforcement is typically focused on low-level corruption. In the past**,** the *Barisan Nasional* government was only partly willing to contain corruption, and the few integrity mechanisms implemented were mostly ineffective.[352] Senior government officials who break the law and engage in corruption are rarely prosecuted adequately.[353] The law provides criminal penalties for corruption by officials however enforcement typically is focused on small scale and low-level crime.[354] Under the *Barisan Nasional* administration, former Prime Minister Najib weakened the state's anti-corruption mechanisms by removing the attorney general and manipulated the Malaysian Anti-Corruption Commission.[355] Furthermore, use of the *Official Secrets Act* (1972) shielded high level government officials from scrutiny.[356] These efforts were largely to fend off accountability over the 1MDB scandal for which Najib is currently facing criminal charges.[357]

The current administration has taken steps to combat corruption and prosecute high-level corruption in government. Shortly after losing the prime ministership, authorities confiscated large sums of cash and luxury items from the residences of former Prime Minister Najib and Najib has been charged over missing funds from the 1MDB fund.[358] Najib, his wife and several high-ranking officials of his former administration are facing dozens of criminal charges related to 1MDB and other government entities.[359] On 29 January 2019, the prime minister launched the National Anti-Corruption Plan (NACP) saying that the government will review how appointments to key government posts are made, introduce new laws on political funding, and will require politicians and high-ranking civil servants to declare their assets.[360] The NACP, developed by the National Centre for Governance, Integrity and Anti-Corruption, incorporates 115 initiatives which cover six sectors, namely politics, law enforcement, public procurement, legal and judiciary, public administration and corporate management.[361] Additionally, the government has established committees to investigate corruption

[348] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section C2, NGED867A631;
BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.10, CIS7B83941547
[349] Freedom in the World 2017 – Malaysia, Freedom House, 12 July 2017, section C, NG2A465F591
[350] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section B1, NGED867A631;
BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.13, CIS7B83941547
[351] Rafizi let off with good behaviour bond for OSA conviction, Malaysiakini, 1 June 2018, CXBB8A1DA28497
[352] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.32, CIS7B83941547
[353] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.13, CIS7B83941547
[354] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 4, p.22, 20190314091511
[355] Cleaning up corruption in Malaysia goes beyond Najib, Aljazeera, 23 May 2019, 20190607090851
[356] Critic of Najib Razak, Malaysian Leader, Gets Prison for 1MDB Disclosure, The New York Times, 14 November 2016, 20190607093144
[357] Cleaning up corruption in Malaysia goes beyond Najib, Aljazeera, 23 May 2019, 20190607090851
[358] Najib finished second round of questioning by anti-graft body, The Straits Times, 25 May 2018, CXBB8A1DA27951;
Former Malaysian PM Najib Razak interrogated by corruption commission as charges loom, ABC News (Australia), 23 May 2018, CXBB8A1DA27725;
Malaysia scrutiny of 'insolvent' 1MDB wealth fund intensifies as ex-PM Najib Razak is questioned again in corruption scandal, South China Morning Post, 24 May 2018, CXBB8A1DA27945;
Cash tally from condo raids More than $40m, Asia News Network, 24 May 2018, CXBB8A1DA27853;
Former Malaysian PM charged with money laundering, abuse of power, Reuters, 20 September 2018, CXBB8A1DA35852
[359] Malaysia unveils five-year plan to fight corruption, Aljazeera, 29 January 2019, 20190607095843
[360] 'Malaysia launches ambitious anti-corruption plan', The Straits Times, 29 January 2019, 20190130081803
[361] 'NACP launched, aims to tackle corruption for next five years', Malaysiakini, 29 January 2019, 20190130090502

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amongst state officials.[362] In March 2019, the Prime Minister proposed establishing a special court specifically to expedite corruption cases, however this is yet to materialise.[363]

Crime

Malaysian authorities periodically crack-down on criminal gangs and crime syndicates. In August 2013, the RMP launched Ops Cantas Khas, focusing on weapons seizures and targeting gang members, leaders and their assets.[364] Police claimed that they had identified 49 illegal gangs nationwide with 40,000 members – 70 per cent of whom were ethnic Indian[365] – who are linked to armed robberies, drug and prostitution rings, loan-sharking, gambling, and extortion and contract killings.[366] Authorities claim that the crackdown has led to a reduction in crime.[367] A second stage of the campaign – Op Cantas Khas 2 – was launched in August 2016.[368] In January 2018 a nationwide operation known as Operation Cantas Silver resulted in the arrest of 36 suspected members of Gang 04 who are allegedly involved in violent crimes including robbery, extortion, arson and drug trafficking.[369] Recently, Gang 360 Devan members previously charged under section 130 V of the Penal Code have had their charged downgraded to Section 43 of the *Societies Act* (1966) that carries a more lenient sentence.[370]

Loan sharks

Malaysian police both respond to victim reports of threats and harassment from illegal moneylenders and conduct operations against illegal money lending syndicates, both of which often lead to prosecution of illegal moneylenders and their employees under the *Moneylenders Act* 1951. Illegal money lending is an offence under Malaysian law, and section 5(2) of the *Moneylenders Act* (1951) carries a fine of RM20, 000 not exceeding RM100, 000, or imprisonment not exceeding five years, or both for unlicensed moneylending.[371] Section 29AA of the *Moneylenders Act* (1951) carries a fine not exceeding RM20, 000, imprisonment for up to two years, or both for any person who assists an unlicensed moneylender.[372] Section 29B(1) of the *Moneylenders* Act (1951) carries a fine of up to RM200,000 or imprisonment of up to three years, or both for harassment or intimidation of a borrower, a borrower's family or their associates.[373] During recent years, police have responded to complaints of harassment and intimidation by illegal moneylenders and have conducted numerous operations targeting illegal moneylending operations, resulting in the prosecution of persons under the *Moneylenders Act* (1951).[374] In December 2017, Malaysia's central bank cautioned the public about illegal money lending activities conducted by companies using fake licences

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[362] Cleaning up corruption in Malaysia goes beyond Najib, Aljazeera, 23 May 2019, 20190607090851
[363] Establishment of Special Corruption Courts is a Step Forward Towards Stamping Out Corruption, The Malaysian Bar, 21 March 2019, 20190605121213
[364] Cops deal crime a crippling blow since Ops Cantas Khas launch, The Star Online, 23 September 2013, CXC28129414715
[365] Malaysia's gang menace, Aljazeera, 11 July 2014, CX1B9ECAB10299
[366] Malaysia's gang menace, Aljazeera, 11 July 2014, CX1B9ECAB10299
[367] 79,414 individuals detained throughout 'Ops Cantas Khas', Bernama, 10 June 2014, CX1B9ECAB11435
[368] Op Cantas crackdown on triads: 1,444 arrested, Astro Awani, 13 August 2016, CX6A26A6E8262
[369] 36 suspected underworld gang members arrested in Malaysia, Bernama, 20 February 2018, CXBB8A1DA22559
[370] 57 go on trial in Kajang Prison for alleged links to Gang 360 Devan, Bernama, 6 September 2018, CXBB8A1DA34959
[371] Moneylenders Act 1951 (Malaysia), amended 15 April 2011, Attorney General's Chambers of Malaysia, section 5(2), CISEC96CF110366
[372] Moneylenders Act 1951 (Malaysia), amended 15 April 2011, Attorney General's Chambers of Malaysia, section 29AA, CISEC96CF110366
[373] Moneylenders Act 1951 (Malaysia), amended 15 April 2011, Attorney General's Chambers of Malaysia, section 29B(1), CISEC96CF110366
[374] Unlicensed money lenders claim trial for harassing, threatening borrowers, New Straits Times, 6 September 2018, CXBB8A1DA37862;
Malaysian man unwittingly borrows money from loan sharks so son could have 'dream wedding', Asia News Network, 19 April 2018, CXBB8A1DA37866;
Police detain 35 in action against illegal money-lending, Bernama, 25 August 2017, CXC90406624824;
Four loan shark operations busted with arrest of 29 people, The Star Online, 4 August 2017, CXC90406611700;
Loan shark ring busted, 31 nabbed in nationwide raids, The Sun Daily, 18 April 2017, CXC9040665990;
Rich loan sharks nabbed, The Star Online, 13 January 2017, CXC904066329;
26 loan sharks nabbed, RM2m seized, Daily Express, 13 January 2017, CXC904066572;
4 loan sharks fined RM8,000 each for red paint splashed on debtor home, Bernama, 5 November 2016, CX6A26A6E12449

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purportedly issued by the central bank, advising the public to report such instances to the police for investigation.[375] A non-governmental organisation, the Malaysian Muslim Consumers Association (PPIM), offers support for those encountering problems with loan sharks.[376]

Death penalty

A moratorium on executions is in place. Malaysia announced a moratorium on executions in July 2018.[377] According to the Malaysian government, as of 29 October 2018, there are 1,281 death row inmates among 65,222 prisoners.[378] Of the 1,279 on death row, 932 were sentenced to death under section 39B of the *Dangerous Drugs Act* (1952), while 317 people were convicted of murder.[379] Amnesty International reports there are 1,275 people known to be under sentence of death at the end of 2018.[380] There were four executions by hanging during 2017.[381] There were no executions reported in Malaysia during 2018 but 190 recorded death sentences, a significantly higher number of death sentences were imposed in 2018 compared to previous years.[382] One hundred and ninety death sentences handed-down during 2018 relate to 136 (72%) for drug-related offences, 48 (25%) for murder, 3 (2%) for firearms offences and 3 (2%) for kidnapping and murder.[383] Foreign nationals were involved in 60 (32%) of these cases, including 51 (38%) of the drug-related cases and 9 (19%) of the murder cases.[384] People sentenced to death by the High Court have an automatic right to judicial review of their sentence by the Court of Appeal and the Federal Court, and are also able to seek clemency from the relevant state ruler or the King.[385] Prisoners typically languish on death row for years and there is no established procedure for notifying families of scheduled executions.[386]

Malaysia introduced legislation that removes the mandatory death sentence for some offenses, including some drug-related offenses. In November 2017 (effective March 2018), parliament passed the *Dangerous Drugs (Amendment) Act* (2017) to remove the mandatory death sentence for drug-related offences by giving judges the discretion to punish drug offenders with either life imprisonment or hanging.[387] However, judicial discretion is limited only to certain circumstances under specified in section 39B (2A) of the Act;[388] namely where the accused is merely a drug mule and has assisted law enforcement in disrupting drug trafficking activities.[389] The amendment does not

[375] BNM warns of illegal money lenders, Bernama, 6 December 2017, CXC90406624823
[376] For Malaysia's sake, consumers group seeks to save civil servants trapped in debt, Malay Mail Online, 3 August 2017, CXC90406624589;
Loan sharks sharpen their bite, The Star Online, 20 January 2018, CXBB8A1DA22631;
More than 10,000 people sought PPIM's help over Ah Long cases, Bernama, 18 October 2016, CX6A26A6E31142;
PPIM urges govt to put an end to 'ah long' posters, Bernama, 6 September 2018, CXBB8A1DA35970
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[378] Liew Govt committed to doing away with death penalty, Free Malaysia Today, 27 November 2018, CXBB8A1DA39510
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[380] Death Sentences and Executions 2018, Amnesty International, 10 April 2019, p.23, 20190411090834
[381] Malaysian Government's plans to abolish death penalty could save Sydney grandmother's life, Australian Broadcasting Corporation (ABC) News, 11 October 2018, CXBB8A1DA38223
[382] Death Sentences and Executions 2018, Amnesty International, 10 April 2019, p.23, 20190411090834
[383] Death Sentences and Executions 2018, Amnesty International, 10 April 2019, p.23, 20190411090834
[384] Death Sentences and Executions 2018, Amnesty International, 10 April 2019, p.23, 20190411090834
[385] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 4.10, p.32, CIS7B839419347
[386] Amnesty International Report 2016-2017, Amnesty International, 22 February 2017, p.243, NG2A465F54
[387] No more mandatory death sentence soon as amendments to Dangerous Drugs Act passed in Parliament, New Straits Times, 30 November 2017, CXC90406618546;
Group against death penalty warns amended Drug Act still has flaws, Malaymail Online, 15 March 2018, CXBB8A1DA23929;
Death Sentences and Executions 2018, Amnesty International, 10 April 2019, p.23, 20190411090834
[388] A Call to End the Mandatory Death Penalty in Malaysia, Union Internationale des Avocates (UIA), 20 February 2018, CXBB8A1DA22745
[389] Amnesty International Report 2017/18, Amnesty International, 22 February 2018, p.250, NGED867A612;
Death Sentences and Executions 2018, Amnesty International, 10 April 2019, p.23, 20190411090834;
Human Rights Watch World Report 2019, Human Rights Watch, 17 January 2019, p.367, 20190118091502

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apply in retrospect for previous convictions.[390] At least 10 individuals have received the mandatory death penalty for drug trafficking following the amendment coming into effect.[391]

Domestic violence/familial abuse

Family violence

Domestic violence remains prevalent in Malaysia, despite laws prohibiting it. Malaysian law prohibits domestic violence, including physical injury and mental, emotional and psychological abuse.[392] Rape is punishable by a maximum 20 years' imprisonment and caning.[393] However, marital rape is not considered rape under the country's penal code.[394] Domestic violence victims can obtain protection orders which attract a prison sentence of up to one year or a fine if breached.[395] Malaysia took a step forward in the protection of women's rights in 2017 by amending its domestic violence law through enhanced procedures including Emergency Protection Orders that can be applied immediately for up to a week and prevent a perpetrator from entering a safe location.[396] The amendment broadened the definition of domestic violence to include the misappropriation of property, threatening a victim, communicating with or about a victim in a way that insults their 'modesty', as well as also ensuring protection for male victims.[397] However, contradictions between civil and *Sharia* law still affect the level of protection available to victims.[398] Under *Sharia* law in many states, wives are prohibited from disobeying the 'lawful order' of their husbands, which can lead to ambiguous interpretations of the law.[399]

Government and non-government bodies provide shelter and wide-ranging assistance to victims of domestic violence, but these are often insufficient to meet the need. Almost every hospital in Malaysia has a crisis centre where victims of rape and domestic violence can make reports without going to a police station,[400] and which offer services such as examination by female doctors, evidence management, temporary shelter and legal assistance.[401] In 2011, UN Women reported that the One Stop Crisis Centre model was successful in combining clinical therapeutic responses with secondary preventive measures.[402] However, activists asserted that support mechanisms for victims

[390] Parliament removes mandatory death penalty for drug offences, judges to get discretion, Malaymail Online, 30 November 2017, CXC90406618547
[391] A Call to End the Mandatory Death Penalty in Malaysia, Union Internationale des Avocates (UIA), 20 February 2018, CXBB8A1DA22745
[392] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.105, p.25, CIS7B839419347
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[394] Penal Code, Government of Malaysia, enacted 1936, amended 1 September 2017, section 375A, CISEDB50AD9259; A brief history of marital rape — New Sin Yew, Malay Mail Online, 4 November 2018, CXBB8A1DA38587
[395] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.105, p.25, CIS7B839419347
[396] World Report 2018, Human Rights Watch, 18 January 2018, p.356, NGED867A63;
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[398] Domestic Violence, Women's Aid Organisation, n.d., accessed 16 August 2017, CISD9559B12503
[399] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.105, pp.25-26, CIS7B839419347
[400] One Stop Crisis Centre (OSCC), One Stop Crisis Centre (OSCC) website, 2017, CISEDB50AD5269;
Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 6, p.24, 2019031409151
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One Stop Crisis Centre (OSCC), One Stop Crisis Centre (OSCC) website, 2017, CISEDB50AD5269;
Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 6, p.24, 2019031409151
[402] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.109, p.26, CIS7B839419347

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of domestic violence are inadequate.[403] The RMP Criminal Investigation Division includes a Sexual Investigation Division.[404] The Ministry of Women, Family and Community Development organises legal literacy seminars designed to inform women of their rights in cases related to issues such as marital problems and divorce.[405]

Child marriage and sexual abuse

***Sharia* courts approve approximately 80 per cent of applications for marriages involving a female under the age of 16.** The minimum age of marriage is age 18 for men and age 16 for women.[406] Muslim women younger than age 16 may marry with the approval of a *Sharia* court.[407] In some cases authorities treat early marriage as a solution to statutory rape.[408] Child marriage is thus defined as marriage below the minimum legal age which requires the approval of a *Sharia* court judge for Muslims or the *Menteri Besar* / Chief Minister for non-Muslims.[409] In 2017, Teo Nie Cheng of the opposition Democratic Action Party unsuccessfully proposed an amendment to the Sexual Offences Against Children bill to include a ban on child marriage.[410] In Malaysia, there were 152,835 persons aged 15-19 in a marriage according to the 2010 Population and Housing Census.[411] One report indicates that between 2005 and 2015, 10,240 Muslims applied for child marriages while 7,719 non-Muslim men applied to marry a girl aged between 16 and 18 from 2000 to 2014.[412] Another report indicates that there are nearly 9,000 cases of child marriage between 2010 and 2015, consisting of 6,268 Muslim and 2,775 non-Muslim.[413] The approval rate of under 16 year old marriage by *Sharia* courts in 2015 was 81 per cent, in 2014 74 per cent, in 2012 87.7 per cent and in 2011 86.1 per cent, representing an approximately 80 per cent approval rate.[414] In July 2018, a 41-year-old Malaysian man married an 11-year-old Muslim girl in southern Thailand.[415] State-level authorities in Kelantan fined the man for getting married outside Malaysia, skirting local regulations.[416] The child was abruptly returned to Thailand and placed under the care of a local social welfare department, but it remains unclear if the marriage was ever annulled.[417] In a similar case, in September 2018, a 44-year-old man married a 15-year-old girl in Kota Bahru.[418] The girl's parents approved of the wedding and obtained the necessary permission from a local *Sharia* court.[419] The case generated significant international

[403] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 6, p.24, 2019031409151
[404] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.106, p.26, CIS7B839419347
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[408] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 6, p.26, 2019031409151
[409] Child Marriages in Malaysia: Reality, Resistance and Recourse, Penang Institute, 10 July 2017, CXC90406624846
[410] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.130, p.29, CIS7B839419347;
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[413] Child Marriages in Malaysia: Reality, Resistance and Recourse, Penang Institute, 10 July 2017, CXC90406624846
[414] Child Marriages in Malaysia Reality, Resistance and Recourse, Penang Institute, 10 July 2017, CXC90406624846
[415] United States Commission on International Religious Freedom Annual Report 2019, United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.214, 20190508143726
[416] United States Commission on International Religious Freedom Annual Report 2019, United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.214, 20190508143726
[417] United States Commission on International Religious Freedom Annual Report 2019, United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.214, 20190508143726
[418] United States Commission on International Religious Freedom Annual Report 2019, United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.214, 20190508143726
[419] United States Commission on International Religious Freedom Annual Report 2019, United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.214, 20190508143726

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attention and spurred further government scrutiny.[420] However, Deputy Prime Minister Wan Azizah Wan Ismail admitted there was little the Malaysian government could do because the marriage was approved by a *Sharia* court.[421]

Malaysian authorities have taken limited steps to regulate early marriages. Malaysia's parliament voted down an attempt to ban child marriage in April 2017.[422] In October 2018, Prime Minister Mahathir issued a directive instructing all state authorities to raise the minimum marriage age for Muslims to 18, but this gesture was largely symbolic as according to the Constitution, Islamic law falls under the jurisdiction of state-level muftis, and the federal government cannot enforce a legal minimum marriage age for Muslims.[423] However, the Selangor sultan correspondingly raised the legal Muslim marriage age to 18 in his state, but younger couples can still apply for marriage if they meet very strict guidelines.[424] Five other state governments agreed, at least in principle, that the minimum age should be raised to 18.[425]

Malaysian authorities have taken limited steps to curb the abuse of children. In April 2017 Malaysia's parliament passed a new child sex crimes law.[426] The *Sexual Offences against Children Act* (2017) criminalises 'grooming' of minors, includes penalties for making and possessing pornography involving people aged under 18, and involves the establishment of a special court to deal with child sexual abuse cases more quickly.[427] In 2017, the Special Court for Sexual Crimes against Children was established, the first of its kind in South-East Asia, along with a special court to hear human trafficking cases.[428] There are also specialised courts for children in Sarawak, Selangor and Johor.[429] On 12 November 2018, an arrest was made following three reports lodged against a man, making it Malaysia's first sexual grooming case.[430] Women's groups claim that on average ten women are raped each day and that more than half of these women are younger than 16 years old.[431]

Islamic Family Law stipulates that Muslim women may only marry with the consent of a male guardian, but using force or threat to compel a woman to marry or to reject a proposal can lead to a fine or imprisonment. Malaysia's *Law Reform (Marriage and Divorce) Act* (1976) states that all marriage must be based on mutual consent, and using force or threat to compel a woman to marry against her will or to prevent her from getting married is punishable with a fine or imprisonment.[432] Islamic Family Law stipulates that marriages are not fully recognised without the consent of the '*wali*',

[420] United States Commission on International Religious Freedom Annual Report 2019, United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.214, 20190508143726
[421] United States Commission on International Religious Freedom Annual Report 2019, United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.214, 20190508143726
[422] Malaysia passes child sex crimes law, does not ban child marriage, Reuters, 5 April 2017, CXC90406611583; Child Marriages in Malaysia Reality, Resistance and Recourse, Penang Institute, 10 July 2017, CXC90406624846
[423] United States Commission on International Religious Freedom Annual Report 2019, United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.214, 20190508143726
[424] United States Commission on International Religious Freedom Annual Report 2019, United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.214, 20190508143726
[425] United States Commission on International Religious Freedom Annual Report 2019, United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.214, 20190508143726
[426] Malaysia passes child sex crimes law, does not ban child marriage, Reuters, 5 April 2017, CXC90406611583; Child Marriages in Malaysia Reality, Resistance and Recourse, Penang Institute, 10 July 2017, CXC90406624846
[427] Malaysia passes child sex crimes law, does not ban child marriage, Reuters, 5 April 2017, CXC90406611583; Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 6, p.26, 2019031409151
[428] Report of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material on her visit to Malaysia, United Nations Human Rights Council, 17 January 2019, p.9, 20190325141806
[429] Report of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material on her visit to Malaysia, United Nations Human Rights Council, 17 January 2019, p.9, 20190325141806
[430] Alleged paedophile arrested in 'first sexual grooming case in Malaysia', Asia News Network, 13 November 2018, CXBB8A1DA38556
[431] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.106, p.26, CIS7B839419347
[432] Social Institutions and Gender Index 2014 – Malaysia, Organisation for Economic Co-operation and Development, 2014, p.1, CISEDB50AD5657

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the woman's guardian.[433] A *wali* or a guardian such as the father is required in Islam to give away a woman for marriage and to solemnise the marriage.[434]

Female genital circumcision

Female circumcision is considered an Islamic cultural practice and is widely practiced across Malaysia despite international criticism of the practice. Malaysia's National Council of Islamic Religious Affairs issued a *fatwa* in 2009 that ruled female circumcision obligatory for Muslim women unless found to be physically harmful.[435] Female circumcision is often performed during infancy and a 2012 study found that 93 per cent of Muslim women respondents had undergone the practice.[436] The law does not prohibit female genital circumcision and it is a common practice, but data on it was very limited.[437] In February 2018, representatives from Muslim-majority countries such as Bangladesh and Egypt criticised the practice as un-Islamic at the Constructive Dialogue session of the 69th session of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).[438] At Malaysia's Universal Periodic Review on human rights on 8 November 2018, a representative of the Women, Family and Community Development Ministry defended the on-going practice of the circumcision of female infants in the country as a "cultural obligation".[439] The Malaysian government's stance was reaffirmed by the Deputy Prime Minister and Women, Family and Community Development Minister, Datuk Seri Dr Wan Azizah Wan Ismail, who later said that female circumcision in Malaysia is a cultural practice and unlike female genital mutilation that is practiced in Africa.[440] International NGOs based in Malaysia continue to advocate for ending the practice.[441]

[433] Social Institutions and Gender Index 2014 – Malaysia, Organisation for Economic Co-operation and Development, 2014, CISEDB50AD5657, p.1
[434] Lawyer: Couple not trying to legitimise illegitimate child, just removing 'bin Abdullah' stigma, Malay Mail Online, 8 February, CXBB8A1DA38635
[435] Malaysia Still on the Wrong Path on Women's Rights, The Diplomat, 26 February 2018, CXBB8A1DA23247
[436] Malaysia Still on the Wrong Path on Women's Rights, The Diplomat, 26 February 2018, CXBB8A1DA23247; Female circumcision Culture and religion in Malaysia see millions of girls undergo cut, Australian Broadcasting Corporation (News), 13 November 2018, CXBB8A1DA38323
[437] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 6, p.24, 2019031409151
[438] Malaysia urged to abolish female genital mutilation, The Star Online, 22 February 2018, CXBB8A1DA2276
[439] Women's ministry defends infant female circumcision at UN human rights review, Malaysiakini, 9 November 2018, CXBB8A1DA38229
[440] DPM maintains that female circumcision is part of Malaysian culture, The Star Online, 15 November 2018, CXBB8A1DA38729
[441] Malaysia-based NGO help form Asia-Pacific network to end female genital mutilation, Malay Mail Online, 3 June 2019, 20190605100553

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Common Claims

Malaysia

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Ethnicity

Ethnic demographics

Malays are the dominant ethnic group in Malaysia. Along with a small number of other indigenous groups (including *Orang Asli, Dayak, Anak Negeri*), *Bumiputera* comprise 61.7 per cent of the country's population.[1] Chinese (20.8 per cent) and Indians (6.2 per cent) are the other major ethnic groups in Malaysia.[2] It is estimated that 80 per cent of the Indian population are Tamil.[3] Although the Malaysian Constitution forbids discrimination against citizens on the basis of gender, religion and race, it accords a special position for *Bumiputera*, in effect permitting affirmative action policies that are widely considered to be discriminatory against other ethnic groups.[4] Chinese are the country's highest median income earners, while Indians and *Bumiputera* are the lowest median income earners – both below the national median.[5]

Ethnic Malays – *Bumiputera*

Ethnic Malays (*Bumiputera*), who are constitutionally defined as Muslim, comprise more than half the country's population and benefit from affirmative action policies not afforded to other ethnic groups. Following May 1969 race riots, the government passed legislation aimed to ensure Malay political supremacy, and in 1971 promulgated the New Economic Policy that provided extensive benefits to the *Bumiputera* community.[6] These special privileges are allocated strictly on the basis of ethnicity, and by extension, adherence to Islam.[7] Although the New Economic Policy officially ended in 1991, economic policies since have changed little in character and continue to include special rights for the *Bumiputera* while at the same time promoting rapid economic growth to ensure that all ethnic groups benefit economically.[8] The government limits opportunities for non-*Bumiputera* in higher education and government employment.[9] Many industries are subject to race-based requirements that mandate *Bumiputera* ownership levels.[10] Government procurement and licensing policies favour *Bumiputera*-owned businesses.[11] Although these policies are somewhat controversial, Malays have been reluctant to give up their preferential status, resulting in a mostly unspoken social contract in which non-Malays enjoy the benefits of Malaysian citizenship, but must also accept second-class status in Malaysian society.[12] In July 2018, the Malaysian government indicated that it

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[1] The World Factbook Malaysia, Central Intelligence Agency, 23 October 2018, CIS7B8394110022
[2] The World Factbook Malaysia, Central Intelligence Agency, 23 October 2018, CIS7B8394110022
[3] World Directory of Minorities and Indigenous Peoples - Malaysia Indians, Minority Rights Group International, January 2018, CIS7B83941338
[4] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 2.22, p.8, CIS7B839419347
[5] Malaysian Indian Blueprint, Prime Minister's Office, 21 April 2017, pp.8-9, CISEDB50AD7705
[6] BTI 2018 Country report Malaysia, Bertelsmann Stiftung, 22 March 2018, pp.4-5, CIS7B83941547
[7] United States Commission on International Religious Freedom Annual Report 2019, United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.210, 20190508143726
[8] BTI 2018 Country report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.5 and p.31, CIS7B83941547
[9] World Directory of Minorities and Indigenous Peoples - Malaysia Indians, Minority Rights Group International, January 2018, CIS7B83941338;
World Directory of Minorities and Indigenous Peoples - Malaysia: Chinese, Minority Rights Group International, January 2018, CIS7B83941344;
Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 6, p.28, 20190314091511;
Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, sections F4, G1, 20190402081615
[10] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 6, p.28, 20190314091511;
Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section F4, 20190402081615;
Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 6, p.28, 20190314091511
[11] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 6, p.28, 20190314091511
[12] United States Commission on International Religious Freedom Annual Report 2019, United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.212, 20190508143726

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would review the New Economic Policy to align economic policies with need instead of race.[13] However, in October 2018, Prime Minister Mahathir publicly asserted these policies were still necessary to bridge the economic gap between Malays and non-Malays and would remain in place for the foreseeable future.[14] Then in November 2018, the government stated that it would not ratify the International Convention on the Elimination of All Forms of Racial Discrimination, following opposition and criticism that ratifying the convention would weaken the rights of *Bumiputera*, Malay royals, and dilute Islam's position in Malaysia.[15]

Chinese

Chinese Malaysians are represented in government and generally do not experience discrimination or violence on a daily basis, but may face low-levels of official discrimination when attempting to gain entry to tertiary education. The Malaysian Chinese Association, part of the *Barisan National* (BN) coalition, has traditionally been the largest Chinese political party.[16] However, an increasing number of Chinese support the Democratic Action Party (DAP), one of three opposition parties of the *Pakatan Harapan* coalition.[17] Lim Guan Eng, an ethnic Chinese, was appointed as finance minister following May 2018 elections.[18] There are no laws or constitutional provisions that directly discriminate against Chinese Malaysians.[19] However, non-*Bumiputera* communities experience systematic discrimination in the distribution of state benefits.[20] Chinese are able to access public education but increasingly attend one of the 1,295 Chinese schools due to concerns about the quality of education and perceptions that the public curriculum has a strong focus on Islam.[21] Despite the removal of government-sanctioned ethnic quotas for public universities in 2002, Malaysia's admission decisions favour ethnic Malays and some ethnic Chinese miss out on a university place despite having high marks.[22] Chinese form the bulk of students at Malaysia's non-government universities.[23]

Indians

Indian Malaysians generally do not experience discrimination or violence on a daily basis but may face low levels of discrimination when attempting to gain entry to tertiary education. There are no laws or constitutional provisions that directly discriminate against Indian Malaysians.[24] However, non-*Bumiputera* communities experience systematic discrimination in the distribution of state benefits.[25] Indians are able to access public education, with 524 state-based Tamil-language schools across Malaysia.[26] However, access to state-based tertiary education remains low, with

[13] Malaysia to train Bumiputera to be more competitive rather than spoon-feed them Mahathir, The Straits Times, 1 September 2018, CXBB8A1DA34636
[14] United States Commission on International Religious Freedom Annual Report 2019, United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.212, 20190508143726
[15] Malaysia not ratifying UN human rights treaty, The Straits Times, 24 November 2018, CXBB8A1DA39228
[16] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.6, p.11, CIS7B839419347
[17] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.6, p.11, CIS7B839419347
[18] Malaysia's ruling party may be gone, but its racial policies survive, The Economist, 7 June 2018, CXBB8A1DA28917; The shape of things to come under Mahathir 2.0, Asia Times, 13 May 2018, CXBB8A1DA27542
[19] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.4, p.10, CIS7B839419347
[20] BTI 2018 Country report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.7, p.24, CIS7B83941547
[21] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.8, p.11, CIS7B839419347
[22] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.8, p.11, CIS7B839419347
[23] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.8, p.11, CIS7B839419347
[24] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.11, p.11, CIS7B839419347
[25] BTI 2018 Country report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.7, CIS7B83941547
[26] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.11, p.12, CIS7B839419347

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approximately six per cent of student places at public universities offered to Indian applicants.[27]

Since 2009 the government has mandated initiatives aimed to improve the socio-economic position of Indian Malaysians. In recent years, the government has focused socio-economic policies on helping the lower economic percentile of the Indian community (estate Indians) to attain better education outcomes,[28] resulting in spending allocations exceeding RM1 billion for Tamil schools.[29] In 2017, the government published its 10 year Malaysian Indian Blueprint that outlines policies and mechanisms that have been implemented since 2009 which aim to lift the socio-economic position of Malaysian Indians.[30]

Indian Malaysians participate extensively in political life but the predominant use of the Malay language can be a barrier to Indian employment in the civil service. Indian Malaysians participate freely in political life and the Malaysian Indian Congress forms part of the BN coalition.[31] In recent years, there have been several ethnic Indian members of parliament including ministers and a president of the upper house.[32] In June 2018, the Mahathir government appointed an ethnic Indian Christian, Tommy Thomas, as Attorney General.[33] The predominant use of the Malay language can be a barrier to Indian Malaysian employment in the civil service.[34] More than 50 per cent of Indian Malaysians are employed in low-income jobs but also represent a high proportion of professionals, including 38 per cent of the country's medical workforce.[35] In 2015, an Indian Malaysian was appointed as Chief of Police in Kuala Lumpur, the first non-Malay to hold this position.[36]

Religion

Islam is the dominant religion in Malaysia. Census figures from 2010 indicate that 61.3 per cent of the population practices Islam.[37] Significant religious minorities are Buddhists (19.8 per cent), Christians (9.2 per cent), Hindus (6.3 per cent) and Confucianists, Taoists and other traditional Chinese philosophies and religions (1.3 per cent).[38] The government automatically classes individuals born in Malaysia of Malay ethnicity as Muslim.[39] Rural areas – especially on the east coast of Peninsular Malaysia – are predominately Muslim, while the states of Sabah and Sarawak on the island of Borneo have higher numbers of non-Muslims.[40] A Muslim's status is recorded on their birth certificate and on their national identification card.[41] National identification cards do not distinguish

[27] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.11, p.12, CIS7B839419347
[28] Malaysia Indian Blueprint, Prime Minister's Office, 21 April 2017, CISEDB50AD7705
[29] I'm committed to transforming Indian community, says Najib, The Malaysian Insight, 3 December 2017, CXC90406618619
[30] Malaysia Indian Blueprint, Prime Minister's Office, 21 April 2017, CISEDB50AD7705
[31] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.16, p.12, CIS7B839419347
[32] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.16, p.12, CIS7B839419347
[33] The changing face of Malaysian justice, The changing face of Malaysian justice, Asia Times, 6 June 2018, CXBB8A1DA28835;
Malaysia's ruling party may be gone, but its racial policies survive, The Economist, 7 June 2018, CXBB8A1DA28917
[34] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.12, pp.11-12, CIS7B839419347
[35] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.12, pp.11-12, CIS7B839419347
[36] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.12, p.12, CIS7B839419347
[37] 2018 Report on International Religious Freedom: Malaysia , US Department of State, 21 June 2019, section I, p.2, 20190625160543section I, p.2,
[38] 2018 Report on International Religious Freedom: Malaysia , US Department of State, 21 June 2019, section I, p.2, 20190625160543
[39] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.27, p.14, CIS7B839419347 section 3.27, p.14
[40] 2018 Report on International Religious Freedom: Malaysia , US Department of State, 21 June 2019, section I, pp.2-3, 20190625160543
[41] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.27, p.14, CIS7B839419347

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between *Sunni* and *Shia* Muslims, instead the cards identify Muslims on their surface, but record other religious affiliation in encrypted form on a smart chip.[42] Following 2018 14th General Elections, the new prime minister ordered a review of Malaysia's institution tasked with promoting Islam, the Islamic Development Department (JAKIM) that would include how Islam is portrayed in society and its budget.[43]

Religious freedom

Religious authorities enforce a 1996 *fatwa* that declares non-*Sunni* Islamic teachings 'deviant'. Article 3 of the Constitution established Islam as the religion of the federation but does not specify further details, including an official denomination or school of jurisprudence.[44] However, a 1996 *fatwa*, supported by state laws, requires the country to follow only *Sunni* teachings of the *Shafi'i* school and prohibits Muslims from possessing, publishing, or distributing material contrary to those teachings.[45] The federal Department of Development of Islam (JAKIM) implements established federal guidelines concerning what constitutes 'deviant' Islamic behaviour or belief and state religious authorities generally follow these guidelines.[46] Those differing from the *Sunni* doctrine face adverse consequences from religious authorities including mandatory 'rehabilitation' of approximately six months in centres that teach and enforce government-approved Islamic practices.[47] Under *Sharia* law individuals convicted of 'deviant' religious activity can face up to three years prison or a 5,000 ringgit fine for 'insulting' Islam.[48] The federal and state governments consider 'deviant' Islamic groups to include the like of *Shia, Ahmadiyya, Baha'i* and *Al-Arqam*.[49] The Constitution grants state and federal government officials the authority to forbid proselytising to *Sunni* Muslims but *Sunni* Muslims are free to proselytise unimpeded.[50] Members of all minority faiths are allowed to proselytise amongst their minority communities.[51]

Also see 'Christians' and 'Buddhists and Hindus'

Religious adherence

Apostasy is a crime under *Sharia* law in five Malaysian states, but no *Sharia* court has ever prosecuted anyone for leaving Islam, or attempting to do so. Individuals born in Malaysia of Malay ethnicity are automatically classed as Muslim.[52] Muslims who wish to convert to another religion must obtain approval from a *Sharia* court to declare themselves apostates.[53] In practice, those

[42] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.27, p.14, CIS7B839419347
[43] Malaysia's most powerful Islamic body faces scrutiny, The Straits Times, 18 June 2018, CXBB8A1DA29463
[44] Constitution does not specify Islam as exclusively Sunni and Shafie, Suhakam rep says, Malay Mail, 12 September 2019, 20191004092129;
Federal Constitution, Government of Malaysia, introduced 31 August 1957, amended 27 December 2007, reprinted 1 November 2010, The Commissioner of Law Revision, Article 3, CISDCDCAAB1747
[45] 2018 Report on International Religious Freedom: Malaysia , US Department of State, 21 June 2019, section II, p.4, 20190625160543
[46] 2018 Report on International Religious Freedom: Malaysia , US Department of State, 21 June 2019, section II, p.9, 20190625160543
[47] 2018 Report on International Religious Freedom: Malaysia , US Department of State, 21 June 2019, section II, p.9, 20190625160543
[48] 2018 Report on International Religious Freedom: Malaysia , US Department of State, 21 June 2019, section II, p.4, 20190625160543
[49] 2018 Report on International Religious Freedom: Malaysia , US Department of State, 21 June 2019, section II, p.12, 20190625160543;
United States Commission on International Religious Freedom Annual Report 2019, United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.211, 20190508143726
[50] United States Commission on International Religious Freedom Annual Report 2019, United States Commission on International Religious Freedom (USCIRF), 29 April 2019, pp.211-212, 20190508143726
[51] United States Commission on International Religious Freedom Annual Report 2019, United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.211, 20190508143726
[52] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.27, p.14, CIS7B839419347
[53] United States Commission on International Religious Freedom Annual Report 2019, United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.213, 20190508143726;

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born Muslim are not permitted to convert out of Islam by a *Sharia* court.[54] *Sharia* courts have been known to impose penalties on Muslims who request permission to convert out of Islam, and have sometimes detained those who persistently try in so-called "rehabilitation" camps for attempting to leave Islam.[55] Only one (Negeri Sembilan) of Malaysia's thirteen states has a legal procedure that allows a non-Malay Muslim to legally 'leave Islam'.[56] *Sharia* courts show reluctance to allow for conversion out of Islam of those who had previously converted to Islam.[57] Apostasy from Islam is a criminal offence in Perak, Melaka, Sabah, and Pahang, punishable by a fine or jail, or up to six strokes of the cane in Pahang.[58] The maximum penalty for apostasy in the states of Kelantan and Terengganu is death.[59] However, these laws have not been enforced, and their legal status remains untested.[60] Furthermore, there has not been a case when a *Sharia* court chief prosecutor has initiated criminal proceedings for apostasy or attempted apostasy against an individual seeking to officially change their religious status.[61] The *Sharia* Judiciary Department Malaysia (JKSM) acknowledged that its records show that no Malay Muslim has ever applied to change their religious status.[62]

***Sharia* courts occasionally grant permission to convert out of Islam to individuals who were not born Muslim but converted to Islam during their life and then later seek reversion.** Muslims who wish to convert to another religion must obtain approval from a *Sharia* court.[63] In practice, only those not born Muslim are granted permission to convert out of Islam by a *Sharia* court.[64] In a ten year period between 2000 and 2010 only 168 of 800 Muslims who attempted to convert out of Islam were given permission by *Sharia* courts, and these were all reversion cases.[65] It was reported in 2017 that there were 400 cases of Muslims appealing to *Sharia* courts to convert to another religion.[66] Only a *Sharia* court can provide a court order/letter of release from Islam that can be used to amend a person's religion on his/her identity card.[67] Malaysians who have successfully converted to another religion have at times reported difficulty changing this field to reflect their current beliefs.[68]

Atheism is not illegal in Malaysia. In November 2017, the government stated that atheism was unconstitutional.[69] However, the Constitution provides for freedom of religion that includes the right

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2018 Report on International Religious Freedom: Malaysia , US Department of State, 21 June 2019, section II, p.4, 20190625160543

[54] United States Commission on International Religious Freedom Annual Report 2019, United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.213, 20190508143726;
2018 Report on International Religious Freedom: Malaysia , US Department of State, 21 June 2019, section II, p.4, 20190625160543

[55] United States Commission on International Religious Freedom Annual Report 2019, United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.213, 20190508143726

[56] Negotiating Apostasy: Applying to "Leave Islam" in Malaysia, University of Salford Manchester, April 2014, Samuri, M A A, Quraishi, M M, p.2, pp.4-8, CISEFCB23F7623

[57] 2018 Report on International Religious Freedom: Malaysia , US Department of State, 21 June 2019, section II, p.4, 20190625160543

[58] 2018 Report on International Religious Freedom: Malaysia , US Department of State, 21 June 2019, section II, p.4, 20190625160543

[59] 2018 Report on International Religious Freedom: Malaysia , US Department of State, 21 June 2019, section II, p.4, 20190625160543

[60] 2018 Report on International Religious Freedom: Malaysia , US Department of State, 21 June 2019, section II, p.4, 20190625160543

[61] Path to leave Islam simple, but far from easy, Malay Mail, 12 July 2014, CX1B9ECAB12845

[62] Path to leave Islam simple, but far from easy, Malay Mail, 12 July 2014, CX1B9ECAB12845

[63] 2018 Report on International Religious Freedom: Malaysia , US Department of State, 21 June 2019, section II, p.4, 20190625160543

[64] 2018 Report on International Religious Freedom: Malaysia , US Department of State, 21 June 2019, section II, p.4, 20190625160543

[65] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.60, p.18, CIS7B839419347

[66] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section III, p.14, OGD95BE927494

[67] Sarawak Shariah Court can hear apostasy cases, rules apex court, Bernama, 27 February 2018, CXBB8A1DA23564

[68] United States Commission on International Religious Freedom Annual Report 2019, United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.214, 20190508143726

[69] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.8, OGD95BE927494

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not to practice a religion.[70] A Muslim wishing to officially become atheist would first need to obtain a certificate from a *Sharia* court to convert out of Islam.[71] In August 2017 two senior ministers in the Malaysian government generated controversy after they called for an investigation after members of the Malaysian chapter of the Atheist Republic posted a photo of their initial gathering on Facebook.[72] The deputy minister in charge of religious affairs said that the government needed to determine whether any Muslims were in the Atheist Republic photo and suggested using the "soft" approach by sending them for counselling.[73] The other minister from the Prime Minister's Department said that "we have to bring them back to the right path".[74]

It is possible for an individual to live an atheist life in Malaysia. Population and Housing Census figures from 2010 suggested there were about 300,000 Malaysians who followed non-religious belief systems or did not believe in God.[75] Malaysian Muslims are generally not prosecuted for disbelief.[76] Some atheists maintain a low-profile in society and are known to socialise with likeminded people,[77] whereas other Muslims make no attempt to hide their atheism from society.[78] A range of atheist-focused organisations, Facebook pages, Twitter accounts and websites – some of which are no longer active – have been set up in recent years with the aim of allowing people who do not believe in God to come together.[79]

Religious discrimination

The government may prevent some religious groups from registering as a charity. Although there is no legal requirement for non-Muslim religious groups to register, those wishing to be approved as a non-profit charitable organisation must register with the Registrar of Societies. [80] Many churches and NGOs confront difficulties registering with the Registrar of Societies .[81] In cases where the government refuses to register a religious group, the group can register as a company.[82] Religious groups that have resorted to registering as a company rather than a charitable organisation include Jehovah's Witnesses and The Church of Jesus Christ of Latter-day Saints.[83]

Malaysia's state government authorities may restrict the construction of official places of worship for some non-Islamic religious groups. Non-Muslim groups have reported some difficulties in obtaining permission from local authorities to build new places of worship, causing groups to use buildings zoned for residential or commercial use for religious services.[84] In March 2017, the state government of Penang announced that 32 plots of state land would be made available to non-Muslim religious groups to build churches and temples after groups complained about the lack

[70] Lawyers: Being atheist, promoting atheism protected by Constitution, Malaymail Online, 25 November 2017, CXC90406620451
[71] Atheism is not unconstitutional, legal minds tell deputy minister, Free Malaysia Today, 24 November 2017, CXC90406620452;
2018 Report on International Religious Freedom: Malaysia , US Department of State, 21 June 2019, section II, p.4, 20190625160543
[72] Intolerance Rising: Atheists at Risk in Malaysia, The Diplomat, 22 August 2017, CXC90406612572
[73] Malaysia probes atheist group after uproar over Muslim apostates, Reuters, 7 August 2017, CXC90406620455
[74] Atheist Republic members need to be tracked down, says Malaysian Cabinet minister, The Straits Times, 8 August 2017, CXC90406620454
[75] Are Malaysia's atheists an endangered species or quietly burgeoning?, Malaysiakini, 13 July 2016, CX6A26A6E16914
[76] Intolerance Rising: Atheists at Risk in Malaysia, The Diplomat, 22 August 2017, CXC90406612572
[77] Intolerance Rising: Atheists at Risk in Malaysia, The Diplomat, 22 August 2017, CXC90406612572
[78] Moderation under threat as Malaysia faces Islamic tide, The Australian, 17 August 2017, CXC90406620453
[79] Are Malaysia's atheists an endangered species or quietly burgeoning?, Malaysiakini, 13 July 2016, CX6A26A6E16914
[80] 2018 Report on International Religious Freedom: Malaysia , US Department of State, 21 June 2019, section II, p.5 & 12, 20190625160543
[81] 2018 Report on International Religious Freedom: Malaysia , US Department of State, 21 June 2019, section II, p.12, 20190625160543
[82] 2018 Report on International Religious Freedom: Malaysia , US Department of State, 21 June 2019, section II, p.12, 20190625160543
[83] 2018 Report on International Religious Freedom: Malaysia , US Department of State, 21 June 2019, section II, p.12, 20190625160543
[84] 2018 Report on International Religious Freedom: Malaysia , US Department of State, 21 June 2019, section II, p.13, 20190625160543

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of suitable places to construct houses of worship.[85] In December 2018, the Minister for Housing and Local Government said that the government was preparing to register all existing houses of worship and their location.[86] However, the minister said houses of worship located on land not belonging to the worship group would need to move.[87] In 2018, the government did not specifically allocate funds for non-Muslim religious groups, but some religious groups received sporadic funding for temple and church buildings and other activities.[88]

Ahmadi Muslims

***Ahmadi* Muslims are generally able to worship within the confines of their own worship centres.** In July 2018, the High Court in Selangor state ruled that religious authorities do not have jurisdiction over the *Ahmadi* community because they are not recognised as Muslims.[89] State religious authorities appealed the decision.[90] *Ahmadi* community leaders expressed optimism about the ruling, viewing the ruling a form of protection of their freedom to worship without harassment by state Islamic authorities.[91] *Ahmadi* Muslims have reported generally being able to maintain a worship centre but government religious authorities forbid them from holding Friday prayers stating that they could only be performed in an officially registered mosque.[92] During the past several years, local government authorities have permitted billboards stating that "*Ahmadis* are not Muslims" to be placed outside the *Ahmadi* Muslim headquarters.[93] US Embassy officials who spoke with members of the *Ahmadi* community detailed heavy government restrictions on their religious activities and continued societal discrimination.[94]

Shia Muslims

***Shia* Islam is considered a deviant form of Islam and is prohibited under Malaysian law.** Eleven out of fourteen states ban *Shia* Islam, and a *Shia* Muslim found to be proselytising can expect to be detained and prosecuted.[95] In August 2019, the Sabah legislative assembly passed a bill outlawing deviant interpretations of Islam in the state seeking to amend section 52 of the *Syariah Criminal Offences Enactment* (1995) that would result in penalties for teaching or performing any ceremony or act relating to Islam that is contrary to Islamic law or any *fatwa* enforced in Sabah.[96] The *Pakatan Harapan* government indicated that it would continue to enforce a 1996 *fatwa* declaring *Shia* teachings deviant, but in contrast to previous years, there were no reports of *Shia* Muslims being arrested for observing *Ashura.*[97] However, religious authorities in Kuala Lumpur and Selangor increased monitoring of *Shia* Muslims to prevent *Ashura* gatherings and also distributed leaflets

[85] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.10, OGD95BE927494
[86] 2018 Report on International Religious Freedom: Malaysia , US Department of State, 21 June 2019, section II, p.13, 20190625160543
[87] 2018 Report on International Religious Freedom: Malaysia , US Department of State, 21 June 2019, section II, p.13, 20190625160543
[88] 2018 Report on International Religious Freedom: Malaysia , US Department of State, 21 June 2019, section II, p.14, 20190625160543
[89] High Court tells Selangor Islamic Sharia enforcers to keep hands off Ahmadis. Malay Mail, 6 July 2018, 20191004090848
[90] 2018 Report on International Religious Freedom: Malaysia , US Department of State, 21 June 2019, section II, pp.12-13, 20190625160543
[91] 2018 Report on International Religious Freedom: Malaysia , US Department of State, 21 June 2019, section II, p.12, 20190625160543
[92] 2018 Report on International Religious Freedom: Malaysia , US Department of State, 21 June 2019, section II, p.12, 20190625160543
[93] 2018 Report on International Religious Freedom: Malaysia , US Department of State, 21 June 2019, section II, p.13, 20190625160543
[94] 2018 Report on International Religious Freedom: Malaysia , US Department of State, 21 June 2019, section IV, p.18, 20190625160543
[95] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.42, p.16, CIS7B839419347
[96] Sabah passes bill to outlaw deviant teachings of Islam, Free Malaysia Today, 6 August 2019, 20190808093402
[97] 2018 Report on International Religious Freedom: Malaysia , US Department of State, 21 June 2019, section II, p.9, 20190625160543

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condemning deviant practices.[98] In August 2018, authorities in Kelantan raided and detained 10 individuals at a *Shia* religious centre.[99] Then in September 2018, 50 *Shia* were arrested in Kelantan for practicing their religion.[100] Reportedly, the *Shia* followers had been conducting their activities on the same premises for several years.[101] The US Embassy meetings with members of the *Shia* community detail heavy government restrictions on their religious activities and societal discrimination.[102] DFAT reports that despite legal barriers to their worship, most *Shia* Muslims live free from discrimination and violence on a day-to-day basis.[103] Government enforcement efforts generally focus on conversions and proselytisers, not assembly or worship, and very few arrests have resulted in charges being laid.[104] National identity cards do not distinguish *Shia* from other Muslims and there are no restrictions on their movement within Malaysia.[105]

Interfaith and mixed marriages

Non-Muslims wishing to marry a Muslim must convert to Islam for the marriage to be officially recognised. There are two primary statutes in Malaysia for marriage: for civil marriage, the *Law Reform (Marriage and Divorce) Act* (1976):[106] and for Muslim marriage, the *Islamic Family Law Act (Federal Territories)* (1984).[107] The civil law marriage and divorce act states that it does not apply to Muslims.[108] The only exception for a Muslim to marry a non-Muslim is when a Muslim man marries a *Kitabayah* (Christian whose ancestors were Christian before the prophethood of Muhammod).[109] In practice it is almost impossible to prove this ancestry.[110] For a marriage to be officially recognised, a non-Muslim must convert to Islam to marry a Muslim.[111] Malaysian authorities do not recognise marriages between Muslims and non-Muslims and consider children born of such marriages illegitimate.[112] Some *Sunni* and *Shia* Muslims intermarry and have family members that practice either form of Islam.[113]

Although non-Muslim interfaith and ethnic mixed marriages are legal some individuals in such marriages may face opposition from their community, family or friends. Malaysian law does not restrict the rights of non-Muslims to marry.[114] Conversion sometimes takes place due to marriage, with one partner choosing to convert or both partners choosing to adopt a new faith; however, this is

[98] 2018 Report on International Religious Freedom: Malaysia , US Department of State, 21 June 2019, section II, p.9, 20190625160543
[99] 2018 Report on International Religious Freedom: Malaysia , US Department of State, 21 June 2019, section II, p.9, 20190625160543
[100] World Report 2019, Human Rights Watch, 17 January 2019, p.369, 20190118091502
[101] 50 suspected Syiah followers detained in Kota Baru, New Straits Times, 31 August 2018, 20190125145959
[102] 2018 Report on International Religious Freedom: Malaysia , US Department of State, 21 June 2019, section IV, p.18, 20190625160543
[103] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.45, p.16, CIS7B839419347
[104] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.44, p.16, CIS7B839419347
[105] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.41, p.16, CIS7B839419347
[106] Law Reform (Marriage and Divorce) Act (164) 1976 (Malaysia), Federal Government of Malaysia, 6 March 1976, (amendments to 1 January 2006), the Commissioner of Law Reform, CISBE8E6BE702
[107] Islamic Family Law Act (Federal Territories) Act (303) 1984 (Malaysia), Federal Government of Malaysia, 27 June 1984, amendments to 1 January 2006, the Commissioner of Law Reform, CIS883493140
[108] Law Reform (Marriage and Divorce) Act (164) 1976 (Malaysia), Federal Government of Malaysia, 6 March 1976, (amendments to 1 January 2006), the Commissioner of Law Reform, Part I, article 3(3), CISBE8E6BE702
[109] Solving the syariah – civil conflict, New Straits Times, 19 August 2017, CXC90406617998
[110] Ethnic and religious discrimination big challenge for Malaysia's minorities, Minority Rights Group International, 25 May 2011, CXCB3E63421379
[111] 2018 Report on International Religious Freedom: Malaysia , US Department of State, 21 June 2019, section II, p.5, 20190625160543
[112] Country Reports on Human Rights Practices for 2018 - Malaysia, 13 March 2019, section 1, p.9, 20190314091511; 2018 Report on International Religious Freedom: Malaysia , US Department of State, 21 June 2019, section II, p.14, 20190625160543
[113] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.41, p.16, CIS7B839419347
[114] Registration of Marriage For Non-Muslim, National Registration Department – Ministry of Home Affairs, n.d., accessed 10 August 2017, CISEDB50AD5251

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not compulsory.[115] Malaysian law does not restrict the rights of people from different ethnic groups to marry,[116] although as Malaysian law considers all Malays to be Muslim, a non-Muslim of another ethnicity intending to marry a Malay must convert.[117] Individuals in a mixed marriage sometimes face pressure or stigma from within their family, friends or community, while couples of different ethnicities may also encounter racism.[118]

Arranged marriages

Arranged marriages have declined sharply in recent decades, and most Malaysians are free to choose their own husband or wife. Malaysia's *Law Reform (Marriage and Divorce) Act* states that all marriages must be based on mutual consent, and no restriction is placed on the rights of people from different ethnic groups, or non-Muslims, to marry.[119] Individuals sometimes face pressure or stigma from within their family, friends or community based on religious, social or cultural difference.[120] Using force or threat to compel a woman to marry against her will or to prevent her from getting married is punishable with a fine or imprisonment.[121] Malaysia does not recognise marriages between Muslims and non-Muslims,[122] and Islamic family law stipulates that marriages are not fully recognised without the consent of the *wali*, a male family member – typically a woman's father, paternal grandfather, brother or paternal uncle – who acts as guardian for a woman prior to their marriage.[123] A 2012 report said that the *wali* system means that Muslim women do not necessarily have the same right to freely choose their spouse and enter into marriage.[124]

Christians

Christians generally live free from discrimination and are free to practice their religion in Malaysia although they may face occasional harassment. Christians comprise approximately 9.2 per cent of the religious population and two-thirds of the Christian population reside in the East Malaysian states of Sabah and Sarawak.[125] Malaysian Christians are usually able to practise their religion without interference.[126] Official restrictions have been placed on their use of the word '*Allah*' (Arabic for God), which Malaysian Christians claim to have used for centuries to practice their religion.[127] In 2008, the Home Affairs Ministry banned the Catholic newspaper, *The Herald*, from using

[115] A M'sian union – interracial couples share their stories, Malaysiakini, 16 September 2016, CX6A26A6E16886; Interracial marriage as beacon of light in upholding Malaysia's unity, The Rakyat Post, 14 July 2015, CXBD6A0DE19504
[116] Registration of Marriage For Non-Muslim, National Registration Department – Ministry of Home Affairs, n.d. accessed 10 August 2017, CISEDB50AD5251
[117] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, sections 2.6, p.5; 5.32, p.40, CIS7B839419347
[118] Interracial marriage as beacon of light in upholding Malaysia's diversity, The Rakyat Post, 14 July 2015, CXBD6A0DE19504; A M'sian union – interracial couples share their stories, Malaysiakini, 16 September 2016, CX6A26A6E16886
[119] Registration of Marriage For Non-Muslim, National Registration Department – Ministry of Home Affairs, n.d. (accessed 10 August 2017), CISEDB50AD5251
[120] Interracial marriage as beacon of light in upholding Malaysia's diversity, The Rakyat Post, 14 July 2015, CXBD6A0DE19504; A M'sian union – interracial couples share their stories, Malaysiakini, 16 September 2016, CX6A26A6E16886;
[121] Social Institutions and Gender Index 2014 – Malaysia, Organisation for Economic Co-operation and Development, 2014, p.1, CISEDB50AD5657
[122] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.104, p.25, CIS7B839419347
[123] Social Institutions and Gender Index 2014 – Malaysia, Organisation for Economic Co-operation and Development, 2014, p.1, CISEDB50AD5657;
Wali, Singapore Government, 2015, CISEC96CF15597
[124] Washing the Tigers: Addressing Discrimination and Inequality in Malaysia, Equal Rights Trust and Tenaganita, November 2012, p.53, CIS28954
[125] 2018 Report on International Religious Freedom: Malaysia , US Department of State, 21 June 2019, pp.2-3, 20190625160543
[126] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.52, p.17, CIS7B839419347
[127] 2018 Report on International Religious Freedom: Malaysia , US Department of State, 21 June 2019, section II, p.13, 20190625160543

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'*Allah*'.[128] This ban was upheld by both the Malaysian Court of Appeals and Federal Court.[129] During 2017, the government cancelled a Christian prayer gathering to be held in Melaka State, saying it would upset the sensibilities of Muslims during *Ramadan*.[130] In February 2017 an evangelical pastor suspected of converting Muslims to Christianity was abducted by masked individuals.[131] In January 2018 police charged a man with the kidnapping and extortion, apparently in relation to the same matter.[132]

Buddhists and Hindus

Buddhists and Hindus are normally able to practice their religion without interference and do not face official or societal discrimination on a day-to-day basis. Buddhists represent the second largest religion in Malaysia accounting for almost 20 per cent of the religious population.[133] Hindus account for just over six per cent of the religious population.[134] Federal and state governments have supported the building of Hindu or Buddhist places of worship throughout Malaysia.[135] In 2013, the Malaysian Government allocated RM 2 million (AUD 660,533) for the building of a new Hindu complex in Selangor.[136] Hindus and Buddhists have faced some compulsory acquisitions of places of worship or occasional community backlash in response to relocated temples.[137] Fifty Muslim residents protested the relocation of a Hindu temple into their residential area by placing a severed cow's head at the front gate of the Selangor State Government office in 2009.[138] In January 2018 following the demolition of an illegally-constructed Hindu temple, the Johor Sultan offered support to obtain a new site, land for which the state government subsequently allocated, some 1.5 km away from the previous temple.[139] In November 2018, rioting occurred outside Seafield *Sri Maha Mariamman*, a Hindu temple in Selangor, killing one person and injuring another dozen.[140] Authorities initially described the incident as a rivalry between temple factions and went on to arrest 83 Muslim men for their involvement.[141] However, details later emerged that these men were likely hired to foment unrest and that the resulting chaos stemmed primarily from an ongoing property dispute.[142]

Conversion

Non-Muslims are free to change their religious beliefs and affiliation, but they may face opposition from their community, family or friends. Malaysian law does not restrict the right of

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[128] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.47, pp.16-17, CIS7B839419347
[129] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.47, pp.16-17, CIS7B839419347
[130] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 May 2018, section II, p.6, OGD95BE927494
[131] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.50, p.17, CIS7B839419347
[132] 2018 Report on International Religious Freedom: Malaysia , US Department of State, 21 June 2019, section II, pp.6-7, 20190625160543
[133] 2018 Report on International Religious Freedom: Malaysia , US Department of State, 21 June 2019, p.2, 20190625160543
[134] 2018 Report on International Religious Freedom: Malaysia , US Department of State, 21 June 2019, p.2, 20190625160543
[135] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.55, p.17, CIS7B839419347
[136] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.55, p.17, CIS7B839419347
[137] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.54, p.17, CIS7B839419347
[138] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.54, p.17, CIS7B839419347
[139] Hindu temple demolition Johor Sultan steps in as peacemaker, offers relocation aid, Malaymail Online, 21 January 2018, CXBB8A1DA20539
[140] United States Commission on International Religious Freedom Annual Report 2019, United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.213, 20190508143726
[141] United States Commission on International Religious Freedom Annual Report 2019, United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.213, 20190508143726
[142] United States Commission on International Religious Freedom Annual Report 2019, United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.213, 20190508143726;
2018 Report on International Religious Freedom: Malaysia , US Department of State, 21 June 2019, p.2, 20190625160543

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non-Muslims to convert to another religion.[143] A minor (under the age of 18, according to federal law) generally may not convert to another faith without the explicit permission of their parent or guardian, although some states allow conversion to Islam without parental permission after age 15.[144] Sometimes converts can face severe stigmatisation, especially those converting from Islam.[145]

Also see 'Christians' and 'Buddhists and Hindus'

Unilateral child conversion

On 29 January 2018 the Federal Court unanimously ruled that unilateral child conversion is unlawful but parliament has not legislated against it. The existence of a parallel legal system of civil law and *sharia* enactments and the lack of legal clarity in family and religious matters and in relation to different definitions of the child lead to legal loopholes in the protection of children, including on the basis of their religion.[146] Despite the Federal Court decision of 29 January 2018 on unilateral conversion in the Indira Gandhi case, in which it held, *inter alia*, that the civil courts are the sole guardians of constitutional rights with the "power to review the lawfulness of executive action", the divide between civil and *sharia* jurisdictions, and whether religious *fatwas* should be followed by federal government departments, remains to be clarified.[147] The Federal Court ruled that a child from a civil marriage can only be converted to Islam if both parents consent.[148] The Constitution's article 12(4) in English uses the word "parent" in the singular sense while article 12(4) of the Bahasa Malaysia translation uses the words "*ibu atau bapa*" (mother or father); however the court ruled that the Constitution's eleventh schedule has a clause on interpreting words in the singular to include the plural and vice versa.[149] In August 2017 the *Law Reform (Marriage and Divorce) Act* (1976) was amended without including Section 88A,[150] the section that aimed to prevent unilateral child conversion.[151] Legislative amendments to the Federal Constitution and the *Law Reform (Marriage and Divorce) Act* (1976) seem unlikely to occur since the Home Minister stated that in several cases the Federal Court has decided against unilateral conversion.[152]

Historically, cases of unilateral child conversions favoured the Muslim parent. Prior to a Federal Court 2018 judgement that ruled unilateral child conversion unlawful,[153] the consent of only one parent was required to convert a child under *Sharia* laws and allows the Muslim parent to gain sole

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[143] 2018 Report on International Religious Freedom: Malaysia , US Department of State, 21 June 2019, section II, p.4, 20190625160543
[144] 2018 Report on International Religious Freedom: Malaysia , US Department of State, 21 June 2019, section II, p.4, 20190625160543
[145] 2018 Report on International Religious Freedom: Malaysia , US Department of State, 21 June 2019, section III, p.16, 20190625160543
[146] Report of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material on her visit to Malaysia, United Nations Human Rights Council, 17 January 2019, p.10, 20190325141806
[147] Report of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material on her visit to Malaysia, United Nations Human Rights Council, 17 January 2019, p.10, 20190325141806
[148] Amid language clash, Federal Court says conversion needs consent of both parents, Malaymail Online, 31 January 2018, CXBB8A1DA20998
[149] Amid language clash, Federal Court says conversion needs consent of both parents, Malaymail Online, 31 January 2018, CXBB8A1DA20998;
United States Commission on International Religious Freedom Annual Report 2019, United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.213, 20190508143726
[150] Law Reform (Marriage and Divorce) (Amendment) Act 2017, Government of Malaysia, gazetted 17 October 2017, Federal Gazette, CISEDB50AD9174
[151] Azalina dares Pakatan to ban unilateral child conversions, Malay Mail Online, 26 July 2018, CXBB8A1DA32321;
Make it right for all, The Star Online, 13 August 2017, CXC90406618029;
Strong support for Clause 88A, The Star Online, 1 February 2018, CXBB8A1DA36046
[152] Muhyiddin: No need to amend marriage law to deal with unilateral conversion of minors, Star Online, 4 April 2019, 20190605090122;
Govt's decision a big let-down, say lawyers, Star Online, 10 April 2019, 20190605090351
[153] Malaysian court says both parents must consent on children's religion, Reuters, 29 January 2018, CXBB8A1DA21004

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custody.[154] Despite *Sharia* courts being constitutionally subordinate to civil courts, in January 2016 the Federal Court of Appeal ruled that matters of conversion to Islam were at the sole discretion of *Sharia* courts.[155] As a result, *Sharia* courts often decided child custody cases where one parent has converted to Islam while the other has not, and historically favoured the Muslim parent.[156] There have been some high-profile cases of unilateral child conversions, mostly concerning Hindu fathers converting to Islam and claiming custody of their children.[157] Previously, when there had been competing orders by civil and *Sharia* courts regarding custody, police generally sided with *Sharia* decisions.[158]

Particular social groups

Lesbian, Gay, Bisexual, Transgender, Intersex (LGBTI)

Malaysian secular law criminalises same-sex sexual acts but in practice the law is rarely invoked. A former British colony, Malaysia has retained its colonial-era law against sodomy.[159] Malaysia's Penal Code criminalises sodomy (homosexual) and oral sex (homosexual and heterosexual) acts, but authorities rarely enforce the law.[160] Secular law that criminalizes male-male sexual acts has been extended to female-female acts.[161] Sodomy laws have only been invoked seven times since 1938, four of those instances against former Deputy Prime Ministry Anwar Ibrahim.[162] International observers and human rights organisations viewed sodomy charges against Anwar Ibrahim as politically motivated.[163] Those found guilty under section 377A of the Penal Code for 'carnal intercourse against the order of nature' are liable for imprisonment of up to twenty years and a whipping.[164] During a parliamentary session in July 2019, the Prime Minister said the government has no plan to review existing provision in the law that deal with sodomy and fellatio, stating, "for the time

[154] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.127, p.29, CIS7B839419347
[155] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.128, p.29, CIS7B839419347
[156] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.11, OGD95BE927494
[157] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.128, p.29, CIS7B839419347
[158] International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.11, OGD95BE927494
[159] Anwar Ibrahim's rebirth and Malaysia's LBGT+ rights, Pursuit (University of Melbourne), 27 May 2018, CIS7B839411105; State-Sponsored Homophobia 2019, Lucas Ramón Mendos, International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), 20 March 2019, p.450, 20190327100813
[160] Amnesty International Report 2017/18, Amnesty International, 22 February 2018, p.250, NGED867A612; Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, section 6, p.28, OGD95BE927312; Penal Code, Government of Malaysia, enacted 1936, amended 31 December 2014, sections 377A, 377B, CISEDB50AD9259;
[161] State-Sponsored Homophobia 2017 – A World Survey of Sexual Orientation Laws: Criminalisation, Protection and Recognition, International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), 1 May 2017, CISEDB50AD4462, p.169
[162] Malaysia: On the Record: Violence Against Lesbians, Bisexual Women and Transgender Persons In Malaysia, International Gay and Lesbian Human Rights Commission, 6 May 2014, CIS2F827D91966, p.33; Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section F1, 20190402081615
[163] Anwar Ibrahim's rebirth and Malaysia's LBGT+ rights, Pursuit (University of Melbourne), 27 May 2018, CIS7B839411105; Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 1e, p.9, 20190314091511; Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section F1, 20190402081615; Convictions for sodomy follow unfair trials, Amnesty International, 8 October 1998, CIS11891
[164] Penal Code, Government of Malaysia, enacted 1936, amended 31 December 2014, sections 377A, 377B, CISEDB50AD9259; Criminalisation of Homosexuality, Human Dignity Trust, 25 October 2015, CISEC96CF110372

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being, there is no plan to review the punishment for Sections 377B and 377C of the Penal Code, because the punishments provided by both sections are sufficient".[165]

Islamic laws in several states prohibit same-sex sexual acts. Some Malaysian states apply their own penalties to Muslims under *Sharia* statutes.[166] Under *Sharia* law in several Malaysian states, same-sex sexual acts between Muslims are illegal and can incur jail terms and mandatory whipping.[167] The caning of women is banned under civil law, but allowed under Islamic laws in some states.[168] In October 2018, Terengganu state was the first state in Malaysia to cane two LGBT Muslim women under *Sharia* law for *musahaqah* (attempting to have lesbian sex).[169] The Prime Minister denounced the caning of two lesbian women in Terengganu state under *Sharia* law, considering the punishment too harsh.[170]

Also see '*Sharia* law'

The Malaysian government and society largely oppose LGBT lifestyles that are considered inconsistent with conservative values. The results of a 2013 global survey on the acceptance of homosexuality found that an 'overwhelming majority' of Muslim countries, including 86 per cent of persons surveyed in Malaysia, reject homosexuality.[171] Prime Minister Mahathir publically acknowledged that his government does not support LGBT unions, which it see as an element of human rights in Western society rather than aligning with Malaysian values.[172] A Deputy Minister in the Prime Minister's Department said that the government "disagree with the behaviour of the LGBT" but "will not allow discrimination to occur", instead supporting rehabilitation of LGBT individuals.[173] In November 2018, a Malaysian delegate to its Universal Periodic Review on human rights said in response to questioning about discrimination against the LGBT community that the government "upholds the rights and dignity of all person in Malaysia in accordance to the law" and cited article 8(2) of the Constitution that prohibits discrimination against gender.[174] LGBT activists and NGO representatives criticised the Malaysian delegation's response to LGBT issues as weak.[175] The Human Rights Commission of Malaysia (SUKAKAM) said that although it does not support same-sex marriage, the LGBT community should not be discriminated against.[176]

Malaysian authorities promote heterosexual lifestyles amongst the LGBT community. Malaysia's Islamic authorities have published an e-book and conduct outreach activities encouraging Muslim LGBT persons to undergo sexuality rehabilitation.[177] The Malaysian Islamic Development

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[165] Mahathir says no plan to review laws against sodomy, Malaysiakini, 5 July 2019, 20190705094840
[166] Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section F4, 20190402081615;
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[167] State-Sponsored Homophobia 2019, Lucas Ramón Mendos, International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), 20 March 2019, p.450, 20190327100813;
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[169] How public caning is performed in Terengganu, Malaysiakini, 5 September 2018, CXBB8A1DA34939
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Department (JAKIM) facilitates an outreach program (*Mukhayyam*) to rehabilitate LGBT individuals.[178] The program, a three-day camp held eight times each year, has been criticised by the Malaysian Aids Council as having become a place where LGBT are being "converted" to the "right path" instead of its original intent of to "provide a safe, non-judgmental space" to the transgender community.[179] The Ministries of Health and Education conduct campaigns aiming to 'prevent, overcome, and correct' homosexuality in children.[180] In 2018 a nightclub frequented by members of the LGBT community was raided by police and government officials resulting in twenty men being detained and ordered to undergo counselling for "illicit behaviour".[181] DFAT assess that LGBTI individuals face a moderate risk of official and societal discrimination determined by their socio-economic status, religion, geographic location and degree of openness.[182]

Transgender individuals face discrimination and occasional violence. Authorities often charge transgender persons for cross-dressing with "indecent behaviour" and also for "importuning for immoral purposes" in public.[183] Those convicted of a first offence faced a maximum fine of RM25 (USD6.25) and a maximum sentence of 14 days in jail.[184] The sentences for subsequent convictions may be maximum fines of RM100 (USD25) and a maximum three months in jail.[185] Local advocates contend that imprisoned transgender women served their sentences in prisons designated for men and that police and inmates often abused them verbally and sexually.[186] Justice for Sisters (JFS), an advocacy group for the LGBT community, said it has experienced difficulty obtaining legal representation for its clients who were charged under anti-crossdressing state Islamic laws.[187] Transgender individuals may face discrimination in public healthcare facilities, including undergoing forcible HIV/AIDS testing or being housed in male wards where they can be exposed to violence and abuse.[188] In December 2018 and January 2019 two transgender individuals were murdered in the same place in Klang.[189] During 2017, three transgender individuals were killed according to Justice for Sisters.[190] A survey by a local transgender rights group reported more than two-thirds of transgender women experienced some form of physical or emotional abuse.[191]

Numerous organisations operate in Malaysia providing support to the LGBT community. Mainstream Christian churches and the Malaysian Consultative Council of Buddhism, Christianity, Hinduism, Sikhism and Taoism have also spoken out against discrimination and violence towards gay

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[178] Malaysia Should Find 'Right Path' on LGBT Rights, Human Rights Watch, 7 August 2018, 20190206102849
[179] AIDS council slams Jakim's 'conversion therapy' for LGBTs, Free Malaysia Today, 24 December 2018, 20190125114340
[180] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section F4, NGED867A631
[181] Magazine: PH govt among '10 biggest homophobes and transphobes of 2018', Free Malaysia Today, 2 January 2018, 20190125103916
[182] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.120, p.28, CIS7B839419347
[183] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 6, p.29, 20190314091511
[184] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 6, p.29, 20190314091511
[185] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 6, p.29, 20190314091511
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[189] NGOs raise alarm over yet another murder of a transgender woman, Free Malaysia Today, 3 January 2019, 20190125100210;
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[190] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, section 6, p.28, OGD95BE927312;
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[191] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 6, p.29, 20190314091511

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and lesbian people.[192] Leadership Program for Gays (LPG) is based in Kuala Lumpur and aims to build a network for LGBT business people. Activities organised by the group include gatherings and sports events.[193] PLUPenang is an LGBT organisation based in Penang State designed to support, empower and foster friendship between its members arranging recreational events and provides a safe space for LGBT people to express themselves.[194] *Pertubuhan Kebajkan dan Persekitaran Positif* Malaysia or SEED is an officially registered community organisation that provides support services, including a drop-in centre, primarily for the transgender community.[195] Justice for Sisters is a campaign organised to raise public awareness about issues pertaining to transgender individuals and raise funds to finance court cases against transgender individuals in *Sharia* courts.[196] The PT Foundation provide support to the LGBTI community, including those affected with HIV/AIDS, offering services such as healthcare and drop-in services, and offers seminars, operates a telephone counselling line and offers outreach programmes at third-party venues.[197] *Seksualiti Merdeka* works to empower Malaysians that have been marginalised for their sexual orientation and gender identity. The group also aims to champion sexuality rights as human rights, and provide a platform for LGBT human rights issues.[198]

Women

Women participate in all aspects of Malaysian society. Although women are active in all areas of society, cultural and social barriers limit their levels of participation.[199] Furthermore, women's interests remain generally underrepresented in politics.[200] There is a lack of resources available to women to assist them re-entering the workforce after childbirth.[201] Malaysia has the lowest rate of women's workforce participation in Southeast Asia,[202] The rate of female labour-market participation recorded in 2014 was 44.4 per cent compared to 75 per cent for men.[203] Women's participation rates in the labour force have risen overall over the last decade, from 45 per cent in 2008 to an estimated 54.3 per cent in 2016, according to government statistics.[204] In the Global Gender Gap Report 2017, Malaysia ranked 70th, an improvement from the previous year.[205] Following the May 2018 election, Azizah Ismail, wife of Mr Anwar, became the country's first female deputy prime minister.[206] Between 2011 and 2017, approximately 10 percent of seats in parliament have been held by women.[207] However, that number increased considerably following the 2018 14th General Election with 13.9 and 22.1 per cent of the lower and upper house seats won by women respectively.[208]

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[199] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.102, p.25, CIS7B839419347
[200] Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section B4, 20190402081615
[201] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.103, p.25, CIS7B839419347
[202] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.103, p.25, CIS7B839419347
[203] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.24, CIS7B83941547
[204] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.103, p.25, CIS7B839419347
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[208] World Classification, Women in Parliament, 1 October 2018, CIS7B8394110256

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Muslim women may be adversely affected by *Sharia* law. Malaysia's Constitution prohibits discrimination based on gender.[209] The Constitution gives women equal rights to inherit, acquire, manage or dispose of property, including land, while civil law gives non-Muslim mothers equal parental rights.[210] However, *Sharia* law can deviate from these constitutional principles in some areas such as Islamic inheritance law that typically favours male children and male relatives.[211] A small but steadily increasing number of women have been able to obtain divorces under *Sharia* without their husband's consent.[212] Four states – Johor, Selangor, Negri Sembilan and Pahang – extend equal parental rights to Muslim mothers.[213] In January 2018, the Federal Court ruled that children from civil marriages can only be converted to Islam if both parents consent.[214]

Authorities take claims of sexual harassment seriously but a general reluctance by victims to report cases to the authorities and a cumbersome legal process results in a low number of prosecutions. The most recent statistics from Malaysia's Ministry of Home Affairs indicate that approximately 16 per cent of reported rape cases were taken to court, with a conviction rate of 2.7 per cent of all reported cases.[215] Amendments were made to the *Employment Act* in 2012 which made certain forms of workplace sexual harassment illegal, while the law prohibits a person in authority from using their position to intimidate a subordinate into having sexual relations.[216] A government voluntary code of conduct provides a detailed definition of sexual harassment intended to raise public awareness of the problem.[217] Authorities take claims of sexual harassment seriously but victims are often reluctant to report cases because of embarrassment, the difficulty of proving the offence, and a lengthy trial process.[218]

Economic hardship

Malaysia is an upper-middle income country in which absolute poverty has been largely eradicated. Malaysia recorded average annual economic growth of more than 7 per cent between 1967 and 1997, while growth in recent years has continued to exceed 5 per cent.[219] Economic growth has been inclusive, with less than 1 per cent of the population living in extreme poverty.[220] Rates of poverty are low among Malays (0.8 per cent), Chinese (0.1 per cent), and Indians (0.6 per cent), although the poverty rate is higher in rural areas than in cities.[221] Malaysian authorities have turned their attention to reducing income inequality – which remains high in comparison to other East Asian

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[209] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 6, p.25, 20190314091511
[210] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 6, p.25, 20190314091511
[211] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 6, p.25, 20190314091511;
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[212] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 3 March 2017, section 6, p.24, OGD95BE927312
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[215] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, section 6, p.23, OGD95BE927312
[216] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade, 19 July 2016, section 3.86, p.19, CIS38A80121311;
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[217] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 6, pp.24-25, 20190314091511
[218] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 1, p.6, 20190314091511
[219] The World Bank in Malaysia, The World Bank, April 2017, CISEDB50AD5041;
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[220] The World Bank in Malaysia, The World Bank, April 2017, CISEDB50AD5041
[221] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 2.8, p.6, CIS7B839419347

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countries, but is gradually declining – and addressing the well-being of the poorest 40 per cent of the population, who remain vulnerable to increases in the cost of living or economic shocks.[222] The UNDP's Human Development Index ranked Malaysia 57 out of 189 countries in 2017, placing it in the 'high human development' category.[223]

Malaysia has an expanding if still limited social welfare system, while traditional social roles mean that families provide support for the elderly and sick. Old age, survivor and disability payments and employment injury compensation are among the payments available to eligible individuals, although credible sources state that the overall scope of social welfare coverage remains limited.[224] In August 2017, the Malaysian Government introduced legislation into parliament that would provide unemployment benefits for three to six months.[225] The *Zakat* system – a levy imposed on Muslims which is equal to 2.5 per cent of their assets above a minimum figure – forms one of the main social protection programmes in the country, and payments are distributed to needy groups such as the poor and refugees.[226] In Malaysia, grown children typically provide financial or care support to elderly or sick parents.[227]

Political opinion

Malaysia is a constitutional monarchy in which executive power is vested in the prime minister and cabinet. The paramount ruler, the monarch and titular head of state, is elected for five-year terms by fellow hereditary rulers from 9 of Malaysia's 13 states.[228] The upper house of the bicameral Parliament, the Senate, or *Dewan Negara*, consists of 44 members appointed by the king and 26 members elected by the 13 state legislatures, serving three-year terms.[229] The House of Representatives, or *Dewan Rakyat*, has 222 seats filled through regular elections.[230] The role of the king is largely ceremonial, though he retains the power to approve the prime minister.[231] Executive power lies with the prime minister and the cabinet.[232] Decision-making power has typically been concentrated in the hands of the prime minister and his close advisers, though the *Pakatan Harapan* government showed some signs of broader consultation in 2018.[233]

General elections have often been skewed by the ruling government. Suffrage in Malaysia is universal for citizens over the age of 21.[234] When in power, the *Barisan Nasional* coalition manipulated elections through the use of prohibitive media laws, extreme gerrymandering and malapportionment of constituencies, the use of government resources during campaigning, and electoral fraud including manipulation of voter registration rolls.[235] The Election Commission (EC) is officially independent but has previously been comprised of the former prime minister and government allies and considered subordinate to the UMNO when in power.[236] The EC is responsible for maintaining voter rolls, and has been accused of enabling "phantom voting" by creating duplicate

[222] OECD Economic Surveys – Malaysia, OECD, November 2016, p.4, CIS38A80124917;
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[223] Human Development Indices and Indicators - 2018 Statistical Update, UNDP, 01 January 2018, CIS7B839419962
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[225] New bill introduces conditional unemployment benefits, Malaysiakini, 1 August 2017, CXC90406611469
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[227] Report on Key Findings FIFTH MALAYSIAN POPULATION AND FAMILY SURVEY [MPFS-5] 2014, Ministry of Women, Family and Community Development and National Population and Family Development Board, 2016, p.28, CIS38A80124919
[228] Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section A1, 20190402081615
[229] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.4, CIS7B83941547;
Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section A2, 20190402081615
[230] Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section A2, 20190402081615
[231] Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section A1, 20190402081615
[232] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.4, CIS7B83941547
[233] Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section C1, 20190402081615
[234] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section B4, NGED867A631
[235] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.9, CIS7B83941547
[236] BTI 2018 Country report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.9, CIS7B83941547;
Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section A3, NGED867A631

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records of some voters, or by leaving deceased persons on the rolls.[237] The Registrar of Societies (ROS) oversees the registration of political parties and in the past has issued politicised decisions.[238] The military is not active in politics and foreign powers do not directly meddle with voting.[239]

Barisan Nasional

United Malays National Organisation (UMNO) is the dominant party within the oppositional *Barisan Nasional* alliance. The *Barisan Nasional* (BN) is an ethno-religious coalition of race-based political parties.[240] The BN alliance was formed by UMNO, the Malaysian Indian Congress (MIC), and the Malaysian Chinese Association (MCA), but is largely dominated by UMNO.[241] Until May 2018, the government had been headed by UMNO since independence and the BN coalition won every general election since its formation until and including 2013 elections.[242] In September 2019, UNMO formed an alliance with Malaysia Islamic Party – a conservative Islamic party and one of Malaysia's strongest opposition parties[243].

Pakatan Rakyat/Pakatan Harapan

The *Pakatan Rakyat* coalition regrouped as the *Pakatan Harapan* coalition in September 2015. The *Pakatan Rakyat* coalition previously led by the People's Justice Party, won more votes than BN but lost the 2013 election due to the country's first-past-the-post system.[244] The *Pakatan Rakyat* alleged that electoral irregularities and systemic disadvantages due to a lack of media access and gerrymandered districts favouring the ruling coalition.[245] Opposition Leader, and former Deputy Prime Minister Anwar Ibrahim was imprisoned for a five year term on sodomy charges that international observers view as politically motivated.[246] *Pakatan Rakyat* was dissolved in June 2015 and then re-configured as *Pakatan Harapan*.[247] Currently *Pakatan Harapan* is a ruling coalition of four parties led by Prime Minister Mahathir Mohammad.[248] In November, Prime Minister Mahathir reiterated that he will keep his promise to step down after two years to give way to Anwar Ibrahim.[249]

Malaysia's Pakatan Harapan is the ruling coalition. On 9 May 2018, the Alliance of Hope or *Pakatan Harapan* won the 14th General Election by securing enough seats to form a stable government.[250] *Pakatan Harapan* is a pluralistic multi-ethnic alliance.[251] The *Pakatan Harapan* coalition is comprised of the dominant People's Justice Party or *Parti Keadilan Rakyat* (PKR), the Democratic Action Party (DAP), the Malaysian United Indigenous Party or *Parti Pribumi Bersatu Malaysia (Bersatu)*, the *Parti Amanah Negara* or National Trust Party (*Amanah*), and the Sabah-based *Parti Warisan Sabah* or Sabah Heritage Party (Warisan).[252] The *Pakatan Harapan* coalition has increased its number of parliamentary seats from 122 won at election to 134, and is now 14 shy of a

[237] Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section A3, 20190402081615
[238] Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section B1, 20190402081615
[239] Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section B3, 20190402081615
[240] The changing face of Malaysian justice, Asia Times, 6 June 2018, CXBB8A1DA28835
[241] GE14 numbers What it means for BN, Harapan and PAS, Malaysiakini, 10 May 2018, CXBB8A1DA26970
[242] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.5, CIS7B83941547
[243] PAS-Umno alliance: Who's to blame? Free Malaysia Today, 14 September 2019, 20191004133930,
[244] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, p.1, OGD95BE927312
[245] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, p.1, OGD95BE927312
[246] Country Reports on Human Rights Practices for 2017 – Malaysia, US Department of State, 20 April 2018, section 1, pp.8-9, OGD95BE927312
[247] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 2.20, pp.7-8, CIS7B839419347
[248] Pakatan Harapan coalition: Leader Anwar Ibrahim, Chairman Mahathir Mohammad. Member parties: People's Justice Party, Malaysian United Indigenous Party, National Trust Party and Democratic Action Party.
[249] Mahathir Mohamad named opposition candidate for Malaysian PM, The Straits Times, 7 January 2018, CXBB8A1DA22794; Dr M: I will keep my promise to Anwar, I am the only 'dictator' who resigned, The Star Online, 3 November 2018, CXBB8A1DA39181
[250] The shape of things to come under Mahathir 2.0, Asia Times, 13 May 2018, CXBB8A1DA27542
[251] The changing face of Malaysian justice, Asia Times, 6 June 2018, CXBB8A1DA28835
[252] GE14 numbers What it means for BN, Harapan and PAS, Malaysiakini, 10 May 2018, CXBB8A1DA26970

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two-thirds majority.[253] Malaysia's current prime minister, Dr Mahathir Mohamad, is a former member of UMNO and previously led Malaysia as prime minister for 22 years until 2003.[254]

Freedom of expression

Freedom of speech and expression are recognised but limited in the Constitution. The Constitution allows restrictions on the freedom of expression 'in the interest of the security of the Federation… [or] public order.'[255] The former *Barisan Nasional* led government regularly restricted freedom of expression for the media and civil society, citing reasons such as upholding Islam and the special status of ethnic Malays, protecting national security, maintaining public order, and preserving friendly relations with other countries.[256]

Freedom of speech and expression in the media industry is limited but has improved following the 2018 change in administration. Prior to the 14th General Election in 2018, most private publications were controlled by political parties or businesses allied with the government, as were most private television stations, which generally censored programming according to government guidelines.[257] However the market began to change after the *Pakatan Harapan* government took power, with some *Barisan Nasional*-linked outlets suffering financially and others producing more neutral coverage, even as independent outlets benefited from a reduction in political pressure and harassment.[258] The *Pakatan Harapan* government pledged to reform restrictive media laws, but its progress has been limited. The House of Representatives voted in August 2018 to repeal the *Anti–Fake News Act*, which the *Barisan Nasional* had hastily adopted in April that year, but the Senate (still controlled by the *Barisan Nasional*) blocked the repeal in September.[259] The law prescribes large fines and up to six years in prison for the publication of wholly or partly false news.[260] The Malaysian Communication and Multimedia Commission monitors websites and can order the removal of material considered provocative or subversive.[261] A 2012 amendment to the 1950 *Evidence Act* holds owners and editors of websites, providers of web-hosting services, and owners of computers or mobile devices accountable for information published through their services or property. [262] While there were no major reforms to the legal framework for online media in 2018, the Malaysian Communication and Multimedia Commission did end blocking a number of websites in May 2018, including *Sarawak Report* and the blogging platform Medium.[263]

The government may use sedition law occasionally to curb hate speech and defamation of government officials. The *Pakatan Harapan* government temporarily suspended the *Sedition Act* (1948) in October 2018 pending amendment or repeal.[264] However it lifted the suspension in response to violence that erupted surrounding an incident at a Hindu temple, and used it during that year over alleged hate speech and defamation of government officials.[265] The *Sedition Act* (1948) has been used to target individuals who publically express ideas deemed sensitive by the state.[266] Sedition

[253] GE14 numbers What it means for BN, Harapan and PAS, Malaysiakini, 10 May 2018, CXBB8A1DA26970; Mahathir edges closer to two-thirds majority in Parliament, Malaysiakini, 12 February 2018, 20190213080939
[254] Who is newly elected prime minister Mahathir Mohamad, ABC News (Australia), 10 May 2018, CXBB8A1DA27527
[255] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 2a, p.10, 20190314091511
[256] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 2a, p.10, 20190314091511
[257] Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section D1, 20190402081615; BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.11, CIS7B83941547
[258] Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section D1, 20190402081615
[259] Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section D1, 20190402081615
[260] Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section D1, 20190402081615
[261] Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section D1, 20190402081615
[262] Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section D1, 20190402081615
[263] Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section D1, 20190402081615
[264] Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section D4, 20190402081615
[265] Suaram's human rights overview on Malaysia 2018, SUARAM, 28 November 2018, p.5, CIS7B8394110621; Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section D4, 20190402081615
[266] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section D4, NGED867A631

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charges often followed comments by vocal civil society or opposition leaders.[267] Civil society groups claimed the former government generally failed to investigate and prosecute similar statements made by pro-government or pro-Malay persons.[268] Under the *Pakatan Harapan* administration, authorities dropped sedition cases against prominent public figures who had criticized the former *Barisan Nasional* government.[269] However during 2018, at least three new sedition investigations were opened against individuals accused of insulting Malaysia's royalty.[270] Furthermore, in 2019 the sedition law was used to investigate organisers of a women's march and also a preacher over issues the government deems sensitive.[271]

Freedom of speech and expression is limited in social media. The *Communications and Multimedia Act* (1998) criminalises the 'misuse of network facilities' for criticising the government or for government-related satire.[272] Section 233(1) provides criminal penalties of up to one-year imprisonment for communication that is indecent, obscene, false, threatening, or offensive to another person.[273] During 2017, the *Communications and Multimedia Act* (1998) was used repeatedly to investigate and arrest those who criticised government officials in the media and on social media.[274] In August 2018 prosecutors charged a member of the opposition United Malays National Organisation under the *Communications and Multimedia Act* (1998) for allegedly insulting another UMNO member on Facebook.[275] In November 2018, the High Court prosecuted a graphic designer under section 233 of the *Communications and Multimedia Act* (1998) for uploading an offensive image of former Prime Minister Najib Abdul Razak on social media but set aside the prison sentence and reduced the fine from RM30, 000 to RM10, 000.[276]

Freedom of assembly

In recent years, fewer restrictions and less severe crackdowns have been applied to public protests and assemblies and their organisers. Although freedom of assembly can be limited on the grounds of maintaining security and public order, demonstrations are often held.[277] The law delineates 21 public places where assemblies cannot be held and prohibits persons under the age of 15 from attending any public assembly, and those who proceed with a banned protest are subject to penalties including high fines.[278] Police continued to enforce existing laws under the *Pakatan Harapan* government, arresting and charging unauthorised protesters on multiple occasions during 2018, though authorities approved the large opposition-led protest against ratification of ICERD in December 2018.[279]

[267] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 2a, p.10, 20190314091511
[268] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 2a, p.10, 20190314091511
[269] Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section D4, 20190402081615
[270] World Report 2019, Human Rights Watch, 17 January 2019, p.367, 20190118091502;
2018 Report on International Religious Freedom: Malaysia , US Department of State, 21 June 2019, section II, p.11, 20190625160543
[271] Suhakam renews call for Putrajaya to abolish Sedition Act, Malaysiakini, 11 September 2019, 20191003094347;
Cops investigating Women's March organisers under Sedition Act, Malaysiakini, 14 March 2019, 20191003100625;
AG should seriously review use of Sedition Act - Wan Ji, Malaysiakini, 18 July 2019, 20191003101055
[272] Amnesty International Report 2017/18, Amnesty International, 22 February 2018, p.249, NGED867A612
[273] Freedom on the Net 2018 - Malaysia, Freedom House, 1 November 2018, NGED867A6126;
World Report 2018, Human Rights Watch, 18 January 2018, p.352, NGED867A63
[274] World Report 2018, Human Rights Watch, 18 January 2018, p.352, NGED867A63
[275] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 2a, p.13, 20190314091511
[276] Fahmi Reza escapes jail term, fine reduced over Najib caricature, Malaysiakini, 12 November 2018, CXBB8A1DA38302
[277] Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section E1, 20190402081615
[278] Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section E1, 20190402081615
[279] Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section E1, 20190402081615

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Civil society organisations

A wide array of civil society groups operate in Malaysia. A number of domestic and international civil society and human rights organisations operate in Malaysia and actively comment on issues such as the legislative environment, the rights of women in Islam and government human rights practices.[280] While these organisations are generally able to function independently, some report that engagement with the government can be difficult and their advocacy is largely ignored.[281] Civil society groups can act only within the narrow limits set by Malaysian authorities.[282] In practice, this means that issues of race and religion, or criticism of the government, are out of bounds.[283] During 2018, the government's registrar of societies has prevented the registration of organisations deemed unfriendly to the government, and authorities regularly use registration issues as a basis for investigating organisations.[284]

State protection

Law enforcement

Law enforcement operates at both the federal and state level. The Royal Malaysian Police (RMP) reports to the federal Minister for Home Affairs and is responsible for law enforcement nationwide.[285] The National Department of Islamic Development (JAKIM) enforces *Sharia* law and has jurisdiction over Muslims in Kuala Lumpur and two other federal territories.[286] The People's Volunteer Corps (RELA), a federal paramilitary civilian corps under the Ministry of Home Affairs, assists security forces.[287] RELA's engagement in law enforcement activities has significantly reduced in recent years.[288] NGOs have reported that inadequate training has led to abuses by RELA members such as extortion and theft.[289]

Royal Malaysian Police (RMP)

The RMP is a professional and effective force, but prone to corruption. The RMP operates 837 police stations nationwide,[290] and employs approximately 102,000 officers.[291] Local and international sources indicate the RMP is a professional and effective police force, although the quality of its members' responses varies depending on levels of training, capacity and engagement in

[280] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.82, p.21, CIS7B839419347
[281] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.82, p.21, CIS7B839419347
[282] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.17, CIS7B83941547
[283] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.17, CIS7B83941547
[284] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 July 2016, section 3.66, p.17, CIS38A80121311;
BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.10, CIS7B83941547;
Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section B1, 20190402081615
[285] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 5.5, pp.35-36, CIS7B839419347
[286] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 July 2016, section 5.1, p.25, CIS38A80121311
[287] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 July 2016, section 5.1, p.25, CIS38A80121311
[288] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 July 2016, section 5.1, p.25, CIS38A80121311
[289] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 July 2016, section 5.1, p.25, CIS38A80121311
[290] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 5.5, pp.35-36, CIS7B839419347
[291] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 1d, p.5, 20190314091511

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corruption.[292] Some human rights training and workshop are made available to police officers.[293] In recent years, the RMP has launched crackdowns on criminal gangs, crime syndicates and loan sharks,[294] while in July 2017 a human trafficking hotline was set up through which reports will be submitted to police.[295] Malaysian law permits police to arrest and detain individuals for some offences without a warrant.[296] A 2017 Transparency International survey found that 57 per cent of Malaysian respondents thought that corruption was a problem within the RMP – a result that was significantly above the regional average.[297] In July 2017, the RMP signed an anti-graft pledge of which anti-corruption bodies and civil society organisations said was a significant step towards accountability.[298]

State Islamic religious enforcement officers

Religious enforcement officers conduct moral policing operations and can enforce *Sharia* law. Religious enforcement officers have a range of powers, depending on the particular Islamic laws that apply in each state.[299] State Islamic religious enforcement officers have the authority to accompany police on raids of private premises and public establishments, and to enforce *Sharia*, including for violations such as indecent dress, distribution of banned publications, alcohol consumption, or *khalwat* (close proximity to a nonfamily member of the opposite sex).[300] Moral breaches of *Sharia* law typically result in a warning or a fine but may include caning or up to one month imprisonment for the most serious offences.[301] Kelantan's Islamic Affairs and Religious Department fined 39 women for "dressing sexily and behaving indecently in public" during Ramadan in 2019.[302] In Johor, Segamat Municipal Council enforcement officers disguised themselves as food stall operators, cooks and waiters in a bid to catch Muslims who do not fast during Ramadan in 2019.[303] Under Section 15 of the state's *Shariah Criminal Offences Enactment* (1997), those who sell food to fasting Muslims or Muslims who skip from fasting can be penalised with a fine not more than RM1,000, imprisoned not more than six months, or both, for their first offence.[304]

Criminal justice system

A number of existing laws undermine due process guarantees. The 2012 *Security Offences (Special Measures) Act* that allows police to detain anyone for up to 28 days without judicial review for broadly defined "security offences," and to hold suspects for 48 hours before being granted access to

[292] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 5.5, pp.35-36, CIS7B839419347
[293] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 5.5, pp.35-36, CIS7B839419347
[294] Cops deal crime a crippling blow since Ops Cantas Khas launch, The Star Online, 23 September 2013, CXC28129414715;
Op Cantas crackdown on triads: 1,444 arrested, Astro Awani, 13 August 2016, CX6A26A6E8262;
Police bust largest money-lending syndicated (Updated), The Sun Daily, 23 May 2016, CX6A26A6E7820;
36 suspected underworld gang members arrested in Malaysia, Bernama, 20 February 2018, CXBB8A1DA22559;
Police detain 35 in action against illegal money-lending, Bernama, 25 August 2017, CXC90406624824;
Four loan shark operations busted with arrest of 29 people, The Star Online, 4 August 2017, CXC90406611700;
Loan shark ring busted, 31 nabbed in nationwide raids, The Sun Daily, 18 April 2017, CXC9040665990;
26 loan sharks nabbed, RM2m seized, Daily Express, 13 January 2017, CXC904066572
[295] Hotline set up in bid to tackle human trafficking, The Star Online, 31 July 2017, CXC90406611249
[296] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 1, p.6, 20190314091511
[297] Global Corruption Barometer – Asia Pacific, Transparency International, 28 February 2017, p.41, CISEDB50AD5225
[298] Anti-graft pledge by police hailed as a good move, The Star Online, 27 July 2017, CXC90406610992
[299] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 5.6, p.36, CIS7B839419347
[300] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 2, p.5, 20190314091511
[301] The female face of Islamic law in Malaysia, Aljazeera, 16 August 2017, CXC90406620329;
Lawyer: Muslims can challenge khalwat offences, Free Malaysia Today, 7 December 2016, CX6A26A6E20451
[302] Sisters In Islam urge Kelantan religious authorities to stop policing the way women dress, Malay Mail Online, 13 May 2019, 20190605152041
[303] Segamat council officers go undercover as cooks, secretly photograph non-fasting Muslims, Malay Mail Online, 23 May 2019, 20190605151847
[304] Segamat council officers go undercover as cooks, secretly photograph non-fasting Muslims, Malay Mail Online, 23 May 2019, 20190605151847

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a lawyer was renewed for another five years in 2017.[305] Also in 2017, lawmakers amended the *Prevention of Crime Act* (a law ostensibly aimed at combating organized crime) to revoke detainees' right to address the government-appointed Prevention of Crime Board, which is empowered to order the detention of individuals listed by the Home Ministry for renewable two-year terms without trial or legal representation.[306] The 2015 *Prevention of Terrorism Act* together with the *National Security Council Act* (2016) from the same year gives the *National Security Council Act* (2016) (led by the prime minister) wide powers of arrest, search, and seizure without a warrant in areas deemed as security risks and in the context of countering terrorism.[307]

Incidents of mistreatment in custody and impunity for police/security forces personnel are reported. Torture and abuse in police custody remain problems, and prisons are often overcrowded and unsafe.[308] Incidents of physical violence inflicted upon detainees under remand or during investigation are prevalent especially when there are elements of chain remand or detention under security laws.[309] A number of criminal offenses can be punished with caning, including immigration violations.[310] Malaysian human rights organisation Suara Rakyat Malaysia (SUARAM) reported as of 31 October 2018, four deaths occurred in police custody and there were two known incidences of death in prison custody.[311] Investigation into use of deadly force by a police officer occurs only if the attorney general initiates the investigation or if the attorney general approves an application for an investigation by family members of the deceased.[312] When the attorney general orders an official inquiry, a coroner's court convenes, and the hearing is open to the public.[313] In such cases, courts generally issued an "open verdict," meaning that there would be no further action against police.[314]

The government recently tabled a bill to establish an Independent Police Complaints of Misconduct Commission to promote integrity, transparency and accountability within the police force. A recommendation to establish the commission was made by the Royal Commission of Inquiry in 2005 following public backlash over a number of custodial deaths and allegations of police brutality.[315] In July 2019, the government tabled the Independent Police Complaints of Misconduct Commission (IPCMC) Bill to establish the IPCMC and its functions being: to promote integrity within the police force as well as to advise the government and recommend measures for such promotion of integrity; to protect public interest by dealing with police misconduct; to formulate and put in place mechanisms for the detection, investigation and prevention of police misconduct; and to 'exercise disciplinary control' over the police.[316] The IPCMC is to have a maximum of 10 appointed members – including a chairman and deputy chairman, but with the condition that none of them is a current or former police personnel or a public servant.[317] The IPCMC will also have appointed officers to carry out the work, including officers seconded from other government agencies to be investigators, or lawyers in private practice or those from the Judicial and Legal Service.[318] Under Section 22 of the

[305] Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section F2, 20190402081615
[306] Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section F2, 20190402081615
[307] Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section F2, 20190402081615
[308] Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section F3, 20190402081615
[309] Suaram's Human Rights Overview Report on Malaysia 2018, Suara Rakyat Malaysia (SUARAM), 28 November 2018, p.17, CIS7B8394110621
[310] Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section F3, 20190402081615
[311] Suaram's Human Rights Overview Report on Malaysia 2018, Suara Rakyat Malaysia (SUARAM), 28 November 2018, p.13, CIS7B8394110621
[312] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 1a, p.2, 20190314091511
[313] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 1a, p.2, 20190314091511
[314] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 1a, p.2, 20190314091511
[315] Cash-strapped Malaysian police under pressure amid plans for oversight body', Straits Times, The, 11 August 2019, 20190812081744
[316] So what exactly is the IPCMC Bill all about and why it is important, Malay Mail, 23 July 2019, 20191003111247; IPCMC is here - but does it have bite?, Malaysiakini, 19 July 2019, 20190812082833
[317] So what exactly is the IPCMC Bill all about and why it is important, Malay Mail, 23 July 2019, 20191003111247; IPCMC is here - but does it have bite?, Malaysiakini, 19 July 2019, 20190812082833
[318] So what exactly is the IPCMC Bill all about and why it is important, Malay Mail, 23 July 2019, 20191003111247; IPCMC is here - but does it have bite?, Malaysiakini, 19 July 2019, 20190812082833

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proposed law, the public can submit complaints to the IPCMC's Complaints Committee about alleged misconduct by the police, including actions or inactions that are: against the law; unreasonable, unjust, oppressive or improperly discriminatory; done on improper motives, irrelevant reasons or consideration; failure to provide reason when it should have been given; failure to comply with rules and standard operating procedures; and crime committed by a police officer.[319] This law will dissolve the Enforcement Agency Integrity Commission (EAIC) by repealing the 2009 law that established it, and EAIC officers will become IPCMC officers.[320] The government has been accepting feedback on the bill which will proceed to its second and third readings when Parliament resumes on 7 October.[321]

Judiciary

The majority of cases in Malaysian courts are processed in accordance with the rule of law. Provisions in the Constitution enshrine the rights of citizens in a trial.[322] The civil law system is based on British common law and defendants are presumed innocent until proven guilty.[323] Defendants have the right to be informed promptly of the charges against them and the right to a timely trial and the right to be present at their trial.[324] Defendants have the right to communicate with an attorney of their choice or to be appointed counsel at public expense if they face charges that carry the death penalty.[325] Defendants also may apply for a public defender in certain other cases.[326] According to the Malaysian Bar Council, defendants generally had adequate time and facilities to prepare a defence if they had the means to engage private counsel.[327] Otherwise, defendants must rely on legal aid and the amount of time to prepare for trial is at the discretion of the judge.[328] Authorities provide defendants free interpretation in Mandarin, Tamil, and some other commonly used dialects from the moment charged through all appeals.[329] The right to confront witnesses is limited by provisions allowing the identity of prosecution witnesses to be kept secret from the defence before a trial, which inhibits cross-examination of those witnesses.[330] Defendants may present witnesses and evidence on their behalf.[331] Defendants may appeal court decisions to higher courts, but only if the appeal raises a question of law or if material circumstances raise a reasonable doubt regarding conviction or sentencing – restrictions that the Malaysia Bar Council has claimed are excessive.[332]

Judicial independence may be compromised by executive interference. Three constitutional articles provide the basis for an independent judiciary; however, other constitutional provisions, legislation restricting judicial review, and executive influence over judicial appointments limit judicial

[319] So what exactly is the IPCMC Bill all about and why it is important, Malay Mail, 23 July 2019, 20191003111247; IPCMC is here - but does it have bite?, Malaysiakini, 19 July 2019, 20190812082833
[320] So what exactly is the IPCMC Bill all about and why it is important, Malay Mail, 23 July 2019, 20191003111247
[321] IPCMC Bill: Gov't to consider critics' views before second reading, Malaysiakini, 1 August 2019, 20190812083152
[322] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 1e, p.8, 20190314091511
[323] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 1e, p.8, 20190314091511
[324] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 1e, p.8, 20190314091511
[325] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 1e, p.8, 20190314091511
[326] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 1e, p.8, 20190314091511
[327] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 1e, p.8, 20190314091511
[328] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 1e, p.8, 20190314091511
[329] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 1e, p.8, 20190314091511
[330] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 1e, p.8, 20190314091511
[331] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 1e, p.8, 20190314091511
[332] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 1e, p.8, 20190314091511

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independence and strengthened executive influence over the judiciary.[333] Malaysia's highest courts are partly influenced by political or religious affiliation that can lead to politically motivated outcomes.[334] According to Lawyers for Liberty, the former *Barisan Nasional* government was guilty of 'concerted attempts to politicize the judiciary,' including forcing judicial officers to attend a political lecture in May 2017 'in flagrant breach of the doctrine of separation of powers and the concept of an independent judiciary.'[335] Members of the bar, NGO representatives and other observers have cited a number of high-profile instances of arbitrary verdicts, selective prosecution and preferential treatment of some litigants and lawyers,[336] such as the conviction of former deputy prime minister and opposition leader Anwar Ibrahim on charges of corruption and sodomy in 1999, 2000 and 2014.[337] The Prime Minister plays a key role in the appointment of members of the Judicial Appointments Commission – the body which selects judges.[338]

Sharia law

Malaysia maintains a dual legal system with the coexistence of *Sharia* law alongside civil law. Malaysia's secular legal system is based on English common law.[339] Muslims are subject to *Sharia* (Islamic law), the interpretation of which varies regionally, and the Constitution's Article 121 stipulates that all matters related to Islam should be heard in *Sharia* courts.[340] *Sharia* courts have jurisdiction over Muslims in matters of family law and religious observance, but when the two legal systems intersect, civil courts typically cede to *Sharia* courts.[341] The dual legal system results in different treatment of Muslims and non-Muslims in 'moral' and family law cases.[342] *Sharia* courts are highly influential in general, because their decisions frequently involve conversions to Islam, which in turn affect such matters as child-custody, burial rites and inheritance.[343] Some penalties imposed by *Sharia* courts are limited by federal civil law.[344] In April 2018, a high court ruled that the *Ahmadi* community cannot be charged with offences under the *Sharia* law system anywhere in Malaysia.[345] Two states, Kelantan and Terengganu, have symbolically enacted *hudood* (Islamic penal law) for criminal offenses such as apostasy, slander, adultery, and alcohol consumption.[346] The conservative Pan Malaysian Islamic Party (PAS) has pushed for *hudood* penalties for various criminal offenses in the staunchly conservative northern states. However, the federal government has not shown willingness to amend the Constitution to allow for *hudood.*[347] In July 2019, Speaking at the Department of Syariah Judiciary Malaysia, Minister in the Prime Minister's Department, Mujahid Yusof Rawa, said that the government intends to standardise and coordinate *Sharia* laws nationwide by the

[333] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 1e, p.7, 20190314091511;
BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.14, CIS7B83941547
[334] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 5.12, p.37, CIS7B839419347
[335] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 1e, p.7, 20190314091511
[336] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 1e, p.7, 20190314091511
[337] Freedom in the World 2019 – Malaysia, Freedom House, 4 February 2019, section F1, 20190402081615
[338] Malaysia: anti-corruption measures need strengthening, Transparency International, 28 July 2015, CXBD6A0DE18759
[339] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section F2, NGED867A631
[340] Human Rights Watch World Report 2019, Human Rights Watch, 17 January 2019, section F2, 20190118091502;
International Religious Freedom Report for 2017 – Malaysia, US Department of State, 29 April 2018, section II, p.5, OGD95BE927494
[341] United States Commission on International Religious Freedom Annual Report 2019, United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.213, 20190508143726
[342] Human Rights Watch World Report 2019, Human Rights Watch, 17 January 2019, section F2, 20190118091502
[343] BTI 2018 Country report Malaysia, Bertelsmann Stiftung, 22 March 2018, pp.7-8, CIS7B83941547
[344] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 5.3, p.35, CIS7B839419347
[345] World Report 2019, Human Rights Watch, 17 January 2018, p.369, 20190118091502
[346] United States Commission on International Religious Freedom Annual Report 2019, United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.214, 20190508143726;
BTI 2018 Country report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.8, CIS7B83941547
[347] United States Commission on International Religious Freedom Annual Report 2019, United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.214, 20190508143726

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end of 2020, saying the reason for "standardising the syariah criminal enactment nationwide" is that punishments for the same offences differ from state to state.[348]

Also see 'State Islamic religious enforcement officers'

Corruption

High-level corruption is a significant problem in Malaysia. In July 2018, Prime Minister Mahathir commented that "[m]ost of the top echelon in the Government are corrupt".[349] Historically, high-level officeholders who break the law and engage in corruption are rarely prosecuted adequately.[350] However, at lower levels in the civil service, prosecution over corruption frequently occurs.[351] Institutional safeguards in Malaysia are weak and there is insufficient political will to substantially mitigate the problem.[352] Misuse of resources and favouritism are facilitated by the close nexus between political and economic elites, which blurs the distinction between public and private enterprises and creates opportunities for collusion and graft.[353] Transparency International's 2017 corruption index showed Malaysia fell seven places to 62nd globally.[354] In the following year, Transparency International's 2018 index saw Malaysia move up to 61st.[355] Journalists, activists and politicians who have reported or criticised high-level corruption have been harassed or prosecuted.[356]

The previous UMNO-dominated government used laws against internal and external opponents in relation to the 1Malaysia Development Berhad (1MDB) scandal. Former Prime Minister Najib Razak's mismanagement of and possible embezzlement from state development fund 1MDB has continued to be highly controversial domestically and internationally.[357] In an attempt to contain the fallout from 1MDB scandal, former Prime Minister Najib in 2015 replaced the attorney general and fired several cabinet members who had been critical of the scandal.[358] Najib promoted four members of a parliamentary committee investigating 1MDB to his cabinet, temporarily halting the committee's work.[359] In November 2016, a court found opposition politician Rafizi Ramli guilty of disclosing state secrets after he made public the Auditor General's report on the 1MDB scandal.[360] However following the *Pakatan Harapan* win in the 14th General Election, the 1MDB report was declassified, and subsequently the Court of Appeal let Rafizi Ramili off with a two-year good behaviour bond of RM10,000.[361]

Anti-corruption mechanisms

Malaysian law provides criminal penalties for corruption, but enforcement is typically focused on low-level corruption. In the past, the *Barisan Nasional* government was only partly willing to

[348] Standardised syariah laws by end of next year - Mujahid, Bernama, 4 July 2019, 20190705100344
[349] I inherited a Malaysian government riddled with corruption PM Mahathir in CNN interview, The Straits Times, 27 July 2018, CXBB8A1DA32263
[350] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.13, CIS7B83941547
[351] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.13, CIS7B83941547
[352] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section C2, NGED867A631
[353] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section C2, NGED867A631
[354] Corruption Perceptions Index 2017, Transparency International, 21 February 2018, CIS7B83941307;
NOW offers to create Malaysia's own corruption index, Malaysiakini, 27 February 2018, CXBB8A1DA23044
[355] Malaysia moves one spot in latest corruption index, New Straits Times, 30 January 2019, 20190130152450
[356] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 4, p.22, 20190314091511
[357] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section C2, NGED867A631;
Malaysia sets up new task force over 1MDB scandal, Aljazeera, 21 May 2018, CXBB8A1DA27639;
Malaysia seeks to lay multiple charges against ex-premier Najib over 1MDB PM Mahathir, Reuters, 19 June 2018, CXBB8A1DA29663
[358] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section C2, NGED867A631;
BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.10, CIS7B83941547
[359] Freedom in the World 2017 – Malaysia, Freedom House, 12 July 2017, section C, NG2A465F591
[360] Freedom in the World 2018 - Malaysia, Freedom House, 5 April 2018, section B1, NGED867A631;
BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.13, CIS7B83941547
[361] Rafizi let off with good behaviour bond for OSA conviction, Malaysiakini, 1 June 2018, CXBB8A1DA28497

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contain corruption, and the few integrity mechanisms implemented were mostly ineffective.[362] Senior government officials who break the law and engage in corruption are rarely prosecuted adequately.[363] The law provides criminal penalties for corruption by officials however enforcement typically is focused on small scale and low-level crime.[364] Under the *Barisan Nasional* administration, former Prime Minister Najib weakened the state's anti-corruption mechanisms by removing the attorney general and manipulated the Malaysian Anti-Corruption Commission.[365] Furthermore, use of the *Official Secrets Act* (1972) shielded high level government officials from scrutiny.[366] These efforts were largely to fend off accountability over the 1MDB scandal for which Najib is currently on trial.[367]

The current administration has taken steps to combat corruption and prosecute high-level corruption in government. Shortly after losing the prime ministership, authorities confiscated large sums of cash and luxury items from the residences of former Prime Minister Najib and Najib has been charged over missing funds from the 1MDB fund.[368] Najib, his wife and several high-ranking officials of his former administration are facing dozens of criminal charges related to 1MDB and other government entities.[369] On 29 January 2019, the prime minister launched the National Anti-Corruption Plan (NACP) saying that the government will review how appointments to key government posts are made, will introduce new laws on political funding, and will require politicians and high-ranking civil servants to declare their assets.[370] The NACP, developed by the National Centre for Governance, Integrity and Anti-Corruption, incorporates 115 initiatives which cover six sectors, namely politics, law enforcement, public procurement, legal and judiciary, public administration and corporate management.[371] Additionally, the government has established committees to investigate corruption amongst state officials.[372] In March 2019, the Prime Minister proposed establishing a special court specifically to expedite corruption cases, however this is yet to materialise.[373]

Crime

Malaysian authorities periodically crack-down on criminal gangs and crime syndicates. In August 2013, the RMP launched Ops Cantas Khas, focusing on weapons seizures and targeting gang members, leaders and their assets.[374] Police claimed that they had identified 49 illegal gangs nationwide with 40,000 members – 70 per cent of whom were ethnic Indian[375] – who are linked to armed robberies, drug and prostitution rings, loan-sharking, gambling, and extortion and contract killings.[376] Authorities claim that the crackdown has led to a reduction in crime.[377] A second stage of the campaign – Op Cantas Khas 2 – was launched in August 2016.[378] In January 2018 a nationwide

[362] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.32, CIS7B83941547
[363] BTI 2018 Country Report Malaysia, Bertelsmann Stiftung, 22 March 2018, p.13, CIS7B83941547
[364] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 4, p.22, 20190314091511
[365] Cleaning up corruption in Malaysia goes beyond Najib, Aljazeera, 23 May 2019, 20190607090851
[366] Critic of Najib Razak, Malaysian Leader, Gets Prison for 1MDB Disclosure, The New York Times, 14 November 2016, 20190607093144
[367] Cleaning up corruption in Malaysia goes beyond Najib, Aljazeera, 23 May 2019, 20190607090851;
What can Malaysians expect next in 1MDB saga?, Malay Mail, 1 October 2019, 20191004141245
[368] Najib finished second round of questioning by anti-graft body, The Straits Times, 25 May 2018, CXBB8A1DA27951;
Former Malaysian PM Najib Razak interrogated by corruption commission as charges loom, ABC News (Australia), 23 May 2018, CXBB8A1DA27725;
Malaysia scrutiny of 'insolvent' 1MDB wealth fund intensifies as ex-PM Najib Razak is questioned again in corruption scandal, South China Morning Post, 24 May 2018, CXBB8A1DA27945;
Cash tally from condo raids More than $40m, Asia News Network, 24 May 2018, CXBB8A1DA27853;
Former Malaysian PM charged with money laundering, abuse of power, Reuters, 20 September 2018, CXBB8A1DA35852
[369] Malaysia unveils five-year plan to fight corruption, Aljazeera, 29 January 2019, 20190607095843
[370] Malaysia launches ambitious anti-corruption plan, The Straits Times, 29 January 2019, 20190130081803
[371] NACP launched, aims to tackle corruption for next five years, Malaysiakini, 29 January 2019, 20190130090502
[372] Cleaning up corruption in Malaysia goes beyond Najib, Aljazeera, 23 May 2019, 20190607090851
[373] Establishment of Special Corruption Courts is a Step Forward Towards Stamping Out Corruption, The Malaysian Bar, 21 March 2019, 20190605121213
[374] Cops deal crime a crippling blow since Ops Cantas Khas launch, The Star Online, 23 September 2013, CXC28129414715
[375] Malaysia's gang menace, Aljazeera, 11 July 2014, CX1B9ECAB10299
[376] Malaysia's gang menace, Aljazeera, 11 July 2014, CX1B9ECAB10299
[377] 79,414 individuals detained throughout 'Ops Cantas Khas', Bernama, 10 June 2014, CX1B9ECAB11435
[378] Op Cantas crackdown on triads: 1,444 arrested, Astro Awani, 13 August 2016, CX6A26A6E8262

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operation known as Operation Cantas Silver resulted in the arrest of 36 suspected members of Gang 04 who are allegedly involved in violent crimes including robbery, extortion, arson and drug trafficking.[379] Recently, Gang 360 Devan members previously charged under section 130 V of the Penal Code have had their charges downgraded to Section 43 of the *Societies Act* (1966) that carries a more lenient sentence.[380]

Loan sharks

Malaysian police respond to victim reports of threats and harassment from illegal moneylenders and conduct operations against illegal money lending syndicates, both of which often lead to prosecution of illegal moneylenders and their employees under the *Moneylenders Act 1951*. Illegal money lending is an offence under Malaysian law, and section 5(2) of the *Moneylenders Act* (1951) carries a fine of RM20, 000 not exceeding RM100, 000, or imprisonment not exceeding five years, or both for unlicensed moneylending.[381] Section 29AA of the *Moneylenders Act* (1951) carries a fine not exceeding RM20, 000, imprisonment for up to two years, or both for any person who assists an unlicensed moneylender.[382] Section 29B(1) of the *Moneylenders* Act (1951) carries a fine of up to RM200,000 or imprisonment of up to three years, or both for harassment or intimidation of a borrower, a borrower's family or their associates.[383] During recent years, police have responded to complaints of harassment and intimidation by illegal moneylenders and have conducted numerous operations targeting illegal moneylending operations, resulting in the prosecution of persons under the *Moneylenders Act* (1951).[384] In December 2017, Malaysia's central bank cautioned the public about illegal money lending activities conducted by companies using fake licences purportedly issued by the central bank, advising the public to report such instances to the police for investigation.[385] A non-governmental organisation, the Malaysian Muslim Consumers Association (PPIM), offers support for those encountering problems with loan sharks.[386]

Death penalty

A moratorium on executions is in place. Malaysia announced a moratorium on executions in July 2018.[387] According to the Malaysian government, as of 29 October 2018, there are 1,281 death row inmates among 65,222 prisoners.[388] Of the 1,279 on death row, 932 were sentenced to death under section 39B of the *Dangerous Drugs Act* (1952), while 317 people were convicted of murder.[389]

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[379] 36 suspected underworld gang members arrested in Malaysia, Bernama, 20 February 2018, CXBB8A1DA22559
[380] 57 go on trial in Kajang Prison for alleged links to Gang 360 Devan, Bernama, 6 September 2018, CXBB8A1DA34959
[381] Moneylenders Act 1951 (Malaysia), amended 15 April 2011, Attorney General's Chambers of Malaysia, section 5(2), CISEC96CF110366
[382] Moneylenders Act 1951 (Malaysia), amended 15 April 2011, Attorney General's Chambers of Malaysia, section 29AA, CISEC96CF110366
[383] Moneylenders Act 1951 (Malaysia), amended 15 April 2011, Attorney General's Chambers of Malaysia, section 29B(1), CISEC96CF110366
[384] Unlicensed money lenders claim trial for harassing, threatening borrowers, New Straits Times, 6 September 2018, CXBB8A1DA37862;
Malaysian man unwittingly borrows money from loan sharks so son could have 'dream wedding', Asia News Network, 19 April 2018, CXBB8A1DA37866;
Police detain 35 in action against illegal money-lending, Bernama, 25 August 2017, CXC90406624824;
Four loan shark operations busted with arrest of 29 people, The Star Online, 4 August 2017, CXC90406611700;
Loan shark ring busted, 31 nabbed in nationwide raids, The Sun Daily, 18 April 2017, CXC9040665990;
Rich loan sharks nabbed, The Star Online, 13 January 2017, CXC904066329;
26 loan sharks nabbed, RM2m seized, Daily Express, 13 January 2017, CXC904066572;
4 loan sharks fined RM8,000 each for red paint splashed on debtor home, Bernama, 5 November 2016, CX6A26A6E12449
[385] BNM warns of illegal money lenders, Bernama, 6 December 2017, CXC90406624823
[386] For Malaysia's sake, consumers group seeks to save civil servants trapped in debt, Malay Mail Online, 3 August 2017, CXC90406624589;
Loan sharks sharpen their bite, The Star Online, 20 January 2018, CXBB8A1DA22631;
More than 10,000 people sought PPIM's help over Ah Long cases, Bernama, 18 October 2016, CX6A26A6E31142;
PPIM urges govt to put an end to 'ah long' posters, Bernama, 6 September 2018, CXBB8A1DA35970
[387] Parliament must consign death penalty to the history books, Amnesty International, 10 October 2018, CXBB8A1DA38216
[388] Liew Govt committed to doing away with death penalty, Free Malaysia Today, 27 November 2018, CXBB8A1DA39510
[389] Death penalty: Six things you need to know, Malaysiakini, 12 November 2018, CXBB8A1DA38232

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Amnesty International reports there are 1,275 people known to be under sentence of death at the end of 2018.[390] There were four executions by hanging during 2017.[391] There were no executions reported in Malaysia during 2018 but 190 recorded death sentences, a significantly higher number of death sentences were imposed in 2018 compared to previous years.[392] One hundred and ninety death sentences handed-down during 2018 relate to 136 (72%) for drug-related offences, 48 (25%) for murder, 3 (2%) for firearms offences and 3 (2%) for kidnapping and murder.[393] Foreign nationals were involved in 60 (32%) of these cases, including 51 (38%) of the drug-related cases and 9 (19%) of the murder cases.[394] People sentenced to death by the High Court have an automatic right to judicial review of their sentence by the Court of Appeal and the Federal Court, and are also able to seek clemency from the relevant state ruler or the King.[395] Prisoners typically languish on death row for years and there is no established procedure for notifying families of scheduled executions.[396]

Malaysia introduced legislation that removes the mandatory death sentence for some offenses, including some drug-related offenses. In November 2017 (effective March 2018), parliament passed the *Dangerous Drugs (Amendment) Act* (2017) to remove the mandatory death sentence for drug-related offences by giving judges the discretion to punish drug offenders with either life imprisonment or hanging.[397] However, judicial discretion is limited only to certain circumstances under specified in section 39B (2A) of the Act;[398] namely where the accused is merely a drug mule and has assisted law enforcement in disrupting drug trafficking activities.[399] The amendment does not apply in retrospect for previous convictions.[400] At least 10 individuals have received the mandatory death penalty for drug trafficking following the amendment coming into effect.[401]

Malaysia has yet to abolish the mandatory death penalty for all offences. There are 11 offences that attract the mandatory death penalty within two acts – nine under the Penal Code, including for murder, waging war against Malaysia's King, and committing terrorist acts, and a further two under the *Firearms (Increased Penalties) Act* (1971).[402] In March 2019, the government announced that the bill to repeal the mandatory death penalty is expected to be tabled in Parliament in October 2019 after the government establishes a special committee to decide on appropriate prison terms for the 11 serious criminal offences.[403] However, the government only recently agreed in September to establish the special committee to determine alternative punishments for offences carrying the mandatory death penalty.[404] Advocacy group Malaysians against Death Penalty and Torture support the establishment of the committee but has expressed concern that the delay in establishing the committee will lead to a delay in abolishing the mandatory death penalty.[405]

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[390] Death Sentences and Executions 2018, Amnesty International, 10 April 2019, p.23, 20190411090834
[391] Malaysian Government's plans to abolish death penalty could save Sydney grandmother's life, Australian Broadcasting Corporation (ABC) News, 11 October 2018, CXBB8A1DA38223
[392] Death Sentences and Executions 2018, Amnesty International, 10 April 2019, p.23, 20190411090834
[393] Death Sentences and Executions 2018, Amnesty International, 10 April 2019, p.23, 20190411090834
[394] Death Sentences and Executions 2018, Amnesty International, 10 April 2019, p.23, 20190411090834
[395] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 4.10, p.32, CIS7B839419347
[396] Amnesty International Report 2016-2017, Amnesty International, 22 February 2017, p.243, NG2A465F54
[397] No more mandatory death sentence soon as amendments to Dangerous Drugs Act passed in Parliament, New Straits Times, 30 November 2017, CXC90406618546;
Group against death penalty warns amended Drug Act still has flaws, Malaymail Online, 15 March 2018, CXBB8A1DA23929;
Death Sentences and Executions 2018, Amnesty International, 10 April 2019, p.23, 20190411090834
[398] A Call to End the Mandatory Death Penalty in Malaysia, Union Internationale des Avocates (UIA), 20 February 2018, CXBB8A1DA22745
[399] Amnesty International Report 2017/18, Amnesty International, 22 February 2018, p.250, NGED867A612;
Death Sentences and Executions 2018, Amnesty International, 10 April 2019, p.23, 20190411090834;
Human Rights Watch World Report 2019, Human Rights Watch, 17 January 2019, p.367, 20190118091502
[400] Parliament removes mandatory death penalty for drug offences, judges to get discretion, Malaymail Online, 30 November 2017, CXC90406618547
[401] A Call to End the Mandatory Death Penalty in Malaysia, Union Internationale des Avocates (UIA), 20 February 2018, CXBB8A1DA22745
[402] Law minister: Bill to repeal mandatory death penalty to be tabled in October, Bernama, 13 July 2019, 20190716132419
[403] Law minister: Bill to repeal mandatory death penalty to be tabled in October, Bernama, 13 July 2019, 20190716132419
[404] Minister: Special committee to study alternative to mandatory death sentence, Bernama, 6 September 2019, 20191004151836
[405] Death penalty - 'special committee' another excuse for abolition delay?, Malaysiakini, 12 September 2019, 20191004152316

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Domestic violence/familial abuse

Family violence

Domestic violence remains prevalent in Malaysia, despite laws prohibiting it. Malaysian law prohibits domestic violence, including physical injury and mental, emotional and psychological abuse.[406] Rape is punishable by a maximum 20 years' imprisonment and caning.[407] However, marital rape is not considered rape under the country's penal code.[408] Domestic violence victims can obtain protection orders which attract a prison sentence of up to one year or a fine if breached.[409] Malaysia took a step forward in the protection of women's rights in 2017 by amending its domestic violence law through enhanced procedures including Emergency Protection Orders that can be applied immediately for up to a week and prevent a perpetrator from entering a safe location.[410] The amendment broadened the definition of domestic violence to include the misappropriation of property, threatening a victim, communicating with or about a victim in a way that insults their 'modesty', as well as also ensuring protection for male victims.[411] However, contradictions between civil and *Sharia* law still affect the level of protection available to victims.[412] Under *Sharia* law in many states, wives are prohibited from disobeying the 'lawful order' of their husbands, which can lead to ambiguous interpretations of the law.[413]

Government and non-government bodies provide shelter and wide-ranging assistance to victims of domestic violence, but these are often insufficient to meet the need. Almost every hospital in Malaysia has a crisis centre where victims of rape and domestic violence can make reports without going to a police station,[414] and which offer services such as examination by female doctors, evidence management, temporary shelter and legal assistance.[415] In 2011, UN Women reported that the One Stop Crisis Centre model was successful in combining clinical therapeutic responses with secondary preventive measures.[416] However, activists asserted that support mechanisms for victims of domestic violence are inadequate.[417] The RMP Criminal Investigation Division includes a Sexual Investigation Division.[418] The Ministry of Women, Family and Community Development organises

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[406] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.105, p.25, CIS7B839419347
[407] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 6, p.24, 2019031409151
[408] Penal Code, Government of Malaysia, enacted 1936, amended 1 September 2017, section 375A, CISEDB50AD9259; A brief history of marital rape — New Sin Yew, Malay Mail Online, 4 November 2018, CXBB8A1DA38587
[409] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.105, p.25, CIS7B839419347
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Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.106, p.26, CIS7B839419347
[411] Dewan Negara passes Domestic Violence (Amendment) Bill 2017 and Private Employment Agencies (Amendment) Bill 2017, New Straits Times, 14 August 2017, CXC90406612113
[412] Domestic Violence, Women's Aid Organisation, n.d., accessed 16 August 2017, CISD9559B12503
[413] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.105, pp.25-26, CIS7B839419347
[414] One Stop Crisis Centre (OSCC), One Stop Crisis Centre (OSCC) website, 2017, CISEDB50AD5269;
Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 6, p.24, 2019031409151
[415] Knowledge, attitude and practice among healthcare staffs in the Emergency Department, Hospital Universiti Sains Malaysia towards Rape Victims In One Stop Crisis Centre (OSCC), Medical Journal of Malaysia, 3 June 2015, p.162, CISEC96CF15553;
One Stop Crisis Centre (OSCC), One Stop Crisis Centre (OSCC) website, 2017, CISEDB50AD5269;
Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 6, p.24, 2019031409151
[416] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.109, p.26, CIS7B839419347
[417] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 6, p.24, 2019031409151
[418] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.106, p.26, CIS7B839419347

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legal literacy seminars designed to inform women of their rights in cases related to issues such as marital problems and divorce.[419]

Child marriage and sexual abuse

***Sharia* courts approve approximately 80 per cent of applications for marriages involving a female under the age of 16.** The minimum age of marriage is age 18 for men and age 16 for women.[420] Muslim women younger than age 16 may marry with the approval of a *Sharia* court.[421] In some cases authorities treat early marriage as a solution to statutory rape.[422] Child marriage is thus defined as marriage below the minimum legal age which requires the approval of a *Sharia* court judge for Muslims or the *Menteri Besar* / Chief Minister for non-Muslims.[423] In 2017, Teo Nie Cheng of the opposition Democratic Action Party unsuccessfully proposed an amendment to the Sexual Offences Against Children bill to include a ban on child marriage.[424] In Malaysia, there were 152,835 persons aged 15-19 in a marriage according to the 2010 Population and Housing Census.[425] One report indicates that between 2005 and 2015, 10,240 Muslims applied for child marriages while 7,719 non-Muslim men applied to marry a girl aged between 16 and 18 from 2000 to 2014.[426] Another report indicates that there were nearly 9,000 cases of child marriage between 2010 and 2015, consisting of 6,268 Muslim and 2,775 non-Muslim.[427] The approval rate of under 16 year old marriage by *Sharia* courts in 2015 was 81 per cent, in 2014 74 per cent, in 2012 87.7 per cent, and in 2011 86.1 per cent, representing an approximately 80 per cent approval rate.[428] In July 2018, a 41-year-old Malaysian man married an 11-year-old Muslim girl in southern Thailand.[429] State-level authorities in Kelantan fined the man for getting married outside Malaysia, skirting local regulations.[430] The child was abruptly returned to Thailand and placed under the care of a local social welfare department, but it remains unclear if the marriage was ever annulled.[431] In a similar case, in September 2018, a 44-year-old man married a 15-year-old girl in Kota Bahru.[432] The girl's parents approved of the wedding and obtained the necessary permission from a local *Sharia* court.[433] The case generated significant international attention and spurred further government scrutiny.[434] However, Deputy Prime Minister Wan Azizah

[419] Good Practices: Eliminating Violence Against Women and Children (EVAWC), Ministry of Women, Family and Community Development, Malaysia and ASEAN Commission on the Promotion and Protection of the Rights of Women and Children, n.d., accessed 15 August 2017, p.38, CISEDB50AD5272
[420] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 6, p.26, 2019031409151
[421] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 6, p.26, 2019031409151
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[423] Child Marriages in Malaysia: Reality, Resistance and Recourse, Penang Institute, 10 July 2017, CXC90406624846
[424] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.130, p.29, CIS7B839419347;
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[425] Child Marriage: Its Relationship with Religion, Culture and Patriarchy, Sisters in Islam & Asian-Pacific Resource and Research Centre for Women, June 2018, p.21, CIS7B839411448
[426] Thousands in Malaysia want to wed teenage girls, Asia News Network, 24 October 2018, CXBB8A1DA37296
[427] Child Marriages in Malaysia: Reality, Resistance and Recourse, Penang Institute, 10 July 2017, CXC90406624846
[428] Child Marriages in Malaysia Reality, Resistance and Recourse, Penang Institute, 10 July 2017, CXC90406624846
[429] United States Commission on International Religious Freedom Annual Report 2019, United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.214, 20190508143726
[430] United States Commission on International Religious Freedom Annual Report 2019, United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.214, 20190508143726
[431] United States Commission on International Religious Freedom Annual Report 2019, United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.214, 20190508143726
[432] United States Commission on International Religious Freedom Annual Report 2019, United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.214, 20190508143726
[433] United States Commission on International Religious Freedom Annual Report 2019, United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.214, 20190508143726
[434] United States Commission on International Religious Freedom Annual Report 2019, United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.214, 20190508143726

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Wan Ismail admitted there was little the Malaysian government could do because the marriage was approved by a *Sharia* court.[435]

Malaysian authorities have taken limited steps to regulate early marriages. Malaysia's parliament voted down an attempt to ban child marriage in April 2017.[436] In October 2018, Prime Minister Mahathir issued a directive instructing all state authorities to raise the minimum marriage age for Muslims to 18, but this gesture was largely symbolic as according to the Constitution, Islamic law falls under the jurisdiction of state-level muftis, and the federal government cannot enforce a legal minimum marriage age for Muslims.[437] However, the Selangor sultan correspondingly raised the legal Muslim marriage age to 18 in his state, but younger couples can still apply for marriage if they meet very strict guidelines.[438] Five other state governments agreed, at least in principle, that the minimum age should be raised to 18.[439]

Malaysian authorities have taken limited steps to curb the abuse of children. In April 2017 Malaysia's parliament passed a new child sex crimes law.[440] The *Sexual Offences against Children Act* (2017) criminalises 'grooming' of minors, includes penalties for making and possessing pornography involving people aged under 18, and involves the establishment of a special court to deal with child sexual abuse cases more quickly.[441] In 2017, the Special Court for Sexual Crimes against Children was established, the first of its kind in South-East Asia, along with a special court to hear human trafficking cases.[442] There are also specialised courts for children in Sarawak, Selangor and Johor.[443] On 12 November 2018, an arrest was made following three reports lodged against a man, making it Malaysia's first sexual grooming case.[444] Women's groups claim that on average ten women are raped each day and that more than half of these women are younger than 16 years old.[445]

Islamic Family Law stipulates that Muslim women may only marry with the consent of a male guardian, but using force or threat to compel a woman to marry or to reject a proposal can lead to a fine or imprisonment. Malaysia's *Law Reform (Marriage and Divorce) Act* (1976) states that all marriage must be based on mutual consent, and using force or threat to compel a woman to marry against her will or to prevent her from getting married is punishable with a fine or imprisonment.[446] Islamic Family Law stipulates that marriages are not fully recognised without the consent of the '*wali*',

[435] United States Commission on International Religious Freedom Annual Report 2019, United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.214, 20190508143726
[436] Malaysia passes child sex crimes law, does not ban child marriage, Reuters, 5 April 2017, CXC90406611583; Child Marriages in Malaysia Reality, Resistance and Recourse, Penang Institute, 10 July 2017, CXC90406624846
[437] United States Commission on International Religious Freedom Annual Report 2019, United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.214, 20190508143726
[438] United States Commission on International Religious Freedom Annual Report 2019, United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.214, 20190508143726
[439] United States Commission on International Religious Freedom Annual Report 2019, United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.214, 20190508143726
[440] Malaysia passes child sex crimes law, does not ban child marriage, Reuters, 5 April 2017, CXC90406611583; Child Marriages in Malaysia Reality, Resistance and Recourse, Penang Institute, 10 July 2017, CXC90406624846
[441] Malaysia passes child sex crimes law, does not ban child marriage, Reuters, 5 April 2017, CXC90406611583; Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 6, p.26, 2019031409151
[442] Report of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material on her visit to Malaysia, United Nations Human Rights Council, 17 January 2019, p.9, 20190325141806
[443] Report of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material on her visit to Malaysia, United Nations Human Rights Council, 17 January 2019, p.9, 20190325141806
[444] Alleged paedophile arrested in 'first sexual grooming case in Malaysia', Asia News Network, 13 November 2018, CXBB8A1DA38556
[445] Country Information Report – Malaysia (Version 2), Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.106, p.26, CIS7B839419347
[446] Social Institutions and Gender Index 2014 – Malaysia, Organisation for Economic Co-operation and Development, 2014, p.1, CISEDB50AD5657

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the woman's guardian.[447] A *wali* or a guardian such as the father is required in Islam to give away a woman for marriage and to solemnise the marriage.[448]

Female genital circumcision

Female circumcision is considered an Islamic cultural practice and is widely practiced across Malaysia despite international criticism of the practice. Malaysia's National Council of Islamic Religious Affairs issued a *fatwa* in 2009 that ruled female circumcision obligatory for Muslim women unless found to be physically harmful.[449] Female circumcision is often performed during infancy and a 2012 study found that 93 per cent of Muslim women respondents had undergone the practice.[450] The law does not prohibit female genital circumcision and it is a common practice, but data on it was very limited.[451] In February 2018, representatives from Muslim-majority countries such as Bangladesh and Egypt criticised the practice as un-Islamic at the Constructive Dialogue session of the 69th session of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).[452] At Malaysia's Universal Periodic Review on human rights on 8 November 2018, a representative of the Women, Family and Community Development Ministry defended the on-going practice of the circumcision of female infants in the country as a "cultural obligation".[453] The Malaysian government's stance was reaffirmed by the Deputy Prime Minister and Women, Family and Community Development Minister, Datuk Seri Dr Wan Azizah Wan Ismail, who later said that female circumcision in Malaysia is a cultural practice and unlike female genital mutilation that is practiced in Africa.[454] International NGOs based in Malaysia continue to advocate for ending the practice.[455]

[447] Social Institutions and Gender Index 2014 – Malaysia, Organisation for Economic Co-operation and Development, 2014, CISEDB50AD5657, p.1
[448] Lawyer: Couple not trying to legitimise illegitimate child, just removing 'bin Abdullah' stigma, Malay Mail Online, 8 February, CXBB8A1DA38635
[449] Malaysia Still on the Wrong Path on Women's Rights, The Diplomat, 26 February 2018, CXBB8A1DA23247
[450] Malaysia Still on the Wrong Path on Women's Rights, The Diplomat, 26 February 2018, CXBB8A1DA23247; Female circumcision Culture and religion in Malaysia see millions of girls undergo cut, Australian Broadcasting Corporation (News), 13 November 2018, CXBB8A1DA38323
[451] Country Reports on Human Rights Practices for 2018 - Malaysia, US Department of State, 13 March 2019, section 6, p.24, 2019031409151
[452] Malaysia urged to abolish female genital mutilation, The Star Online, 22 February 2018, CXBB8A1DA2276
[453] Women's ministry defends infant female circumcision at UN human rights review, Malaysiakini, 9 November 2018, CXBB8A1DA38229
[454] DPM maintains that female circumcision is part of Malaysian culture, The Star Online, 15 November 2018, CXBB8A1DA38729
[455] Malaysia-based NGO help form Asia-Pacific network to end female genital mutilation, Malay Mail Online, 3 June 2019, 20190605100553

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Australian Government
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Common Claims

Malaysia

Country of Origin Information Services Section (COISS)

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Ethnicity

Ethnic demographics

Malays are the dominant ethnic group in Malaysia. Along with a small number of other indigenous groups (including *Orang Asli, Dayak, Anak Negeri*), *Bumiputera* comprise 61.7 per cent of the country's population.[1] Chinese (20.8 per cent) and Indians (6.2 per cent) are the other major ethnic groups in Malaysia.[2] It is estimated that 80 per cent of the Indian population are Tamil.[3] Chinese are the country's highest median income earners, while Indians and *Bumiputera* are the lowest median income earners – both below the national median.[4]

Ethnic Malays – *Bumiputera*

Ethnic Malays (*Bumiputera*), who are constitutionally defined as Muslim, comprise more than half the country's population and benefit from affirmative action policies not afforded to other ethnic groups. Following May 1969 race riots, the government passed legislation aimed to ensure Malay political supremacy, and in 1971 promulgated the New Economic Policy that provided extensive benefits to the *Bumiputera* community.[5] These special privileges are allocated strictly on the basis of ethnicity, and by extension, adherence to Islam.[6] Although the New Economic Policy officially ended in 1991, economic policies since have changed little in character and continue to include special rights for the *Bumiputera* while at the same time promoting rapid economic growth to ensure that all ethnic groups benefit economically.[7]

The government limits opportunities for non-*Bumiputera* in higher education and government employment.[8] Many industries are subject to race-based requirements that mandate *Bumiputera* ownership levels.[9] Government procurement and licensing policies favour *Bumiputera*-owned businesses.[10] Although these policies are somewhat controversial, Malays have been reluctant to give up their preferential status, resulting in a mostly unspoken social contract in which non-Malays enjoy the benefits of Malaysian citizenship, but must also accept second-class status in Malaysian society.[11] In July 2018, the Malaysian government indicated that it would review the New Economic Policy to align economic policies with need instead of race.[12] However, in October 2018, Prime Minister

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[1] 'The World Factbook Malaysia', Central Intelligence Agency, 23 October 2018, CIS7B8394110022
[2] 'The World Factbook Malaysia', Central Intelligence Agency, 23 October 2018, CIS7B8394110022
[3] 'World Directory of Minorities and Indigenous Peoples - Malaysia Indians', Minority Rights Group International, January 2018, CIS7B83941338
[4] 'Malaysian Indian Blueprint', Prime Minister's Office, 21 April 2017, pp.8-9, CISEDB50AD7705
[5] 'BTI 2018 Country report Malaysia, Bertelsmann Stiftung', 22 March 2018, pp.4-5, CIS7B83941547
[6] 'United States Commission on International Religious Freedom Annual Report 2019', United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.210, 20190508143726
[7] 'BTI 2018 Country report Malaysia, Bertelsmann Stiftung', 22 March 2018, p.5 & p.31, CIS7B83941547
[8] 'World Directory of Minorities and Indigenous Peoples - Malaysia Indians', Minority Rights Group International, January 2018, CIS7B83941338;
'World Directory of Minorities and Indigenous Peoples - Malaysia: Chinese', Minority Rights Group International, January 2018, CIS7B83941344;
'Country Reports on Human Rights Practices for 2018 - Malaysia', US Department of State, 13 March 2019, section 6, p.28, 20190314091511;
'Freedom in the World 2019 – Malaysia', Freedom House, 4 February 2019, sections F4, G1, 20190402081615
[9] 'Country Reports on Human Rights Practices for 2018 – Malaysia', US Department of State, 13 March 2019, section 6, p.28, 20190314091511;
'Freedom in the World 2019 – Malaysia', Freedom House, 4 February 2019, section F4, 20190402081615;
'Country Reports on Human Rights Practices for 2018 - Malaysia', US Department of State, 13 March 2019, section 6, p.28, 20190314091511
[10] 'Country Reports on Human Rights Practices for 2018 - Malaysia', US Department of State, 13 March 2019, section 6, p.28, 20190314091511
[11] 'United States Commission on International Religious Freedom Annual Report 2019', United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.212, 20190508143726
[12] 'Malaysia to train Bumiputera to be more competitive rather than spoon-feed them Mahathir', The Straits Times, 1 September 2018, CXBB8A1DA34636

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Mahathir publicly asserted these policies were still necessary to bridge the economic gap between Malays and non-Malays and would remain in place for the foreseeable future.[13] In November 2018, the government stated that it would not ratify the International Convention on the Elimination of All Forms of Racial Discrimination, following opposition and criticism that ratifying the convention would weaken the rights of *Bumiputera*, Malay royals, and dilute Islam's position in Malaysia.[14]

Chinese

Chinese Malaysians are represented in government and generally do not experience discrimination or violence on a daily basis, but may face low-levels of official discrimination when attempting to gain entry to tertiary education. Following the 2018 general election, the Democratic Action Party (DAP) became the largest ethnic Chinese party holding more seats than the former dominant Malaysian Chinese Association (MCA).[15] Lim Guan Eng, an ethnic Chinese, was appointed as finance minister following May 2018 elections.[16] There are no laws or constitutional provisions that directly discriminate against Chinese Malaysians.[17] However, non-*Bumiputera* communities experience systematic discrimination in the distribution of state benefits.[18] Chinese are able to access public education but increasingly attend one of the 1,298 Chinese schools due to concerns about the quality of education and perceptions that the public curriculum has a strong focus on Islam.[19] DFAT report that some Chinese Malaysians are not offered a position at public universities despite having high matriculation scores and note that in-country sources indicates this is likely attributable to 'individual-based societal-level discrimination', rather than official discrimination.[20] Chinese form the bulk of students at Malaysia's non-government universities.[21]

Indians

Indian Malaysians generally do not experience discrimination or violence on a daily basis but may face low levels of discrimination when attempting to gain entry to tertiary education. There are no laws or constitutional provisions that directly discriminate against Indian Malaysians.[22] However, non-*Bumiputera* communities experience systematic discrimination in the distribution of state benefits.[23] Indians are able to access public education, with 524 state-based Tamil-language schools across Malaysia.[24] However, access to state-based tertiary education remains low, with approximately six per cent of student places at public universities offered to Indian applicants in 2009, and just four per cent in 2013.[25]

Since 2009 the government has mandated initiatives aimed to improve the socio-economic position of Indian Malaysians. In recent years, the government has focused socio-economic policies

[13] 'United States Commission on International Religious Freedom Annual Report 2019', United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.212, 20190508143726
[14] 'Malaysia not ratifying UN human rights treaty', The Straits Times, 24 November 2018, CXBB8A1DA39228
[15] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.9, pp.20-21, 20191213141745
[16] 'Malaysia's ruling party may be gone, but its racial policies survive', The Economist, 7 June 2018, CXBB8A1DA28917; 'The shape of things to come under Mahathir 2.0', Asia Times, 13 May 2018, CXBB8A1DA27542
[17] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.9, pp.20-21, 20191213141745
[18] 'BTI 2018 Country report Malaysia', Bertelsmann Stiftung, 22 March 2018, p.7, p.24, CIS7B83941547
[19] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.11, p.21, 20191213141745
[20] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.12, p.21, 20191213141745
[21] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.12, p.21, 20191213141745
[22] 'Country Information Report – Malaysia (Version 2)', Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.11, p.11, CIS7B839419347
[23] 'BTI 2018 Country report Malaysia', Bertelsmann Stiftung, 22 March 2018, p.7, CIS7B83941547
[24] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.15, p.22, 20191213141745
[25] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.15, p.22, 20191213141745

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on helping the lower economic percentile of the Indian community (estate Indians) to attain better education outcomes,[26] resulting in spending allocations exceeding RM1 billion for Tamil schools.[27] In 2017, the government published its 10 year Malaysian Indian Blueprint that outlines policies and mechanisms that have been implemented since 2009 which aim to lift the socio-economic position of Malaysian Indians.[28] The current government intends to maintain but review this blueprint.[29]

Indian Malaysians participate extensively in political life but the predominant use of the Malay language can be a barrier to Indian employment in the civil service. Indian Malaysians participate freely in political life. Several members of parliament are ethnic Indian, including those who serve as government ministers.[30] In June 2018, the Mahathir government appointed an ethnic Indian Christian, Tommy Thomas, as Attorney General.[31] The predominant use of the Malay language can be a barrier to Indian Malaysian employment in the civil service.[32] Despite this, in 2016 an Indian Malaysian became Kuala Lumpur's first non-Malay Police Commissioner, furthermore other Indian Malaysians have previously held senior military positions.[33] In 2015, more than 50 per cent of Indian Malaysians were employed in low-income jobs but represent a high proportion of professionals, including 38 per cent of the country's medical workforce.[34]

Religion

Islam is the dominant religion in Malaysia. Census figures from 2010 indicate that 61.3 per cent of the population practices Islam.[35] Significant religious minorities are Buddhists (19.8 per cent), Christians (9.2 per cent), Hindus (6.3 per cent) and Confucianists, Taoists and other traditional Chinese philosophies and religions (1.3 per cent).[36] The government automatically classes individuals born in Malaysia of Malay ethnicity as Muslim.[37] Rural areas – especially on the east coast of Peninsular Malaysia – are predominately Muslim, while the states of Sabah and Sarawak on the island of Borneo have higher numbers of non-Muslims.[38] A Muslim's status is recorded on their birth certificate and on their national identification card.[39] National identification cards do not distinguish between *Sunni* and *Shia* Muslims, instead the cards identify Muslims on their surface, but record other religious affiliation in encrypted form on a smart chip.[40] Following the 2018 14th General Elections, the new prime minister ordered a review of Malaysia's institution tasked with promoting Islam, the Islamic

[26] 'Malaysia Indian Blueprint', Prime Minister's Office, 21 April 2017, CISEDB50AD7705
[27] 'I'm committed to transforming Indian community, says Najib', The Malaysian Insight, 3 December 2017, CXC90406618619
[28] 'Malaysia Indian Blueprint', Prime Minister's Office, 21 April 2017, CISEDB50AD7705
[29] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.18, p.22, 20191213141745
[30] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.17, p.22, 20191213141745
[31] 'The changing face of Malaysian justice', The changing face of Malaysian justice, Asia Times, 6 June 2018, CXBB8A1DA28835;
'Malaysia's ruling party may be gone, but its racial policies survive, The Economist, 7 June 2018, CXBB8A1DA28917
[32] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.17, p.22, 20191213141745
[33] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.17, p.22, 20191213141745
[34] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.15, p.22, 20191213141745
[35] '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section I, p.2, 20190625160543section I, p.2,
[36] '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section I, p.2, 20190625160543
[37] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.24, p.23, 20191213141745
[38] '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section I, pp.2-3, 20190625160543
[39] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.28, p.24, 20191213141745
[40] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.28, p.24, 20191213141745

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Development Department (JAKIM) that would include how Islam is portrayed in society and its budget.[41]

Religious freedom

Religious authorities enforce a 1996 *fatwa* that declares non-*Sunni* Islamic teachings 'deviant'. Article 3 of the Constitution established Islam as the religion of the federation but does not specify further details, including an official denomination or school of jurisprudence.[42] However, a 1996 *fatwa*, supported by state laws, requires the country to follow only *Sunni* teachings of the *Shafi'i* school and prohibits Muslims from possessing, publishing, or distributing material contrary to those teachings.[43] The federal Department of Development of Islam (JAKIM) implements established federal guidelines concerning what constitutes 'deviant' Islamic behaviour or belief and state religious authorities generally follow these guidelines.[44] Those differing from the *Sunni* doctrine face adverse consequences from religious authorities including mandatory 'rehabilitation' of approximately six months in centres that teach and enforce government-approved Islamic practices.[45] Under *Sharia* law individuals convicted of 'deviant' religious activity can face up to three years prison or a 5,000 ringgit fine for 'insulting' Islam.[46] The federal and state governments consider 'deviant' Islamic groups to include the like of *Shia, Ahmadiyya, Baha'i* and *Al-Arqam*.[47] The Constitution grants state and federal government officials the authority to forbid proselytising to *Sunni* Muslims but *Sunni* Muslims are free to proselytise unimpeded.[48] Members of all minority faiths are allowed to proselytise amongst their minority communities.[49]

Also see 'Christians' and 'Buddhists and Hindus'

Religious adherence

Apostasy is a crime under *Sharia* law in five Malaysian states, but no *Sharia* court has ever prosecuted anyone for leaving Islam, or attempting to do so. Individuals born in Malaysia of Malay ethnicity are automatically classed as Muslim.[50] Muslims who wish to convert to another religion must obtain approval from a *Sharia* court to declare themselves apostates.[51] In practice, those born Muslim are not permitted to convert out of Islam by a *Sharia* court.[52] *Sharia* courts have been

[41] 'Malaysia's most powerful Islamic body faces scrutiny', The Straits Times, 18 June 2018, CXBB8A1DA29463
[42] 'Constitution does not specify Islam as exclusively Sunni and Shafie, Suhakam rep says', Malay Mail, 12 September 2019, 20191004092129;
'Federal Constitution', Government of Malaysia, introduced 31 August 1957, amended 27 December 2007, reprinted 1 November 2010, The Commissioner of Law Revision, Article 3, CISDCDCAAB1747
[43] '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section II, p.4, 20190625160543
[44] '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section II, p.9, 20190625160543
[45] '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section II, p.9, 20190625160543
[46] '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section II, p.4, 20190625160543
[47] '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section II, p.12, 20190625160543;
'United States Commission on International Religious Freedom Annual Report 2019', United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.211, 20190508143726
[48] 'United States Commission on International Religious Freedom Annual Report 2019', United States Commission on International Religious Freedom (USCIRF), 29 April 2019, pp.211-212, 20190508143726
[49] 'United States Commission on International Religious Freedom Annual Report 2019', United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.211, 20190508143726
[50] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.24, p.23, 20191213141745
[51] 'United States Commission on International Religious Freedom Annual Report 2019', United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.213, 20190508143726;
'2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section II, p.4, 20190625160543
[52] 'United States Commission on International Religious Freedom Annual Report 2019', United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.213, 20190508143726;

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known to impose penalties on Muslims who request permission to convert out of Islam, and have sometimes detained those who persistently try in so-called "rehabilitation" camps for attempting to leave Islam.[53] Only one (Negeri Sembilan) of Malaysia's thirteen states has a legal procedure that allows a non-Malay Muslim to legally 'leave Islam'.[54] *Sharia* courts show reluctance to allow for conversion out of Islam of those who had previously converted to Islam.[55] Apostasy from Islam is a criminal offence in Perak, Melaka, Sabah, and Pahang, punishable by a fine or jail, or up to six strokes of the cane in Pahang.[56] The maximum penalty for apostasy in the states of Kelantan and Terengganu is death.[57] However, these laws have not been enforced, and their legal status remains untested.[58] Furthermore, there has not been a case when a *Sharia* court chief prosecutor has initiated criminal proceedings for apostasy or attempted apostasy against an individual seeking to officially change their religious status.[59] The *Sharia* Judiciary Department Malaysia (JKSM) acknowledged that its records show that no Malay Muslim has ever applied to change their religious status.[60]

***Sharia* courts occasionally grant permission to convert out of Islam to individuals who were not born Muslim but converted to Islam during their life and then later seek reversion.** Muslims who wish to convert to another religion must obtain approval from a *Sharia* court.[61] In practice, only those not born Muslim are granted permission to convert out of Islam by a *Sharia* court.[62] Between 2000 and 2010 only 168 of 863 Muslims who attempted to convert out of Islam were given permission by *Sharia* courts, and these were all reversion cases.[63] It was reported in 2017 that there were 400 cases of Muslims appealing to *Sharia* courts to convert to another religion.[64] Only a *Sharia* court can provide a court order/letter of release from Islam that can be used to amend a person's religion on his/her identity card.[65] Malaysians who have successfully converted to another religion have at times reported difficulty changing this field to reflect their current beliefs.[66]

Atheism is not illegal in Malaysia. Malaysian courts have not tested the constitutional legality of atheism.[67] In November 2017, the government stated that atheism was unconstitutional.[68] However, the Constitution provides for freedom of religion that includes the right not to practice a religion.[69] A

'2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section II, p.4, 20190625160543

[53] 'United States Commission on International Religious Freedom Annual Report 2019', United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.213, 20190508143726

[54] 'Negotiating Apostasy: Applying to "Leave Islam" in Malaysia', University of Salford Manchester, April 2014, Samuri, M A A, Quraishi, M M, p.2, pp.4-8, CISEFCB23F7623

[55] '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section II, p.4, 20190625160543

[56] '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section II, p.4, 20190625160543

[57] '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section II, p.4, 20190625160543

[58] '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section II, p.4, 20190625160543

[59] 'Path to leave Islam simple, but far from easy', Malay Mail Online, 12 July 2014, CX1B9ECAB12845

[60] 'Path to leave Islam simple, but far from easy', Malay Mail Online, 12 July 2014, CX1B9ECAB12845

[61] '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section II, p.4, 20190625160543;
'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.69, p.31, 20191213141745

[62] '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section II, p.4, 20190625160543

[63] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.71, p.31, 20191213141745

[64] 'International Religious Freedom Report for 2017 – Malaysia', US Department of State, 29 April 2018, section III, p.14, OGD95BE927494

[65] 'Sarawak Shariah Court can hear apostasy cases, rules apex court', Bernama, 27 February 2018, CXBB8A1DA23564

[66] 'United States Commission on International Religious Freedom Annual Report 2019', United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.214, 20190508143726

[67] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.73, p.31, 20191213141745

[68] 'International Religious Freedom Report for 2017 – Malaysia', US Department of State, 29 April 2018, section II, p.8, OGD95BE927494

[69] 'Lawyers: Being atheist, promoting atheism protected by Constitution', Malay Mail Online, 25 November 2017, CXC90406620451

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Muslim wishing to officially become atheist would first need to obtain a certificate from a *Sharia* court to convert out of Islam.[70] In August 2017 two senior ministers in the Malaysian government generated controversy after they called for an investigation after members of the Malaysian chapter of the Atheist Republic posted a photo of their initial gathering on Facebook.[71] The deputy minister in charge of religious affairs said that the government needed to determine whether any Muslims were in the Atheist Republic photo and suggested using the "soft" approach by sending them for counselling.[72] The other minister from the Prime Minister's Department said that "we have to bring them back to the right path".[73]

It is possible for an individual to live an atheist life in Malaysia. Population and Housing Census figures from 2010 suggested there were about 300,000 Malaysians who followed non-religious belief systems or did not believe in God.[74] Malaysian Muslims are generally not prosecuted for disbelief.[75] Some atheists maintain a low-profile in society and are known to socialise with likeminded people,[76] whereas other Muslims make no attempt to hide their atheism from society.[77] A range of atheist-focused organisations, Facebook pages, Twitter accounts and websites – some of which are no longer active – have been set up in recent years with the aim of allowing people who do not believe in God to come together.[78]

Religious discrimination

The government may prevent some religious groups from registering as a charity. Although there is no legal requirement for non-Muslim religious groups to register, those wishing to be approved as a non-profit charitable organisation must register with the Registrar of Societies.[79] Many churches and NGOs confront difficulties registering with the Registrar of Societies.[80] In cases where the government refuses to register a religious group, the group can register as a company.[81] Religious groups that have resorted to registering as a company rather than a charitable organisation include Jehovah's Witnesses and The Church of Jesus Christ of Latter-day Saints.[82]

Malaysia's state government authorities may restrict the construction of official places of worship for some non-Islamic religious groups. Non-Muslim groups have reported some difficulties in obtaining permission from local authorities to build new places of worship, causing groups to use buildings zoned for residential or commercial use for religious services.[83] In March 2017, the state government of Penang announced that 32 plots of state land would be made available to non-Muslim religious groups to build churches and temples after groups complained about the lack of suitable places to construct houses of worship.[84] In December 2018, the Minister for Housing and

[70] 'Atheism is not unconstitutional, legal minds tell deputy minister', Free Malaysia Today, 24 November 2017, CXC90406620452;
'2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section II, p.4, 20190625160543
[71] 'Intolerance Rising: Atheists at Risk in Malaysia', The Diplomat, 22 August 2017, CXC90406612572
[72] 'Malaysia probes atheist group after uproar over Muslim apostates', Reuters, 7 August 2017, CXC90406620455
[73] 'Atheist Republic members need to be tracked down, says Malaysian Cabinet minister', The Straits Times, 8 August 2017, CXC90406620454
[74] 'Are Malaysia's atheists an endangered species or quietly burgeoning?', Malaysiakini, 13 July 2016, CX6A26A6E16914
[75] 'Intolerance Rising: Atheists at Risk in Malaysia', The Diplomat, 22 August 2017, CXC90406612572
[76] 'Intolerance Rising: Atheists at Risk in Malaysia, The Diplomat, 22 August 2017, CXC90406612572
[77] 'Moderation under threat as Malaysia faces Islamic tide, The Australian, 17 August 2017, CXC90406620453
[78] 'Are Malaysia's atheists an endangered species or quietly burgeoning?, Malaysiakini, 13 July 2016, CX6A26A6E16914
[79] '2018 Report on International Religious Freedom: Malaysia , US Department of State, 21 June 2019, section II, p.5 & 12, 20190625160543
[80] '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section II, p.12, 20190625160543
[81] '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section II, p.12, 20190625160543
[82] '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section II, p.12, 20190625160543
[83] '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section II, p.13, 20190625160543
[84] 'International Religious Freedom Report for 2017 – Malaysia', US Department of State, 29 April 2018, section II, p.10, OGD95BE927494

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Local Government said that the government was preparing to register all existing houses of worship and their location.[85] However, the minister said houses of worship located on land not belonging to the worship group would need to move.[86] In 2018, the government did not specifically allocate funds for non-Muslim religious groups, but some religious groups received sporadic funding for temple and church buildings and other activities.[87]

Ahmadi Muslims

***Ahmadi* Muslims are generally able to worship within the confines of their own worship centres.** In July 2018, the High Court in Selangor state ruled that religious authorities do not have jurisdiction over the *Ahmadi* community because they are not recognised as Muslims.[88] State religious authorities appealed the decision.[89] *Ahmadi* community leaders expressed optimism about the ruling, viewing the ruling a form of protection of their freedom to worship without harassment by state Islamic authorities.[90] *Ahmadi* Muslims have reported generally being able to maintain a worship centre but government religious authorities forbid them from holding Friday prayers stating that they could only be performed in an officially registered mosque.[91] During the past several years, local government authorities have permitted billboards stating that "*Ahmadis* are not Muslims" to be placed outside the *Ahmadi* Muslim headquarters.[92] US Embassy officials who spoke with members of the *Ahmadi* community detailed heavy government restrictions on their religious activities and continued societal discrimination.[93]

Shia Muslims

***Shia* Islam is considered a deviant form of Islam and is prohibited under Malaysian law.** Eleven out of fourteen states ban *Shia* Islam, and a *Shia* Muslim found to be proselytising can expect to be detained and prosecuted.[94] In August 2019, the Sabah legislative assembly passed a bill outlawing deviant interpretations of Islam in the state seeking to amend section 52 of the *Syariah Criminal Offences Enactment* (1995) that would result in penalties for teaching or performing any ceremony or act relating to Islam that is contrary to Islamic law or any *fatwa* enforced in Sabah.[95] The *Pakatan Harapan* government indicated that it would continue to enforce a 1996 *fatwa* declaring *Shia* teachings deviant.[96]

***Shia* community members encounter restriction on their religious activity.** Religious authorities in Kuala Lumpur and Selangor increased monitoring of *Shia* Muslims to prevent *Ashura* gatherings and also distributed leaflets condemning deviant practices.[97] In September 2019, authorities detained

[85] '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section II, p.13, 20190625160543
[86] '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section II, p.13, 20190625160543
[87] '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section II, p.14, 20190625160543
[88] 'High Court tells Selangor Islamic Sharia enforcers to keep hands off Ahmadis', Malay Mail, 6 July 2018, 20191004090848
[89] '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section II, pp.12-13, 20190625160543
[90] '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section II, p.12, 20190625160543
[91] '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section II, p.12, 20190625160543
[92] '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section II, p.13, 20190625160543
[93] '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section IV, p.18, 20190625160543
[94] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.46, p.27, 20191213141745
[95] 'Sabah passes bill to outlaw deviant teachings of Islam', Free Malaysia Today, 6 August 2019, 20190808093402
[96] '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section II, p.9, 20190625160543
[97] '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section II, p.9, 20190625160543

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and later released some *Shia* Muslims commemorating *Ashura*.[98] In August 2018, authorities in Kelantan raided and detained 10 individuals at a *Shia* religious centre.[99] Then in September 2018, 50 *Shia* were arrested in Kelantan for practicing their religion.[100] Reportedly, the *Shia* followers had been conducting their activities on the same premises for several years.[101] The US Embassy meetings with members of the *Shia* community detail heavy government restrictions on their religious activities and societal discrimination.[102] Proselytising *Shia* Islam may result in a higher risk of official discrimination, including possible arrest or harassment by authorities.[103] National identity cards do not distinguish *Shia* from other Muslims and there are no restrictions on their movement within Malaysia.[104] DFAT report that despite legal barriers to their worship, most *Shia* Muslims live free from discrimination and violence on a day-to-day basis.[105]

Interfaith and mixed marriages

Non-Muslims wishing to marry a Muslim must convert to Islam for the marriage to be officially recognised. There are two primary statutes in Malaysia for marriage: for civil marriage, the *Law Reform (Marriage and Divorce) Act* (1976):[106] and for Muslim marriage, the *Islamic Family Law Act (Federal Territories)* (1984).[107] The civil law marriage and divorce act states that it does not apply to Muslims.[108] The only exception for a Muslim to marry a non-Muslim is when a Muslim man marries a *Kitabayah* (Christian whose ancestors were Christian before the prophethood of Muhammod).[109] In practice it is almost impossible to prove this ancestry.[110] For a marriage to be officially recognised, a non-Muslim must convert to Islam to marry a Muslim.[111] Malaysian authorities do not recognise marriages between Muslims and non-Muslims and consider children born of such marriages illegitimate.[112] Some *Sunni* and *Shia* Muslims intermarry and have family members that practice either form of Islam.[113]

Although non-Muslim interfaith and ethnic mixed marriages are legal some individuals in such marriages may face opposition from their community, family or friends. Malaysian law does not restrict the rights of non-Muslims to marry.[114] Conversion sometimes takes place due to marriage,

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[98] 'Human Rights in Asia-Pacific: Review of 2019', Amnesty International, 29 January 2020, p.34, 20200130115738; 'World Report 2020. Events of 2019', Human Rights Watch (HRW), 14 January 2020, pp.369-370, 20200115082903; 'Shiite detentions in Malaysia fuel fears of crackdown', Agence France Presse (AFP) - France, 25 November 2019, 20191128094242

[99] '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section II, p.9, 20190625160543

[100] 'World Report 2019', Human Rights Watch, 17 January 2019, p.369, 20190118091502

[101] '50 suspected Syiah followers detained in Kota Baru', New Straits Times, 31 August 2018, 20190125145959

[102] '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section IV, p.18, 20190625160543

[103] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.50, p.28, 20191213141745

[104] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.45, p.27, 20191213141745

[105] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.50, p.28, 20191213141745

[106] 'Law Reform (Marriage and Divorce) Act (164) 1976', Federal Government of Malaysia, 6 March 1976, (amendments to 1 January 2006), the Commissioner of Law Reform, CISBE8E6BE702

[107] 'Islamic Family Law Act (Federal Territories) Act (303) 1984', Federal Government of Malaysia, 27 June 1984, amendments to 1 January 2006, the Commissioner of Law Reform, CIS883493140

[108] 'Law Reform (Marriage and Divorce) Act (164) 1976', Federal Government of Malaysia, 6 March 1976, (amendments to 1 January 2006), the Commissioner of Law Reform, Part I, article 3(3), CISBE8E6BE702

[109] 'Solving the syariah – civil conflict', New Straits Times, 19 August 2017, CXC90406617998

[110] 'Ethnic and religious discrimination big challenge for Malaysia's minorities', Minority Rights Group International, 25 May 2011, CXCB3E63421379

[111] '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section II, p.5, 20190625160543

[112] 'Country Reports on Human Rights Practices for 2018 - Malaysia', 13 March 2019, section 1, p.9, 20190314091511; '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section II, p.14, 20190625160543

[113] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.45, p.27, 20191213141745

[114] 'Registration of Marriage For Non-Muslim', National Registration Department – Ministry of Home Affairs, n.d., accessed 10 August 2017, CISEDB50AD5251

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with one partner choosing to convert or both partners choosing to adopt a new faith; however, this is not compulsory.[115] Malaysian law does not restrict the rights of people from different ethnic groups to marry,[116] although as Malaysian law considers all Malays to be Muslim, a non-Muslim of another ethnicity intending to marry a Malay must convert for the marriage to be legitimate.[117] Individuals in a mixed marriage sometimes face pressure or stigma from within their family, friends or community, while couples of different ethnicities may also encounter racism.[118]

Arranged marriages

Arranged marriages have declined sharply in recent decades, and most Malaysians are free to choose their own husband or wife. Malaysia's *Law Reform (Marriage and Divorce) Act* states that all marriages must be based on mutual consent, and no restriction is placed on the rights of people from different ethnic groups, or non-Muslims, to marry.[119] Individuals sometimes face pressure or stigma from within their family, friends or community based on religious, social or cultural difference.[120] Using force or threat to compel a woman to marry against her will or to prevent her from getting married is punishable with a fine or imprisonment.[121] Malaysia does not recognise marriages between Muslims and non-Muslims,[122] and Islamic family law stipulates that marriages are not fully recognised without the consent of the *wali*, a male family member – typically a woman's father, paternal grandfather, brother or paternal uncle – who acts as guardian for a woman prior to their marriage.[123] A 2012 report said that the *wali* system means that Muslim women do not necessarily have the same right to freely choose their spouse and enter into marriage.[124]

Christians

Christians generally live free from discrimination and are free to practice their religion in Malaysia although they may face occasional harassment. Christians comprise approximately 9.2 per cent of the religious population and two-thirds of the Christian population reside in the East Malaysian states of Sabah and Sarawak.[125] Malaysian Christians are usually able to practise their religion without interference.[126] Official restrictions have been placed on their use of the word '*Allah*' (Arabic for God), which Malaysian Christians claim to have used for centuries to practice their religion.[127] In 2008, the Home Affairs Ministry banned the Catholic newspaper, *The Herald*, from using

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[115] 'A M'sian union – interracial couples share their stories', Malaysiakini, 16 September 2016, CX6A26A6E16886; 'Interracial marriage as beacon of light in upholding Malaysia's unity', The Rakyat Post, 14 July 2015, CXBD6A0DE19504
[116] 'Registration of Marriage For Non-Muslim', National Registration Department – Ministry of Home Affairs, n.d. accessed 10 August 2017, CISEDB50AD5251
[117] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.24, p.23, and section 3.68, p.30, 20191213141745
[118] 'Interracial marriage as beacon of light in upholding Malaysia's diversity', The Rakyat Post, 14 July 2015, CXBD6A0DE19504;
'A M'sian union – interracial couples share their stories', Malaysiakini, 16 September 2016, CX6A26A6E16886
[119] 'Registration of Marriage For Non-Muslim', National Registration Department – Ministry of Home Affairs, n.d. (accessed 10 August 2017), CISEDB50AD5251
[120] 'Interracial marriage as beacon of light in upholding Malaysia's diversity', The Rakyat Post, 14 July 2015, CXBD6A0DE19504;
'A M'sian union – interracial couples share their stories', Malaysiakini, 16 September 2016, CX6A26A6E16886;
[121] 'Social Institutions and Gender Index 2014 – Malaysia', Organisation for Economic Co-operation and Development, 2014, p.1, CISEDB50AD5657
[122] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.68, p.30, 20191213141745
[123] 'Social Institutions and Gender Index 2014 – Malaysia', Organisation for Economic Co-operation and Development, 2014, p.1, CISEDB50AD5657;
'Wali', Singapore Government, 2015, CISEC96CF15597
[124] 'Washing the Tigers: Addressing Discrimination and Inequality in Malaysia', Equal Rights Trust and Tenaganita, November 2012, p.53, CIS28954
[125] '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, pp.2-3, 20190625160543
[126] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.62, p.30, 20191213141745
[127] '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section II, p.13, 20190625160543

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'*Allah*'.[128] This ban was upheld by both the Malaysian Court of Appeals and Federal Court.[129] During 2017, the government cancelled a Christian prayer gathering to be held in Melaka State, saying it would upset the sensibilities of Muslims during *Ramadan*.[130] In February 2017 an evangelical pastor suspected of converting Muslims to Christianity was abducted by masked individuals.[131] In January 2018 police charged a man with the kidnapping and extortion, apparently in relation to the same matter.[132]

Buddhists and Hindus

Buddhists and Hindus are normally able to practice their religion without interference and do not face official or societal discrimination on a day-to-day basis. Buddhists represent the second largest religion in Malaysia accounting for almost 20 per cent of the religious population.[133] Hindus account for just over six per cent of the religious population.[134] Federal and state governments have supported the building of Hindu or Buddhist places of worship throughout Malaysia.[135] In 2013, the Malaysian Government allocated RM 2 million (AUD 660,533) for the building of a new Hindu complex in Selangor.[136] DFAT assess that on rare occasions, Hindus and Buddhists have faced some difficulties after being relocated into inhospitable locations after compulsory acquisition of their places of worship.[137]

Fifty Muslim residents protested the relocation of a Hindu temple into their residential area by placing a severed cow's head at the front gate of the Selangor State Government office in 2009.[138] In January 2018 following the demolition of an illegally-constructed Hindu temple, the Johor Sultan offered support to obtain a new site, land for which the state government subsequently allocated, some 1.5 km away from the previous temple.[139] In November 2018, rioting occurred outside Seafield *Sri Maha Mariamman*, a Hindu temple in Selangor, killing one person and injuring another dozen.[140] DFAT assess the incident was localised and not indicative of any broader trend such as racial tensions.[141]

Conversion

Non-Muslims are free to change their religious beliefs and affiliation, but they may face opposition from their community, family or friends. Malaysian law does not restrict the right of

[128] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.57, p.29, 20191213141745
[129] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.57, p.29, 20191213141745
[130] 'International Religious Freedom Report for 2017 – Malaysia', US Department of State, 29 May 2018, section II, p.6, OGD95BE927494
[131] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 4.3, pp.49-50, 20191213141745;
'Country Information Report – Malaysia (Version 2)', Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.50, p.17, CIS7B839419347
[132] '2018 Report on International Religious Freedom: Malaysia , US Department of State, 21 June 2019, section II, pp.6-7, 20190625160543
[133] '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, p.2, 20190625160543
[134] '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, p.2, 20190625160543
[135] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.64, p.30, 20191213141745
[136] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.64, p.30, 20191213141745
[137] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.66, p.30, 20191213141745
[138] 'Country Information Report – Malaysia (Version 2)', Department of Foreign Affairs and Trade (Australia), 19 April 2018, section 3.54, p.17, CIS7B839419347
[139] 'Hindu temple demolition Johor Sultan steps in as peacemaker, offers relocation aid', Malay Mail Online, 21 January 2018, CXBB8A1DA20539
[140] 'United States Commission on International Religious Freedom Annual Report 2019', United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.213, 20190508143726
[141] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.66, p.30, 20191213141745

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non-Muslims to convert to another religion.[142] A minor (under the age of 18, according to federal law) generally may not convert to another faith without the explicit permission of their parent or guardian, although some states allow conversion to Islam without parental permission after age 15.[143] Sometimes converts can face severe stigmatisation, especially those converting from Islam.[144]

Also see 'Christians' and 'Buddhists and Hindus'

Unilateral child conversion

On 29 January 2018 the Federal Court unanimously ruled that unilateral child conversion is unlawful but parliament has not legislated against it. The existence of a parallel legal system of civil law and *sharia* enactments and the lack of legal clarity in family and religious matters and in relation to different definitions of the child lead to legal loopholes in the protection of children, including on the basis of their religion.[145] Despite the Federal Court decision of 29 January 2018 on unilateral conversion in the Indira Gandhi case, in which it held, *inter alia*, that the civil courts are the sole guardians of constitutional rights with the "power to review the lawfulness of executive action", the divide between civil and *sharia* jurisdictions, and whether religious *fatwas* should be followed by federal government departments, remains to be clarified.[146] The Federal Court ruled that a child from a civil marriage can only be converted to Islam if both parents consent.[147] The Constitution's article 12(4) in English uses the word "parent" in the singular sense while article 12(4) of the Bahasa Malaysia translation uses the words "*ibu atau bapa*" (mother or father); however the court ruled that the Constitution's eleventh schedule has a clause on interpreting words in the singular to include the plural and vice versa.[148] In August 2017 the *Law Reform (Marriage and Divorce) Act* (1976) was amended without including Section 88A,[149] the section that aimed to prevent unilateral child conversion.[150] Legislative amendments to the Federal Constitution and the *Law Reform (Marriage and Divorce) Act* (1976) seem unlikely to occur since the Home Minister stated that in several cases the Federal Court has decided against unilateral conversion.[151]

[142] '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section II, p.4, 20190625160543
[143] '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section II, p.4, 20190625160543
[144] '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section III, p.16, 20190625160543
[145] 'Report of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material on her visit to Malaysia', United Nations Human Rights Council, 17 January 2019, p.10, 20190325141806
[146] 'Report of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material on her visit to Malaysia', United Nations Human Rights Council, 17 January 2019, p.10, 20190325141806
[147] 'Amid language clash, Federal Court says conversion needs consent of both parents', Malay Mail Online, 31 January 2018, CXBB8A1DA20998
[148] 'Amid language clash, Federal Court says conversion needs consent of both parents', Malay Mail Online, 31 January 2018, CXBB8A1DA20998;
'United States Commission on International Religious Freedom Annual Report 2019', United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.213, 20190508143726
[149] 'Law Reform (Marriage and Divorce) (Amendment) Act 2017', Government of Malaysia, gazetted 17 October 2017, Federal Gazette, CISEDB50AD9174
[150] 'Azalina dares Pakatan to ban unilateral child conversions', Malay Mail Online, 26 July 2018, CXBB8A1DA32321;
'Make it right for all', The Star Online, 13 August 2017, CXC90406618029;
'Strong support for Clause 88A', The Star Online, 1 February 2018, CXBB8A1DA36046
[151] 'Muhyiddin: No need to amend marriage law to deal with unilateral conversion of minors', The Star Online, 4 April 2019, 20190605090122;
'Govt's decision a big let-down, say lawyers', The Star Online, 10 April 2019, 20190605090351

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Particular social groups

Lesbian, Gay, Bisexual, Transgender, Intersex (LGBTI)

Malaysian secular law criminalises same-sex sexual acts but in practice the law is rarely invoked. A former British colony, Malaysia has retained its colonial-era law against sodomy.[152] Malaysia's Penal Code criminalises sodomy (homosexual) and oral sex (homosexual and heterosexual) acts, but authorities rarely enforce the law.[153] Secular law that criminalizes male-male sexual acts has been extended to female-female acts.[154] Sodomy laws have only been invoked seven times since 1938, four of those instances against former Deputy Prime Ministry Anwar Ibrahim.[155] International observers and human rights organisations viewed sodomy charges against Anwar Ibrahim as politically motivated.[156] Those found guilty under section 377A of the Penal Code for 'carnal intercourse against the order of nature' are liable for imprisonment of up to twenty years and a whipping.[157] During a parliamentary session in July 2019, the Prime Minister said the government has no plan to review existing provision in the law that deal with sodomy and fellatio, stating, "for the time being, there is no plan to review the punishment for Sections 377B and 377C of the Penal Code, because the punishments provided by both sections are sufficient".[158]

Islamic laws in several states prohibit same-sex sexual acts. Some Malaysian states apply their own penalties to Muslims under *Sharia* statutes.[159] Under *Sharia* law in several Malaysian states, same-sex sexual acts between Muslims are illegal and can incur jail terms and mandatory whipping.[160] The caning of women is banned under civil law, but allowed under Islamic laws in some states.[161] In October 2018, Terengganu state was the first state in Malaysia to cane two LGBT Muslim women under *Sharia* law for *musahaqah* (attempting to have lesbian sex).[162] The Prime Minister

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[152] 'Anwar Ibrahim's rebirth and Malaysia's LBGT+ rights', Pursuit (University of Melbourne), 27 May 2018, CIS7B839411105;
'State-Sponsored Homophobia 2019', Lucas Ramón Mendos, International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), 20 March 2019, p.450, 20190327100813

[153] 'Amnesty International Report 2017/18', Amnesty International, 22 February 2018, p.250, NGED867A612;
'Country Reports on Human Rights Practices for 2017 – Malaysia', US Department of State, 20 April 2018, section 6, p.28, OGD95BE927312;
'Penal Code', Government of Malaysia, enacted 1936, amended 31 December 2014, sections 377A, 377B, CISEDB50AD9259;

[154] 'State-Sponsored Homophobia 2017 – A World Survey of Sexual Orientation Laws: Criminalisation, Protection and Recognition, International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA)', 1 May 2017, p.169, CISEDB50AD4462

[155] 'Malaysia: On the Record: Violence Against Lesbians, Bisexual Women and Transgender Persons In Malaysia', International Gay and Lesbian Human Rights Commission', 6 May 2014, p.33, CIS2F827D91966;
'Freedom in the World 2019 – Malaysia', Freedom House, 4 February 2019, section F1, 20190402081615

[156] Anwar Ibrahim's rebirth and Malaysia's LBGT+ rights, Pursuit (University of Melbourne), 27 May 2018, CIS7B839411105;
'Country Reports on Human Rights Practices for 2018 - Malaysia', US Department of State, 13 March 2019, section 1e, p.9, 20190314091511;
'Freedom in the World 2019 – Malaysia', Freedom House, 4 February 2019, section F1, 20190402081615;
'Convictions for sodomy follow unfair trials', Amnesty International, 8 October 1998, CIS11891

[157] 'Penal Code', Government of Malaysia, enacted 1936, amended 31 December 2014, sections 377A, 377B, CISEDB50AD9259;
'Criminalisation of Homosexuality', Human Dignity Trust, 25 October 2015, CISEC96CF110372

[158] 'Mahathir says no plan to review laws against sodomy', Malaysiakini, 5 July 2019, 20190705094840

[159] 'Freedom in the World 2019 – Malaysia', Freedom House, 4 February 2019, section F4, 20190402081615;
'State-Sponsored Homophobia 2019', Lucas Ramón Mendos, International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), 20 March 2019, p.450, 20190327100813

[160] 'State-Sponsored Homophobia 2019', Lucas Ramón Mendos, International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), 20 March 2019, p.450, 20190327100813;
'Criminalisation of Homosexuality', Human Dignity Trust, 25 October 2015, CISEC96CF110372

[161] 'Two Malaysian Muslim women caned in public for attempting to have sex in car', Australian Broadcasting Corporation News (ABC News), 4 September 2018, CXBB8A1DA39062;
'State-Sponsored Homophobia 2019', Lucas Ramón Mendos, International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), 20 March 2019, p.450, 20190327100813

[162] 'How public caning is performed in Terengganu', Malaysiakini, 5 September 2018, CXBB8A1DA34939
'Two Malaysian women caned for lesbian sex', Agence France Presse, 4 September 2018, CXBB8A1DA34672

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denounced the caning of two lesbian women in Terengganu state under *Sharia* law, considering the punishment too harsh.[163] In November 2019, the Selangor *Sharia* High Court sentenced four men to six months' jail (a fifth to six months), six strokes of the can and a RM4, 800 fine for "attempting intercourse against the order of nature" according to Malay-language daily *Harian Metro*. The Islamic enforcement officers detained the five with seven other men during a raid on an apartment.[164]

Also see '*Sharia* law'

The Malaysian government and society largely oppose LGBT lifestyles that are considered inconsistent with conservative values. Drawing on Gallup data, the 2019 Legatum Prosperity Index shows that Malaysia ranks 159th out of 167 countries for its 'perceived tolerance of LGBT individuals', equating to its lowest ranking since 2009.[165] The 2019 ranking shows a sharp decline in compared with 2018 when tolerance of LGBT ranked 82nd.[166] The results of a 2013 global survey on the acceptance of homosexuality found that an 'overwhelming majority' of Muslim countries, including 86 per cent of persons surveyed in Malaysia, reject homosexuality.[167] Prime Minister Mahathir has publically acknowledged that his government does not support LGBT unions, which it see as an element of human rights in Western society rather than aligning with Malaysian values.[168] A Deputy Minister in the Prime Minister's Department said that the government "disagree with the behaviour of the LGBT" but "will not allow discrimination to occur", instead supporting rehabilitation of LGBT individuals.[169] In November 2018, a Malaysian delegate to its Universal Periodic Review on human rights said in response to questioning about discrimination against the LGBT community that the government "upholds the rights and dignity of all person in Malaysia in accordance to the law" and cited article 8(2) of the Constitution that prohibits discrimination against gender.[170] LGBT activists and NGO representatives criticised the Malaysian delegation's response to LGBT issues as weak.[171] The Human Rights Commission of Malaysia (SUKAKAM) said that although it does not support same-sex marriage, the LGBT community should not be discriminated against.[172]

Malaysian authorities promote heterosexual lifestyles amongst the LGBT community. Malaysia's Islamic authorities have published materials and conducted outreach activities encouraging Muslim LGBT persons to undergo sexuality rehabilitation.[173] The Malaysian Islamic Development Department (JAKIM) facilitates an outreach program (*Mukhayyam*) to rehabilitate LGBT individuals.[174] The program, a three-day camp held eight times each year, has been criticised by the Malaysian Aids Council as having become a place where LGBT are being "converted" to the "right path" instead of its original intent of to "provide a safe, non-judgmental space" to the transgender

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community.[175] The Ministries of Health and Education conduct campaigns aiming to 'prevent, overcome, and correct' homosexuality in children.[176] In 2018 a nightclub frequented by members of the LGBT community was raided by police and government officials resulting in twenty men being detained and ordered to undergo counselling for "illicit behaviour".[177] DFAT assess that LGBTI individuals face a moderate risk of official and societal discrimination.[178]

Transgender individuals face discrimination and occasional violence. Authorities often charge transgender persons for cross-dressing with "indecent behaviour" and also for "importuning for immoral purposes" in public.[179] Those convicted of a first offence faced a maximum fine of RM25 (USD6.25) and a maximum sentence of 14 days in jail.[180] The sentences for subsequent convictions may be maximum fines of RM100 (USD25) and a maximum three months in jail.[181] Local advocates contend that imprisoned transgender women served their sentences in prisons designated for men and that police and inmates often abused them verbally and sexually.[182] Justice for Sisters (JFS), an advocacy group for the LGBT community, said it has experienced difficulty obtaining legal representation for its clients who were charged under anti-crossdressing state Islamic laws.[183] Transgender individuals may face discrimination in public healthcare facilities, including undergoing forcible HIV/AIDS testing or being housed in male wards where they can be exposed to violence and abuse.[184] Local NGO Justice for Sisters report that between 2014 and 2019 there have been 10 known cases of transgender murders, but note that some murders are unlikely reported. Between November 2018 and October 2019 there were four known murder cases involving transgender women, including two sex workers, and one Thai national.[185] During 2017, three transgender individuals were killed according to Justice for Sisters.[186] A survey by a local transgender rights group reported more than two-thirds of transgender women experienced some form of physical or emotional abuse.[187]

Numerous organisations operate in Malaysia providing support to the LGBT community. Mainstream Christian churches and the Malaysian Consultative Council of Buddhism, Christianity, Hinduism, Sikhism and Taoism have also spoken out against discrimination and violence towards gay and lesbian people.[188] Leadership Program for Gays (LPG) is based in Kuala Lumpur and aims to

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[178] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.141, p.46, 20191213141745
[179] 'Country Reports on Human Rights Practices for 2018 - Malaysia', US Department of State, 13 March 2019, section 6, p.29, 20190314091511
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build a network for LGBT business people. Activities organised by the group include gatherings and sports events.[189] PLUPenang is an LGBT organisation based in Penang State designed to support, empower and foster friendship between its members arranging recreational events and provides a safe space for LGBT people to express themselves.[190] *Pertubuhan Kebajkan dan Persekitaran Positif* Malaysia or SEED is an officially registered community organisation that provides support services, including a drop-in centre, primarily for the transgender community.[191] Justice for Sisters is a campaign organised to raise public awareness about issues pertaining to transgender individuals and raise funds to finance court cases against transgender individuals in *Sharia* courts.[192] The PT Foundation provide support to the LGBTI community, including those affected with HIV/AIDS, offering services such as healthcare and drop-in services, and offers seminars, operates a telephone counselling line and offers outreach programmes at third-party venues.[193] *Seksualiti Merdeka* works to empower Malaysians that have been marginalised for their sexual orientation and gender identity. The group also aims to champion sexuality rights as human rights, and provide a platform for LGBT human rights issues.[194]

Women

Women participate in all aspects of Malaysian society. Although women are active in all areas of society, cultural and social barriers limit their levels of participation.[195] Moreover, there is a lack of resources available to women to assist them re-entering the workforce after childbirth.[196] Malaysia has the lowest rate of women's workforce participation in Southeast Asia.[197] Although there has been an increase in labour force participation by women over the last decade, wages for women do not equate to those of men for similar work.[198] In the Global Gender Gap Report 2017, Malaysia ranked 70th, an improvement from the previous year.[199]

There has been a gradual increase in the number of women in politics following the 2018 general election. Women's interests remain generally underrepresented in politics.[200] Following the May 2018 election, Azizah Ismail, wife of Mr Anwar, became the country's first female deputy prime minister.[201] Between 2011 and 2017, approximately 10 percent of seats in parliament have been held by women.[202] However, that number increased considerably following the 2018 14th General Election with 13.9 and 22.1 per cent of the lower and upper house seats won by women respectively.[203]

Muslim women may be adversely affected by *Sharia* law. Malaysia's Constitution prohibits discrimination based on gender.[204] The Constitution gives women equal rights to inherit, acquire,

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[195] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.118, p.41, 20191213141745

[196] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.118, p.41, 20191213141745

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manage or dispose of property, including land, while civil law gives non-Muslim mothers equal parental rights.[205] However, *Sharia* law can deviate from these constitutional principles in some areas such as Islamic inheritance law that typically favours male children and male relatives.[206] A small but steadily increasing number of women have been able to obtain divorces under *Sharia* without their husband's consent.[207] Four states – Johor, Selangor, Negri Sembilan and Pahang – extend equal parental rights to Muslim mothers.[208]

Economic hardship

Malaysia is an upper-middle income country in which absolute poverty has been largely eradicated. Malaysia recorded average annual economic growth of more than 7 per cent between 1967 and 1997, while growth in recent years has continued to exceed 5 per cent.[209] Economic growth has been inclusive, with less than 1 per cent of the population living in extreme poverty.[210] Rates of poverty are low among Malays (0.8 per cent), Chinese (0.1 per cent), and Indians (0.6 per cent), although the poverty rate is higher in rural areas than in cities.[211] Malaysian authorities have turned their attention to reducing income inequality – which remains high in comparison to other East Asian countries, but is gradually declining – and addressing the well-being of the poorest 40 per cent of the population, who remain vulnerable to increases in the cost of living or economic shocks.[212] The UNDP's Human Development Index ranked Malaysia 57 out of 189 countries in 2017, placing it in the 'high human development' category.[213]

Malaysia has an expanding if still limited social welfare system, while traditional social roles mean that families provide support for the elderly and sick. Old age, survivor and disability payments and employment injury compensation are among the payments available to eligible individuals, although credible sources state that the overall scope of social welfare coverage remains limited.[214] In August 2017, the Malaysian Government introduced legislation into parliament that would provide unemployment benefits for three to six months.[215] The *Zakat* system – a levy imposed on Muslims which is equal to 2.5 per cent of their assets above a minimum figure – forms one of the main social protection programmes in the country, and payments are distributed to needy groups such as the poor and refugees.[216] In Malaysia, grown children typically provide financial or care support to elderly or sick parents.[217]

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Political opinion

Malaysia is a constitutional monarchy in which executive power is vested in the prime minister and cabinet. The paramount ruler, the monarch and titular head of state, is elected for five-year terms by fellow hereditary rulers from 9 of Malaysia's 13 states.[218] The upper house of the bicameral Parliament, the Senate, or *Dewan Negara*, consists of 44 members appointed by the king and 26 members elected by the 13 state legislatures, serving three-year terms.[219] The House of Representatives, or *Dewan Rakyat*, has 222 seats filled through regular elections.[220] The role of the king is largely ceremonial, though he retains the power to approve the prime minister.[221] Executive power lies with the prime minister and the cabinet.[222] Decision-making power has typically been concentrated in the hands of the prime minister and his close advisers, though the *Pakatan Harapan* government showed some signs of broader consultation in 2018.[223]

General elections have often been skewed by the ruling government. Suffrage in Malaysia is universal for citizens over the age of 21.[224] When in power, the *Barisan Nasional* coalition manipulated elections through the use of prohibitive media laws, extreme gerrymandering and malapportionment of constituencies, the use of government resources during campaigning, and electoral fraud including manipulation of voter registration rolls.[225] The Election Commission (EC) is officially independent but has previously been comprised of the former prime minister and government allies and considered subordinate to the UMNO when in power.[226] The EC is responsible for maintaining voter rolls, and has been accused of enabling "phantom voting" by creating duplicate records of some voters, or by leaving deceased persons on the rolls.[227] The Registrar of Societies (ROS) oversees the registration of political parties and in the past has issued politicised decisions.[228] The military is not active in politics and foreign powers do not directly meddle with voting.[229]

Barisan Nasional

United Malays National Organisation (UMNO) is the dominant party within the oppositional *Barisan Nasional* alliance. The *Barisan Nasional* (BN) is an ethno-religious coalition of race-based political parties.[230] The BN alliance was formed by UMNO, the Malaysian Indian Congress (MIC), and the Malaysian Chinese Association (MCA), but is largely dominated by UMNO.[231] Until May 2018, the government had been headed by UMNO since independence and the BN coalition won every general election since its formation until and including 2013 elections.[232] In September 2019, UNMO formed an alliance with Malaysia Islamic Party – a conservative Islamic party and one of Malaysia's strongest opposition parties.[233]

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Pakatan Rakyat/Pakatan Harapan

The *Pakatan Rakyat* coalition regrouped as the *Pakatan Harapan* coalition in September 2015. The *Pakatan Rakyat* coalition previously led by the People's Justice Party, won more votes than BN but lost the 2013 election due to the country's first-past-the-post system.[234] The *Pakatan Rakyat* alleged that electoral irregularities and systemic disadvantages due to a lack of media access and gerrymandered districts favouring the ruling coalition.[235] Opposition Leader, and former Deputy Prime Minister Anwar Ibrahim was imprisoned for a five year term on sodomy charges that international observers view as politically motivated.[236] *Pakatan Rakyat* was dissolved in June 2015 and then re-configured as *Pakatan Harapan*.[237] Currently *Pakatan Harapan* is a ruling coalition of four parties led by Prime Minister Mahathir Mohammad.[238] It is anticipated that Anwar Ibrahim will assume the prime ministership from Mahathir Mohamad who is now 94 years old.[239]

Malaysia's Pakatan Harapan is the ruling coalition. On 9 May 2018, the Alliance of Hope or *Pakatan Harapan* won the 14th General Election by securing enough seats to form a stable government.[240] *Pakatan Harapan* is a pluralistic multi-ethnic alliance.[241] The *Pakatan Harapan* coalition is comprised of the dominant People's Justice Party or *Parti Keadilan Rakyat* (PKR), the Democratic Action Party (DAP), the Malaysian United Indigenous Party or *Parti Pribumi Bersatu Malaysia (Bersatu)*, the *Parti Amanah Negara* or National Trust Party (*Amanah*), and the Sabah-based *Parti Warisan Sabah* or Sabah Heritage Party (Warisan).[242] The *Pakatan Harapan* coalition has increased its number of parliamentary seats from 122 won at election to 134, and is now 14 shy of a two-thirds majority.[243] Malaysia's current Prime Minister, Dr Mahathir Mohamad, is a former member of UMNO and previously led Malaysia as prime minister for 22 years until 2003.[244]

Freedom of expression

Freedom of speech and expression are recognised but limited in the Constitution. The Constitution allows restrictions on the freedom of expression 'in the interest of the security of the Federation… [or] public order.'[245] The former *Barisan Nasional* led government regularly restricted freedom of expression for the media and civil society, citing reasons such as upholding Islam and the special status of ethnic Malays, protecting national security, maintaining public order, and preserving friendly relations with other countries.[246]

Freedom of speech and expression in the media industry is limited but has improved following the 2018 change in administration. Prior to the 14th General Election in 2018, most private publications were controlled by political parties or businesses allied with the government, as were

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[244] 'Who is newly elected prime minister Mahathir Mohamad', ABC News (Australia), 10 May 2018, CXBB8A1DA27527
[245] 'Country Reports on Human Rights Practices for 2018 - Malaysia', US Department of State, 13 March 2019, section 2a, p.10, 20190314091511
[246] 'Country Reports on Human Rights Practices for 2018 - Malaysia', US Department of State, 13 March 2019, section 2a, p.10, 20190314091511

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most private television stations, which generally censored programming according to government guidelines.[247] However the market began to change after the *Pakatan Harapan* government took power, with some *Barisan Nasional*-linked outlets suffering financially and others producing more neutral coverage, even as independent outlets benefited from a reduction in political pressure and harassment.[248] The Malaysian Communication and Multimedia Commission monitors websites and can order the removal of material considered provocative or subversive.[249] A 2012 amendment to the 1950 *Evidence Act* holds owners and editors of websites, providers of web-hosting services, and owners of computers or mobile devices accountable for information published through their services or property. [250] While there were no major reforms to the legal framework for online media in 2018, the Malaysian Communication and Multimedia Commission did end blocking a number of websites in May 2018, including *Sarawak Report* and the blogging platform Medium.[251]

The government may use sedition law on occasion to curb speech critical of race, religion, and government officials. The *Pakatan Harapan* government temporarily suspended the *Sedition Act* (1948) in October 2018 pending amendment or repeal.[252] The government has not yet fulfilled its election promise to abolish the act.[253] However it lifted the suspension in response to violence that erupted surrounding an incident at a Hindu temple, and used it during that year over alleged hate speech and defamation of government officials.[254] The *Sedition Act* (1948) has been used against individuals who publically express ideas deemed sensitive by the state.[255] Sedition charges often follow comments by vocal civil society or opposition leaders.[256] Civil society groups claimed the former government generally failed to investigate and prosecute similar statements made by pro-government or pro-Malay persons.[257] Under the *Pakatan Harapan* administration, authorities dropped sedition cases against prominent public figures who had criticized the former *Barisan Nasional* government.[258] In recent years, sedition investigations were opened against individuals accused of insulting Malaysia's royalty.[259] Furthermore, in 2019 the sedition law was used to investigate organisers of a women's march and also a preacher over issues the government deems sensitive.[260]

There is freedom of speech and expression in social media unless it is offensive to religion. The government has yet to fulfil a promise to amend the *Communications and Multimedia Act* (1998) that criminalises the 'misuse of network facilities' for criticising the government or for government-related satire.[261] Section 233(1) provides criminal penalties of up to one-year imprisonment for communication that is indecent, obscene, false, threatening, or offensive to another person.[262] During 2017, the *Communications and Multimedia Act* (1998) was used repeatedly to investigate and arrest

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[247] 'Freedom in the World 2019 – Malaysia', Freedom House, 4 February 2019, section D1, 20190402081615; 'BTI 2018 Country Report Malaysia, Bertelsmann Stiftung', 22 March 2018, p.11, CIS7B83941547
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[253] 'World Report 2020. Events of 2019', Human Rights Watch, 14 January 2020, p.367, 20200115082903
[254] 'Suaram's human rights overview on Malaysia 2018', SUARAM, 28 November 2018, p.5, CIS7B8394110621; 'Freedom in the World 2019 – Malaysia', Freedom House, 4 February 2019, section D4, 20190402081615
[255] 'Freedom in the World 2018 - Malaysia', Freedom House, 5 April 2018, section D4, NGED867A631; 'Human Rights in Asia-Pacific: Review of 2019', Amnesty International, 29 January 2020, p.33, 20200130115738
[256] 'Country Reports on Human Rights Practices for 2018 - Malaysia', US Department of State, 13 March 2019, section 2a, p.10, 20190314091511
[257] 'Country Reports on Human Rights Practices for 2018 - Malaysia', US Department of State, 13 March 2019, section 2a, p.10, 20190314091511
[258] 'Freedom in the World 2019 – Malaysia', Freedom House, 4 February 2019, section D4, 20190402081615
[259] 'Former minister's son investigated for sedition over blog post criticising Johor royal', The Straits Times, 11 February 2019, 20200211120953 'World Report 2019', Human Rights Watch, 17 January 2019, p.367, 20190118091502; '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section II, p.11, 20190625160543
[260] 'Suhakam renews call for Putrajaya to abolish Sedition Act', Malaysiakini, 11 September 2019, 20191003094347; 'Cops investigating Women's March organisers under Sedition Act', Malaysiakini, 14 March 2019, 20191003100625; 'AG should seriously review use of Sedition Act - Wan Ji', Malaysiakini, 18 July 2019, 20191003101055
[261] 'Amnesty International Report 2017/18', Amnesty International, 22 February 2018, p.249, NGED867A612; 'Human Rights in Asia-Pacific: Review of 2019', Amnesty International, 29 January 2020, p.34, 20200130115738
[262] 'Freedom on the Net 2018 - Malaysia', Freedom House, 1 November 2018, NGED867A6126; 'World Report 2018', Human Rights Watch, 18 January 2018, p.352, NGED867A63

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those who criticised government officials in the media and on social media.[263] In March 2019, a 22 year-old Sarawakian male was sentenced to 10 years and 10 months imprisonment (reduced to six years) with a RM50,000 fine after pleading guilty to 10 charges under section 298A of the Penal Code and section 233 of the *Communications and Multimedia Act* (1998) for posting content deemed insulting to Islam and the Prophet Muhammad on Facebook.[264] In August 2018 prosecutors charged a member of the opposition United Malays National Organisation under the *Communications and Multimedia Act* (1998) for allegedly insulting another UMNO member on Facebook.[265] In November 2018, the High Court prosecuted a graphic designer under section 233 of the *Communications and Multimedia Act* (1998) for uploading an offensive image of former Prime Minister Najib Abdul Razak on social media but set aside the prison sentence and reduced the fine from RM30,000 to RM10,000.[266]

Freedom of assembly

In recent years, fewer restrictions and less severe crackdowns have been applied to public protests and assemblies and their organisers. In July 2019, the *Peaceful Assembly Act* (2012) was amended with the effect of relaxing restrictions on forms of peaceful demonstration.[267] Although freedom of assembly can be limited on the grounds of maintaining security and public order, demonstrations are often held.[268] The law delineates 21 public places where assemblies cannot be held and prohibits persons under the age of 15 from attending any public assembly, and those who proceed with a banned protest are subject to penalties including high fines.[269] Police continued to enforce existing laws under the *Pakatan Harapan* government, arresting and charging unauthorised protesters on multiple occasions during 2018, though authorities approved the large opposition-led protest against ratification of ICERD in December 2018.[270]

Civil society organisations

A wide array of civil society groups operate in Malaysia. A number of domestic and international civil society and human rights organisations operate in Malaysia and actively comment on issues such as the legislative environment, the rights of women in Islam and government human rights practices.[271] Under the current government, civil society and human rights organisations experience more space for discussion on human rights issues and report less need for self-censorship, except for issues sensitive to conservative Islam.[272] DFAT assesses that civil society groups critical of the government can face a low risk of official discrimination in the form of legal harassment or surveillance by law enforcement authorities.[273] Furthermore, DFAT find that civil society groups advocating on issues sensitive to conservative Islam may face low-level official discrimination from federal and state

[263] 'World Report 2018', Human Rights Watch, 18 January 2018, p.352, NGED867A63
[264] '10 years' jail for insulting Islam excessive - MCA agrees with DAP', Malaysiakini, 11 March 2019, 20200204140736; 'Reduced sentence for Sarawakian convicted of insulting Islam', Free Malaysia Today, 13 September 2019, 20200204141618; 'Freedom on the Net 2019 - Malaysia', Freedom House, 5 November 2019, C3, 20191106104423
[265] 'Country Reports on Human Rights Practices for 2018 - Malaysia', US Department of State, 13 March 2019, section 2a, p.13, 20190314091511
[266] 'Fahmi Reza escapes jail term, fine reduced over Najib caricature', Malaysiakini, 12 November 2018, CXBB8A1DA38302
[267] 'Human Rights in Asia-Pacific: Review of 2019', Amnesty International, 29 January 2020, pp.33-34, 20200130115738
[268] 'Freedom in the World 2019 – Malaysia', Freedom House, 4 February 2019, section E1, 20190402081615
[269] 'Freedom in the World 2019 – Malaysia', Freedom House, 4 February 2019, section E1, 20190402081615
[270] 'Freedom in the World 2019 – Malaysia', Freedom House, 4 February 2019, section E1, 20190402081615
[271] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.93, p.35, 20191213141745
[272] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.94, p.35, 20191213141745
[273] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.97, p.36, 20191213141745

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Islamic religious affairs departments.[274] Additionally, harassment of individuals commonly targets activists with public profiles and not necessarily senior members of an organisation.[275]

State protection

Law enforcement

Law enforcement operates at both the federal and state level. The Royal Malaysian Police (RMP) reports to the federal Minister for Home Affairs and is responsible for law enforcement nationwide.[276] The National Department of Islamic Development (JAKIM) enforces *Sharia* law and has jurisdiction over Muslims in Kuala Lumpur and two other federal territories.[277] The People's Volunteer Corps (RELA), a federal paramilitary civilian corps under the Ministry of Home Affairs, assists security forces.[278] RELA's engagement in law enforcement activities has significantly reduced in recent years.[279] NGOs have reported that inadequate training has resulted in RELA members being poorly equipped to perform their duties.[280]

Royal Malaysia Police (RMP)

The RMP is generally considered a professional and effective force. The RMP operates 837 police stations nationwide and employs approximately 115,000 officers.[281] Local and international sources indicate the RMP is a professional and effective police force, although the quality of its members' responses varies depending on levels of training, capacity and engagement in corruption.[282] A 2017 Transparency International survey found that 57 per cent of Malaysian respondents thought that corruption was a problem within the RMP – a result that was significantly above the regional average.[283] In July 2017, the RMP signed an anti-graft pledge of which anti-corruption bodies and civil society organisations said was a significant step towards accountability.[284]

Also see 'Criminal Justice System' for information about the establishment of an Independent Police Complaints of Misconduct Commission.

State Islamic religious enforcement officers

Religious enforcement officers conduct moral policing operations and can enforce *Sharia* law. Religious enforcement officers have a range of powers, depending on the particular Islamic laws that apply in each state.[285] State Islamic religious enforcement officers have the authority to accompany

[274] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.97, p.36, 20191213141745
[275] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.97, p.36, 20191213141745
[276] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 5.5, p.55, 20191213141745
[277] 'Country Information Report – Malaysia (Version 2)', Department of Foreign Affairs and Trade (Australia), 19 July 2016, section 5.1, p.25, CIS38A80121311
[278] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 5.2, p.54, 20191213141745
[279] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 5.2, p.54, 20191213141745
[280] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 5.2, p.54, 20191213141745
[281] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 5.5, p.55, 20191213141745
[282] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 5.5, p.55, 20191213141745
[283] 'Global Corruption Barometer – Asia Pacific', Transparency International, 28 February 2017, p.41, CISEDB50AD5225
[284] 'Anti-graft pledge by police hailed as a good move', The Star Online, 27 July 2017, CXC90406610992
[285] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 5.9, p.55, 20191213141745

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police on raids of private premises and public establishments, and to enforce *Sharia*, including for violations such as indecent dress, distribution of banned publications, alcohol consumption, or *khalwat* (close proximity to a nonfamily member of the opposite sex).[286] Moral breaches of *Sharia* law typically result in a warning or a fine but may include caning or up to one month imprisonment for the most serious offences.[287] Kelantan's Islamic Affairs and Religious Department fined 39 women for "dressing sexily and behaving indecently in public" during Ramadan in 2019.[288] In Johor, Segamat Municipal Council enforcement officers disguised themselves as food stall operators, cooks and waiters in a bid to catch Muslims who do not fast during Ramadan in 2019.[289] Under Section 15 of the state's *Shariah Criminal Offences Enactment* (1997), those who sell food to fasting Muslims or Muslims who skip from fasting can be penalised with a fine not more than RM1,000, imprisoned not more than six months, or both, for their first offence.[290]

Criminal justice system

A number of existing laws undermine due process guarantees. The 2012 *Security Offences (Special Measures) Act* that allows police to detain anyone for up to 28 days without judicial review for broadly defined "security offences," and to hold suspects for 48 hours before being granted access to a lawyer was renewed for another five years in 2017.[291] Twelve people were detained under the *Security Offences (Special Measures) Act* in 2019 on allegations of supporting the Liberation Tigers of Tamil Eelam (LTTE).[292] In 2017, lawmakers amended the *Prevention of Crime Act* (1959) (a law ostensibly aimed at combating organized crime) to revoke detainees' right to address the government-appointed Prevention of Crime Board, which is empowered to order the detention of individuals listed by the Home Ministry for renewable two-year terms without trial or legal representation.[293] The *Prevention of Terrorism Act* (2015) together with the *National Security Council Act* (2016) from the same year gives the *National Security Council Act* (2016) (led by the prime minister) wide powers of arrest, search, and seizure without a warrant in areas deemed as security risks and in the context of countering terrorism.[294]

Incidents of mistreatment in custody and impunity for police/security forces personnel are reported. Torture and abuse in police custody remain problems, and prisons are often overcrowded and unsafe.[295] Incidents of physical violence inflicted upon detainees under remand or during investigation are prevalent especially when there are elements of chain remand or detention under security laws.[296] A number of criminal offenses can be punished with caning, including immigration violations.[297] Malaysian human rights organisation Suara Rakyat Malaysia (SUARAM) reported as of 31 October 2018, four deaths occurred in police custody and there were two known incidences of death in prison custody.[298] Investigation into use of deadly force by a police officer occurs only if the attorney general initiates the investigation or if the attorney general approves an application for an

[286] 'Country Reports on Human Rights Practices for 2018 - Malaysia', US Department of State, 13 March 2019, section 2, p.5, 20190314091511
[287] 'The female face of Islamic law in Malaysia', Aljazeera, 16 August 2017, CXC90406620329;
'Lawyer: Muslims can challenge khalwat offences', Free Malaysia Today, 7 December 2016, CX6A26A6E20451
[288] 'Sisters In Islam urge Kelantan religious authorities to stop policing the way women dress', Malay Mail Online, 13 May 2019, 20190605152041
[289] 'Segamat council officers go undercover as cooks, secretly photograph non-fasting Muslims', Malay Mail Online, 23 May 2019, 20190605151847
[290] 'Segamat council officers go undercover as cooks, secretly photograph non-fasting Muslims', Malay Mail Online, 23 May 2019, 20190605151847
[291] 'Freedom in the World 2019 – Malaysia', Freedom House, 4 February 2019, section F2, 20190402081615
[292] 'World Report 2020. Events of 2019', Human Rights Watch (HRW), 14 January 2020, p.368, 20200115082903
[293] 'Freedom in the World 2019 – Malaysia', Freedom House, 4 February 2019, section F2, 20190402081615
[294] 'Freedom in the World 2019 – Malaysia', Freedom House, 4 February 2019, section F2, 20190402081615
[295] 'Freedom in the World 2019 – Malaysia', Freedom House, 4 February 2019, section F3, 20190402081615
[296] 'Suaram's Human Rights Overview Report on Malaysia 2018', Suara Rakyat Malaysia (SUARAM), 28 November 2018, p.17, CIS7B8394110621
[297] 'Freedom in the World 2019 – Malaysia', Freedom House, 4 February 2019, section F3, 20190402081615
[298] 'Suaram's Human Rights Overview Report on Malaysia 2018', Suara Rakyat Malaysia (SUARAM), 28 November 2018, p.13, CIS7B8394110621

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investigation by family members of the deceased.[299] When the attorney general orders an official inquiry, a coroner's court convenes, and the hearing is open to the public.[300] In such cases, courts generally issued an "open verdict," meaning that there would be no further action against police.[301]

The government recently tabled a bill to establish an Independent Police Complaints of Misconduct Commission to promote integrity, transparency and accountability within the police force. A recommendation to establish the commission was made by the Royal Commission of Inquiry in 2005 following public backlash over a number of custodial deaths and allegations of police brutality.[302] In July 2019, the government tabled the Independent Police Complaints of Misconduct Commission (IPCMC) Bill to establish the IPCMC and its functions being: to promote integrity within the police force as well as to advise the government and recommend measures for such promotion of integrity; to protect public interest by dealing with police misconduct; to formulate and put in place mechanisms for the detection, investigation and prevention of police misconduct; and to 'exercise disciplinary control' over the police.[303] This law will dissolve the Enforcement Agency Integrity Commission (EAIC) by repealing the 2009 law that established it, and EAIC officers will become IPCMC officers.[304] The government has been accepting feedback on the bill and postponed the second and third readings to March 2020 after the bill was heavily criticised by civil society for giving excessive powers to the prime minister.[305]

Judiciary

The majority of cases in Malaysian courts are processed in accordance with the rule of law. Provisions in the Constitution enshrine the rights of citizens in a trial.[306] The civil law system is based on British common law and defendants are presumed innocent until proven guilty.[307] Defendants have the right to be informed promptly of the charges against them and the right to a timely trial and the right to be present at their trial.[308] Defendants have the right to communicate with an attorney of their choice or to be appointed counsel at public expense if they face charges that carry the death penalty.[309] Defendants also may apply for a public defender in certain other cases.[310] According to the Malaysian Bar Council, defendants generally had adequate time and facilities to prepare a defence if they had the means to engage private counsel.[311] Otherwise, defendants must rely on legal aid and the amount of time to prepare for trial is at the discretion of the judge.[312] Authorities provide defendants free interpretation in Mandarin, Tamil, and some other commonly used dialects from the

[299] 'Country Reports on Human Rights Practices for 2018 - Malaysia', US Department of State, 13 March 2019, section 1a, p.2, 20190314091511
[300] 'Country Reports on Human Rights Practices for 2018 - Malaysia', US Department of State, 13 March 2019, section 1a, p.2, 20190314091511
[301] 'Country Reports on Human Rights Practices for 2018 - Malaysia', US Department of State, 13 March 2019, section 1a, p.2, 20190314091511
[302] 'Cash-strapped Malaysian police under pressure amid plans for oversight body', The Straits Times 11 August 2019, 20190812081744
[303] 'So what exactly is the IPCMC Bill all about and why it is important', Malay Mail Online, 23 July 2019, 20191003111247; 'IPCMC is here - but does it have bite?', Malaysiakini, 19 July 2019, 20190812082833
[304] 'So what exactly is the IPCMC Bill all about and why it is important', Malay Mail Online, 23 July 2019, 20191003111247
[305] 'IPCMC Bill: Gov't to consider critics' views before second reading', Malaysiakini, 1 August 2019, 20190812083152; 'IPCMC Bill postponed to next Parliament session', Malaysiakini, 3 December 2019, 20191204080040; 'Human Rights in Asia-Pacific: Review of 2019', Amnesty International, 29 January 2020, p.34, 20200130115738
[306] 'Country Reports on Human Rights Practices for 2018 - Malaysia', US Department of State, 13 March 2019, section 1e, p.8, 20190314091511
[307] 'Country Reports on Human Rights Practices for 2018 - Malaysia', US Department of State, 13 March 2019, section 1e, p.8, 20190314091511
[308] 'Country Reports on Human Rights Practices for 2018 - Malaysia', US Department of State, 13 March 2019, section 1e, p.8, 20190314091511
[309] 'Country Reports on Human Rights Practices for 2018 - Malaysia', US Department of State, 13 March 2019, section 1e, p.8, 20190314091511
[310] 'Country Reports on Human Rights Practices for 2018 - Malaysia', US Department of State, 13 March 2019, section 1e, p.8, 20190314091511
[311] 'Country Reports on Human Rights Practices for 2018 - Malaysia', US Department of State, 13 March 2019, section 1e, p.8, 20190314091511
[312] 'Country Reports on Human Rights Practices for 2018 - Malaysia', US Department of State, 13 March 2019, section 1e, p.8, 20190314091511

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moment charged through all appeals.[313] The right to confront witnesses is limited by provisions allowing the identity of prosecution witnesses to be kept secret from the defence before a trial, which inhibits cross-examination of those witnesses.[314] Defendants may present witnesses and evidence on their behalf.[315] Defendants may appeal court decisions to higher courts, but only if the appeal raises a question of law or if material circumstances raise a reasonable doubt regarding conviction or sentencing – restrictions that the Malaysia Bar Council has claimed are excessive.[316] DFAT assesses that cases in civil courts generally comply with the rule of law and legal procedures.[317]

Judicial independence may be compromised by executive interference. Three constitutional articles provide the basis for an independent judiciary; however, other constitutional provisions, legislation restricting judicial review, and executive influence over judicial appointments limit judicial independence and strengthened executive influence over the judiciary.[318] According to Lawyers for Liberty, the former *Barisan Nasional* government was guilty of 'concerted attempts to politicize the judiciary,' including forcing judicial officers to attend a political lecture in May 2017 'in flagrant breach of the doctrine of separation of powers and the concept of an independent judiciary.'[319] Members of the bar, NGO representatives and other observers have cited a number of high-profile instances of arbitrary verdicts, selective prosecution and preferential treatment of some litigants and lawyers,[320] such as the conviction of former deputy prime minister and opposition leader Anwar Ibrahim on charges of corruption and sodomy in 1999, 2000 and 2014.[321] The Prime Minister plays a key role in the appointment of members of the Judicial Appointments Commission – the body which selects judges.[322]

Sharia law

Malaysia maintains a dual legal system with the coexistence of *Sharia* law alongside civil law. Malaysia's secular legal system is based on English common law.[323] Muslims are subject to *Sharia* (Islamic law), the interpretation of which varies regionally, and the Constitution's Article 121 stipulates that all matters related to Islam should be heard in *Sharia* courts.[324] *Sharia* courts in the judicial system have three levels (except for Perak state which instituted a Supreme Court in December 2018).[325] The Director-General of the Department of Shariah Judiciary has proposed that other Malaysian states follow Perak's lead and also establish a Supreme Court.[326] In July 2019, Speaking at the Department of Syariah Judiciary Malaysia, Minister in the Prime Minister's Department, Mujahid Yusof Rawa, said that the government intends to standardise and coordinate *Sharia* laws nationwide

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[313] 'Country Reports on Human Rights Practices for 2018 - Malaysia', US Department of State, 13 March 2019, section 1e, p.8, 20190314091511
[314] 'Country Reports on Human Rights Practices for 2018 - Malaysia', US Department of State, 13 March 2019, section 1e, p.8, 20190314091511
[315] 'Country Reports on Human Rights Practices for 2018 - Malaysia', US Department of State, 13 March 2019, section 1e, p.8, 20190314091511
[316] 'Country Reports on Human Rights Practices for 2018 - Malaysia', US Department of State, 13 March 2019, section 1e, p.8, 20190314091511
[317] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 5.17, p.57, 20191213141745
[318] 'Country Reports on Human Rights Practices for 2018 - Malaysia', US Department of State, 13 March 2019, section 1e, p.7, 20190314091511;
'BTI 2018 Country Report Malaysia', Bertelsmann Stiftung, 22 March 2018, p.14, CIS7B83941547
[319] 'Country Reports on Human Rights Practices for 2018 - Malaysia', US Department of State, 13 March 2019, section 1e, p.7, 20190314091511
[320] 'Country Reports on Human Rights Practices for 2018 - Malaysia', US Department of State, 13 March 2019, section 1e, p.7, 20190314091511
[321] 'Freedom in the World 2019 – Malaysia', Freedom House, 4 February 2019, section F1, 20190402081615
[322] 'Malaysia: anti-corruption measures need strengthening', Transparency International, 28 July 2015, CXBD6A0DE18759
[323] 'Freedom in the World 2018 - Malaysia', Freedom House, 5 April 2018, section F2, NGED867A631
[324] 'Human Rights Watch World Report 2019', Human Rights Watch, 17 January 2019, section F2, 20190118091502;
'International Religious Freedom Report for 2017 – Malaysia', US Department of State, 29 April 2018, section II, p.5, OGD95BE927494
[325] 'Authorities want Shariah Supreme Court established in country following Perak's move', Bernama, 27 November 2019, 20191206105508
[326] 'Authorities want Shariah Supreme Court established in country following Perak's move', Bernama, 27 November 2019, 20191206105508

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by the end of 2020, saying the reason for "standardising the syariah criminal enactment nationwide" is that punishments for the same offences differ from state to state.[327]

The jurisdiction of *Sharia* law is confined to family law and religion. *Sharia* courts have jurisdiction over Muslims in matters of family law and religious observance, but when the two legal systems intersect, civil courts typically cede to *Sharia* courts.[328] The dual legal system results in different treatment of Muslims and non-Muslims in 'moral' and family law cases.[329] *Sharia* courts are highly influential in general, because their decisions frequently involve conversions to Islam, which in turn affect such matters as child-custody, burial rites and inheritance.[330] Some penalties imposed by *Sharia* courts are limited by federal civil law.[331] In April 2018, a high court ruled that the *Ahmadi* community cannot be charged with offences under the *Sharia* law system anywhere in Malaysia.[332] Two states, Kelantan and Terengganu, have symbolically enacted *hudood* (Islamic penal law) for criminal offenses such as apostasy, slander, adultery, and alcohol consumption.[333] The conservative Pan Malaysian Islamic Party (PAS) has pushed for *hudood* penalties for various criminal offenses in the staunchly conservative northern states. However, the federal government has not shown willingness to amend the Constitution to allow for *hudood.*[334]

Also see 'State Islamic religious enforcement officers'

Corruption

High-level corruption is a significant problem in Malaysia. In July 2018, Prime Minister Mahathir commented that "[m]ost of the top echelon in the Government are corrupt".[335] Historically, high-level officeholders who break the law and engage in corruption are rarely prosecuted adequately.[336] However, at lower levels in the civil service, prosecution over corruption frequently occurs.[337] Institutional safeguards in Malaysia are weak and there is insufficient political will to substantially mitigate the problem.[338] Misuse of resources and favouritism are facilitated by the close nexus between political and economic elites, which blurs the distinction between public and private enterprises and creates opportunities for collusion and graft.[339] Transparency International's 2017 corruption index showed Malaysia fell seven places to 62nd globally.[340] In the following year, Transparency International's 2018 index saw Malaysia move up to 61st.[341] In Transparency International's 2019 index, Malaysia continues to improve its position ranking 51st.[342] Journalists, activists and politicians who have reported or criticised high-level corruption have been harassed or prosecuted.[343]

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[327] Standardised syariah laws by end of next year - Mujahid', Bernama, 4 July 2019, 20190705100344
[328] 'United States Commission on International Religious Freedom Annual Report 2019', United States Commission on 'International Religious Freedom (USCIRF), 29 April 2019, p.213, 20190508143726
[329] 'Human Rights Watch World Report 2019', Human Rights Watch, 17 January 2019, section F2, 20190118091502
[330] 'BTI 2018 Country report Malaysia, Bertelsmann Stiftung', 22 March 2018, pp.7-8, CIS7B83941547
[331] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 5.3, p.54, 20191213141745
[332] 'World Report 2019', Human Rights Watch, 17 January 2018, p.369, 20190118091502
[333] 'United States Commission on International Religious Freedom Annual Report 2019', United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.214, 20190508143726;
'BTI 2018 Country report Malaysia', Bertelsmann Stiftung, 22 March 2018, p.8, CIS7B83941547
[334] 'United States Commission on International Religious Freedom Annual Report 2019', United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.214, 20190508143726
[335] 'I inherited a Malaysian government riddled with corruption PM Mahathir in CNN interview', The Straits Times, 27 July 2018, CXBB8A1DA32263
[336] 'BTI 2018 Country Report Malaysia', Bertelsmann Stiftung, 22 March 2018, p.13, CIS7B83941547
[337] 'BTI 2018 Country Report Malaysia', Bertelsmann Stiftung, 22 March 2018, p.13, CIS7B83941547
[338] 'Freedom in the World 2018 - Malaysia', Freedom House, 5 April 2018, section C2, NGED867A631
[339] 'Freedom in the World 2018 - Malaysia', Freedom House, 5 April 2018, section C2, NGED867A631
[340] 'Corruption Perceptions Index 2017', Transparency International, 21 February 2018, CIS7B83941307;
'NOW offers to create Malaysia's own corruption index', Malaysiakini, 27 February 2018, CXBB8A1DA23044
[341] 'Malaysia moves one spot in latest corruption index', New Straits Times, 30 January 2019, 20190130152450
[342] 'Corruption Perceptions Index 2019', Transparency International, 23 January 2020, 20200205081007
[343] 'Country Reports on Human Rights Practices for 2018 - Malaysia', US Department of State, 13 March 2019, section 4, p.22, 20190314091511

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The previous UMNO-dominated government used laws against internal and external opponents in relation to the 1Malaysia Development Berhad (1MDB) scandal. Former Prime Minister Najib Razak's mismanagement of and possible embezzlement from state development fund 1MDB has continued to be highly controversial domestically and internationally.[344] In an attempt to contain the fallout from 1MDB scandal, former Prime Minister Najib in 2015 replaced the attorney general and fired several cabinet members who had been critical of the scandal.[345] Najib promoted four members of a parliamentary committee investigating 1MDB to his cabinet, temporarily halting the committee's work.[346] In November 2016, a court found opposition politician Rafizi Ramli guilty of disclosing state secrets after he made public the Auditor General's report on the 1MDB scandal.[347] However following the *Pakatan Harapan* win in the 14th General Election, the 1MDB report was declassified, and subsequently the Court of Appeal let Rafizi Ramili off with a two-year good behaviour bond of RM10,000.[348] After numerous delays and stalling, Najib and members of his family have are attending court to defend charges laid against them in relation to IMBD and tax evasion or are being pursued by Malaysia's tax authority, the Inland Revenue Board.[349]

Anti-corruption mechanisms

Malaysian law provides criminal penalties for corruption, but enforcement is typically focused on low-level corruption. In the past**,** the *Barisan Nasional* government was only partly willing to contain corruption, and the few integrity mechanisms implemented were mostly ineffective.[350] Senior government officials who break the law and engage in corruption are rarely prosecuted adequately.[351] The law provides criminal penalties for corruption by officials however enforcement typically is focused on small scale and low-level crime.[352] Under the *Barisan Nasional* administration, former Prime Minister Najib weakened the state's anti-corruption mechanisms by removing the attorney general and manipulated the Malaysian Anti-Corruption Commission.[353] Furthermore, use of the *Official Secrets Act* (1972) shielded high level government officials from scrutiny.[354] These efforts were largely to fend off accountability over the 1MDB scandal for which Najib is currently on trial.[355]

The current administration has taken steps to combat corruption and prosecute high-level corruption in government. Shortly after losing the prime ministership, authorities confiscated large sums of cash and luxury items from the residences of former Prime Minister Najib and Najib has been charged over missing funds from the 1MDB fund.[356] Najib, his wife and several high-ranking officials

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[344] 'Freedom in the World 2019 – Malaysia', Freedom House, 4 February 2019, 20190402081615;
'Voice clips allegedly show Najib trying to cover up 1MDB scandal', The Straits Times, 9 January 2020, 20200207111402;
'Malaysia seeks to lay multiple charges against ex-premier Najib over 1MDB PM Mahathir', Reuters, 19 June 2018, CXBB8A1DA29663
[345] 'Freedom in the World 2018 - Malaysia', Freedom House, 5 April 2018, section C2, NGED867A631;
'BTI 2018 Country Report Malaysia', Bertelsmann Stiftung, 22 March 2018, p.10, CIS7B83941547
[346] 'Freedom in the World 2017 – Malaysia', Freedom House, 12 July 2017, section C, NG2A465F591
[347] 'Freedom in the World 2018 - Malaysia', Freedom House, 5 April 2018, section B1, NGED867A631;
'BTI 2018 Country Report Malaysia', Bertelsmann Stiftung, 22 March 2018, p.13, CIS7B83941547
[348] 'Rafizi let off with good behaviour bond for OSA conviction', Malaysiakini, 1 June 2018, CXBB8A1DA28497
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[352] 'Country Reports on Human Rights Practices for 2018 - Malaysia', US Department of State, 13 March 2019, section 4, p.22, 20190314091511
[353] 'Cleaning up corruption in Malaysia goes beyond Najib', Aljazeera, 23 May 2019, 20190607090851
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of his former administration are facing dozens of criminal charges related to 1MDB and other government entities.[357] On 29 January 2019, the prime minister launched the National Anti-Corruption Plan (NACP) saying that the government will review how appointments to key government posts are made, will introduce new laws on political funding, and will require politicians and high-ranking civil servants to declare their assets.[358] The NACP, developed by the National Centre for Governance, Integrity and Anti-Corruption, incorporates 115 initiatives which cover six sectors, namely politics, law enforcement, public procurement, legal and judiciary, public administration and corporate management.[359] Additionally, the government has established committees to investigate corruption amongst state officials.[360] In March 2019, the Prime Minister proposed establishing a special court specifically to expedite corruption cases, however this is yet to materialise.[361]

Crime

Malaysian authorities periodically crack-down on criminal gangs and crime syndicates. In August 2013, the RMP launched Ops Cantas Khas, focusing on weapons seizures and targeting gang members, leaders and their assets.[362] Police claimed that they had identified 49 illegal gangs nationwide with 40,000 members – 70 per cent of whom were ethnic Indian[363] – who are linked to armed robberies, drug and prostitution rings, loan-sharking, gambling, and extortion and contract killings.[364] Authorities claim that the crackdown has led to a reduction in crime.[365] A second stage of the campaign – Op Cantas Khas 2 – was launched in August 2016.[366] In January 2018 a nationwide operation known as Operation Cantas Silver resulted in the arrest of 36 suspected members of Gang 04 who are allegedly involved in violent crimes including robbery, extortion, arson and drug trafficking.[367] Recently, Gang 360 Devan members previously charged under section 130 V of the Penal Code have had their charges downgraded to Section 43 of the *Societies Act* (1966) that carries a more lenient sentence.[368]

Loan sharks

Malaysian police respond to threats and harassment from illegal moneylenders and some non-government association's offer assistance. Illegal money lending is an offence under Malaysian law, and section 5(2) of the *Moneylenders Act* (1951) carries a fine of RM20,000 not exceeding RM100,000, or imprisonment not exceeding five years, or both for unlicensed moneylending.[369] Section 29AA of the *Moneylenders Act* (1951) carries a fine not exceeding RM20,000, imprisonment for up to two years, or both for any person who assists an unlicensed moneylender.[370] Section 29B(1) of the *Moneylenders* Act (1951) carries a fine of up to RM200,000 or imprisonment of up to three

'Former Malaysian PM Najib Razak interrogated by corruption commission as charges loom', ABC News (Australia), 23 May 2018, CXBB8A1DA27725;
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[366] 'Op Cantas crackdown on triads: 1,444 arrested', Astro Awani, 13 August 2016, CX6A26A6E8262
[367] '36 suspected underworld gang members arrested in Malaysia', Bernama, 20 February 2018, CXBB8A1DA22559
[368] '57 go on trial in Kajang Prison for alleged links to Gang 360 Devan', Bernama, 6 September 2018, CXBB8A1DA34959
[369] 'Moneylenders Act 1951 (Malaysia)', amended 15 April 2011, Attorney General's Chambers of Malaysia, section 5(2), CISEC96CF110366
[370] 'Moneylenders Act 1951 (Malaysia)', amended 15 April 2011, Attorney General's Chambers of Malaysia, section 29AA, CISEC96CF110366

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years, or both for harassment or intimidation of a borrower, a borrower's family or their associates.[371] During recent years, police have responded to complaints of harassment and intimidation by illegal moneylenders and have conducted numerous operations targeting illegal moneylending operations, resulting in the prosecution of persons under the *Moneylenders Act* (1951).[372] In December 2017, Malaysia's central bank cautioned the public about illegal money lending activities conducted by companies using fake licences purportedly issued by the central bank, advising the public to report such instances to the police for investigation.[373] A non-governmental organisation, the Malaysian Muslim Consumers Association (PPIM), offers support for those encountering problems with loan sharks.[374] The Malaysian Chinese Association's Public Services and Complaints Department acts as an intermediary between loan sharks and Chinese Malaysian victims who are unable to repay debt, negotiating loan repayments with lower rates.[375]

Death penalty

Malaysia introduced legislation that removes the mandatory death sentence for some offenses, including some drug-related offenses. Malaysia announced a moratorium on executions in July 2018.[376] In November 2017 (effective March 2018), parliament passed the *Dangerous Drugs (Amendment) Act* (2017) to remove the mandatory death sentence for drug-related offences by giving judges the discretion to punish drug offenders with either life imprisonment or hanging.[377] However, judicial discretion is limited only to certain circumstances under specified in section 39B (2A) of the Act;[378] namely where the accused is merely a drug mule and has assisted law enforcement in disrupting drug trafficking activities.[379] The amendment does not apply in retrospect for previous convictions.[380] At least 10 individuals have received the mandatory death penalty for drug trafficking following the amendment coming into effect.[381]

Malaysia has yet to abolish the mandatory death penalty for all offences. There are 11 offences that attract the mandatory death penalty within two acts – nine under the Penal Code, including for murder, waging war against Malaysia's King, and committing terrorist acts, and a further two under

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[371] 'Moneylenders Act 1951 (Malaysia)', amended 15 April 2011, Attorney General's Chambers of Malaysia, section 29B(1), CISEC96CF110366
[372] 'Unlicensed money lenders claim trial for harassing, threatening borrowers', New Straits Times, 6 September 2018, CXBB8A1DA37862;
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[380] 'Parliament removes mandatory death penalty for drug offences, judges to get discretion'', Malay Mail Online, 30 November 2017, CXC90406618547
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the *Firearms (Increased Penalties) Act* (1971).[382] In February 2020, a special committee to review alternative sentences to the mandatory death penalty submitted its report to the government.[383] A bill to repeal the mandatory death penalty is expected to be tabled in Parliament in March 2020.[384]

Domestic violence/familial abuse

Family violence

Amendments to domestic violence law have strengthened protections for victims. Domestic violence is prevalent in Malaysia despite legal protection available to victims.[385] Malaysian law prohibits domestic and sexual violence.[386] Although marital rape that causes hurt or fear of death is punishable under the Penal Code, *Sharia* law in many states creates ambiguity because it prohibits wives from disobeying the 'lawful orders' of their husbands, effectively discouraging victims from reporting incidents.[387] Domestic violence victims can obtain protection orders which attract a prison sentence of up to one year or a fine if breached.[388] In 2017, amendments to domestic violence law broadened the scope of the definition of domestic violence to include spouses, former spouses, children, family members, incapacitated adults who are living as members of the family, and *de facto* spouses who have undertaken religious or customary marriage.[389] The amendment broadened the definition of domestic violence to include the misappropriation of property, threatening a victim, communicating with or about a victim in a way that insults their 'modesty', and also ensuring protection for male victims.[390] Amendments include broader protection orders for victims and introduce penalties for perpetrators who transgress them, effectively providing better protections to victims.[391] Despite these legislative improvements, unmarried couples and marital rape remain exclude from the definition of domestic violence and Penal Code respectively.[392]

Authorities take claims of sexual harassment seriously but a general reluctance by victims to report cases to the authorities and a cumbersome legal process results in a low number of prosecutions. The most recent statistics from Malaysia's Ministry of Home Affairs indicate that approximately 16 per cent of reported rape cases were taken to court, with a conviction rate of 2.7 per cent of all reported cases.[393] Amendments were made to the *Employment Act* in 2012 which made certain forms of workplace sexual harassment illegal, while the law prohibits a person in authority from using their position to intimidate a subordinate into having sexual relations.[394] The government is in the process of drafting a legal framework to address gender discrimination, firstly focusing on a

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[386] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, sections 3.121-3.123, p.42, 20191213141745
[387] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.122, p.42, 20191213141745
[388] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.122, p.42, 20191213141745
[389] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.122, p.42, 20191213141745
[390] 'Dewan Negara passes Domestic Violence (Amendment) Bill 2017 and Private Employment Agencies (Amendment) Bill 2017', New Straits Times, 14 August 2017, CXC90406612113
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'A brief history of marital rape — New Sin Yew', Malay Mail Online, 4 November 2018, CXBB8A1DA38587
[393] 'Country Reports on Human Rights Practices for 2017 – Malaysia', US Department of State, 20 April 2018, section 6, p.23, OGD95BE927312
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Sexual Harassment Bill which is expected to be tabled in Parliament in March 2020.[395] A government voluntary code of conduct provides a detailed definition of sexual harassment intended to raise public awareness of the problem.[396] Authorities take claims of sexual harassment seriously but victims are often reluctant to report cases because of embarrassment, the difficulty of proving the offence, and a lengthy trial process.[397]

Government and non-government bodies provide shelter and wide-ranging assistance to victims of domestic violence, but these are often insufficient to meet the need. Almost every hospital in Malaysia has a crisis centre where victims of rape and domestic violence can make reports without going to a police station,[398] and which offer services such as examination by female doctors, evidence management, temporary shelter and legal assistance.[399] The Women's Aid Organisation reports that there are One Stop Crisis Centre services in 102 government hospitals nationwide that cater to between 10 to over 500 clients each year.[400] The centres are one-stop facilities to support victims with services such as female doctors, evidence management, referrals and crisis intervention, counselling, temporary shelter, and legal assistance.[401] However, activists asserted that support mechanisms for victims of domestic violence are inadequate.[402] The RMP's Criminal Investigation Division includes a Sexual Investigation Division but overall police training on domestic violence against women is limited.[403] The Ministry of Women, Family and Community Development organises legal literacy seminars designed to inform women of their rights in cases related to issues such as marital problems and divorce.[404]

Child marriage and sexual abuse

***Sharia* courts approve approximately 80 per cent of applications for marriages involving a female under the age of 16.** The minimum age of marriage is age 18 for men and age 16 for women.[405] Muslim women younger than age 16 may marry with the approval of a *Sharia* court.[406] In some cases authorities treat early marriage as a solution to statutory rape.[407] Child marriage is thus defined as marriage below the minimum legal age which requires the approval of a *Sharia* court judge for Muslims or the *Menteri Besar* / Chief Minister for non-Muslims.[408] In 2017, Teo Nie Cheng of the

[395] 'Legal framework on gender discrimination still being drafted', Bernama, 11 February 2020, 20200212084701
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[398] 'One Stop Crisis Centre (OSCC)', One Stop Crisis Centre (OSCC) website, 2017, CISEDB50AD5269;
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[407] 'Country Reports on Human Rights Practices for 2018 - Malaysia', US Department of State, 13 March 2019, section 6, p.26, 2019031409151
[408] 'Child Marriages in Malaysia: Reality, Resistance and Recourse', Penang Institute, 10 July 2017, CXC90406624846

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opposition Democratic Action Party unsuccessfully proposed an amendment to the Sexual Offences Against Children bill to include a ban on child marriage.[409] In Malaysia, there were 152,835 persons aged 15-19 in a marriage according to the 2010 Population and Housing Census.[410] One report indicates that between 2005 and 2015, 10,240 Muslims applied for child marriages while 7,719 non-Muslim men applied to marry a girl aged between 16 and 18 from 2000 to 2014.[411] Another report indicates that there were nearly 9,000 cases of child marriage between 2010 and 2015, consisting of 6,268 Muslim and 2,775 non-Muslim.[412] The approval rate of under 16 year old marriage by *Sharia* courts in 2015 was 81 per cent, in 2014 74 per cent, in 2012 87.7 per cent, and in 2011 86.1 per cent, representing an approximately 80 per cent approval rate.[413] In July 2018, a 41-year-old Malaysian man married an 11-year-old Muslim girl in southern Thailand.[414] State-level authorities in Kelantan fined the man for getting married outside Malaysia, skirting local regulations.[415] The child was abruptly returned to Thailand and placed under the care of a local social welfare department, but it remains unclear if the marriage was ever annulled.[416] In a similar case, in September 2018, a 44-year-old man married a 15-year-old girl in Kota Bahru.[417] The girl's parents approved of the wedding and obtained the necessary permission from a local *Sharia* court.[418] The case generated significant international attention and spurred further government scrutiny.[419] However, Deputy Prime Minister Wan Azizah Wan Ismail admitted there was little the Malaysian government could do because the marriage was approved by a *Sharia* court.[420]

Malaysian authorities have taken limited steps to regulate early marriages. Girls 16 years old and above can marry with permission of their state's chief minister.[421] Malaysia's parliament voted down an attempt to ban child marriage in April 2017.[422] In October 2018, Prime Minister Mahathir issued a directive instructing all state authorities to raise the minimum marriage age for Muslims to 18, but this gesture was largely symbolic as according to the Constitution, Islamic law falls under the jurisdiction of state-level muftis, and the federal government cannot enforce a legal minimum marriage age for Muslims.[423] However, the Selangor sultan correspondingly raised the legal Muslim marriage age to 18 in his state, but younger couples can still apply for marriage if they meet very strict guidelines.[424] Five other state governments agreed, at least in principle, that the minimum age should be raised to 18.[425]

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[409] 'Child Marriages in Malaysia: Reality, Resistance and Recourse', Penang Institute, 10 July 2017, CXC90406624846
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[421] 'World Report 2020. Events of 2019', Human Rights Watch (HRW), 14 January 2020, p.371, 20200115082903
[422] 'Malaysia passes child sex crimes law, does not ban child marriage', Reuters, 5 April 2017, CXC90406611583; 'Child Marriages in Malaysia Reality, Resistance and Recourse', Penang Institute, 10 July 2017, CXC90406624846
[423] 'United States Commission on International Religious Freedom Annual Report 2019', United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.214, 20190508143726
[424] 'United States Commission on International Religious Freedom Annual Report 2019', United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.214, 20190508143726
[425] 'United States Commission on International Religious Freedom Annual Report 2019', United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.214, 20190508143726

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Malaysian authorities have taken limited steps to curb the abuse of children. In April 2017 Malaysia's parliament passed a new child sex crimes law.[426] The *Sexual Offences against Children Act* (2017) criminalises 'grooming' of minors, includes penalties for making and possessing pornography involving people aged under 18, and involves the establishment of a special court to deal with child sexual abuse cases more quickly.[427] In 2017, the Special Court for Sexual Crimes against Children was established, the first of its kind in South-East Asia, along with a special court to hear human trafficking cases.[428] There are also specialised courts for children in Sarawak, Selangor and Johor.[429] On 12 November 2018, an arrest was made following three reports lodged against a man, making it Malaysia's first sexual grooming case.[430] Women's groups claim that on average ten women are raped each day and that more than half of these women are younger than 16 years old.[431]

Islamic Family Law stipulates that Muslim women may only marry with the consent of a male guardian, but using force or threat to compel a woman to marry or to reject a proposal can lead to a fine or imprisonment. Malaysia's *Law Reform (Marriage and Divorce) Act* (1976) states that all marriage must be based on mutual consent, and using force or threat to compel a woman to marry against her will or to prevent her from getting married is punishable with a fine or imprisonment.[432] Islamic Family Law stipulates that marriages are not fully recognised without the consent of the '*wali*', the woman's guardian.[433] A *wali* or a guardian such as the father is required in Islam to give away a woman for marriage and to solemnise the marriage.[434]

Female genital circumcision

Female circumcision is considered an Islamic cultural practice and is widely practiced across Malaysia despite international criticism of the practice. Malaysia's National Council of Islamic Religious Affairs issued a *fatwa* in 2009 that ruled female circumcision obligatory for Muslim women unless found to be physically harmful.[435] Female circumcision is often performed during infancy and a 2012 study found that 93 per cent of Muslim women respondents had undergone the practice.[436] The law does not prohibit female genital circumcision and it is a common practice, but data on it was very limited.[437] In February 2018, representatives from Muslim-majority countries such as Bangladesh and Egypt criticised the practice as un-Islamic at the Constructive Dialogue session of the 69th session of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).[438] At Malaysia's Universal Periodic Review on human rights on 8 November 2018, a representative of the

[426] 'Malaysia passes child sex crimes law, does not ban child marriage', Reuters, 5 April 2017, CXC90406611583; 'Child Marriages in Malaysia Reality, Resistance and Recourse', Penang Institute, 10 July 2017, CXC90406624846
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[437] 'Country Reports on Human Rights Practices for 2018 - Malaysia', US Department of State, 13 March 2019, section 6, p.24, 2019031409151
[438] 'Malaysia urged to abolish female genital mutilation', The Star Online, 22 February 2018, CXBB8A1DA2276

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Women, Family and Community Development Ministry defended the on-going practice of the circumcision of female infants in the country as a "cultural obligation".[439] The Malaysian government's stance was reaffirmed by the Deputy Prime Minister and Women, Family and Community Development Minister, Datuk Seri Dr Wan Azizah Wan Ismail, who later said that female circumcision in Malaysia is a cultural practice and unlike female genital mutilation that is practiced in Africa.[440] International NGOs based in Malaysia continue to advocate for ending the practice.[441]

[439] 'Women's ministry defends infant female circumcision at UN human rights review', Malaysiakini, 9 November 2018, CXBB8A1DA38229
[440] 'DPM maintains that female circumcision is part of Malaysian culture', The Star Online, 15 November 2018, CXBB8A1DA38729
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Australian Government
Department of Home Affairs

Common Claims

Malaysia

Country of Origin Information Services Section (COISS)

Effective 25 May 2020

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Governance

Parliament

Malaysia is a constitutional monarchy in which executive power is vested in the prime minister and cabinet. The monarch is elected for five-year terms by fellow hereditary rulers from 9 of Malaysia's 13 states.[1] The role of the king is largely ceremonial, though he retains the power to approve the prime minister.[2] Executive power lies with the prime minister and the cabinet.[3] The upper house of the bicameral Parliament, the Senate, or *Dewan Negara*, consists of 44 members appointed by the king and 26 members elected by the 13 state legislatures, serving three-year terms.[4] The House of Representatives, or *Dewan Rakyat*, has 222 seats filled through regular elections.[5]

2020 Political Crisis

The United Malays National Organisation (UMNO) is the dominant party within the ruling Perikatan Nasional (National Alliance). UMNO had been the dominant party within the former Barisan Nasional ruling coalition since independence in 1957, but lost the general election to the Pakatan Harapan coalition in 2018.[6] The UMNO-led government had a history of maintaining power by manipulating electoral districts, appealing to ethnic nationalism, and suppressing criticism through restrictive speech laws and politicised prosecutions of opposition leaders.[7] In September 2019, UMNO signed a cooperation pact with right-wing Parti Islam Se Malaysia (PAS), laying the groundwork for an opposition bloc based on ethnic Malay and Islamist interests.[8] In February 2020, the Pakatan Harapan coalition collapsed after Mahathir Mohamad resigned as prime minister in protest over political manoeuvring by some members within the Pakatan Harapan coalition, and opposition members from PAS and UMNO.[9]

Malaysia's government is currently unstable. Muhyiddin Yassin was sworn in as prime minister by the King on the basis that he held majority support after Mahathir's resignation, but a vote of confidence in parliament has not been held to determine whether he actually has majority support.[10] Some analysts see an increasing risk of the government collapsing the longer there is a lack of clarity about his majority, but other analysists think the opposition coalition is not a credible threat at the moment, and that the stability of Muhyiddin's government depends largely on UMNO backing him, which appears to be the case.[11] A government comprised of mainly Malay parties seems likely to hold based on a common preference for racial and religious supremacy, but whether it will continue to be led by Muhyiddin is unclear.[12]

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[2] 'Freedom in the World 2020 – Malaysia', Freedom House, 4 March 2020, A1, 20200417153315
[3] 'BTI 2020 Country Report Malaysia', Bertelsmann Stiftung, 29 April 2020, p.4, 20200429144341
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[5] 'Freedom in the World 2020 – Malaysia', Freedom House, 4 March 2020, A1, 20200417153315
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[9] 'Inside story behind Malaysia's political meltdown', Asia Times, 25 February 2020, 20200226115540
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[12] 'BTI 2020 Country Report Malaysia', Bertelsmann Stiftung, 29 April 2020, pp.4-5, 20200429144341; 'Why Malaysia's Politics Are Messy and What's at Stake', Bloomberg.com, 3 March 2020, 20200303115035; 'Malaysia's Politics on Display in One-Day Parliament Session', Bloomberg, 17 May 2020, 20200519110540; 'After wresting control of Kedah, Muhyiddin's PN targets other states', The Straits Times, 20 May 2020, 20200520093039

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COVID-19

Malaysia's government has taken measures similar to many other countries in response to COVID-19. Malaysia's Movement Control Order has been extended multiple times although restrictions are gradually easing with most economic sectors and business activities resuming.[13] Individuals who breach the Movement Control Order are liable for fines and imprisonment.[14] The Malaysian government has implemented a number of stimulus and welfare measures in response to the economic and social impacts of COVID-19.[15] Alongside the specific COVID-19 measures, Malaysia has relatively well-developed healthcare and social protection systems.[16] The impacts of COVID-19 have been more severe amongst Malaysia's large migrant worker and asylum seeker populations due to their limited access to employment opportunities, and health and social welfare services, but also due to public xenophobic sentiment directed towards some of these marginalised communities.[17]

Ethnicity

Malaysia's population is divided into two categories, indigenous and non-indigenous or *Bumiputera* and non-*Bumiputera.* Malaysia's *Bumiputera* (sons of the soil) account for more than 60 percent of county's population, and are comprised of Malays and other indigenous groups, including the *Orang Asli, Dayak*, and *Anak Negeril* amongst others.[18] Chinese and Indian Malaysians constitute the country's largest non-*Bumiputera* population, accounting for approximately 20 and 6 percent respectively.[19] Malaysia's Constitution affords special privileges to *Bumiputera* which has given rise to the creation of affirmative action policies that benefit *Bumiputera,* including economic programs to boost the economic position of *Bumiputera.*[20] There is discontent over *Bumiputera* polices amongst the non-*Bumiputera* Chinese and Indians ethnic groups.[21] The reformist Pakatan Harapan government encountered significant headwinds from opposition *Bumiputera* political parties such as UMNO and PAS when attempting to implement reforms portrayed by the opposition to disadvantage Malays rather than promote equality amongst Malaysians.[22]

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[13] 'Malaysia's movement control order to be extended further until Jun 9, says PM Muhyiddin', Channel News Asia, 10 May 2020, 20200520161659; 'Coronavirus: Malaysian govt to meet religious leaders to discuss reopening places of worship', Asia News Network, 20200520162206

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[18] 'The World Factbook Malaysia', Central Intelligence Agency, 1 April 2020, 20200403111705

[19] 'The World Factbook Malaysia', Central Intelligence Agency, 1 April 2020, 20200403111705

[20] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, pp.30-31, 20200312091714; 'BTI 2020 Country Report Malaysia', Bertelsmann Stiftung, 29 April 2020, pp.4-5, 23, 29-30, 34, 20200429144341

[21] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, pp.30-31, 20200312091714; 'BTI 2020 Country Report Malaysia', Bertelsmann Stiftung, 29 April 2020, p.34, 20200429144341

[22] 'Can New Malaysia Move Beyond Old Race Divides?', Jha, P, The Diplomat, 14 August 2019, 20200516163339; 'Malaysia's 'Malay First' Malaise', Nair, C., The Diplomat, 4 March 2020, 20200516165042; 'Analysing Malaysia's Refusal to Ratify the ICERD', Anuar, K K, Oxford Human Rights Hub, 7 January 2019, 20200516164408; 'Malaysia's dangerous racial and religious trajectory', Interpreter, The (Lowy Institute for International Policy), 24 September 2019, 20191021164421'The LGBT Quandary in New Malaysia', Tan, H B, Australian Journal of Asian Law, volume 20, number 1, article 15, November 2019, p.7, 20200522113725

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Religion

Religious freedom

Malaysia largely respects religious freedom. The Constitution states that 'every person has the right to profess and practice his religion,' but gives federal and state governments the power to control or restrict proselytization to Muslims.[23] The law does not restrict the rights of non-Muslims to change their religious beliefs and affiliation.[24] The Constitution defines Malays as Muslim from birth.[25] Almost 20 percent of the population are Buddhist, approximately 9 percent are Christian, over 6 percent are Hindu, and there are small populations of Confucians, Taoists, and other traditional Chinese religions.[26] Members of all minority faiths are allowed to proselytise amongst their minority communities.[27]

Islam

Malaysia's official interpretation of Islam is Sunni. A 1996 *fatwa* supported by state laws requires the country to follow only Sunni teachings of the Shafi'i school and prohibits Muslims from possessing, publishing, or distributing material contrary to those teachings.[28] Those differing from the official interpretation of Islam can face adverse government action, including mandatory rehabilitation in centres that teach and enforce government-approved Islamic practices.[29] Federal and state governments consider non-Sunni Islamic groups such as Shias, Ahmadiyyas, Baha'is and Al-Arqams, deviant.[30] The Constitution grants state and federal government officials the authority to forbid proselytising to Sunni Muslims but Sunni Muslims are free to proselytise unimpeded.[31]

Religious adherence

Apostasy is a crime under *syariah* law in some states. Muslims who seek to leave Islam or convert to another religion must first obtain approval from a *syariah* court to declare themselves apostates.[32] *Syariah* courts seldom grant such requests, especially for those born a Muslim, and are reluctant to allow conversion for those who had previously converted to Islam.[33] For those who are born Muslim and identify as non-religious, there is the risk of criminal prosecution for apostasy.[34] At

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[23] '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section II, p.3, 20190625160543; 'Federal Constitution', Government of Malaysia, introduced 31 August 1957, amended 27 December 2007, reprinted 1 November 2010, The Commissioner of Law Revision, Article 3, CISDCDCAAB1747
[24] '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section II, p.5, 20190625160543
[25] '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section I, p.2, 20190625160543; 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634
[26] 'The World Factbook Malaysia', Central Intelligence Agency, 1 April 2020, 20200403111705
[27] 'United States Commission on International Religious Freedom Annual Report 2019', United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.211, 20190508143726
[28] '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section II, p.4, 20190625160543
[29] '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, p.1, 20190625160543
[30] '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section II, p.12, 20190625160543; 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.76, 20200429103634
[31] 'United States Commission on International Religious Freedom Annual Report 2019', United States Commission on International Religious Freedom (USCIRF), 29 April 2019, pp.211-212, 20190508143726
[32] '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section II, p.4, 20190625160543; '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section II, p.4, 20190625160543
[33] '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section II, p.4, 20190625160543
[34] 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634

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least six states – Perak, Melaka, Sabah, Pahang, Kelantan, and Terengganu – criminalize apostasy with fines, imprisonment, and/or detention in a rehabilitation centre.[35] While not enforced, the maximum penalty for apostasy in Kelantan and Terengganu is death.[36]

Atheism is not illegal. In 2017, the Malaysian federal government determined atheism to be unconstitutional.[37] Muslims are generally not prosecuted for disbelief.[38] Some atheists maintain a low-profile in society and are known to socialise with likeminded people.[39] Some Muslims make no attempt to hide their atheism from society.[40]

Non-Muslims must convert to Islam when marrying a Muslim. There are two primary statutes in Malaysia for marriage, the secular *Law Reform (Marriage and Divorce) Act* (1976) and the Islamic *Family Law Act (Federal Territories)* (1984).[41] Legally, a non-Muslim must convert to Islam to marry a Muslim.[42] Malaysian authorities do not recognise marriages between Muslims and non-Muslims and consider children born of such marriages illegitimate.[43] The legal age of children to marry varies in each state between Muslims and non-Muslims, with a lower age and fewer protections for Muslim children.[44] Some Sunni and Shia Muslims intermarry and have family members that practice either form of Islam.[45]

Ahmadi Muslims

Ahmadi Muslims are generally able to worship within the confines of their own worship centres. In 1975, the Selangor Fatwa Council decreed that Ahmadis were not Muslim.[46] In July 2018, the High Court in Selangor state ruled that religious authorities do not have jurisdiction over the Ahmadi community because they are not recognised as Muslims, but State religious authorities have appealed the decision.[47] Ahmadi community leaders expressed optimism about the ruling, viewing the ruling a form of protection of their freedom to worship without harassment by state Islamic authorities.[48] Ahmadi Muslims have reported generally being able to maintain a worship centre but government religious authorities forbid them from holding Friday prayers stating that they could only

[35] '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section II, p.4, 20190625160543; 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634
[36] '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section II, p.4, 20190625160543; 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634
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[38] 'Intolerance Rising: Atheists at Risk in Malaysia', The Diplomat, 22 August 2017, CXC90406612572
[39] 'Intolerance Rising: Atheists at Risk in Malaysia, The Diplomat, 22 August 2017, CXC90406612572
[40] 'Moderation under threat as Malaysia faces Islamic tide, The Australian, 17 August 2017, CXC90406620453
[41] 'Law Reform (Marriage and Divorce) Act (164) 1976', Federal Government of Malaysia, 6 March 1976, (amendments to 1 January 2006), the Commissioner of Law Reform, CISBE8E6BE702; 'Islamic Family Law Act (Federal Territories) Act (303) 1984', Federal Government of Malaysia, 27 June 1984, amendments to 1 January 2006, the Commissioner of Law Reform, CIS883493140
[42] 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634
[43] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.10, 20200312091714
[44] 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634
[45] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.45, p.27, 20191213141745
[46] 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634
[47] 'High Court tells Selangor Islamic Sharia enforcers to keep hands off Ahmadis', Malay Mail, 6 July 2018, 20191004090848; '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section II, pp.12-13, 20190625160543
[48] '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section II, p.12, 20190625160543

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be performed in an officially registered mosque.[49] Ahmadis are sometimes intimidated by religious authorities.[50]

Shia Muslims

Shia Islam is prohibited under Malaysian law. Eleven out of fourteen states ban Shia Islam, and a Shia Muslim found to be proselytising can expect to be detained and prosecuted.[51] In September 2019, authorities detained and later released some Shia Muslims commemorating Ashura.[52] In September 2018, 50 Shia were arrested in Kelantan for practicing their religion.[53] Reportedly, the Shia followers had been conducting their activities on the same premises for several years.[54] Despite legal barriers to their worship, most Shia Muslims live free from discrimination and violence on a day-to-day basis.[55]

Forced conversion

The indigenous *Orang AsIi* community are vulnerable to religious conversion. *Orang Asli* account for approximately half of a percent of Malaysia's population and are one of the most traditional but also vulnerable groups in society.[56] Although *Orang Asli* are traditionally animist, a number of *Orang Asli* have become either Muslim or Christian, or embraced religions such as Buddhism and Taoism due to intermarriage.[57] In 2019, state religious authorities from Perak reportedly registered some *Orang Asli* as Muslim in their identification cards despite them not converting.[58] Subsequently, Kelantan state religious authorities announced plans to convert *Orang Asli* to Islam by 2049.[59] Concerned members of the *Orang Asli* community have expressed their grievances to the federal government about local coercive practices involving Muslim and Christian preachers being sent to their communities to proselytise them.[60]

Unilateral child conversion

The Federal Court has ruled that unilateral child conversion is unlawful but parliament has not legislated against it. The existence of a parallel legal system of civil law and *syariah* enactments and the lack of legal clarity in family and religious matters and in relation to different definitions of the child

[49] '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section II, p.12, 20190625160543
[50] 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.76, 20200429103634
[51] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.46, p.27, 20191213141745
[52] 'Human Rights in Asia-Pacific: Review of 2019', Amnesty International, 29 January 2020, p.34, 20200130115738; 'World Report 2020. Events of 2019', Human Rights Watch (HRW), 14 January 2020, pp.369-370, 20200115082903; 'Shiite detentions in Malaysia fuel fears of crackdown', Agence France Presse (AFP) - France, 25 November 2019, 20191128094242; 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.7, 20200429103634
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[54] '50 suspected Syiah followers detained in Kota Baru', New Straits Times, 31 August 2018, 20190125145959
[55] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.50, p.28, 20191213141745
[56] 'Malaysia's indigenous tribes fight for ancestral land and rights in a modern world', Channel News Asia, 1 September 2019, 20200403171142; 'Malaysia's indigenous people protest forced conversions', UCA News, 10 July 2019, 20200403170642; 'The World Factbook Malaysia', Central Intelligence Agency, 1 April 2020, 20200403111705
[57] 'Malaysia's indigenous tribes fight for ancestral land and rights in a modern world', Channel News Asia, 1 September 2019, 20200403171142; The World Factbook Malaysia', Central Intelligence Agency, 1 April 2020, 20200403111705
[58] 'Malaysia's indigenous tribes fight for ancestral land and rights in a modern world', Channel News Asia, 1 September 2019, 20200403171142
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[60] 'Malaysia's indigenous people protest forced conversions', UCA News, 10 July 2019, 20200403170642

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lead to legal loopholes in the protection of children, including on the basis of their religion.[61] A 2018 Federal Court decision ruled that a child from a civil marriage can only be converted to Islam if both parents consent.[62] Article 12(4) of the English language Constitution uses the word 'parent' in the singular sense while article 12(4) of the Bahasa Malaysia translation uses the words "*ibu atau bapa*" (mother or father); however the court ruled that the Constitution's eleventh schedule has a clause on interpreting words in the singular to include the plural and vice versa.[63] In August 2017 the *Law Reform (Marriage and Divorce) Act* (1976) (marriage act) was amended without including Section 88A,[64] the section that aimed to prevent unilateral child conversion.[65]

Christians

Christians practice freely and generally do not experience discrimination. Christians comprise approximately 9.2 per cent of the religious population and two-thirds of the Christian population reside in the East Malaysian states of Sabah and Sarawak.[66] A ban against non-Muslims using approximately 31 words under the pretence of protecting public order affects Christians.[67] Authorities and societal actors often use exaggerated fears of "Christianisation" for political purposes to motivate support from Muslim communities and escalate tensions between majority and minority groups.[68] Christian leaders have spoken out against tactics by UMNO and PAS that portray Christianity as a threat to the Muslim majority.[69] Malaysian Christians are usually able to practise their religion without interference.[70]

Buddhists and Hindus

Buddhists and Hindus generally practice their religion without interference. Buddhists represent the second largest religion in Malaysia accounting for almost 20 per cent of the religious population.[71] Hindus account for just over six per cent of the religious population.[72] Federal and state governments have supported the building of Hindu or Buddhist places of worship throughout Malaysia.[73] Hundreds of Hindu temples have been demolished by authorities in recent years.[74] Members of faith communities report that Buddhist temples are restricted from building higher than local mosques and

[61] 'Report of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material on her visit to Malaysia', United Nations Human Rights Council, 17 January 2019, p.10, 20190325141806
[62] 'Amid language clash, Federal Court says conversion needs consent of both parents', Malay Mail, 31 January 2018, CXBB8A1DA20998; 'Report of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material on her visit to Malaysia', United Nations Human Rights Council, 17 January 2019, p.10, 20190325141806
[63] 'Amid language clash, Federal Court says conversion needs consent of both parents', Malay Mail, 31 January 2018, CXBB8A1DA20998
[64] 'Law Reform (Marriage and Divorce) (Amendment) Act 2017', Government of Malaysia, gazetted 17 October 2017, Federal Gazette, CISEDB50AD9174
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[66] '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, pp.2-3, 20190625160543; 'The World Factbook Malaysia', Central Intelligence Agency, 1 April 2020, 20200403111705
[67] 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634
[68] 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, pp.77, 20200429103634
[69] 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634
[70] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.62, p.30, 20191213141745
[71] '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, p.2, 20190625160543
[72] '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, p.2, 20190625160543
[73] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.64, p.30, 20191213141745
[74] 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634

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that Sikh gurdwaras are prevented from building domes, since domes are associated with Islamic architecture.[75]

Conversion

Non-Muslims are free to change their religious beliefs and affiliation, but they may face opposition from their community, family or friends. Malaysian law does not restrict the right of non-Muslims to convert to another religion.[76] A minor (under the age of 18, according to federal law) generally may not convert to another faith without the explicit permission of their parent or guardian, although some states allow conversion to Islam without parental permission after age 15.[77] Sometimes converts can face severe stigmatisation, especially those converting from Islam.[78]

Inter-ethnic marriage

Inter-ethnic marriages occurs amongst non-Muslims. Malaysian law does not restrict the rights of non-Muslims to marry.[79] Conversion sometimes takes place due to marriage, with one partner choosing to convert or both partners choosing to adopt a new faith; however, this is not compulsory.[80] Malaysian law does not restrict the rights of people from different ethnic groups to marry,[81] although as Malaysian law considers all Malays to be Muslim, a non-Muslim of another ethnicity intending to marry a Malay must convert for the marriage to be legitimate.[82] Individuals in a mixed marriage sometimes face pressure or stigma from within their family, friends or community, while couples of different ethnicities may also encounter racism.[83]

Particular social groups

Lesbian, Gay, Bisexual, Transgender, Intersex (LGBTI)

Malaysian secular law criminalises same-sex sexual acts but in practice the law is rarely invoked. A former British colony, Malaysia has retained its colonial-era law against sodomy.[84] Malaysia's Penal Code criminalises sodomy (homosexual) and oral sex (homosexual and heterosexual) acts, but authorities rarely enforce the law.[85] Secular law that criminalizes male-male

[75] 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634
[76] '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section II, p.4, 20190625160543
[77] '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section II, p.4, 20190625160543
[78] '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section III, p.16, 20190625160543
[79] 'Registration of Marriage For Non-Muslim', National Registration Department – Ministry of Home Affairs, n.d., accessed 10 August 2017, CISEDB50AD5251
[80] 'A M'sian union – interracial couples share their stories', Malaysiakini, 16 September 2016, CX6A26A6E16886; 'Interracial marriage as beacon of light in upholding Malaysia's unity', The Rakyat Post, 14 July 2015, CXBD6A0DE19504
[81] 'Registration of Marriage For Non-Muslim', National Registration Department – Ministry of Home Affairs, n.d. accessed 10 August 2017, CISEDB50AD5251
[82] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.24, p.23, and section 3.68, p.30, 20191213141745
[83] 'Interracial marriage as beacon of light in upholding Malaysia's diversity', The Rakyat Post, 14 July 2015, CXBD6A0DE19504; 'A M'sian union – interracial couples share their stories', Malaysiakini, 16 September 2016, CX6A26A6E16886
[84] 'Anwar Ibrahim's rebirth and Malaysia's LBGT+ rights', Pursuit (University of Melbourne), 27 May 2018, CIS7B839411105; 'State-Sponsored Homophobia 2019', Mendos, L R., International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), 20 March 2019, p.450, 20190327100813
[85] 'Human Rights in Asia-Pacific: Review of 2019', Amnesty International, 29 January 2020, p.34, 20200130115738;

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sexual acts has been extended to female-female acts.[86] Sodomy laws have only been invoked seven times since 1938, four of those instances against former Deputy Prime Ministry Anwar Ibrahim.[87] International observers and human rights organisations viewed sodomy charges against Anwar Ibrahim as politically motivated.[88] Those found guilty under section 377A of the Penal Code for 'carnal intercourse against the order of nature' are liable for imprisonment of up to twenty years and a whipping.[89]

Islamic laws in several states prohibit same-sex sexual acts. Some Malaysian states apply their own penalties to Muslims under *syariah* statutes, and in several states same-sex sexual acts between Muslims are illegal and can incur jail terms and mandatory whipping.[90] In November 2019, the Selangor State *syariah* court sentenced five men to six to seven months in jail, six strokes of the cane, and 4,800-4,900 ringit in fines for attempting to have intercourse against the order of nature.[91] The caning of women is banned under civil law, but allowed under Islamic laws in some states.[92] In October 2018, Terengganu state was the first state in Malaysia to cane two LGBTI Muslim women under *syariah* law for *musahaqah* (attempting to have lesbian sex).[93] State religious authorities have reportedly force some LGBTI persons to participate in "treatment" or "rehabilitation" programs to "cure" them of their sexuality.[94]

Also see '*Syariah* law'

Segments of the Malaysian government and society oppose gender equality considering LGBTI lifestyles inconsistent with Islam. Religious and cultural taboos against same-sexual conduct are widespread.[95] Drawing on Gallup data, the 2019 Legatum Prosperity Index shows that Malaysia ranks 159th out of 167 countries for its 'perceived tolerance of LGBT individuals', equating to its lowest ranking since 2009.[96] The 2019 ranking shows a sharp decline compared with 2018 when tolerance of LGBT ranked 82nd.[97] The results of a 2013 global survey on the acceptance of homosexuality found that an 'overwhelming majority' of Muslim countries, including 86 per cent of persons surveyed in Malaysia, reject homosexuality.[98] Former Prime Minister Mahathir publically

'2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.32, 20200312091714; 'Penal Code', Government of Malaysia, enacted 1936, amended 31 December 2014, sections 377A, 377B, CISEDB50AD9259

[86] 'State-Sponsored Homophobia 2017 – A World Survey of Sexual Orientation Laws: Criminalisation, Protection and 'Recognition, International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA)', 1 May 2017, p.169, CISEDB50AD4462

[87] 'Malaysia: On the Record: Violence Against Lesbians, Bisexual Women and Transgender Persons In Malaysia', International 'Gay and Lesbian Human Rights Commission', 6 May 2014, p.33, CIS2F827D91966

[88] Anwar Ibrahim's rebirth and Malaysia's LBGT+ rights, Pursuit (University of Melbourne), 27 May 2018, CIS7B839411105; 'Convictions for sodomy follow unfair trials', Amnesty International, 8 October 1998, CIS11891

[89] 'Penal Code', Government of Malaysia, enacted 1936, amended 31 December 2014, sections 377A, 377B, CISEDB50AD9259; 'Criminalisation of Homosexuality', Human Dignity Trust, 25 October 2015, CISEC96CF110372

[90] 'State-Sponsored Homophobia 2019', Mendos, L R., International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), 20 March 2019, p.450, 20190327100813; 'Criminalisation of Homosexuality', Human Dignity Trust, 25 October 2015, CISEC96CF110372; 'Human Rights in Asia-Pacific: Review of 2019', Amnesty International, 29 January 2020, p.34, 20200130115738; '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.32, 20200312091714

[91] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.32, 20200312091714

[92] 'Two Malaysian Muslim women caned in public for attempting to have sex in car', Australian Broadcasting Corporation News (ABC News), 4 September 2018, CXBB8A1DA39062; 'State-Sponsored Homophobia 2019', Mendos, L R., International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), 20 March 2019, p.450, 20190327100813

[93] 'How public caning is performed in Terengganu', Malaysiakini, 5 September 2018, CXBB8A1DA34939
'Two Malaysian women caned for lesbian sex', Agence France Presse, 4 September 2018, CXBB8A1DA34672

[94] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.32, 20200312091714

[95] 'Human Rights in Asia-Pacific: Review of 2019', Amnesty International, 29 January 2020, p.34, 20200130115738; '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.32, 20200312091714

[96] '2019 Legatum Prosperity Index', Legatum Institute, 25 November 2019, 20191206104103

[97] 'Study: In post-GE14 Malaysia, more person freedom but tolerance took a dive', Malay Mail, 27 November 2019, 20191206095708

[98] 'The Global Divide on Homosexuality: Greater Acceptance in More Secular and Affluent Countries', Pew Research Center, 4 June 2013, p.3, CIS26344

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acknowledged that the Pakatan Harapan government did not support LGBT unions, which it see as an element of human rights in Western society rather than aligning with Malaysian values.[99]

Malaysia's LGBTI community may experience discrimination in some spheres of society. LGBTI individuals face a moderate risk of official and societal discrimination.[100] LGBTI persons report discrimination in employment, housing, and access to some government services because of their sexuality.[101] The appointment of a transgender representative to the federal Ministry of Health's Country Coordinating Mechanism, a committee supported by the Global Fund to Fight AIDS, Tuberculosis and Malaria was criticised by a representative of the of Parti Islam Se Malaysia (PAS) who said the committee's representative should be an "ex-transgender" person who had "gone through a positive phase and returned to [the original path]," adding that the "promotion of gender equality is not the culture here in Malaysia. We support the stand made by deputy Prime Minister Datuk Seri Dr Wan Azizah, who has objected to the LGBT agenda and urged any agenda for the normalisation of LGBT to stop because it contradicts our religion and constitution."[102] Malaysia's Islamic authorities have published materials and conducted outreach activities encouraging Muslim LGBTI persons to undergo sexuality rehabilitation.[103] The outreach program, a three-day camp held eight times each year, has been criticised by the Malaysian Aids Council as having become a place where LGBTI are being "converted" to the "right path" instead of its original intent of to "provide a safe, non-judgmental space" to the transgender community.[104]

Transgender individuals may experience discrimination and occasional violence. Authorities often charge transgender persons for cross-dressing with "indecent behaviour" and also for "importuning for immoral purposes" in public, and those convicted are liable for a fine of 25 ringit and potentially a prison sentence of up to 14 days.[105] Justice for Sisters (JFS), an advocacy group for the LGBTI community, said it has experienced difficulty obtaining legal representation for its clients who were charged under anti-crossdressing state Islamic laws.[106] Local advocates contend that imprisoned transgender women served their sentences in prisons designated for men and that police and inmates often abused them verbally and sexually.[107] Transgender individuals may face discrimination in public healthcare facilities, including undergoing forcible HIV/AIDS testing or being housed in male wards where they can be exposed to violence and abuse.[108] NGO Justice for Sisters report that between 2014 and 2019 there have been 10 known cases of transgender murders, but

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[99] 'PM slams West for erosion of values, same-sex marriage', Malaysiakini, 22 November 2019, 20191206082228; 'Mahathir Malaysia cannot accept same-sex marriage', Reuters, 22 September 2018, CXBB8A1DA35827; 'Don't force' LGBT rights on Malaysia, Mahathir says', Agence France Presse, 25 October 2018, CXBB8A1DA37446; 'World Report 2020. Events of 2019', Human Rights Watch (HRW), 14 January 2020, p.370, 20200115082903

[100] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.141, p.46, 20191213141745; 'Suaram's Human Rights Overview Report on Malaysia 2019', Suara Rakyat Malaysia (SUARAM), 9 December 2019, pp.32-34, 20200116163323

[101] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.33, 20200312091714

[102] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.32, 20200312091714

[103] 'Malaysian authorities release video claiming homosexuality can be 'cured'', Gay Community News (GCN), 18 December 2019, 20191220100405; 'Jakim issues e-book on LGBT rehab; minister says phenomenon 'under control'', Malay Mail, 24 October 2018, CXBB8A1DA37286; 'New M'sia should find 'right path' on LGBT rights, Malaysiakini, 7 August 2018, CXBB8A1DA39089; 'Malaysia Should Find 'Right Path' on LGBT Rights', Human Rights Watch, 7 August 2018, 20190206102849

[104] 'AIDS council slams Jakim's 'conversion therapy' for LGBTs', Free Malaysia Today, 24 December 2018, 20190125114340

[105] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.32, 20200312091714

[106] 'Why Muslims accused of Shariah offences lack access to justice', Malay Mail, 8 October 2018, 20190606092708

[107] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.32, 20200312091714

[108] 'Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Addendum: Visit to Malaysia (19 November–2 December 2014)', United Nations Human Rights Council, May 2015, p.16, CISEC96CF14228; 'How life is tough for transgenders in conservative Malaysia, who face violence, religious and official bias, and abusive me', South China Morning Post, 15 November 2017, CXC90406617584; 'Submission by Human Rights Watch to the United Nations Committee on the Elimination of Discrimination against Women 69th pre-sessional working group', Human Rights Watch, May 2017, CISEDB50AD4317; 'Transgender women in Malaysia, in the context of HIV and Islam: a qualitative study of stakeholders' perceptions', Barmania, S, Aljunid S M, BMC International Health and Human Rights, article 30, 20200424150731

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note that some murders are unlikely reported.[109] A 2018 survey by a local transgender rights group reported more than two-thirds of transgender women experienced some form of physical or emotional abuse.[110]

Numerous organisations and groups support the LGBTI community and advocate for gender equality. Mainstream Christian churches and the Malaysian Consultative Council of Buddhism, Christianity, Hinduism, Sikhism and Taoism have also spoken out against discrimination and violence towards gay and lesbian people.[111] Leadership Program for Gays (LPG) provides a network for LGBTI business people and organises group activities such as gatherings and sports events.[112] PLUPenang is an LGBTI organisation dedicated to supporting and fostering friendships amongst LGBTI members, and arranges recreational events and provides a safe space for LGBT people to express themselves.[113] Pertubuhan Kebajkan dan Persekitaran Positif Malaysia (SEED) is an officially registered community organisation that provides support services, including a drop-in centre, primarily for the transgender community.[114] Justice for Sisters is a campaign organised to raise public awareness about issues pertaining to transgender individuals and raise funds to finance court cases against transgender individuals in *syariah* courts.[115] The PT Foundation provides support to the LGBTI community, including those affected with HIV/AIDS, offering services such as healthcare and drop-in services, and offers seminars, operates a telephone counselling line and offers outreach programmes at third-party venues.[116] Seksualiti Merdeka advocates for LGBTI rights and supports Malaysians who have been marginalised because of their sexual orientation and gender identity.[117]

Women

Malaysian society is patriarchal. Women are active in all areas of society, but cultural and social barriers limit their levels of participation.[118] Moreover, there is a lack of resources available to women to assist them re-entering the workforce after childbirth.[119] Malaysia has the lowest rate of women's workforce participation in Southeast Asia.[120] Although there has been an increase in labour force participation by women over the last decade, wages for women do not equate to those of men for similar work.[121] In the Global Gender Gap Report 2017, Malaysia ranked 70th, an improvement from the previous year.[122]

Women's representation in politics increased during the Pakatan Harapan government but has diminished in the Perikatan Nasional government. The Pakatan Harapan government included more women and minority representatives in more positions of power.[123] Between 2011 and 2017,

[109] 'Gov't must curb increasing violence against transgenders', Malaysiakini, 20 November 2019, 20191206075644; NGOs raise alarm over yet another murder of a transgender woman', Free Malaysia Today, 3 January 2019, 20190125100210; 'Klang Transgender Dies From Cracked Skull After Brutal Assault By Men', SAYS, 14 December 2018, 20190125120728
[110] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.32, 20200312091714
[111] 'LGBT Organisations in Malaysia', Angloinfo Malaysia, n.d., accessed 29 June 2018, CISEDB50AD3776; 'Beauty and the Beast censorship attempt shows the good, the bad and the ugly of LGBT rights in Malaysia', The Conversation, 29 March 2017, CXC9040667196
[112] 'LPG Community', Yahoo Groups, n.d., accessed 23 November 2018, CIS7B8394110273
[113] 'PLUPenang website', PLUPenang, n.d., accessed 23 November 2018, CIS7B8394110276
[114] 'About SEED', Pertubuhan Kebajkan dan Persekitaran Positif Malaysia (SEED), n.d., accessed 8 November 2018, CIS7B8394110070
[115] 'About Justice for Sisters', Justice for Sisters, n.d., accessed 8 November 2018, CIS7B8394110071; 'Justice for Sisters', Astraea Lesbian Foundation For Justice, n.d., accessed 8 November 2018, CIS7B8394110072
[116] 'About Us PT Foundation', PT Foundation, n.d., accessed 8 November 2018, CIS7B8394110073
[117] 'Seksualiti Merdeka Facebook page', Facebook, n.d., accessed 23 November 2018, CIS7B8394110278
[118] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.118, p.41, 20191213141745
[119] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.118, p.41, 20191213141745
[120] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.119, p.41, 20191213141745
[121] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.119, p.41, 20191213141745
[122] 'Malaysia improves ranking in Global Gender Gap Report', Bernama, 15 November 2018, CXBB8A1DA38722
[123] 'Freedom in the World 2020 – Malaysia', Freedom House, 4 March 2020, B4, 20200417153315

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approximately 10 percent of seats in parliament were held by women.[124] During Pakatan Harapan rule, 13.9 and 22.1 percent of the lower and upper house seats were occupied by women respectively,[125] and Azizah Ismail, wife of Mr Anwar, became the country's first female deputy prime minister.[126] The current Perikatan Nasional government has been criticised for unravelling the Pakatan Harapan government's efforts to empower women leaders.[127]

Muslim women may be adversely affected by *syariah* law. Malaysia's Constitution prohibits discrimination based on gender and gives women equal rights to inherit, acquire, manage or dispose of property, including land.[128] However, s*yariah* law can deviate from these constitutional principles in some areas such as Islamic inheritance law that typically favours male children and male relatives.[129] *Syariah* law generally requires a husband's consent for divorce, but a small and steadily increasing number of women obtain divorces under sharia without their husband's consent.[130] Although *syariah* law favours fathers, equal parental rights are extended to Muslim mothers in four states, Johor, Selangor, Negri Sembilan and Pahang.[131]

Economic hardship

Malaysia is an upper-middle income country in which absolute poverty has been largely eradicated. Malaysia recorded average annual economic growth of more than 7 per cent between 1967 and 1997, while growth in recent years has continued to exceed 5 per cent.[132] Economic growth has been inclusive, with less than 1 per cent of the population living in extreme poverty.[133] Rates of poverty are low among Malays (0.8 per cent), Chinese (0.1 per cent), and Indians (0.6 per cent), although the poverty rate is higher in rural areas than in cities.[134] Malaysian authorities have turned their attention to reducing income inequality – which remains high in comparison to other East Asian countries, but is gradually declining – and addressing the well-being of the poorest 40 per cent of the population, who remain vulnerable to increases in the cost of living or economic shocks.[135] The UNDP's Human Development Index ranked Malaysia 57 out of 189 countries in 2017, placing it in the 'high human development' category.[136]

Malaysia has an expanding if still limited social welfare system, while traditional social roles mean that families provide support for the elderly and sick. Old age, survivor and disability payments and employment injury compensation are among the payments available to eligible individuals, although credible sources state that the overall scope of social welfare coverage remains limited.[137] In August 2017, the Malaysian Government introduced legislation into parliament that would

[124] 'Proportion of seats held by women in national parliaments (%)', World Bank, n.d., accessed 22 November 2018, CIS7B8394110255
[125] 'World Classification', Women in Parliament, 1 October 2018, CIS7B8394110256
[126] 'Malaysia's ruling party may be gone, but its racial policies survive', The Economist, 7 June 2018, CXBB8A1DA28917
[127] 'Women leaders collateral damage as Malaysian PM Muhyiddin secures grip on power', The Straits Times, 22 April 2020, 20200423075826
[128] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.27, 20200312091714
[129] 'Freedom in the World 2020 – Malaysia', Freedom House, 4 March 2020, G2, 20200417153315; '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.27, 20200312091714
[130] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.27, 20200312091714
[131] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.27, 20200312091714
[132] 'The World Bank in Malaysia', The World Bank, April 2017, CISEDB50AD5041; 'The Growth Report: Strategies for Sustained Growth and Inclusive Development', The World Bank, 2008, p.20, CIS956B8881704
[133] 'The World Bank in Malaysia', The World Bank, April 2017, CISEDB50AD5041
[134] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 2.10, p.10, 20191213141745
[135] 'OECD Economic Surveys – Malaysia', OECD, November 2016, p.4, CIS38A80124917; 'The World Bank in Malaysia', The World Bank, April 2017, CISEDB50AD5041
[136] Human Development Indices and Indicators - 2018 Statistical Update', UNDP, 1 January 2018, CIS7B839419962
[137] 'Social Security Programs Throughout the World: Asia and the Pacific, 2016 – Malaysia', US Social Security Administration Office of Retirement and Disability Policy, March 2017, CISEDB50AD5043; 'A Decade of Social Protection Development in Selected Asian Countries', OECD, 11 May 2017, pp.46-47, CISEDB50AD5044

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provide unemployment benefits for three to six months.[138] The Zakat system – a levy imposed on Muslims which is equal to 2.5 per cent of their assets above a minimum figure – forms one of the main social protection programmes in the country, and payments are distributed to needy groups such as the poor and refugees.[139] In Malaysia, grown children typically provide financial or care support to elderly or sick parents.[140]

Political opinion

Freedom of expression

Freedom of expression is limited. The Constitution allows restrictions on the freedom of expression 'in the interest of the security of the Federation… [or] public order.'[141] The law prohibits sedition and public comment on issues defined as sensitive, including racial and religious matters or criticism of the King or ruling sultans.[142] The government regularly restricts freedom of expression for members of the public, media, and civil society, citing reasons such as upholding Islam and the special status of ethnic Malays, protecting national security, maintaining public order, and preserving friendly relations with other countries.[143] Sedition and criminal defamation laws led to self-censorship by local internet content sources, including bloggers, news providers, and NGO activists.[144]

Mainstream media is largely affiliated with political parties. Before the Pakatan Harapan government, most private publications were controlled by political parties or Barisan Nasional aligned business.[145] During the Pakatan Harapan government, these media outlets were overtly pro-opposition.[146] Despite restrictions and official pressure, opposition parties, social action groups, unions, internet news sites, and other private groups actively covered opposition activity and frequently printed views critical of Pakatan Harapan government policies.[147] The Pakatan Harapan government maintained and at times exerted control over news content, and banned, restricted, or limited circulation of publications believed to threaten public order, morality, or national security.[148] Broadly speaking, media self-censorship was more relaxed and at times more neutral under the Pakatan Harapan government.[149]

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[138] 'New bill introduces conditional unemployment benefits', Malaysiakini, 1 August 2017, CXC90406611469
[139] 'A Decade of Social Protection Development in Selected Asian Countries', OECD, 11 May 2017, p.60, CISEDB50AD5044
[140] 'Report on Key Findings: Fifth Malaysian Population and Family Survey [MPFS-5] 2014', Ministry of Women, Family and Community Development and National Population and Family Development Board, 2016, p.30, CIS38A80124919
[141] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.11, 20200312091714
[142] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.11, 20200312091714; 'Freedom in the World 2020 – Malaysia', Freedom House, 4 March 2020, D4, 20200417153315; 'Amnesty International Report 2017/18', Amnesty International, 22 February 2018, p.249, NGED867A612; 'Human Rights in Asia-Pacific: Review of 2019', Amnesty International, 29 January 2020, p.33, 20200130115738
[143] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.11,13, 20200312091714; 'BTI 2020 Country Report Malaysia', Bertelsmann Stiftung, 29 April 2020, p.7, 20200429144341; 'Human Rights in Asia-Pacific: Review of 2019', Amnesty International, 29 January 2020, p.33, 20200130115738; '10 years' jail for insulting Islam excessive - MCA agrees with DAP', Malaysiakini, 11 March 2019, 20200204140736; 'Reduced sentence for Sarawakian convicted of insulting Islam', Free Malaysia Today, 13 September 2019, 20200204141618; 'Suaram's Human Rights Overview Report on Malaysia 2019', Suara Rakyat Malaysia (SUARAM), 9 December 2019, p.20, 20200116163323
[144] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.14, 20200312091714; 'Suaram's Human Rights Overview Report on Malaysia 2019', Suara Rakyat Malaysia (SUARAM), 9 December 2019, pp.20-26, 20200116163323
[145] 'BTI 2020 Country Report Malaysia', Bertelsmann Stiftung, 29 April 2020, p.11, 20200429144341; 'Freedom in the World 2020 – Malaysia', Freedom House, 4 March 2020, D1, 20200417153315
[146] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, pp.11-12, 20200312091714
[147] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.12, 20200312091714
[148] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.12, 20200312091714
[149] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.13, 20200312091714; 'Freedom in the World 2020 – Malaysia', Freedom House, 4 March 2020, D1, 20200417153315

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Freedom of assembly

Freedom of assembly is limited. The constitution provides for the freedoms of peaceful assembly and association but allows restrictions deemed necessary or expedient in the interest of security, public order, or (in the case of association) morality.[150] Although the law does not require groups to obtain a permit for assemblies, police place time, location, and other restrictions on assemblies.[151] Organising an assembly that occurs without the proper notice is considered a criminal offense.[152] Protests deemed acceptable by the government usually proceed without interference.[153] In July 2019, the *Peaceful Assembly Act* (2012) was amended with the effect of relaxing restrictions on forms of peaceful demonstration.[154]

Civil society organisations

Civil society groups operate in Malaysia with occasional interference. Numerous nongovernmental organizations (NGOs) operate in Malaysia, and they have a strong record of campaigning for electoral, anticorruption, and other reforms.[155] NGOs must be approved and registered by the government, which has refused or revoked registrations for political reasons in the past.[156] Many human rights and civil society organisations experience difficulties obtaining government recognition as NGOs, so instead register as companies, which creates legal and bureaucratic obstacles to raising money to support their activities.[157] Some international human rights organizations have been forbidden from forming local branches.[158] Some NGOs report the government monitors their activities in order to intimidate them.[159]

State protection

Law enforcement

Law enforcement operates at both the federal and state level. The Royal Malaysian Police reports to the federal Minister for Home Affairs and is responsible for law enforcement nationwide.[160] The Federal Department of Development of Islam enforces *syariah* law and has jurisdiction over Muslims in Kuala Lumpur and two other federal territories.[161] The People's Volunteer Corps (RELA), a federal paramilitary civilian corps under the Ministry of Home Affairs, assists security forces.[162] RELA's

[150] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.16, 20200312091714
[151] 'Freedom in the World 2020 – Malaysia', Freedom House, 4 March 2020, E1, 20200417153315; '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.16, 20200312091714
[152] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.16, 20200312091714
[153] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.16, 20200312091714; 'Suaram's Human Rights Overview Report on Malaysia 2019', Suara Rakyat Malaysia (SUARAM), 9 December 2019, pp.27-28, 20200116163323
[154] 'Human Rights in Asia-Pacific: Review of 2019', Amnesty International, 29 January 2020, pp.33-34, 20200130115738
[155] 'Freedom in the World 2020 – Malaysia', Freedom House, 4 March 2020, E2, 20200417153315
[156] 'Freedom in the World 2020 – Malaysia', Freedom House, 4 March 2020, E2, 20200417153315; '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.16, 20200312091714
[157] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.17, 20200312091714
[158] 'Freedom in the World 2020 – Malaysia', Freedom House, 4 March 2020, E2, 20200417153315
[159] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.17, 20200312091714; 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, pp.77, 20200429103634
[160] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 5.5, p.55, 20191213141745
[161] 'Country Information Report – Malaysia (Version 2)', Department of Foreign Affairs and Trade (Australia), 19 July 2016, section 5.1, p.25, CIS38A80121311
[162] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 5.2, p.54, 20191213141745

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engagement in law enforcement activities has significantly reduced in recent years.[163] NGOs have reported that inadequate training has resulted in RELA members being poorly equipped to perform their duties.[164]

Royal Malaysia Police (RMP)

The RMP is generally considered a professional and effective force. The RMP operates 837 police stations nationwide and employs approximately 115,000 officers.[165] Local and international sources indicate the RMP is a professional and effective police force, although the quality of its members' responses varies depending on levels of training, capacity and engagement in corruption.[166] A 2017 Transparency International survey found that 57 per cent of Malaysian respondents thought that corruption was a problem within the RMP – a result that was significantly above the regional average.[167] In July 2017, the RMP signed an anti-graft pledge of which anti-corruption bodies and civil society organisations said was a significant step towards accountability.[168]

Criminal justice system

A number of existing laws undermine due process guarantees. The *Security Offences (Special Measures) Act* (2012) (SOSMA) allows police to detain anyone for up to 28 days without judicial review for broadly defined 'security offences' and to hold suspects for 48 hours before being granted access to a lawyer and was renewed for another five years in 2017.[169] In 2017, lawmakers amended the *Prevention of Crime Act* (1959) (a law ostensibly aimed at combating organized crime) to revoke detainees' right to address the government-appointed Prevention of Crime Board, which is empowered to order the detention of individuals listed by the Home Ministry for renewable two-year terms without trial or legal representation.[170] The *Prevention of Terrorism Act* (2015) together with *the National Security Council Act* (2016) gives the National Security Council (led by the prime minister) wide powers of arrest, search, and seizure without a warrant in areas deemed as security risks and in the context of countering terrorism.[171]

Incidents of mistreatment in custody and impunity for police/security forces personnel are reported. Isolated incidents of torture and ill-treatment in police custody have been reported.[172] Incidents of physical violence inflicted upon detainees under remand or during investigation are prevalent especially when there are elements of chain remand or detention under security laws.[173] The government has claimed that deaths in police custody, particularly those caused by police, were rare, but civil-society activists dispute this claim.[174] In its 2019 human rights report, Malaysian human

[163] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 5.2, p.54, 20191213141745
[164] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 5.2, p.54, 20191213141745
[165] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 5.5, p.55, 20191213141745
[166] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 5.5, p.55, 20191213141745
[167] 'Global Corruption Barometer – Asia Pacific', Transparency International, 28 February 2017, p.41, CISEDB50AD5225
[168] 'Anti-graft pledge by police hailed as a good move', The Star, 27 July 2017, CXC90406610992
[169] 'Freedom in the World 2020 – Malaysia', Freedom House, 4 March 2020, F2, 20200417153315
[170] 'Freedom in the World 2020 – Malaysia', Freedom House, 4 March 2020, F2, 20200417153315
[171] 'Freedom in the World 2020 – Malaysia', Freedom House, 4 March 2020, F2, 20200417153315
[172] 'Freedom in the World 2020 – Malaysia', Freedom House, 4 March 2020, F3, 20200417153315; 'Suaram's Human Rights Overview Report on Malaysia 2019', Suara Rakyat Malaysia (SUARAM), 9 December 2019, pp.13-14, 20200116163323
[173] 'Suaram's Human Rights Overview Report on Malaysia 2018', Suara Rakyat Malaysia (SUARAM), 28 November 2018, p.17, CIS7B8394110621
[174] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.4, 20200312091714

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rights organisation Suara Rakyat Malaysia (SUARAM) said there were six cases of custodial deaths reported between January and October 2019.[175]

The Pakatan Harapan administration tabled a bill to establish an Independent Police Complaints of Misconduct Commission. A recommendation to establish the commission was made by the Royal Commission of Inquiry in 2005 following public backlash over a number of custodial deaths and allegations of police brutality.[176] In July 2019, the government tabled the Independent Police Complaints of Misconduct Commission (IPCMC) Bill to establish the IPCMC and its functions being: to promote integrity within the police force as well as to advise the government and recommend measures for such promotion of integrity; to protect public interest by dealing with police misconduct; to formulate and put in place mechanisms for the detection, investigation and prevention of police misconduct; and to 'exercise disciplinary control' over the police.[177] This law will dissolve the Enforcement Agency Integrity Commission (EAIC) by repealing the 2009 law that established it, and EAIC officers will become IPCMC officers.[178] The government has been accepting feedback on the Bill after the Bill was heavily criticised by civil society for giving excessive powers to the prime minister.[179]

Judiciary

Trial procedures are typically fair. The constitution provides for a fair and public trial, and the judiciary generally enforced this right.[180] The civil law system is based on British common law and defendants are presumed innocent until proven guilty.[181] Defendants have the right to be informed promptly of the charges against them, to a timely trial, and to be present at their trial.[182] Defendants have the right to communicate with an attorney of their choice or to have counsel appointed at public expense if they face charges that carry the death penalty.[183] Defendants also may apply for a public defender in certain other cases.[184]

The majority of cases in Malaysian courts are processed in accordance with the rule of law. According to the Malaysian Bar Council, defendants generally had adequate time and facilities to prepare a defence if they had the means to engage private counsel.[185] Otherwise, defendants must rely on legal aid and the amount of time to prepare for trial is at the discretion of the judge.[186] Authorities provide defendants free interpretation in Mandarin, Tamil, and some other commonly used

[175] 'Suaram's Human Rights Overview Report on Malaysia 2019', Suara Rakyat Malaysia (SUARAM), 9 December 2019, p.12, 20200116163323
[176] 'Cash-strapped Malaysian police under pressure amid plans for oversight body', The Straits Times 11 August 2019, 20190812081744
[177] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.6, 20200312091714; 'So what exactly is the IPCMC Bill all about and why it is important', Malay Mail, 23 July 2019, 20191003111247; 'IPCMC is here - but does it have bite?', Malaysiakini, 19 July 2019, 20190812082833
[178] 'So what exactly is the IPCMC Bill all about and why it is important', Malay Mail, 23 July 2019, 20191003111247
[179] 'Suaram's Human Rights Overview Report on Malaysia 2019', Suara Rakyat Malaysia (SUARAM), 9 December 2019, p.11, 20200116163323; 'IPCMC Bill: Gov't to consider critics' views before second reading', Malaysiakini, 1 August 2019, 20190812083152; 'IPCMC Bill postponed to next Parliament session', Malaysiakini, 3 December 2019, 20191204080040; 'Human Rights in Asia-Pacific: Review of 2019', Amnesty International, 29 January 2020, p.34, 20200130115738
[180] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.9, 20200312091714
[181] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.9, 20200312091714
[182] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.9, 20200312091714
[183] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.9, 20200312091714
[184] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.9, 20200312091714
[185] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.9, 20200312091714
[186] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.9, 20200312091714

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dialects from the moment charged through all appeals.[187] The right to confront witnesses is limited by provisions allowing the identity of prosecution witnesses to be kept secret from the defence before a trial, which inhibits cross-examination of those witnesses.[188] Defendants may present witnesses and evidence on their behalf. Limited pre-trial discovery in criminal cases can impede the defence.[189]

Judicial independence may be compromised by executive interference. Three constitutional articles provide the basis for an independent judiciary; however, other constitutional provisions, legislation restricting judicial review, and executive influence over judicial appointments limit judicial independence and strengthen executive influence over the judiciary.[190] The judiciary frequently defers to police or executive authority in cases those parties deem as affecting their interests.[191] Members of the Malaysian Bar Council, NGO representatives, and other observers express 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.[192]

Syariah law

Malaysia maintains a dual legal system with the coexistence of *syariah* law alongside civil law. Malaysia's secular legal system is based on English common law.[193] Muslims are subjected to both the general laws enacted by parliament and religious laws enacted by their state legislature.[194] *Syariah* courts in the judicial system have three levels (except for Perak state which instituted a Supreme Court in December 2018).[195] The Director-General of the Department of Syariah Judiciary has proposed that other Malaysian states follow Perak's lead and also establish a Supreme Court.[196] In July 2019, Speaking at the Department of Syariah Judiciary Malaysia, Minister in the Prime Minister's Department, Mujahid Yusof Rawa, said that the government intends to standardise and coordinate *syariah* laws nationwide by the end of 2020, saying the reason for "standardising the *syariah* criminal enactment nationwide" is that punishments for the same offences differ from state to state.[197]

The jurisdiction of *syariah* law is confined to family law and religion. The dual legal system results in different treatment of Muslims and non-Muslims in 'moral' and family law cases.[198] *Syariah* courts are highly influential in general, because their decisions frequently involve conversions to Islam, which in turn affect such matters as child-custody, burial rites and inheritance.[199] Some penalties imposed by *syariah* courts are limited by federal civil law.[200] Two states, Kelantan and

[187] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.9, 20200312091714
[188] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.9, 20200312091714
[189] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.9, 20200312091714
[190] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.8, 20200312091714
[191] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.8, 20200312091714
[192] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.8, 20200312091714
[193] 'BTI 2020 Country Report Malaysia', Bertelsmann Stiftung, 29 April 2020, p.7, 20200429144341
[194] 'Freedom in the World 2020 – Malaysia', Freedom House, 4 March 2020, F2, 20200417153315; 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634
[195] 'Authorities want Shariah Supreme Court established in country following Perak's move', Bernama, 27 November 2019, 20191206105508
[196] 'Authorities want Shariah Supreme Court established in country following Perak's move', Bernama, 27 November 2019, 20191206105508
[197] Standardised syariah laws by end of next year - Mujahid', Bernama, 4 July 2019, 20190705100344
[198] 'Freedom in the World 2020 – Malaysia', Freedom House, 4 March 2020, F2, 20200417153315
[199] 'BTI 2020 Country Report Malaysia', Bertelsmann Stiftung, 29 April 2020, p.7, 20200429144341
[200] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 5.3, p.54, 20191213141745

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Terengganu, have symbolically enacted *hudood* (Islamic penal law) for criminal offenses such as apostasy, slander, adultery, and alcohol consumption.[201]

Islamic religious enforcement officers conduct moral policing operations. Religious enforcement officers have a range of powers, depending on the particular Islamic laws that apply in each state.[202] State Islamic religious enforcement officers have the authority to accompany police on raids of private premises and public establishments, and to enforce *syariah*, including for violations such as indecent dress, distribution of banned publications, alcohol consumption, or *khalwat* (close proximity to a nonfamily member of the opposite sex).[203] Moral breaches of *syariah* law typically result in a warning or a fine but may include caning or up to one month imprisonment for the most serious offences.[204] Kelantan's Islamic Affairs and Religious Department fined 39 women for "dressing sexily and behaving indecently in public" during Ramadan in 2019.[205] In Johor, Segamat Municipal Council enforcement officers disguised themselves as food stall operators, cooks and waiters in a bid to catch Muslims who do not fast during Ramadan in 2019.[206]

Corruption

High-level corruption is a significant problem in Malaysia. In July 2018, former Prime Minister Mahathir commented that "[m]ost of the top echelon in the Government are corrupt".[207] During the Pakatan Harapan government, the Malaysian Anti-Corruption Commission and other law enforcement institutions became more active, initiating various investigations against former leadership.[208] During the Pakatan Harapan government, several former government officials were charged with corruption, including the former prime minister, but there remained a broadly held perception of widespread corruption and cronyism in government institutions.[209] Transparency International's 2017 corruption index showed Malaysia fell seven places to 62nd globally.[210] In the following year, Transparency International's 2018 index saw Malaysia move up to 61st.[211] In Transparency International's 2019 index, Malaysia continues to improve its position ranking 51st.[212]

There are concerns that the change in government may compromise IMDB trials. Shortly after losing the prime ministership, authorities confiscated large sums of cash and luxury items from the residences of former Prime Minister Najib and Najib has been charged over missing funds from the 1MDB fund.[213] Najib and several of his family members, along with several high-ranking officials of his former administration are facing dozens of criminal charges related to 1MDB and other government

[201] 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634
[202] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 5.9, p.55, 20191213141745
[203] 'Country Reports on Human Rights Practices for 2018 - Malaysia', US Department of State, 13 March 2019, section 2, p.5, 20190314091511
[204] 'The female face of Islamic law in Malaysia', Aljazeera, 16 August 2017, CXC90406620329; 'Lawyer: Muslims can challenge khalwat offences', Free Malaysia Today, 7 December 2016, CX6A26A6E20451
[205] 'Sisters In Islam urge Kelantan religious authorities to stop policing the way women dress', Malay Mail, 13 May 2019, 20190605152041
[206] 'Segamat council officers go undercover as cooks, secretly photograph non-fasting Muslims', Malay Mail, 23 May 2019, 20190605151847
[207] 'I inherited a Malaysian government riddled with corruption PM Mahathir in CNN interview', The Straits Times, 27 July 2018, CXBB8A1DA32263
[208] 'Freedom in the World 2020 – Malaysia', Freedom House, 4 March 2020, F2, 20200417153315
[209] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.23, 20200312091714
[210] 'Corruption Perceptions Index 2017', Transparency International, 21 February 2018, CIS7B83941307; 'NOW offers to create Malaysia's own corruption index', Malaysiakini, 27 February 2018, CXBB8A1DA23044
[211] 'Malaysia moves one spot in latest corruption index', New Straits Times, 30 January 2019, 20190130152450
[212] 'Corruption Perceptions Index 2019', Transparency International, 23 January 2020, 20200205081007
[213] 'Najib finished second round of questioning by anti-graft body', The Straits Times, 25 May 2018, CXBB8A1DA27951; 'Former Malaysian PM Najib Razak interrogated by corruption commission as charges loom', ABC News (Australia), 23 May 2018, CXBB8A1DA27725; 'Malaysia scrutiny of 'insolvent' 1MDB wealth fund intensifies as ex-PM Najib Razak is questioned again in corruption scandal', South China Morning Post, 24 May 2018, CXBB8A1DA27945; 'Cash tally from condo raids More than $40m', Asia News Network, 24 May 2018, CXBB8A1DA27853; 'Former Malaysian PM charged with money laundering, abuse of power', Reuters, 20 September 2018, CXBB8A1DA35852

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entities.[214] Some have expressed concern that the return of Najib's party (UMNO) to the government in March might impede ongoing investigations and efforts to track down assets lost from the troubled state fund.[215] Both the Attorney General and head of Malaysian Anti-Corruption Commission resigned shortly after Mahathir's resignation as prime minister.[216] On 14 May prosecutors dropped money-laundering charges against Najib's stepson who is accused of having laundered USD$248 million from the 1MDB state investment fund.[217]

The Pakatan Harapan government took steps to combat corruption and prosecute high-level corruption in government. On 29 January 2019, the prime minister launched the National Anti-Corruption Plan (NACP) saying that the government will review how appointments to key government posts are made, will introduce new laws on political funding, and will require politicians and high-ranking civil servants to declare their assets.[218] The NACP, developed by the National Centre for Governance, Integrity and Anti-Corruption, incorporates 115 initiatives which cover six sectors, namely politics, law enforcement, public procurement, legal and judiciary, public administration and corporate management.[219] Additionally, the government has established committees to investigate corruption amongst state officials.[220] In March 2019, the Prime Minister proposed establishing a special court specifically to expedite corruption cases, however this is yet to materialise.[221]

Crime

On-going police operations target criminal gangs and crime syndicates. In August 2013, the RMP launched Ops Cantas Khas, focusing on weapons seizures and targeting gang members, leaders and their assets.[222] In 2014, Police claimed that they had identified 49 illegal gangs nationwide with 40,000 members – 70 per cent of whom were ethnic Indian[223] – who are linked to armed robberies, drug and prostitution rings, loan-sharking, gambling, and extortion and contract killings.[224] Authorities claim that the crackdown has led to a reduction in crime.[225] A second phase of the campaign – Op Cantas Khas 2 – was launched in August 2016.[226] Malaysian media outlets continuously publish reports about on-going police operations against criminal syndicates.[227]

[214] 'Malaysia unveils five-year plan to fight corruption', Aljazeera, 29 January 2019, 20190607095843
[215] '1MDB Trial Resumes Amid Backlash to Najib's Stepson's Settlement', Bloomberg 19 May 2020, 20200519120128; 'Malaysian lawyers say anti-graft agency must explain heat over case involving Najib's stepson', Asia News Network, 16 May 2020, 20200519123431
[216] 'Malaysia anti-graft chief who probed 1MDB scandal quits', Reuters, 6 March 2020, 20200309135450; 'Tommy Thomas resigns as AG', Malaysiakini, 28 February 2020, 20200519134104; 'Malaysia AG Faces Calls to Resign After Dropping Terror Charges', Bloomberg, 23 February 2020, 20200519134424
[217] 'Former top prosecutor says Riza deal 'terrible for Malaysia'', Associated Press, 18 May 2020, 20200519121320; 'Five ex-chiefs of Malaysian Bar attack its president over 'hollow' statement on Najib stepson's case', The Straits Times, 19 May 2020, 20200520094101
[218] 'Malaysia launches ambitious anti-corruption plan', The Straits Times, 29 January 2019, 20190130081803
[219] 'NACP launched, aims to tackle corruption for next five years', Malaysiakini, 29 January 2019, 20190130090502
[220] 'Cleaning up corruption in Malaysia goes beyond Najib', Aljazeera, 23 May 2019, 20190607090851
[221] 'Establishment of Special Corruption Courts is a Step Forward Towards Stamping Out Corruption', The Malaysian Bar, 21 March 2019, 20190605121213
[222] 'Cops deal crime a crippling blow since Ops Cantas Khas launch', The Star, 23 September 2013, CXC28129414715
[223] Malaysia's gang menace', Aljazeera, 11 July 2014, CX1B9ECAB10299
[224] 'Malaysia's gang menace', Aljazeera, 11 July 2014, CX1B9ECAB10299
[225] '79,414 individuals detained throughout 'Ops Cantas Khas'', Bernama, 10 June 2014, CX1B9ECAB11435
[226] 'Op Cantas crackdown on triads: 1,444 arrested', Astro Awani, 13 August 2016, CX6A26A6E8262
[227] 'Notorious AYT 99 gang crippled by cops, gun used in 2017 shooting of ex-AG's driver among firearms seized', Malay Mail, 17 February 2020, 20200520141705; 'Police: Those sporting gang tattoos can be arrested', Bernama, 25 February 2019, 20190227121915; 'Gang 08 members arrested for extortion', The Sun Daily, 27 February 2019, 20200520142026; '57 go on trial in Kajang Prison for alleged links to Gang 360 Devan', Bernama, 6 September 2018, CXBB8A1DA34959; 'Datuk Seri and Datuk among 36 charged with being members of Gang 08', The Sun Daily, 27 April 2018, 20200520142455; '3 cops held as 08 Gang, 18 Gang busted', The Sun Daily, 9 April 2018, 20200520142237; 'Chinese have the most gangs; Indian gangs the most members: Police', The Sun Daily, 11 March 2018, 20200520142712; '36 suspected underworld gang members arrested in Malaysia', Bernama, 20 February 2018, CXBB8A1DA22559

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Loan sharks

Malaysian police respond to threats and harassment from illegal moneylenders and some non-government association's offer assistance. Illegal money lending is an offence under Malaysian law, and section 5(2) of the *Moneylenders Act* (1951) (moneylenders act) carries a fine of 20,000 ringgit not exceeding 100,000 ringgit, or imprisonment not exceeding five years, or both for unlicensed moneylending.[228] Section 29AA of the moneylenders act carries a fine not exceeding 20,000 ringgit, imprisonment for up to two years, or both for any person who assists an unlicensed moneylender.[229] Section 29B(1) of the moneylenders act carries a fine of up to 200,000 ringgit or imprisonment of up to three years, or both for harassment or intimidation of a borrower, a borrower's family or their associates.[230] During recent years, police have responded to complaints of harassment and intimidation by illegal moneylenders and have conducted numerous operations targeting illegal moneylending operations, resulting in the prosecution of persons under the moneylenders act.[231] In December 2017, Malaysia's central bank cautioned the public about illegal money lending activities conducted by companies using fake licences purportedly issued by the central bank, advising the public to report such instances to the police for investigation.[232] A non-governmental organisation, the Malaysian Muslim Consumers Association (PPIM), offers support for those encountering problems with loan sharks.[233] The Malaysian Chinese Association's Public Services and Complaints Department acts as an intermediary between loan sharks and Chinese Malaysian victims who are unable to repay debt, negotiating loan repayments with lower rates.[234]

Death penalty

Malaysia introduced legislation that removes the mandatory death sentence for some offenses, including some drug-related offenses. Malaysia announced a moratorium on executions in July 2018.[235] In November 2017 (effective March 2018), parliament passed the *Dangerous Drugs (Amendment) Act* (2017) (DDA) to remove the mandatory death sentence for drug-related offences by giving judges the discretion to punish drug offenders with either life imprisonment or hanging.[236] However, judicial discretion is limited only to certain circumstances under specified in section 39B (2A) of the DDA, namely where the accused is merely a drug mule and has assisted law enforcement

[228] 'Moneylenders Act 1951 (Malaysia)', amended 15 April 2011, Attorney General's Chambers of Malaysia, section 5(2), CISEC96CF110366
[229] 'Moneylenders Act 1951 (Malaysia)', amended 15 April 2011, Attorney General's Chambers of Malaysia, section 29AA, CISEC96CF110366
[230] 'Moneylenders Act 1951 (Malaysia)', amended 15 April 2011, Attorney General's Chambers of Malaysia, section 29B(1), CISEC96CF110366
[231] 'Unlicensed money lenders claim trial for harassing, threatening borrowers', New Straits Times, 6 September 2018, CXBB8A1DA37862; 'Malaysian man unwittingly borrows money from loan sharks so son could have 'dream wedding'', Asia News Network, 19 April 2018, CXBB8A1DA37866; 'Police detain 35 in action against illegal money-lending', Bernama, 25 August 2017, CXC90406624824; 'Four loan shark operations busted with arrest of 29 people', The Star, 4 August 2017, CXC90406611700; 'Loan shark ring busted, 31 nabbed in nationwide raids', The Sun Daily, 18 April 2017, CXC9040665990; 'Rich loan sharks nabbed', The Star, 13 January 2017, CXC904066329; '26 loan sharks nabbed, RM2m seized', Daily Express, 13 January 2017, CXC904066572; '4 loan sharks fined RM8,000 each for red paint splashed on debtor home', Bernama, 5 November 2016, CX6A26A6E12449
[232] 'BNM warns of illegal money lenders, Bernama, 6 December 2017, CXC90406624823
[233] 'For Malaysia's sake, consumers group seeks to save civil servants trapped in debt', Malay Mail, 3 August 2017, CXC90406624589; 'Loan sharks sharpen their bite', The Star, 20 January 2018, CXBB8A1DA22631; More than 10,000 people sought PPIM's help over Ah Long cases', Bernama, 18 October 2016, CX6A26A6E31142; 'PPIM urges govt to put an end to 'ah long' posters', Bernama, 6 September 2018, CXBB8A1DA35970
[234] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.113, p.40, 20191213141745
[235] 'Parliament must consign death penalty to the history books', Amnesty International, 10 October 2018, CXBB8A1DA38216; 'Suaram's Human Rights Overview Report on Malaysia 2019', Suara Rakyat Malaysia (SUARAM), 9 December 2019, pp.35-36, 20200116163323
[236] 'No more mandatory death sentence soon as amendments to Dangerous Drugs Act passed in Parliament', New Straits Times, 30 November 2017, CXC90406618546; 'Group against death penalty warns amended Drug Act still has flaws', Malay Mail, 15 March 2018, CXBB8A1DA23929; 'Death Sentences and Executions 2018', Amnesty International, 10 April 2019, p.23, 20190411090834

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in disrupting drug trafficking activities.[237] The amendment does not apply in retrospect for previous convictions.[238] Amnesty International reports that there were no executions recorded during 2019, but there were 26 recorded death sentences, bringing the total number of known death sentences to 1,280.[239]

Malaysia has yet to abolish the mandatory death penalty for all offences. There are 11 offences that attract the mandatory death penalty within two acts – nine under the Penal Code, including for murder, waging war against Malaysia's King, and committing terrorist acts, and a further two under the *Firearms (Increased Penalties) Act* (1971).[240] In February 2020, a special committee to review alternative sentences to the mandatory death penalty submitted its report to the government.[241] A bill to repeal the mandatory death penalty was expected to be tabled in Parliament in March 2020.[242]

Domestic violence/familial abuse

Family violence

Amendments to domestic violence law have strengthened protections for victims. Domestic violence is prevalent in Malaysia despite law prohibiting domestic and sexual violence.[243] Domestic violence victims can obtain protection orders which attract a prison sentence of up to one year or a fine if breached.[244] Although marital rape that causes hurt or fear of death is punishable under the Penal Code, *syariah* law in many states creates ambiguity because it prohibits wives from disobeying the 'lawful orders' of their husbands, effectively discouraging victims from reporting incidents.[245] In 2017, amendments to domestic violence law broadened the scope of the definition of domestic violence to include spouses, former spouses, children, family members, incapacitated adults who are living as members of the family, and *de facto* spouses who have undertaken religious or customary marriage.[246] Despite improved protections introduced by the amendments including broader protection orders for victims and introduce penalties for perpetrators who transgress them, unmarried couples and marital rape remain excluded from the definition of domestic violence and Penal Code respectively.[247]

Authorities take claims of sexual harassment seriously but there is reluctance by victims to report cases. The *Employment Act* (1955) prohibits a person in authority from using their position to intimidate a subordinate into having sexual relations and the law classifies certain forms of workplace sexual harassment illegal.[248] The Pakatan Harapan government was in the process of drafting a legal framework to address gender discrimination, and a Sexual Harassment Bill was expected to be tabled

[237] 'A Call to End the Mandatory Death Penalty in Malaysia', Union Internationale des Avocates (UIA), 20 February 2018, CXBB8A1DA22745; 'Amnesty International Report 2017/18', Amnesty International, 22 February 2018, p.250, NGED867A612; 'Death Sentences and Executions 2018', Amnesty International, 10 April 2019, p.23, 20190411090834; 'Human Rights Watch World Report 2019', Human Rights Watch, 17 January 2019, p.367, 20190118091502
[238] 'Parliament removes mandatory death penalty for drug offences, judges to get discretion'', Malay Mail, 30 November 2017, CXC90406618547
[239] 'Death sentences and executions 2019 ', Amnesty International, 21 April 2020, p.21, 20200422083142
[240] 'Law minister: Bill to repeal mandatory death penalty to be tabled in October', Bernama, 13 July 2019, 20190716132419
[241] 'Death sentence - committee submits report on alternatives', Malaysiakini, 11 February 2020, 20200212080446
[242] 'Law minister says death penalty alternatives need fine-tuning', Malay Mail, 10 December 2019, 20191211155916
[243] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.26, 20200312091714
[244] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.122, p.42, 20191213141745
[245] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.122, p.42, 20191213141745
[246] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.122, p.42, 20191213141745
[247] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.122, p.42, 20191213141745; 'Penal Code', Government of Malaysia, enacted 1936, amended 1 September 2017, section 375A, CISEDB50AD9259; 'A brief history of marital rape — New Sin Yew', Malay Mail, 4 November 2018, CXBB8A1DA38587
[248] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.27, 20200312091714

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in Parliament in March 2020.[249] A government voluntary code of conduct provides a detailed definition of sexual harassment intended to raise public awareness of the problem.[250] Authorities take claims of sexual harassment seriously but victims are often reluctant to report cases because of embarrassment, the difficulty of proving the offence, and a lengthy trial process.[251] The most recent statistics available from Malaysia's Ministry of Home Affairs indicate that approximately 16 per cent of reported rape cases were taken to court, with a conviction rate of 2.7 percent.[252]

Government and non-government shelters and assistance to victims of domestic violence is often insufficient to meet the need. Almost every hospital in Malaysia has a crisis centre where victims of rape and domestic violence can make reports without going to a police station, and which offer services such as examination by female doctors, evidence management, referrals and crisis intervention, counselling, temporary shelter, and legal assistance.[253] The Women's Aid Organisation reports that there are One Stop Crisis Centre services in 102 government hospitals nationwide that cater to between 10 to over 500 clients each year.[254] There is a sexual investigations unit at each police headquarters to help victims of sexual crimes and abuse, and police sometimes assign psychologists or counsellors to provide emotional support.[255] Activists assert that support mechanisms for victims of domestic violence are inadequate.[256] The Ministry of Women, Family and Community Development organises legal literacy seminars designed to inform women of their rights in cases related to issues such as marital problems and divorce.[257]

Child marriage and sexual abuse

***Syariah* courts approve approximately 80 per cent of applications for marriages involving a female under the age of 16.** The minimum age of marriage is age 18 for men and age 16 for women, but Muslim women younger than age 16 may marry with the approval of a *syariah* court.[258] In some cases authorities treat early marriage as a solution to statutory rape.[259] Child marriage is thus defined as marriage below the minimum legal age which requires the approval of a *syariah* court judge for Muslims or the Menteri Besar / Chief Minister for non-Muslims.[260] The approval rate of under 16 year old marriage by *syariah* courts in 2015 was 81 per cent, in 2014 74 per cent, in 2012 87.7 per cent, and in 2011 86.1 per cent, representing an approximately 80 per cent approval rate.[261] In July 2018,

[249] 'Legal framework on gender discrimination still being drafted', Bernama, 11 February 2020, 20200212084701
[250] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.27, 20200312091714
[251] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.27, 20200312091714
[252] 'Country Reports on Human Rights Practices for 2017 – Malaysia', US Department of State, 20 April 2018, section 6, p.23, OGD95BE927312
[253] 'One Stop Crisis Centre (OSCC)', One Stop Crisis Centre (OSCC) website, 2017, CISEDB50AD5269; 'Country Reports on Human Rights Practices for 2018 - Malaysia', US Department of State, 13 March 2019, section 6, p.24, 2019031409151; 'Knowledge, attitude and practice among healthcare staffs in the Emergency Department, Hospital Universiti Sains Malaysia towards Rape Victims In One Stop Crisis Centre (OSCC)', Medical Journal of Malaysia, 3 June 2015, p.162, CISEC96CF15553; 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.126, p.42, 20191213141745; '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.26, 20200312091714
[254] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.126, p.42, 20191213141745
[255] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.26, 20200312091714
[256] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.26, 20200312091714
[257] 'Good Practices: Eliminating Violence Against Women and Children (EVAWC)', Ministry of Women, Family and Community Development, Malaysia and ASEAN Commission on the Promotion and Protection of the Rights of Women and Children, n.d., accessed 15 August 2017, p.38, CISEDB50AD5272
[258] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.28, 20200312091714
[259] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.28, 20200312091714
[260] 'Child Marriages in Malaysia: Reality, Resistance and Recourse', Penang Institute, 10 July 2017, CXC90406624846
[261] 'Child Marriages in Malaysia Reality, Resistance and Recourse', Penang Institute, 10 July 2017, CXC90406624846

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state authorities in Kelantan fined a 41-year-old Malaysian man and returned an 11 year old Muslim girl to Thailand after the man skirted local state regulations by marrying her in southern Thailand.[262]

Malaysian authorities have taken limited steps to regulate early marriages. Girls 16 years old and above can marry with permission of their state's chief minister.[263] Malaysia's parliament voted down an attempt to ban child marriage in April 2017.[264] In October 2018, the prime minister issued a directive instructing all state authorities to raise the minimum marriage age for Muslims to 18, but this gesture was largely symbolic as according to the Constitution, Islamic law falls under the jurisdiction of state-level muftis, and the federal government cannot enforce a legal minimum marriage age for Muslims.[265] However, the Selangor sultan correspondingly raised the legal Muslim marriage age to 18 in his state, but younger couples can still apply for marriage if they meet very strict guidelines.[266] Five other state governments agreed, at least in principle, that the minimum age should be raised to 18.[267]

Malaysian authorities have taken limited steps to curb the abuse of children. In April 2017 Malaysia's parliament passed a new child sex crimes law.[268] The *Sexual Offences Against Children Act* (2017) criminalises 'grooming' of minors, includes penalties for making and possessing pornography involving people aged under 18, and involves the establishment of a special court to deal with child sexual abuse cases more quickly.[269] In 2017, the Special Court for Sexual Crimes against Children was established, the first of its kind in South-East Asia, along with a special court to hear human trafficking cases.[270] There are also specialised courts for children in Sarawak, Selangor and Johor.[271] On 12 November 2018, an arrest was made following three reports lodged against a man, making it Malaysia's first sexual grooming case.[272]

Female genital circumcision

Female circumcision is considered an Islamic cultural practice and is widely practiced across Malaysia despite international criticism of the practice. Malaysia's National Council of Islamic Religious Affairs issued a *fatwa* in 2009 that ruled female circumcision obligatory for Muslim women unless found to be physically harmful.[273] Female circumcision is often performed during infancy and a 2012 study found that 93 per cent of Muslim women respondents had undergone the practice.[274] The law does not prohibit female genital circumcision and it is a common practice, but data on it was very

[262] 'United States Commission on International Religious Freedom Annual Report 2019', United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.214, 20190508143726
[263] 'World Report 2020. Events of 2019', Human Rights Watch (HRW), 14 January 2020, p.371, 20200115082903
[264] 'Malaysia passes child sex crimes law, does not ban child marriage', Reuters, 5 April 2017, CXC90406611583; 'Child Marriages in Malaysia Reality, Resistance and Recourse', Penang Institute, 10 July 2017, CXC90406624846
[265] 'United States Commission on International Religious Freedom Annual Report 2019', United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.214, 20190508143726
[266] 'United States Commission on International Religious Freedom Annual Report 2019', United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.214, 20190508143726
[267] 'United States Commission on International Religious Freedom Annual Report 2019', United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.214, 20190508143726
[268] 'Malaysia passes child sex crimes law, does not ban child marriage', Reuters, 5 April 2017, CXC90406611583; 'Child Marriages in Malaysia Reality, Resistance and Recourse', Penang Institute, 10 July 2017, CXC90406624846
[269] 'Malaysia passes child sex crimes law, does not ban child marriage', Reuters, 5 April 2017, CXC90406611583; ''2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.28, 20200312091714
[270] 'Report of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material on her visit to Malaysia', United Nations Human Rights Council, 17 January 2019, p.9, 20190325141806
[271] 'Report of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material on her visit to Malaysia', United Nations Human Rights Council, 17 January 2019, p.9, 20190325141806
[272] 'Alleged paedophile arrested in 'first sexual grooming case in Malaysia'', Asia News Network, 13 November 2018, CXBB8A1DA38556
[273] 'Malaysia Still on the Wrong Path on Women's Rights', The Diplomat, 26 February 2018, CXBB8A1DA23247; 'Malaysia's anti-FGM advocates: Leave our bodies alone', Aljazeera, 7 February 2020, 20200219095144
[274] 'Malaysia Still on the Wrong Path on Women's Rights', The Diplomat, 26 February 2018, CXBB8A1DA23247; 'Female circumcision Culture and religion in Malaysia see millions of girls undergo cut', Australian Broadcasting Corporation (News), 13 November 2018, CXBB8A1DA38323

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limited.[275] In February 2018, representatives from Muslim-majority countries such as Bangladesh and Egypt criticised the practice as un-Islamic at the Constructive Dialogue session of the 69th session of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).[276] At Malaysia's Universal Periodic Review on human rights on 8 November 2018, a representative of the Women, Family and Community Development Ministry defended the on-going practice of the circumcision of female infants in the country as a "cultural obligation" and is performed only by medical professionals.[277]

[275] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.26, 20200312091714
[276] 'Malaysia urged to abolish female genital mutilation', The Star, 22 February 2018, CXBB8A1DA2276
[277] 'Women's ministry defends infant female circumcision at UN human rights review', Malaysiakini, 9 November 2018, CXBB8A1DA38229; '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.27, 20200312091714

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Australian Government
Department of Home Affairs

Common Claims

Malaysia

Country of Origin Information Services Section (COISS)

Effective 24 August 2020

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Governance

Parliament

Malaysia is a constitutional monarchy in which executive power is vested in the prime minister and cabinet. The monarch is elected for five-year terms by fellow hereditary rulers from 9 of Malaysia's 13 states.[1] The role of the king is largely ceremonial, though he retains the power to approve the prime minister.[2] Executive power lies with the prime minister and the cabinet.[3] The upper house of the bicameral Parliament, the Senate, or *Dewan Negara*, consists of 44 members appointed by the king and 26 members elected by the 13 state legislatures, serving three-year terms.[4] The House of Representatives, or *Dewan Rakyat*, has 222 seats filled through regular elections.[5]

2020 Political Crisis

The United Malays National Organisation is the dominant party within the ruling Perikatan Nasional coalition. The United Malays National Organisation (UMNO) had been the dominant party within the former Barisan Nasional (BN) ruling coalition since independence in 1957, but lost the 2018 general election to the Pakatan Harapan (PN) coalition.[6] The UMNO-led government had a history of maintaining power by manipulating electoral districts, appealing to ethnic nationalism, and suppressing criticism through restrictive speech laws and politicised prosecutions of opposition leaders.[7] In September 2019, UMNO signed a cooperation pact with right-wing Parti Islam Se Malaysia (PAS), laying the groundwork for an opposition bloc based on ethnic Malay and Islamist interests.[8] In February 2020, the Pakatan Harapan coalition collapsed after Mahathir Mohamad resigned as prime minister in protest over political manoeuvring by some members within the Pakatan Harapan coalition, and opposition members from PAS and UMNO.[9] In recent months, parties have continued to formalise their alliances with the prospect of an early election.[10]

COVID-19

Malaysia's government has taken measures similar to many other countries in response to COVID-19. Malaysia has entered a 'recovery' Movement Control Order (MCO) phase and will only reimpose a lockdown if new COVID-19 cases reach 100 per day.[11] Individuals who breach Malaysia's home quarantine order are liable for fines and imprisonment.[12] The Malaysian government has implemented a number of stimulus and welfare measures in response to the economic and social impacts of COVID-19.[13] Alongside the specific COVID-19 measures, Malaysia has relatively well-

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[1] 'Freedom in the World 2020 – Malaysia', Freedom House, 4 March 2020, A1, 20200417153315
[2] 'Freedom in the World 2020 – Malaysia', Freedom House, 4 March 2020, A1, 20200417153315
[3] 'BTI 2020 Country Report Malaysia', Bertelsmann Stiftung, 29 April 2020, p.4, 20200429144341
[4] 'Freedom in the World 2020 – Malaysia', Freedom House, 4 March 2020, A1, 20200417153315
[5] 'Freedom in the World 2020 – Malaysia', Freedom House, 4 March 2020, A1, 20200417153315
[6] 'BTI 2020 Country Report Malaysia', Bertelsmann Stiftung, 29 April 2020, pp.3-4, 20200429144341
[7] 'Freedom in the World 2020 – Malaysia', Freedom House, 4 March 2020, Overview, 20200417153315
[8] 'Freedom in the World 2020 – Malaysia', Freedom House, 4 March 2020, Key Developments in 2019, 20200417153315
[9] 'Inside story behind Malaysia's political meltdown', Asia Times, 25 February 2020, 20200226115540
[10] 'PAS backs Bersatu entry into Muafakat, says will create 'Melayu Raya' caucus', Malay Mail, 17 August 2020, 20200818091632; 'UMNO and PAS welcome PM Muhyiddin's Bersatu into Muafakat Nasional coalition', Channel News Asia, 17 August 2020, 20200818092728; 'Mahathir's new party setting out to be kingmaker in next polls', The Straits Times, 14 August 2020, 20200814093925; 'What we know about former Malaysian PM Mahathir's new political party so far', Channel News Asia, 13 August 2020, 20200818092937; 'Mahathir calls new political party Fighters of the Nation', The Straits Times, 13 August 2020, 20200813141136; 'Muhyiddin's Bersatu hit by defections to Mahathir's new party', The Straits Times, 10 August 2020, 20200810104905; 'Mahathir's Pejuang submits application to register as new political party', The Straits Times, 20 August 2020, 20200820104740; 'Muhyiddin's Bersatu to hold internal polls amid challenges', The Straits Times, 20 August 2020, 20200820111352
[11] 'Malaysia to reimpose lockdown if new cases hit above 100 a day', The Straits Times, 26 July 2020, 20200806121243
[12] 'Malaysia jails Indian man linked to fresh coronavirus outbreak', Reuters, 13 August 2020, 20200814095109
[13] 'Lessons from a Pandemic: Social Protection for a New Normal', The Centre, 28 March 2020, 20200512115328

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developed healthcare and social protection systems.[14] Malaysia's response to the pandemic has been recognised globally for its effectiveness.[15] The impacts of COVID-19 have been more severe amongst Malaysia's large migrant worker and asylum seeker populations due to their limited access to employment opportunities, and health and social welfare services, but also due to public xenophobic sentiment directed towards some of these marginalised communities.[16]

Ethnicity

Malaysia's population is divided into two categories, indigenous and non-indigenous or *Bumiputera* and non-*Bumiputera.* Malaysia's *Bumiputera* (sons of the soil) account for more than 60 percent of county's population, and are comprised of Malays and other indigenous groups, including the *Orang Asli, Dayak*, and *Anak Negeril* amongst others.[17] Chinese and Indian Malaysians constitute the country's largest non-*Bumiputera* population, accounting for approximately 20 and 6 percent respectively.[18] Malaysia's Constitution affords special privileges to *Bumiputera* which has given rise to the creation of affirmative action policies that benefit *Bumiputera,* including economic programs to boost the economic position of *Bumiputera.*[19] There is discontent over *Bumiputera* polices amongst the non-*Bumiputera* Chinese and Indians ethnic groups.[20] The reformist Pakatan Harapan government encountered significant headwinds from opposition *Bumiputera* political parties such as UMNO and PAS when attempting to implement reforms portrayed by the opposition to disadvantage Malays rather than promote equality amongst Malaysians.[21]

Religion

Religious freedom

Malaysia largely respects religious freedom. The Constitution states that 'every person has the right to profess and practice his religion,' but gives federal and state governments the power to control or restrict proselytization to Muslims.[22] The law does not restrict the rights of non-Muslims to change

[14] 'A Guide to Social Protection in Malaysia', The Centre, 19 October 2019, 20200512115042; 'Healthcare Costs in Malaysia', The Centre, 28 October 2019, 20200512121033; 'National Health Insurance', The Centre, 6 November 2019, 20200512120852
[15] 'The Malaysian response to COVID-19: building preparedness for 'surge capacity', testing efficiency and containment', European Pharmaceutical Review, 4 August 2020, 20200806114854; 'Najib verdict complicates Malaysia's game of thrones', East Asia Forum, 2 August 2020, 20200804095619
[16] 'Rohingya targeted in Malaysia as coronavirus stokes xenophobia', Reuters, 23 May 2020, 20200525134839; 'Malaysia's Marginalized and Covid-19', The Asia Foundation, 13 May 2020, 20200520153309; 'Like a Virus: How Racial Hate Speech Looks Like in Malaysia During the Covid-19 Pandemic', The Centre, 2 April 2020, 20200512114416; 'Covid-19 Lessons: Rethinking Housing Standards For Migrant Workers In Malaysia', The Centre, 20 May 2020, 20200521105537
[17] 'The World Factbook Malaysia', Central Intelligence Agency, 1 April 2020, 20200403111705
[18] 'The World Factbook Malaysia', Central Intelligence Agency, 1 April 2020, 20200403111705
[19] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, pp.30-31, 20200312091714; 'BTI 2020 Country Report Malaysia', Bertelsmann Stiftung, 29 April 2020, pp.4-5, 23, 29-30, 34, 20200429144341
[20] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, pp.30-31, 20200312091714; 'BTI 2020 Country Report Malaysia', Bertelsmann Stiftung, 29 April 2020, p.34, 20200429144341
[21] 'Can New Malaysia Move Beyond Old Race Divides?', Jha, P, The Diplomat, 14 August 2019, 20200516163339; 'Malaysia's 'Malay First' Malaise', Nair, C., The Diplomat, 4 March 2020, 20200516165042; 'Analysing Malaysia's Refusal to Ratify the ICERD', Anuar, K K, Oxford Human Rights Hub, 7 January 2019, 20200516164408; 'Malaysia's dangerous racial and religious trajectory', Interpreter, The (Lowy Institute for International Policy), 24 September 2019, 20191021164421'The LGBT Quandary in New Malaysia', Tan, H B, Australian Journal of Asian Law, volume 20, number 1, article 15, November 2019, p.7, 20200522113725
[22] '2019 Report on International Religious Freedom: Malaysia', US Department of State, 10 June 2020, section II, 20200612122612; 'Federal Constitution', Government of Malaysia, introduced 31 August 1957, amended 27 December 2007, reprinted 1 November 2010, The Commissioner of Law Revision, Article 3, CISDCDCAAB1747

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their religious beliefs and affiliation.[23] The Constitution defines Malays as Muslim from birth.[24] Almost 20 percent of the population are Buddhist, approximately 9 percent are Christian, over 6 percent are Hindu, and there are small populations of Confucians, Taoists, and other traditional Chinese religions.[25] Members of all minority faiths are allowed to proselytise amongst their minority communities.[26]

Islam

Malaysia's official interpretation of Islam is Sunni. A 1996 *fatwa* supported by state laws requires the country to follow only Sunni teachings of the Shafi'i school and prohibits Muslims from possessing, publishing, or distributing material contrary to those teachings.[27] Those differing from the official interpretation of Islam can face adverse government action, including mandatory rehabilitation in centres that teach and enforce government-approved Islamic practices.[28] Federal and state governments consider several non-Sunni Islamic groups deviant, including Shia, Ahmadiyya, and Al-Arqam.[29] The Constitution grants state and federal government officials the authority to forbid proselytising to Sunni Muslims but Sunni Muslims are free to proselytise unimpeded.[30]

Religious adherence

Apostasy is a crime under *syariah* law in some states. Muslims who seek to leave Islam or convert to another religion must first obtain approval from a *syariah* court to declare themselves apostates.[31] *Syariah* courts seldom grant such requests, especially for those born a Muslim, and are reluctant to allow conversion for those who had previously converted to Islam.[32] For those who are born Muslim and identify as non-religious, there is the risk of criminal prosecution for apostasy.[33] At least six states – Perak, Melaka, Sabah, Pahang, Kelantan, and Terengganu – criminalize apostasy with fines, imprisonment, and/or detention in a rehabilitation centre.[34] While not enforced, the maximum penalty for apostasy in Kelantan and Terengganu is death.[35]

Atheism is not illegal. In 2017, the Malaysian federal government determined atheism to be unconstitutional.[36] Muslims are generally not prosecuted for disbelief.[37] Some atheists maintain a low-

[23] '2019 Report on International Religious Freedom: Malaysia', US Department of State, 10 June 2020, section II, 20200612122612
[24] '2019 Report on International Religious Freedom: Malaysia', US Department of State, 10 June 2020, section II, 20200612122612; 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634
[25] 'The World Factbook Malaysia', Central Intelligence Agency, 1 April 2020, 20200403111705
[26] 'United States Commission on International Religious Freedom Annual Report 2019', United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.211, 20190508143726
[27] '2019 Report on International Religious Freedom: Malaysia', US Department of State, 10 June 2020, section II, 20200612122612
[28] '2019 Report on International Religious Freedom: Malaysia', US Department of State, 10 June 2020, section II, 20200612122612
[29]'2019 Report on International Religious Freedom: Malaysia', US Department of State, 10 June 2020, section II, 20200612122612; 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.76, 20200429103634
[30] 'United States Commission on International Religious Freedom Annual Report 2019', United States Commission on International Religious Freedom (USCIRF), 29 April 2019, pp.211-212, 20190508143726
[31] '2019 Report on International Religious Freedom: Malaysia', US Department of State, 10 June 2020, section II, 20200612122612
[32] '2019 Report on International Religious Freedom: Malaysia', US Department of State, 10 June 2020, section II, 20200612122612
[33] 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634
[34] ''USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634
[35] 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634
[36] 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634
[37] 'Intolerance Rising: Atheists at Risk in Malaysia', The Diplomat, 22 August 2017, CXC90406612572

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profile in society and are known to socialise with likeminded people.[38] Some Muslims make no attempt to hide their atheism from society.[39]

Non-Muslims must convert to Islam when marrying a Muslim. There are two primary statutes in Malaysia for marriage, the secular *Law Reform (Marriage and Divorce) Act* (1976) and the Islamic *Family Law Act (Federal Territories)* (1984).[40] Legally, a non-Muslim must convert to Islam to marry a Muslim.[41] Malaysian authorities do not recognise marriages between Muslims and non-Muslims and consider children born of such marriages illegitimate.[42] The legal age of children to marry varies in each state between Muslims and non-Muslims, with a lower age and fewer protections for Muslim children.[43] Some Sunni and Shia Muslims intermarry and have family members that practice either form of Islam.[44]

Ahmadi Muslims

Ahmadi Muslims are generally able to worship within the confines of their own worship centres. In 1975, the Selangor Fatwa Council decreed that Ahmadis were not Muslim.[45] In July 2018, the High Court in Selangor state ruled that religious authorities do not have jurisdiction over the Ahmadi community because they are not recognised as Muslims, but State religious authorities have appealed the decision.[46] Ahmadi community leaders expressed optimism about the ruling, viewing the ruling a form of protection of their freedom to worship without harassment by state Islamic authorities.[47] Ahmadi Muslims have reported generally being able to maintain a worship centre but government religious authorities forbid them from holding Friday prayers stating that they could only be performed in an officially registered mosque.[48]

Shia Muslims

Shia Muslims face low-level official. In 1996, the Fatwa Committee for Religious Affairs issued a *fatwa* prohibiting the proselytism, promulgation, and professing of Shia Islam, which 11 of 13 states adopted.[49] In September 2019, authorities detained and later released some Shia Muslims commemorating Ashura.[50] In September 2018, 50 Shia were arrested in Kelantan for practicing their

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[38] 'Intolerance Rising: Atheists at Risk in Malaysia, The Diplomat, 22 August 2017, CXC90406612572
[39] 'Moderation under threat as Malaysia faces Islamic tide, The Australian, 17 August 2017, CXC90406620453
[40] 'Law Reform (Marriage and Divorce) Act (164) 1976', Federal Government of Malaysia, 6 March 1976, (amendments to 1 January 2006), the Commissioner of Law Reform, CISBE8E6BE702; 'Islamic Family Law Act (Federal Territories) Act (303) 1984', Federal Government of Malaysia, 27 June 1984, amendments to 1 January 2006, the Commissioner of Law Reform, CIS883493140
[41] 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634
[42] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.10, 20200312091714
[43] 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634
[44] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.45, p.27, 20191213141745
[45] 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634
[46] 'High Court tells Selangor Islamic Sharia enforcers to keep hands off Ahmadis', Malay Mail, 6 July 2018, 20191004090848; '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section II, pp.12-13, 20190625160543
[47] '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section II, p.12, 20190625160543
[48] '2019 Report on International Religious Freedom: Malaysia', US Department of State, 10 June 2020, section II, 20200612122612
[49] 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634
[50] 'Human Rights in Asia-Pacific: Review of 2019', Amnesty International, 29 January 2020, p.34, 20200130115738; 'World Report 2020. Events of 2019', Human Rights Watch (HRW), 14 January 2020, pp.369-370, 20200115082903; 'Shiite detentions in Malaysia fuel fears of crackdown', Agence France Presse (AFP) - France, 25 November 2019, 20191128094242; 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634

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religion.[51] Reportedly, the Shia followers had been conducting their activities on the same premises for several years.[52] Despite barriers to their worship, most Shia Muslims live free from discrimination and violence on a day-to-day basis.[53]

Forced conversion

The indigenous *Orang Asli* community are vulnerable to religious conversion. *Orang Asli* account for approximately half of a percent of Malaysia's population and are one of the most traditional but also vulnerable groups in society.[54] Although *Orang Asli* are traditionally animist, a number of *Orang Asli* have become either Muslim or Christian, or embraced religions such as Buddhism and Taoism due to intermarriage.[55] In 2019, state religious authorities from Perak reportedly registered some *Orang Asli* as Muslim in their identification cards despite them not converting.[56] Subsequently, Kelantan state religious authorities announced plans to convert *Orang Asli* to Islam by 2049.[57] Concerned members of the *Orang Asli* community have expressed their grievances to the federal government about local coercive practices involving Muslim and Christian preachers being sent to their communities to proselytise them.[58]

Christians

Christians practice freely and generally do not experience discrimination. Christians comprise approximately 9.2 per cent of the religious population and two-thirds of the Christian population reside in the East Malaysian states of Sabah and Sarawak.[59] There is a ban against non-Muslims using approximately 31 words, including "Allah", under the pretence of protecting public order affects Christians.[60] Authorities and societal actors often use exaggerated fears of "Christianisation" for political purposes to motivate support from Muslim communities and escalate tensions between majority and minority groups.[61] Christian leaders have spoken out against tactics by UMNO and PAS that portray Christianity as a threat to the Muslim majority.[62] Malaysian Christians are usually able to practise their religion without interference.[63]

[51] 'World Report 2019', Human Rights Watch, 17 January 2019, p.369, 20190118091502
[52] '50 suspected Syiah followers detained in Kota Baru', New Straits Times, 31 August 2018, 20190125145959
[53] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.50, p.28, 20191213141745
[54] 'Malaysia's indigenous tribes fight for ancestral land and rights in a modern world', Channel News Asia, 1 September 2019, 20200403171142; 'Malaysia's indigenous people protest forced conversions', UCA News, 10 July 2019, 20200403170642; 'The World Factbook Malaysia', Central Intelligence Agency, 1 April 2020, 20200403111705
[55] 'Malaysia's indigenous tribes fight for ancestral land and rights in a modern world', Channel News Asia, 1 September 2019, 20200403171142; The World Factbook Malaysia', Central Intelligence Agency, 1 April 2020, 20200403111705
[56] 'Malaysia's indigenous tribes fight for ancestral land and rights in a modern world', Channel News Asia, 1 September 2019, 20200403171142
[57] 'Human Rights in Asia-Pacific: Review of 2019', Amnesty International, 29 January 2020, p.34, 20200130115738; 'Malaysia's indigenous tribes fight for ancestral land and rights in a modern world', Channel News Asia, 1 September 2019, 20200403171142
[58] 'Malaysia's indigenous people protest forced conversions', UCA News, 10 July 2019, 20200403170642
[59] '2019 Report on International Religious Freedom: Malaysia', US Department of State, 10 June 2020, section I, 20200612122612; 'The World Factbook Malaysia', Central Intelligence Agency, 1 April 2020, 20200403111705
[60] 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634
[61] 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, pp.77, 20200429103634
[62] 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634
[63] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.62, p.30, 20191213141745

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Buddhists and Hindus

Buddhists and Hindus generally practice their religion without interference. Buddhists represent the second largest religion in Malaysia accounting for almost 20 per cent of the religious population.[64] Hindus account for just over six per cent of the religious population.[65] Federal and state governments have supported the building of Hindu or Buddhist places of worship throughout Malaysia.[66] Members of faith communities report that Buddhist temples are restricted from building higher than local mosques and that Sikh Gurdwaras are prevented from building domes, since domes are associated with Islamic architecture.[67]

Inter-ethnic marriage

Inter-ethnic marriages occurs amongst non-Muslims. Malaysian law does not restrict the rights of non-Muslims to marry.[68] Conversion sometimes takes place due to marriage, with one partner choosing to convert or both partners choosing to adopt a new faith; however, this is not compulsory.[69] Malaysian law does not restrict the rights of people from different ethnic groups to marry,[70] although as Malaysian law considers all Malays to be Muslim, a non-Muslim of another ethnicity intending to marry a Malay must convert for the marriage to be legitimate.[71] Individuals in a mixed marriage sometimes face pressure or stigma from within their family, friends or community, while couples of different ethnicities may also encounter racism.[72]

Particular social groups

Lesbian, Gay, Bisexual, Transgender, Intersex (LGBTI)

Malaysian secular law criminalises same-sex sexual acts but in practice the law is rarely invoked. A former British colony, Malaysia has retained its colonial-era law against sodomy.[73] Malaysia's Penal Code criminalises sodomy (homosexual) and oral sex (homosexual and heterosexual) acts, but authorities rarely enforce the law.[74] Secular law that criminalizes male-male

[64] '2019 Report on International Religious Freedom: Malaysia', US Department of State, 10 June 2020, section I, 20200612122612
[65] '2019 Report on International Religious Freedom: Malaysia', US Department of State, 10 June 2020, section I, 20200612122612
[66] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.64, p.30, 20191213141745
[67] 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634
[68] 'Registration of Marriage For Non-Muslim', National Registration Department – Ministry of Home Affairs, n.d., accessed 10 August 2017, CISEDB50AD5251
[69] 'A M'sian union – interracial couples share their stories', Malaysiakini, 16 September 2016, CX6A26A6E16886; 'Interracial marriage as beacon of light in upholding Malaysia's unity', The Rakyat Post, 14 July 2015, CXBD6A0DE19504
[70] 'Registration of Marriage For Non-Muslim', National Registration Department – Ministry of Home Affairs, n.d. accessed 10 August 2017, CISEDB50AD5251
[71] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.24, p.23, and section 3.68, p.30, 20191213141745
[72] 'Interracial marriage as beacon of light in upholding Malaysia's diversity', The Rakyat Post, 14 July 2015, CXBD6A0DE19504; 'A M'sian union – interracial couples share their stories', Malaysiakini, 16 September 2016, CX6A26A6E16886
[73] 'Anwar Ibrahim's rebirth and Malaysia's LBGT+ rights', Pursuit (University of Melbourne), 27 May 2018, CIS7B839411105; 'State-Sponsored Homophobia 2019', Mendos, L R., International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), 20 March 2019, p.450, 20190327100813
[74] 'Human Rights in Asia-Pacific: Review of 2019', Amnesty International, 29 January 2020, p.34, 20200130115738; '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.32, 20200312091714; 'Penal Code', Government of Malaysia, enacted 1936, amended 31 December 2014, sections 377A, 377B, CISEDB50AD9259

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sexual acts has been extended to female-female acts.[75] Sodomy laws have only been invoked seven times since 1938, four of those instances against former Deputy Prime Ministry Anwar Ibrahim.[76] International observers and human rights organisations viewed sodomy charges against Anwar Ibrahim as politically motivated.[77] Those found guilty under section 377A of the Penal Code for 'carnal intercourse against the order of nature' are liable for imprisonment of up to twenty years and a whipping.[78]

Islamic laws in several states prohibit same-sex sexual acts. Some Malaysian states apply their own penalties to Muslims under *syariah* statutes, and in several states same-sex sexual acts between Muslims are illegal and can incur jail terms and mandatory whipping.[79] In November 2019, the Selangor State *syariah* court sentenced five men to six to seven months in jail, six strokes of the cane, and 4,800-4,900 ringit in fines for attempting to have intercourse against the order of nature.[80] In May 2020, the Federal Court allowed one of the individuals arrested in Selangor leave to challenge charges brought against him under the *Syariah Criminal Offences (Selangor Enactment* (1995) for 'attempting to commit' sexual 'intercourse against the order of nature' – a charge that is also an offense under the country's Penal Code.[81] The case will challenge state Islamic law's jurisdiction over criminal law, and could be significant if won given that civil law is seldom used to prosecute against the offense, except in cases that are politically motivated.[82] The caning of women is banned under civil law, but allowed under Islamic laws in some states.[83] In October 2018, Terengganu state was the first state in Malaysia to cane two LGBTI Muslim women under *syariah* law for *musahaqah* (attempting to have lesbian sex).[84]

Also see '*Syariah* law'

Segments of the Malaysian government and society oppose gender equality considering LGBTI lifestyles inconsistent with Islam. Religious and cultural taboos against same-sexual conduct are widespread.[85] Drawing on Gallup data, the 2019 Legatum Prosperity Index shows that Malaysia ranks 159th out of 167 countries for its 'perceived tolerance of LGBT individuals', equating to its lowest ranking since 2009.[86] The 2019 ranking shows a sharp decline compared with 2018 when tolerance of LGBT ranked 82nd.[87] The results of a 2013 global survey on the acceptance of

[75] 'State-Sponsored Homophobia 2017 – A World Survey of Sexual Orientation Laws: Criminalisation, Protection and 'Recognition, International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA)', 1 May 2017, p.169, CISEDB50AD4462
[76] 'Malaysia: On the Record: Violence Against Lesbians, Bisexual Women and Transgender Persons In Malaysia', International 'Gay and Lesbian Human Rights Commission', 6 May 2014, p.33, CIS2F827D91966
[77] Anwar Ibrahim's rebirth and Malaysia's LBGT+ rights, Pursuit (University of Melbourne), 27 May 2018, CIS7B839411105; 'Convictions for sodomy follow unfair trials', Amnesty International, 8 October 1998, CIS11891
[78] 'Penal Code', Government of Malaysia, enacted 1936, amended 31 December 2014, sections 377A, 377B, CISEDB50AD9259; 'Criminalisation of Homosexuality', Human Dignity Trust, 25 October 2015, CISEC96CF110372
[79] 'State-Sponsored Homophobia 2019', Mendos, L R., International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), 20 March 2019, p.450, 20190327100813; 'Criminalisation of Homosexuality', Human Dignity Trust, 25 October 2015, CISEC96CF110372; 'Human Rights in Asia-Pacific: Review of 2019', Amnesty International, 29 January 2020, p.34, 20200130115738; '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.32, 20200312091714
[80] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.32, 20200312091714
[81] 'Federal Court allows challenge to Syariah jurisdiction on unnatural sex', Malaysiakini, 27 May 2020, 20200527121016
[82] 'Malaysian wins landmark right to challenge Muslim gay sex ban', Reuters, 27 May 2020, 20200528110133; 'Federal Court allows challenge to Syariah jurisdiction on unnatural sex', Malaysiakini, 27 May 2020, 20200527121016; 'Man gets Federal Court's nod to proceed with challenge of Selangor's Shariah law criminalising unnatural sex', Malay Mail, 27 May 2020, 20200528095926; Anwar Ibrahim's rebirth and Malaysia's LBGT+ rights, Pursuit (University of Melbourne), 27 May 2018, CIS7B839411105; 'Convictions for sodomy follow unfair trials', Amnesty International, 8 October 1998, CIS11891
[83] 'Two Malaysian Muslim women caned in public for attempting to have sex in car', Australian Broadcasting Corporation News (ABC News), 4 September 2018, CXBB8A1DA39062; 'State-Sponsored Homophobia 2019', Mendos, L R., International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), 20 March 2019, p.450, 20190327100813
[84] 'How public caning is performed in Terengganu', Malaysiakini, 5 September 2018, CXBB8A1DA34939
'Two Malaysian women caned for lesbian sex', Agence France Presse, 4 September 2018, CXBB8A1DA34672
[85] 'Human Rights in Asia-Pacific: Review of 2019', Amnesty International, 29 January 2020, p.34, 20200130115738; '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.32, 20200312091714
[86] '2019 Legatum Prosperity Index', Legatum Institute, 25 November 2019, 20191206104103
[87] 'Study: In post-GE14 Malaysia, more person freedom but tolerance took a dive', Malay Mail, 27 November 2019, 20191206095708

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homosexuality found that an 'overwhelming majority' of Muslim countries, including 86 per cent of persons surveyed in Malaysia, reject homosexuality.[88] Former Prime Minister Mahathir publically acknowledged that the Pakatan Harapan government did not support LGBT unions, which it see as an element of human rights in Western society rather than aligning with Malaysian values.[89]

Malaysia's LGBTI community may experience discrimination in some spheres of society. LGBTI individuals face a moderate risk of official and societal discrimination.[90] LGBTI persons report discrimination in employment, housing, and access to some government services because of their sexuality.[91] The appointment of a transgender representative to the federal Ministry of Health's Country Coordinating Mechanism, a committee supported by the Global Fund to Fight AIDS, Tuberculosis and Malaria was criticised by a representative of the of Parti Islam Se Malaysia (PAS) who said the committee's representative should be an "ex-transgender" person who had "gone through a positive phase and returned to [the original path]," adding that the "promotion of gender equality is not the culture here in Malaysia. We support the stand made by deputy Prime Minister Datuk Seri Dr Wan Azizah, who has objected to the LGBT agenda and urged any agenda for the normalisation of LGBT to stop because it contradicts our religion and constitution."[92] Malaysia's Islamic authorities have published materials and conducted outreach activities encouraging Muslim LGBTI persons to undergo sexuality rehabilitation.[93] The outreach program, a three-day camp held eight times each year, has been criticised by the Malaysian Aids Council as having become a place where LGBTI are being "converted" to the "right path" instead of its original intent of to "provide a safe, non-judgmental space" to the transgender community.[94]

Transgender individuals may experience discrimination and occasional violence. Authorities often charge transgender persons for cross-dressing with "indecent behaviour" and also for "importuning for immoral purposes" in public, and those convicted are liable for a fine of 25 ringit and potentially a prison sentence of up to 14 days.[95] Justice for Sisters (JFS), an advocacy group for the LGBTI community, said it has experienced difficulty obtaining legal representation for its clients who were charged under anti-crossdressing state Islamic laws.[96] Local advocates contend that imprisoned transgender women served their sentences in prisons designated for men and that police and inmates often abused them verbally and sexually.[97] Transgender individuals may face discrimination in public healthcare facilities, including undergoing forcible HIV/AIDS testing or being housed in male wards where they can be exposed to violence and abuse.[98] NGO Justice for Sisters report that between

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[88] 'The Global Divide on Homosexuality: Greater Acceptance in More Secular and Affluent Countries', Pew Research Center, 4 June 2013, p.3, CIS26344

[89] 'PM slams West for erosion of values, same-sex marriage', Malaysiakini, 22 November 2019, 20191206082228; 'Mahathir Malaysia cannot accept same-sex marriage', Reuters, 22 September 2018, CXBB8A1DA35827; 'Don't force' LGBT rights on Malaysia, Mahathir says', Agence France Presse, 25 October 2018, CXBB8A1DA37446; 'World Report 2020. Events of 2019', Human Rights Watch (HRW), 14 January 2020, p.370, 20200115082903

[90] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.141, p.46, 20191213141745; 'Suaram's Human Rights Overview Report on Malaysia 2019', Suara Rakyat Malaysia (SUARAM), 9 December 2019, pp.32-34, 20200116163323

[91] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.33, 20200312091714

[92] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.32, 20200312091714

[93] 'Malaysian authorities release video claiming homosexuality can be 'cured'', Gay Community News (GCN), 18 December 2019, 20191220100405; 'Jakim issues e-book on LGBT rehab; minister says phenomenon 'under control'', Malay Mail, 24 October 2018, CXBB8A1DA37286; 'New M'sia should find 'right path' on LGBT rights, Malaysiakini, 7 August 2018, CXBB8A1DA39089; 'Malaysia Should Find 'Right Path' on LGBT Rights', Human Rights Watch, 7 August 2018, 20190206102849

[94] 'AIDS council slams Jakim's 'conversion therapy' for LGBTs', Free Malaysia Today, 24 December 2018, 20190125114340

[95] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.32, 20200312091714

[96] 'Why Muslims accused of Shariah offences lack access to justice', Malay Mail, 8 October 2018, 20190606092708

[97] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.32, 20200312091714

[98] 'Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Addendum: Visit to Malaysia (19 November–2 December 2014)', United Nations Human Rights Council, May 2015, p.16, CISEC96CF14228; 'How life is tough for transgenders in conservative Malaysia, who face violence, religious and official bias, and abusive me', South China Morning Post, 15 November 2017, CXC90406617584; 'Submission by Human Rights Watch to the United Nations Committee on the Elimination of Discrimination against Women 69th pre-sessional working

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2014 and 2019 there have been 10 known cases of transgender murders, but note that some murders are unlikely reported.[99] A 2018 survey by a local transgender rights group reported more than two-thirds of transgender women experienced some form of physical or emotional abuse.[100]

Numerous organisations and groups support the LGBTI community and advocate for gender equality. Mainstream Christian churches and the Malaysian Consultative Council of Buddhism, Christianity, Hinduism, Sikhism and Taoism have also spoken out against discrimination and violence towards gay and lesbian people.[101] Leadership Program for Gays (LPG) provides a network for LGBTI business people and organises group activities such as gatherings and sports events.[102] PLUPenang is an LGBTI organisation dedicated to supporting and fostering friendships amongst LGBTI members, and arranges recreational events and provides a safe space for LGBT people to express themselves.[103] Pertubuhan Kebajkan dan Persekitaran Positif Malaysia (SEED) is an officially registered community organisation that provides support services, including a drop-in centre, primarily for the transgender community.[104] Justice for Sisters is a campaign organised to raise public awareness about issues pertaining to transgender individuals and raise funds to finance court cases against transgender individuals in *syariah* courts.[105] The PT Foundation provides support to the LGBTI community, including those affected with HIV/AIDS, offering services such as healthcare and drop-in services, and offers seminars, operates a telephone counselling line and offers outreach programmes at third-party venues.[106] Seksualiti Merdeka advocates for LGBTI rights and supports Malaysians who have been marginalised because of their sexual orientation and gender identity.[107]

Women

Malaysian society is patriarchal. Women are active in all areas of society, but cultural and social barriers limit their levels of participation.[108] Moreover, there is a lack of resources available to women to assist them re-entering the workforce after childbirth.[109] Malaysia has the lowest rate of women's workforce participation in Southeast Asia.[110] Although there has been an increase in labour force participation by women over the last decade, wages for women do not equate to those of men for similar work.[111] In the Global Gender Gap Report 2017, Malaysia ranked 70th, an improvement from the previous year.[112]

group', Human Rights Watch, May 2017, CISEDB50AD4317; 'Transgender women in Malaysia, in the context of HIV and Islam: a qualitative study of stakeholders' perceptions', Barmania, S, Aljunid S M, BMC International Health and Human Rights, article 30, 20200424150731

[99] 'Gov't must curb increasing violence against transgenders', Malaysiakini, 20 November 2019, 20191206075644; NGOs raise alarm over yet another murder of a transgender woman', Free Malaysia Today, 3 January 2019, 20190125100210; 'Klang Transgender Dies From Cracked Skull After Brutal Assault By Men', SAYS, 14 December 2018, 20190125120728

[100] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.32, 20200312091714

[101] 'LGBT Organisations in Malaysia', Angloinfo Malaysia, n.d., accessed 29 June 2018, CISEDB50AD3776; 'Beauty and the Beast censorship attempt shows the good, the bad and the ugly of LGBT rights in Malaysia', The Conversation, 29 March 2017, CXC9040667196

[102] 'LPG Community', Yahoo Groups, n.d., accessed 23 November 2018, CIS7B8394110273

[103] 'PLUPenang website', PLUPenang, n.d., accessed 23 November 2018, CIS7B8394110276

[104] 'About SEED', Pertubuhan Kebajkan dan Persekitaran Positif Malaysia (SEED), n.d., accessed 8 November 2018, CIS7B8394110070

[105] 'About Justice for Sisters', Justice for Sisters, n.d., accessed 8 November 2018, CIS7B8394110071; 'Justice for Sisters', Astraea Lesbian Foundation For Justice, n.d., accessed 8 November 2018, CIS7B8394110072

[106] 'About Us PT Foundation', PT Foundation, n.d., accessed 8 November 2018, CIS7B8394110073

[107] 'Seksualiti Merdeka Facebook page', Facebook, n.d., accessed 23 November 2018, CIS7B8394110278

[108] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.118, p.41, 20191213141745

[109] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.118, p.41, 20191213141745

[110] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.119, p.41, 20191213141745

[111] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.119, p.41, 20191213141745

[112] 'Malaysia improves ranking in Global Gender Gap Report', Bernama, 15 November 2018, CXBB8A1DA38722

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Women's representation in politics increased during the Pakatan Harapan government but has diminished in the Perikatan Nasional government. The Pakatan Harapan government included more women and minority representatives in more positions of power.[113] Between 2011 and 2017, approximately 10 percent of seats in parliament were held by women.[114] During Pakatan Harapan rule, 13.9 and 22.1 percent of the lower and upper house seats were occupied by women respectively,[115] and Azizah Ismail, wife of Mr Anwar, became the country's first female deputy prime minister.[116] The current Perikatan Nasional government has been criticised for unravelling the Pakatan Harapan government's efforts to empower women leaders.[117]

Muslim women may be adversely affected by *syariah* law. Malaysia's Constitution prohibits discrimination based on gender and gives women equal rights to inherit, acquire, manage or dispose of property, including land.[118] However, s*yariah* law can deviate from these constitutional principles in some areas such as Islamic inheritance law that typically favours male children and male relatives.[119] *Syariah* law generally requires a husband's consent for divorce, but a small and steadily increasing number of women obtain divorces under sharia without their husband's consent.[120] Although *syariah* law favours fathers, equal parental rights are extended to Muslim mothers in four states, Johor, Selangor, Negri Sembilan and Pahang.[121]

Economic hardship

Malaysia is an upper-middle income country in which absolute poverty has been largely eradicated. Malaysia recorded average annual economic growth of more than 7 per cent between 1967 and 1997, while growth in recent years has continued to exceed 5 per cent.[122] Economic growth has been inclusive, with less than 1 per cent of the population living in extreme poverty.[123] Rates of poverty are low among Malays (0.8 per cent), Chinese (0.1 per cent), and Indians (0.6 per cent), although the poverty rate is higher in rural areas than in cities.[124] Malaysian authorities have turned their attention to reducing income inequality – which remains high in comparison to other East Asian countries, but is gradually declining – and addressing the well-being of the poorest 40 per cent of the population, who remain vulnerable to increases in the cost of living or economic shocks.[125] The UNDP's Human Development Index ranked Malaysia 57 out of 189 countries in 2017, placing it in the 'high human development' category.[126]

Malaysia has an expanding if still limited social welfare system, while traditional social roles mean that families provide support for the elderly and sick. Old age, survivor and disability payments and employment injury compensation are among the payments available to eligible individuals, although credible sources state that the overall scope of social welfare coverage remains

[113] 'Freedom in the World 2020 – Malaysia', Freedom House, 4 March 2020, B4, 20200417153315
[114] 'Proportion of seats held by women in national parliaments (%)', World Bank, n.d., accessed 22 November 2018, CIS7B8394110255
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[116] 'Malaysia's ruling party may be gone, but its racial policies survive', The Economist, 7 June 2018, CXBB8A1DA28917
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[118] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.27, 20200312091714
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[120] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.27, 20200312091714
[121] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.27, 20200312091714
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[123] 'The World Bank in Malaysia', The World Bank, April 2017, CISEDB50AD5041
[124] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 2.10, p.10, 20191213141745
[125] 'OECD Economic Surveys – Malaysia', OECD, November 2016, p.4, CIS38A80124917; 'The World Bank in Malaysia', The World Bank, April 2017, CISEDB50AD5041
[126] Human Development Indices and Indicators - 2018 Statistical Update', UNDP, 1 January 2018, CIS7B839419962

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limited.[127] In August 2017, the Malaysian Government introduced legislation into parliament that would provide unemployment benefits for three to six months.[128] The Zakat system – a levy imposed on Muslims which is equal to 2.5 per cent of their assets above a minimum figure – forms one of the main social protection programmes in the country, and payments are distributed to needy groups such as the poor and refugees.[129] In Malaysia, grown children typically provide financial or care support to elderly or sick parents.[130]

Political opinion

Freedom of expression

Freedom of expression is limited. The Constitution allows restrictions on the freedom of expression 'in the interest of the security of the Federation… [or] public order.'[131] The law prohibits sedition and public comment on issues defined as sensitive, including racial and religious matters or criticism of the King or ruling sultans.[132] The government regularly restricts freedom of expression for members of the public, media, and civil society, citing reasons such as upholding Islam and the special status of ethnic Malays, protecting national security, maintaining public order, and preserving friendly relations with other countries.[133] Sedition and criminal defamation laws led to self-censorship by local internet content sources, including bloggers, news providers, and NGO activists.[134]

Mainstream media is largely affiliated with political parties. Before the Pakatan Harapan government, most private publications were controlled by political parties or Barisan Nasional aligned business.[135] During the Pakatan Harapan government, these media outlets were overtly pro-opposition.[136] Despite restrictions and official pressure, opposition parties, social action groups, unions, internet news sites, and other private groups actively covered opposition activity and frequently printed views critical of Pakatan Harapan government policies.[137] The Pakatan Harapan government maintained and at times exerted control over news content, and banned, restricted, or limited circulation of publications believed to threaten public order, morality, or national security.[138]

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[127] 'Social Security Programs Throughout the World: Asia and the Pacific, 2016 – Malaysia', US Social Security Administration Office of Retirement and Disability Policy, March 2017, CISEDB50AD5043; 'A Decade of Social Protection Development in Selected Asian Countries', OECD, 11 May 2017, pp.46-47, CISEDB50AD5044

[128] 'New bill introduces conditional unemployment benefits', Malaysiakini, 1 August 2017, CXC90406611469

[129] 'A Decade of Social Protection Development in Selected Asian Countries', OECD, 11 May 2017, p.60, CISEDB50AD5044

[130] 'Report on Key Findings: Fifth Malaysian Population and Family Survey [MPFS-5] 2014', Ministry of Women, Family and Community Development and National Population and Family Development Board, 2016, p.30, CIS38A80124919

[131] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.11, 20200312091714

[132] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.11, 20200312091714; 'Freedom in the World 2020 – Malaysia', Freedom House, 4 March 2020, D4, 20200417153315; 'Amnesty International Report 2017/18', Amnesty International, 22 February 2018, p.249, NGED867A612; 'Human Rights in Asia-Pacific: Review of 2019', Amnesty International, 29 January 2020, p.33, 20200130115738

[133] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.11,13, 20200312091714; 'BTI 2020 Country Report Malaysia', Bertelsmann Stiftung, 29 April 2020, p.7, 20200429144341; 'Human Rights in Asia-Pacific: Review of 2019', Amnesty International, 29 January 2020, p.33, 20200130115738; '10 years' jail for insulting Islam excessive - MCA agrees with DAP', Malaysiakini, 11 March 2019, 20200204140736; 'Reduced sentence for Sarawakian convicted of insulting Islam', Free Malaysia Today, 13 September 2019, 20200204141618; 'Suaram's Human Rights Overview Report on Malaysia 2019', Suara Rakyat Malaysia (SUARAM), 9 December 2019, p.20, 20200116163323; 'KL raids offices of 3 broadcasters in probe over documentary', The Straits Times, 5 August 2020, 20200805082802; 'Why Malaysia's Muhyiddin fears a free press', Asia Times, 9 August 2020, 20200810101253

[134] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.14, 20200312091714; 'Suaram's Human Rights Overview Report on Malaysia 2019', Suara Rakyat Malaysia (SUARAM), 9 December 2019, pp.20-26, 20200116163323

[135] 'BTI 2020 Country Report Malaysia', Bertelsmann Stiftung, 29 April 2020, p.11, 20200429144341; 'Freedom in the World 2020 – Malaysia', Freedom House, 4 March 2020, D1, 20200417153315

[136] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, pp.11-12, 20200312091714

[137] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.12, 20200312091714

[138] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.12, 20200312091714

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Broadly speaking, media self-censorship was more relaxed and at times more neutral under the Pakatan Harapan government.[139]

Freedom of assembly

Freedom of assembly is limited. The constitution provides for the freedoms of peaceful assembly and association but allows restrictions deemed necessary or expedient in the interest of security, public order, or (in the case of association) morality.[140] Although the law does not require groups to obtain a permit for assemblies, police place time, location, and other restrictions on assemblies.[141] Organising an assembly that occurs without the proper notice is considered a criminal offense.[142] Protests deemed acceptable by the government usually proceed without interference.[143] In July 2019, the *Peaceful Assembly Act* (2012) was amended with the effect of relaxing restrictions on forms of peaceful demonstration.[144]

Civil society organisations

Civil society groups operate in Malaysia with occasional interference. Numerous non-governmental organizations (NGOs) operate in Malaysia, and they have a strong record of campaigning for electoral, anticorruption, and other reforms.[145] NGOs must be approved and registered by the government, which has refused or revoked registrations for political reasons in the past.[146] Many human rights and civil society organisations experience difficulties obtaining government recognition as NGOs, so instead register as companies, which creates legal and bureaucratic obstacles to raising money to support their activities.[147] Some international human rights organizations have been forbidden from forming local branches.[148] Some NGOs report the government monitors their activities in order to intimidate them.[149]

State protection

Law enforcement

Law enforcement operates at both the federal and state level. The Royal Malaysian Police reports to the federal Minister for Home Affairs and is responsible for law enforcement nationwide.[150] The Federal Department of Development of Islam enforces *syariah* law and has jurisdiction over Muslims

[139] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.13, 20200312091714; 'Freedom in the World 2020 – Malaysia', Freedom House, 4 March 2020, D1, 20200417153315
[140] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.16, 20200312091714
[141] 'Freedom in the World 2020 – Malaysia', Freedom House, 4 March 2020, E1, 20200417153315; '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.16, 20200312091714
[142] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.16, 20200312091714
[143] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.16, 20200312091714; 'Suaram's Human Rights Overview Report on Malaysia 2019', Suara Rakyat Malaysia (SUARAM), 9 December 2019, pp.27-28, 20200116163323
[144] 'Human Rights in Asia-Pacific: Review of 2019', Amnesty International, 29 January 2020, pp.33-34, 20200130115738
[145] 'Freedom in the World 2020 – Malaysia', Freedom House, 4 March 2020, E2, 20200417153315
[146] 'Freedom in the World 2020 – Malaysia', Freedom House, 4 March 2020, E2, 20200417153315; '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.16, 20200312091714
[147] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.17, 20200312091714
[148] 'Freedom in the World 2020 – Malaysia', Freedom House, 4 March 2020, E2, 20200417153315
[149] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.17, 20200312091714; 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, pp.77, 20200429103634
[150] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 5.5, p.55, 20191213141745

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in Kuala Lumpur and two other federal territories.[151] The People's Volunteer Corps (RELA), a federal paramilitary civilian corps under the Ministry of Home Affairs, assists security forces.[152] RELA's engagement in law enforcement activities has significantly reduced in recent years.[153] NGOs have reported that inadequate training has resulted in RELA members being poorly equipped to perform their duties.[154]

Royal Malaysia Police (RMP)

The RMP is generally considered a professional and effective force. The RMP operates 837 police stations nationwide and employs approximately 115,000 officers.[155] Local and international sources indicate the RMP is a professional and effective police force, although the quality of its members' responses varies depending on levels of training, capacity and engagement in corruption.[156] A 2017 Transparency International survey found that 57 per cent of Malaysian respondents thought that corruption was a problem within the RMP – a result that was significantly above the regional average.[157] In July 2017, the RMP signed an anti-graft pledge of which anti-corruption bodies and civil society organisations said was a significant step towards accountability.[158]

Criminal justice system

A number of existing laws undermine due process guarantees. The *Security Offences (Special Measures) Act* (2012) (SOSMA) allows police to detain anyone for up to 28 days without judicial review for broadly defined 'security offences' and to hold suspects for 48 hours before being granted access to a lawyer and was renewed for another five years in 2017.[159] In 2017, lawmakers amended the *Prevention of Crime Act* (1959) (a law ostensibly aimed at combating organized crime) to revoke detainees' right to address the government-appointed Prevention of Crime Board, which is empowered to order the detention of individuals listed by the Home Ministry for renewable two-year terms without trial or legal representation.[160] The *Prevention of Terrorism Act* (2015) together with *the National Security Council Act* (2016) gives the National Security Council (led by the prime minister) wide powers of arrest, search, and seizure without a warrant in areas deemed as security risks and in the context of countering terrorism.[161]

Incidents of mistreatment in custody and impunity for police/security forces personnel are reported. Isolated incidents of torture and ill-treatment in police custody have been reported.[162] Incidents of physical violence inflicted upon detainees under remand or during investigation are prevalent especially when there are elements of chain remand or detention under security laws.[163] The government has claimed that deaths in police custody, particularly those caused by police, were

[151] 'Country Information Report – Malaysia (Version 2)', Department of Foreign Affairs and Trade (Australia), 19 July 2016, section 5.1, p.25, CIS38A80121311
[152] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 5.2, p.54, 20191213141745
[153] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 5.2, p.54, 20191213141745
[154] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 5.2, p.54, 20191213141745
[155] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 5.5, p.55, 20191213141745
[156] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 5.5, p.55, 20191213141745
[157] 'Global Corruption Barometer – Asia Pacific', Transparency International, 28 February 2017, p.41, CISEDB50AD5225
[158] 'Anti-graft pledge by police hailed as a good move', The Star, 27 July 2017, CXC90406610992
[159] 'Freedom in the World 2020 – Malaysia', Freedom House, 4 March 2020, F2, 20200417153315
[160] 'Freedom in the World 2020 – Malaysia', Freedom House, 4 March 2020, F2, 20200417153315
[161] 'Freedom in the World 2020 – Malaysia', Freedom House, 4 March 2020, F2, 20200417153315
[162] 'Freedom in the World 2020 – Malaysia', Freedom House, 4 March 2020, F3, 20200417153315; 'Suaram's Human Rights Overview Report on Malaysia 2019', Suara Rakyat Malaysia (SUARAM), 9 December 2019, pp.13-14, 20200116163323
[163] 'Suaram's Human Rights Overview Report on Malaysia 2018', Suara Rakyat Malaysia (SUARAM), 28 November 2018, p.17, CIS7B8394110621

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rare, but civil-society activists' dispute this claim.[164] In its 2019 human rights report, Malaysian human rights organisation Suara Rakyat Malaysia (SUARAM) said there were six cases of custodial deaths reported between January and October 2019.[165]

The Pakatan Harapan administration tabled a bill to establish an Independent Police Complaints of Misconduct Commission. A recommendation to establish the commission was made by the Royal Commission of Inquiry in 2005 following public backlash over a number of custodial deaths and allegations of police brutality.[166] In July 2019, the Pakatan Harapan government tabled the Independent Police Complaints of Misconduct Commission (IPCMC) Bill to establish the IPCMC and its functions being: to promote integrity within the police force as well as to advise the government and recommend measures for such promotion of integrity; to protect public interest by dealing with police misconduct; to formulate and put in place mechanisms for the detection, investigation and prevention of police misconduct; and to 'exercise disciplinary control' over the police.[167] This law will dissolve the Enforcement Agency Integrity Commission (EAIC) by repealing the 2009 law that established it, and EAIC officers will become IPCMC officers.[168] The government has been accepting feedback on the Bill after the Bill was heavily criticised by civil society for giving excessive powers to the prime minister.[169] The the Bill requires an amendment to the Federal Constitution which requires a two-thirds majority and based on the current make-up of parliament it will be impossible to achieve that.[170]

Judiciary

Trial procedures are typically fair. The constitution provides for a fair and public trial, and the judiciary generally enforced this right.[171] The civil law system is based on British common law and defendants are presumed innocent until proven guilty.[172] Defendants have the right to be informed promptly of the charges against them, to a timely trial, and to be present at their trial.[173] Defendants have the right to communicate with an attorney of their choice or to have counsel appointed at public expense if they face charges that carry the death penalty.[174] Defendants also may apply for a public defender in certain other cases.[175]

The majority of cases in Malaysian courts are processed in accordance with the rule of law. According to the Malaysian Bar Council, defendants generally had adequate time and facilities to

[164] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.4, 20200312091714
[165] 'Suaram's Human Rights Overview Report on Malaysia 2019', Suara Rakyat Malaysia (SUARAM), 9 December 2019, p.12, 20200116163323
[166] 'Cash-strapped Malaysian police under pressure amid plans for oversight body', The Straits Times 11 August 2019, 20190812081744
[167] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.6, 20200312091714; 'So what exactly is the IPCMC Bill all about and why it is important', Malay Mail, 23 July 2019, 20191003111247; 'IPCMC is here - but does it have bite?', Malaysiakini, 19 July 2019, 20190812082833
[168] 'So what exactly is the IPCMC Bill all about and why it is important', Malay Mail, 23 July 2019, 20191003111247
[169] 'Suaram's Human Rights Overview Report on Malaysia 2019', Suara Rakyat Malaysia (SUARAM), 9 December 2019, p.11, 20200116163323; 'IPCMC Bill: Gov't to consider critics' views before second reading', Malaysiakini, 1 August 2019, 20190812083152; 'IPCMC Bill postponed to next Parliament session', Malaysiakini, 3 December 2019, 20191204080040; 'Human Rights in Asia-Pacific: Review of 2019', Amnesty International, 29 January 2020, p.34, 20200130115738
[170] 'Govt backbenchers call for withdrawal of IPCMC Bill', Bernama (Malaysian National News Agency), 11 August 2020, 20200812092833
[171] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.9, 20200312091714
[172] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.9, 20200312091714
[173] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.9, 20200312091714
[174] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.9, 20200312091714
[175] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.9, 20200312091714

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prepare a defence if they had the means to engage private counsel.[176] Otherwise, defendants must rely on legal aid and the amount of time to prepare for trial is at the discretion of the judge.[177] Authorities provide defendants free interpretation in Mandarin, Tamil, and some other commonly used dialects from the moment charged through all appeals.[178] The right to confront witnesses is limited by provisions allowing the identity of prosecution witnesses to be kept secret from the defence before a trial, which inhibits cross-examination of those witnesses.[179] Defendants may present witnesses and evidence on their behalf. Limited pre-trial discovery in criminal cases can impede the defence.[180]

Judicial independence may be compromised by executive interference. Three constitutional articles provide the basis for an independent judiciary; however, other constitutional provisions, legislation restricting judicial review, and executive influence over judicial appointments limit judicial independence and strengthen executive influence over the judiciary.[181] The judiciary frequently defers to police or executive authority in cases those parties deem as affecting their interests.[182] Members of the Malaysian Bar Council, NGO representatives, and other observers express 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.[183]

Syariah law

Malaysia maintains a dual legal system with the coexistence of *syariah* law alongside civil law. Malaysia's secular legal system is based on English common law.[184] Muslims are subjected to both the general laws enacted by parliament and religious laws enacted by their state legislature.[185] *Syariah* courts in the judicial system have three levels (except for Perak state which instituted a Supreme Court in December 2018).[186] The Director-General of the Department of Syariah Judiciary has proposed that other Malaysian states follow Perak's lead and also establish a Supreme Court.[187] In July 2019, Speaking at the Department of Syariah Judiciary Malaysia, Minister in the Prime Minister's Department, Mujahid Yusof Rawa, said that the government intends to standardise and coordinate *syariah* laws nationwide by the end of 2020, saying the reason for "standardising the *syariah* criminal enactment nationwide" is that punishments for the same offences differ from state to state.[188]

The jurisdiction of *syariah* law is confined to family law and religion. The dual legal system results in different treatment of Muslims and non-Muslims in 'moral' and family law cases.[189] *Syariah* courts are highly influential in general, because their decisions frequently involve conversions to

[176] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.9, 20200312091714
[177] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.9, 20200312091714
[178] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.9, 20200312091714
[179] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.9, 20200312091714
[180] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.9, 20200312091714
[181] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.8, 20200312091714
[182] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.8, 20200312091714
[183] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.8, 20200312091714
[184] 'BTI 2020 Country Report Malaysia', Bertelsmann Stiftung, 29 April 2020, p.7, 20200429144341
[185] 'Freedom in the World 2020 – Malaysia', Freedom House, 4 March 2020, F2, 20200417153315; 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634
[186] 'Authorities want Shariah Supreme Court established in country following Perak's move', Bernama, 27 November 2019, 20191206105508
[187] 'Authorities want Shariah Supreme Court established in country following Perak's move', Bernama, 27 November 2019, 20191206105508
[188] Standardised syariah laws by end of next year - Mujahid', Bernama, 4 July 2019, 20190705100344
[189] 'Freedom in the World 2020 – Malaysia', Freedom House, 4 March 2020, F2, 20200417153315

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Islam, which in turn affect such matters as child-custody, burial rites and inheritance.[190] Some penalties imposed by *syariah* courts are limited by federal civil law.[191] Two states, Kelantan and Terengganu, have symbolically enacted *hudood* (Islamic penal law) for criminal offenses such as apostasy, slander, adultery, and alcohol consumption.[192]

Islamic religious enforcement officers conduct moral policing operations. Religious enforcement officers have a range of powers, depending on the particular Islamic laws that apply in each state.[193] State Islamic religious enforcement officers have the authority to accompany police on raids of private premises and public establishments, and to enforce *syariah*, including for violations such as indecent dress, distribution of banned publications, alcohol consumption, or *khalwat* (close proximity to a nonfamily member of the opposite sex).[194] Moral breaches of *syariah* law typically result in a warning or a fine but may include caning or up to one month imprisonment for the most serious offences.[195] Kelantan's Islamic Affairs and Religious Department fined 39 women for "dressing sexily and behaving indecently in public" during Ramadan in 2019.[196] In Johor, Segamat Municipal Council enforcement officers disguised themselves as food stall operators, cooks and waiters in a bid to catch Muslims who do not fast during Ramadan in 2019.[197]

Corruption

High-level corruption is a significant problem in Malaysia. In July 2018, former Prime Minister Mahathir commented that "[m]ost of the top echelon in the Government are corrupt".[198] During the Pakatan Harapan government, the Malaysian Anti-Corruption Commission and other law enforcement institutions became more active, initiating various investigations against former leadership.[199] During the Pakatan Harapan government several former government officials were charged with corruption, including former prime minster Najib, but there remained a broadly held perception of widespread corruption and cronyism in government institutions.[200] Transparency International's 2017 corruption index showed Malaysia fell seven places to 62nd globally.[201] In the following year, Transparency International's 2018 index saw Malaysia move up to 61st.[202] In Transparency International's 2019 index, Malaysia continues to improve its position ranking 51st.[203]

There are concerns that the change in government may compromise IMDB trials. Shortly after losing the prime ministership, authorities confiscated large sums of cash and luxury items from the residences of former Prime Minister Najib and charged him over missing funds from the 1MDB fund.[204] In July, the High Court found Najib guilty of all seven charge in the first of his five trials related

[190] 'BTI 2020 Country Report Malaysia', Bertelsmann Stiftung, 29 April 2020, p.7, 20200429144341
[191] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 5.3, p.54, 20191213141745
[192] 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634
[193] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 5.9, p.55, 20191213141745
[194] 'Country Reports on Human Rights Practices for 2018 - Malaysia', US Department of State, 13 March 2019, section 2, p.5, 20190314091511
[195] 'The female face of Islamic law in Malaysia', Aljazeera, 16 August 2017, CXC90406620329; 'Lawyer: Muslims can challenge khalwat offences', Free Malaysia Today, 7 December 2016, CX6A26A6E20451
[196] 'Sisters In Islam urge Kelantan religious authorities to stop policing the way women dress', Malay Mail, 13 May 2019, 20190605152041
[197] 'Segamat council officers go undercover as cooks, secretly photograph non-fasting Muslims', Malay Mail, 23 May 2019, 20190605151847
[198] 'I inherited a Malaysian government riddled with corruption PM Mahathir in CNN interview', The Straits Times, 27 July 2018, CXBB8A1DA32263
[199] 'Freedom in the World 2020 – Malaysia', Freedom House, 4 March 2020, F2, 20200417153315
[200] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.23, 20200312091714
[201] 'Corruption Perceptions Index 2017', Transparency International, 21 February 2018, CIS7B83941307; 'NOW offers to create Malaysia's own corruption index', Malaysiakini, 27 February 2018, CXBB8A1DA23044
[202] 'Malaysia moves one spot in latest corruption index', New Straits Times, 30 January 2019, 20190130152450
[203] 'Corruption Perceptions Index 2019', Transparency International, 23 January 2020, 20200205081007
[204] 'Najib finished second round of questioning by anti-graft body', The Straits Times, 25 May 2018, CXBB8A1DA27951;

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to the 1MBD scandal and sentenced him to twelve years imprisonment,[205] Najib maintains his innocence and appealed the High Court decision.[206] Some have expressed concern that the return of Najib's party (UMNO) to the government in March might impede ongoing investigations and efforts to track down assets lost from the troubled state fund.[207] Both the Attorney General and head of Malaysian Anti-Corruption Commission resigned shortly after Mahathir's resignation as prime minister.[208] On 14 May prosecutors dropped money-laundering charges against Najib's stepson who is accused of having laundered USD$248 million from the 1MDB state investment fund.[209]

The Pakatan Harapan government took steps to combat corruption and prosecute high-level corruption in government. On 29 January 2019, the prime minister launched the National Anti-Corruption Plan (NACP) saying that the government will review how appointments to key government posts are made, will introduce new laws on political funding, and will require politicians and high-ranking civil servants to declare their assets.[210] The NACP, developed by the National Centre for Governance, Integrity and Anti-Corruption, incorporates 115 initiatives which cover six sectors, namely politics, law enforcement, public procurement, legal and judiciary, public administration and corporate management.[211] Additionally, the government has established committees to investigate corruption amongst state officials.[212] In March 2019, the prime minister proposed establishing a special court specifically to expedite corruption cases, however this is yet to materialise.[213]

Crime

On-going police operations target criminal gangs and crime syndicates. In August 2013, the RMP launched Ops Cantas Khas, focusing on weapons seizures and targeting gang members, leaders and their assets.[214] In 2014, Police claimed that they had identified 49 illegal gangs nationwide with 40,000 members – 70 per cent of whom were ethnic Indian[215] – who are linked to armed robberies, drug and prostitution rings, loan-sharking, gambling, and extortion and contract killings.[216] Authorities claim that the crackdown has led to a reduction in crime.[217] A second phase of the campaign – Op Cantas Khas 2 – was launched in August 2016.[218] Malaysian media outlets continuously publish reports about on-going police operations against criminal syndicates.[219]

'Former Malaysian PM Najib Razak interrogated by corruption commission as charges loom', ABC News (Australia), 23 May 2018, CXBB8A1DA27725; 'Malaysia scrutiny of 'insolvent' 1MDB wealth fund intensifies as ex-PM Najib Razak is questioned again in corruption scandal', South China Morning Post, 24 May 2018, CXBB8A1DA27945; 'Cash tally from condo raids More than $40m', Asia News Network, 24 May 2018, CXBB8A1DA27853; 'Former Malaysian PM charged with money laundering, abuse of power', Reuters, 20 September 2018, CXBB8A1DA35852

[205] 'Malaysia Ex-PM Najib Given 12 Years in Jail in 1MDB Looting', The Diplomat, 28 July 2020, 20200729101058; 'Najib Razak is convicted on seven charges in the 1MDB scandal', The Economist, 28 July 2020, 20200730065121; 'Malaysia Ex-PM Najib Razak Sentenced to 12 Years in Jail in 1MDB Unit Case', Bloomberg, 28 July 2020, 20200729095441

[206] 'Lawyer confirms Najib filed appeal against SRC conviction, sentence today', Malay Mail, 20 July 2020, 20200818110609

[207] '1MDB Trial Resumes Amid Backlash to Najib's Stepson's Settlement', Bloomberg 19 May 2020, 20200519120128; 'Malaysian lawyers say anti-graft agency must explain heat over case involving Najib's stepson', Asia News Network, 16 May 2020, 20200519123431

[208] 'Malaysia anti-graft chief who probed 1MDB scandal quits', Reuters, 6 March 2020, 20200309135450; 'Tommy Thomas resigns as AG', Malaysiakini, 28 February 2020, 20200519134104; 'Malaysia AG Faces Calls to Resign After Dropping Terror Charges', Bloomberg, 23 February 2020, 20200519134424

[209] 'Former top prosecutor says Riza deal 'terrible for Malaysia'', Associated Press, 18 May 2020, 20200519121320; 'Five ex-chiefs of Malaysian Bar attack its president over 'hollow' statement on Najib stepson's case', The Straits Times, 19 May 2020, 20200520094101

[210] 'Malaysia launches ambitious anti-corruption plan', The Straits Times, 29 January 2019, 20190130081803

[211] 'NACP launched, aims to tackle corruption for next five years', Malaysiakini, 29 January 2019, 20190130090502

[212] 'Cleaning up corruption in Malaysia goes beyond Najib', Aljazeera, 23 May 2019, 20190607090851

[213] 'Establishment of Special Corruption Courts is a Step Forward Towards Stamping Out Corruption', The Malaysian Bar, 21 March 2019, 20190605121213

[214] 'Cops deal crime a crippling blow since Ops Cantas Khas launch', The Star, 23 September 2013, CXC28129414715

[215] Malaysia's gang menace', Aljazeera, 11 July 2014, CX1B9ECAB10299

[216] 'Malaysia's gang menace', Aljazeera, 11 July 2014, CX1B9ECAB10299

[217] '79,414 individuals detained throughout 'Ops Cantas Khas'', Bernama, 10 June 2014, CX1B9ECAB11435

[218] 'Op Cantas crackdown on triads: 1,444 arrested', Astro Awani, 13 August 2016, CX6A26A6E8262

[219] 'Notorious AYT 99 gang crippled by cops, gun used in 2017 shooting of ex-AG's driver among firearms seized', Malay Mail, 17 February 2020, 20200520141705; 'Police: Those sporting gang tattoos can be arrested', Bernama, 25 February 2019, 20190227121915; 'Gang 08 members arrested for extortion', The Sun Daily, 27 February 2019, 20200520142026; '57 go on

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Loan sharks

Malaysian police respond to threats and harassment from illegal moneylenders and some non-government association's offer assistance. Illegal money lending is an offence under Malaysian law, and section 5(2) of the *Moneylenders Act* (1951) (moneylenders act) carries a fine of 20,000 ringgit not exceeding 100,000 ringgit, or imprisonment not exceeding five years, or both for unlicensed moneylending.[220] Section 29AA of the moneylenders act carries a fine not exceeding 20,000 ringgit, imprisonment for up to two years, or both for any person who assists an unlicensed moneylender.[221] Section 29B(1) of the moneylenders act carries a fine of up to 200,000 ringgit or imprisonment of up to three years, or both for harassment or intimidation of a borrower, a borrower's family or their associates.[222] During recent years, police have responded to complaints of harassment and intimidation by illegal moneylenders and have conducted numerous operations targeting illegal moneylending operations, resulting in the prosecution of persons under the moneylenders act.[223] In December 2017, Malaysia's central bank cautioned the public about illegal money lending activities conducted by companies using fake licences purportedly issued by the central bank, advising the public to report such instances to the police for investigation.[224] A non-governmental organisation, the Malaysian Muslim Consumers Association (PPIM), offers support for those encountering problems with loan sharks.[225] The Malaysian Chinese Association's Public Services and Complaints Department acts as an intermediary between loan sharks and Chinese Malaysian victims who are unable to repay debt, negotiating loan repayments with lower rates.[226]

Death penalty

Malaysia introduced legislation that removes the mandatory death sentence for some offenses, including some drug-related offenses. Malaysia announced a moratorium on executions in July 2018.[227] In November 2017 (effective March 2018), parliament passed the *Dangerous Drugs (Amendment) Act* (2017) (DDA) to remove the mandatory death sentence for drug-related offences by giving judges the discretion to punish drug offenders with either life imprisonment or hanging.[228]

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trial in Kajang Prison for alleged links to Gang 360 Devan', Bernama, 6 September 2018, CXBB8A1DA34959; 'Datuk Seri and Datuk among 36 charged with being members of Gang 08', The Sun Daily, 27 April 2018, 20200520142455; '3 cops held as 08 Gang, 18 Gang busted', The Sun Daily, 9 April 2018, 20200520142237; 'Chinese have the most gangs; Indian gangs the most members: Police', The Sun Daily, 11 March 2018, 20200520142712; '36 suspected underworld gang members arrested in Malaysia', Bernama, 20 February 2018, CXBB8A1DA22559

[220] 'Moneylenders Act 1951 (Malaysia)', amended 15 April 2011, Attorney General's Chambers of Malaysia, section 5(2), CISEC96CF110366

[221] 'Moneylenders Act 1951 (Malaysia)', amended 15 April 2011, Attorney General's Chambers of Malaysia, section 29AA, CISEC96CF110366

[222] 'Moneylenders Act 1951 (Malaysia)', amended 15 April 2011, Attorney General's Chambers of Malaysia, section 29B(1), CISEC96CF110366

[223] 'Unlicensed money lenders claim trial for harassing, threatening borrowers', New Straits Times, 6 September 2018, CXBB8A1DA37862; 'Malaysian man unwittingly borrows money from loan sharks so son could have 'dream wedding'', Asia News Network, 19 April 2018, CXBB8A1DA37866; 'Police detain 35 in action against illegal money-lending', Bernama, 25 August 2017, CXC90406624824; 'Four loan shark operations busted with arrest of 29 people', The Star, 4 August 2017, CXC90406611700; 'Loan shark ring busted, 31 nabbed in nationwide raids', The Sun Daily, 18 April 2017, CXC9040665990; 'Rich loan sharks nabbed', The Star, 13 January 2017, CXC904066329; '26 loan sharks nabbed, RM2m seized', Daily Express, 13 January 2017, CXC904066572; '4 loan sharks fined RM8,000 each for red paint splashed on debtor home', Bernama, 5 November 2016, CX6A26A6E12449

[224] 'BNM warns of illegal money lenders, Bernama, 6 December 2017, CXC90406624823

[225] 'For Malaysia's sake, consumers group seeks to save civil servants trapped in debt', Malay Mail, 3 August 2017, CXC90406624589; 'Loan sharks sharpen their bite', The Star, 20 January 2018, CXBB8A1DA22631; More than 10,000 people sought PPIM's help over Ah Long cases', Bernama, 18 October 2016, CX6A26A6E31142; 'PPIM urges govt to put an end to 'ah long' posters', Bernama, 6 September 2018, CXBB8A1DA35970

[226] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.113, p.40, 20191213141745

[227] 'Parliament must consign death penalty to the history books', Amnesty International, 10 October 2018, CXBB8A1DA38216; 'Suaram's Human Rights Overview Report on Malaysia 2019', Suara Rakyat Malaysia (SUARAM), 9 December 2019, pp.35-36, 20200116163323

[228] 'No more mandatory death sentence soon as amendments to Dangerous Drugs Act passed in Parliament', New Straits Times, 30 November 2017, CXC90406618546; 'Group against death penalty warns amended Drug Act still has flaws', Malay

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However, judicial discretion is limited only to certain circumstances under specified in section 39B (2A) of the DDA, namely where the accused is merely a drug mule and has assisted law enforcement in disrupting drug trafficking activities.[229] The amendment does not apply in retrospect for previous convictions.[230] Amnesty International reports that there were no executions recorded during 2019, but there were 26 recorded death sentences, bringing the total number of known death sentences to 1,280.[231]

Malaysia has yet to abolish the mandatory death penalty for all offences. There are 11 offences that attract the mandatory death penalty within two acts – nine under the Penal Code, including for murder, waging war against Malaysia's King, and committing terrorist acts, and a further two under the *Firearms (Increased Penalties) Act* (1971).[232] In February 2020, a special committee to review alternative sentences to the mandatory death penalty submitted its report to the government.[233] In August 2020, the Federal Court ruled in a challenge of the constitutionality of the mandatory death penalty that only Parliament has the power to enact legislation on offences and to prescribe punishments for offences.[234]

Domestic violence/familial abuse

Family violence

Amendments to domestic violence law have strengthened protections for victims. Domestic violence is prevalent in Malaysia despite law prohibiting domestic and sexual violence.[235] Domestic violence victims can obtain protection orders which attract a prison sentence of up to one year or a fine if breached.[236] Although marital rape that causes hurt or fear of death is punishable under the Penal Code, *syariah* law in many states creates ambiguity because it prohibits wives from disobeying the 'lawful orders' of their husbands, effectively discouraging victims from reporting incidents.[237] In 2017, amendments to domestic violence law broadened the scope of the definition of domestic violence to include spouses, former spouses, children, family members, incapacitated adults who are living as members of the family, and *de facto* spouses who have undertaken religious or customary marriage.[238] Despite improved protections introduced by the amendments including broader protection orders for victims and introduce penalties for perpetrators who transgress them, unmarried couples and marital rape remain excluded from the definition of domestic violence and Penal Code respectively.[239]

Mail, 15 March 2018, CXBB8A1DA23929; 'Death Sentences and Executions 2018', Amnesty International, 10 April 2019, p.23, 20190411090834

[229] 'A Call to End the Mandatory Death Penalty in Malaysia', Union Internationale des Avocates (UIA), 20 February 2018, CXBB8A1DA22745; 'Amnesty International Report 2017/18', Amnesty International, 22 February 2018, p.250, NGED867A612; 'Death Sentences and Executions 2018', Amnesty International, 10 April 2019, p.23, 20190411090834; 'Human Rights Watch World Report 2019', Human Rights Watch, 17 January 2019, p.367, 20190118091502

[230] 'Parliament removes mandatory death penalty for drug offences, judges to get discretion'', Malay Mail, 30 November 2017, CXC90406618547

[231] 'Death sentences and executions 2019 ', Amnesty International, 21 April 2020, p.21, 20200422083142

[232] 'Law minister: Bill to repeal mandatory death penalty to be tabled in October', Bernama, 13 July 2019, 20190716132419

[233] 'Death sentence - committee submits report on alternatives', Malaysiakini, 11 February 2020, 20200212080446

[234] 'Court's decision to abolish death penalty should be dealt by Parliament, says Suhakam commissioner', The Star, 15 August 2020, 20200817080528; 'Federal Court: Parliament empowered to enact laws on offences, punishments including death penalty', Bernama, 13 August 2020, 20200814083750,

[235] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.26, 20200312091714

[236] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.122, p.42, 20191213141745

[237] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.122, p.42, 20191213141745

[238] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.122, p.42, 20191213141745

[239] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.122, p.42, 20191213141745; 'Penal Code', Government of Malaysia, enacted 1936, amended 1 September 2017, section 375A, CISEDB50AD9259; 'A brief history of marital rape — New Sin Yew', Malay Mail, 4 November 2018, CXBB8A1DA38587

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Authorities take claims of sexual harassment seriously but there is reluctance by victims to report cases. The *Employment Act* (1955) prohibits a person in authority from using their position to intimidate a subordinate into having sexual relations and the law classifies certain forms of workplace sexual harassment illegal.[240] The Pakatan Harapan government was in the process of drafting a legal framework to address gender discrimination, and a Sexual Harassment Bill was expected to be tabled in Parliament in March 2020.[241] A government voluntary code of conduct provides a detailed definition of sexual harassment intended to raise public awareness of the problem.[242] Authorities take claims of sexual harassment seriously but victims are often reluctant to report cases because of embarrassment, the difficulty of proving the offence, and a lengthy trial process.[243] The most recent statistics available from Malaysia's Ministry of Home Affairs indicate that approximately 16 per cent of reported rape cases were taken to court, with a conviction rate of 2.7 percent.[244]

Government and non-government shelters and assistance to victims of domestic violence is often insufficient to meet the need. Almost every hospital in Malaysia has a crisis centre where victims of rape and domestic violence can make reports without going to a police station, and which offer services such as examination by female doctors, evidence management, referrals and crisis intervention, counselling, temporary shelter, and legal assistance.[245] The Women's Aid Organisation reports that there are One Stop Crisis Centre services in 102 government hospitals nationwide that cater to between 10 to over 500 clients each year.[246] There is a sexual investigations unit at each police headquarters to help victims of sexual crimes and abuse, and police sometimes assign psychologists or counsellors to provide emotional support.[247] Activists assert that support mechanisms for victims of domestic violence are inadequate.[248] The Ministry of Women, Family and Community Development organises legal literacy seminars designed to inform women of their rights in cases related to issues such as marital problems and divorce.[249]

Child marriage and sexual abuse

***Syariah* courts approve approximately 80 per cent of applications for marriages involving a female under the age of 16.** The minimum age of marriage is age 18 for men and age 16 for women, but Muslim women younger than age 16 may marry with the approval of a *syariah* court.[250] In some cases authorities treat early marriage as a solution to statutory rape.[251] Child marriage is thus defined

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[240] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.27, 20200312091714
[241] 'Legal framework on gender discrimination still being drafted', Bernama, 11 February 2020, 20200212084701
[242] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.27, 20200312091714
[243] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.27, 20200312091714
[244] 'Country Reports on Human Rights Practices for 2017 – Malaysia', US Department of State, 20 April 2018, section 6, p.23, OGD95BE927312
[245]'One Stop Crisis Centre (OSCC)', One Stop Crisis Centre (OSCC) website, 2017, CISEDB50AD5269; 'Country Reports on Human Rights Practices for 2018 - Malaysia', US Department of State, 13 March 2019, section 6, p.24, 2019031409151; 'Knowledge, attitude and practice among healthcare staffs in the Emergency Department, Hospital Universiti Sains Malaysia towards Rape Victims In One Stop Crisis Centre (OSCC)', Medical Journal of Malaysia, 3 June 2015, p.162, CISEC96CF15553; 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.126, p.42, 20191213141745; '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.26, 20200312091714
[246] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.126, p.42, 20191213141745
[247] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.26, 20200312091714
[248] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.26, 20200312091714
[249] 'Good Practices: Eliminating Violence Against Women and Children (EVAWC)', Ministry of Women, Family and Community Development, Malaysia and ASEAN Commission on the Promotion and Protection of the Rights of Women and Children, n.d., accessed 15 August 2017, p.38, CISEDB50AD5272
[250] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.28, 20200312091714
[251] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.28, 20200312091714

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as marriage below the minimum legal age which requires the approval of a *syariah* court judge for Muslims or the Menteri Besar / Chief Minister for non-Muslims.[252] The approval rate of under 16 year old marriage by *syariah* courts in 2015 was 81 per cent, in 2014 74 per cent, in 2012 87.7 per cent, and in 2011 86.1 per cent, representing an approximately 80 per cent approval rate.[253] In July 2018, state authorities in Kelantan fined a 41-year-old Malaysian man and returned an 11 year old Muslim girl to Thailand after the man skirted local state regulations by marrying her in southern Thailand.[254]

Malaysian authorities have taken limited steps to regulate early marriages. Girls 16 years old and above can marry with permission of their state's chief minister.[255] Malaysia's parliament voted down an attempt to ban child marriage in April 2017.[256] In October 2018, the prime minister issued a directive instructing all state authorities to raise the minimum marriage age for Muslims to 18, but this gesture was largely symbolic as according to the Constitution, Islamic law falls under the jurisdiction of state-level muftis, and the federal government cannot enforce a legal minimum marriage age for Muslims.[257] However, the Selangor sultan correspondingly raised the legal Muslim marriage age to 18 in his state, but younger couples can still apply for marriage if they meet very strict guidelines.[258] Five other state governments agreed, at least in principle, that the minimum age should be raised to 18.[259]

Malaysian authorities have taken limited steps to curb the abuse of children. In April 2017 Malaysia's parliament passed a new child sex crimes law.[260] The *Sexual Offences Against Children Act* (2017) criminalises 'grooming' of minors, includes penalties for making and possessing pornography involving people aged under 18, and involves the establishment of a special court to deal with child sexual abuse cases more quickly.[261] In 2017, the Special Court for Sexual Crimes against Children was established, the first of its kind in South-East Asia, along with a special court to hear human trafficking cases.[262] There are also specialised courts for children in Sarawak, Selangor and Johor.[263] On 12 November 2018, an arrest was made following three reports lodged against a man, making it Malaysia's first sexual grooming case.[264]

Female genital circumcision

Female circumcision is considered an Islamic cultural practice and is widely practiced across Malaysia despite international criticism of the practice. Malaysia's National Council of Islamic Religious Affairs issued a *fatwa* in 2009 that ruled female circumcision obligatory for Muslim women

[252] 'Child Marriages in Malaysia: Reality, Resistance and Recourse', Penang Institute, 10 July 2017, CXC90406624846
[253] 'Child Marriages in Malaysia Reality, Resistance and Recourse', Penang Institute, 10 July 2017, CXC90406624846
[254] 'United States Commission on International Religious Freedom Annual Report 2019', United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.214, 20190508143726
[255] 'World Report 2020. Events of 2019', Human Rights Watch (HRW), 14 January 2020, p.371, 20200115082903
[256] 'Malaysia passes child sex crimes law, does not ban child marriage', Reuters, 5 April 2017, CXC90406611583; 'Child Marriages in Malaysia Reality, Resistance and Recourse', Penang Institute, 10 July 2017, CXC90406624846
[257] 'United States Commission on International Religious Freedom Annual Report 2019', United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.214, 20190508143726
[258] 'United States Commission on International Religious Freedom Annual Report 2019', United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.214, 20190508143726
[259] 'United States Commission on International Religious Freedom Annual Report 2019', United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.214, 20190508143726; 'Malaysia still missing firm plan to end child marriage, says Sisters In Islam', Malay Mail, 11 June 2020, 20200623153636
[260] 'Malaysia passes child sex crimes law, does not ban child marriage', Reuters, 5 April 2017, CXC90406611583; 'Child Marriages in Malaysia Reality, Resistance and Recourse', Penang Institute, 10 July 2017, CXC90406624846
[261] 'Malaysia passes child sex crimes law, does not ban child marriage', Reuters, 5 April 2017, CXC90406611583; "2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.28, 20200312091714
[262] 'Report of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material on her visit to Malaysia', United Nations Human Rights Council, 17 January 2019, p.9, 20190325141806
[263] 'Report of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material on her visit to Malaysia', United Nations Human Rights Council, 17 January 2019, p.9, 20190325141806
[264] 'Alleged paedophile arrested in 'first sexual grooming case in Malaysia'', Asia News Network, 13 November 2018, CXBB8A1DA38556

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unless found to be physically harmful.[265] Female circumcision is often performed during infancy and a 2012 study found that 93 per cent of Muslim women respondents had undergone the practice.[266] The law does not prohibit female genital circumcision and it is a common practice, but data on it was very limited.[267] In February 2018, representatives from Muslim-majority countries such as Bangladesh and Egypt criticised the practice as un-Islamic at the Constructive Dialogue session of the 69th session of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).[268] At Malaysia's Universal Periodic Review on human rights on 8 November 2018, a representative of the Women, Family and Community Development Ministry defended the on-going practice of the circumcision of female infants in the country as a "cultural obligation" and is performed only by medical professionals.[269]

[265] 'Malaysia Still on the Wrong Path on Women's Rights', The Diplomat, 26 February 2018, CXBB8A1DA23247; 'Malaysia's anti-FGM advocates: Leave our bodies alone', Aljazeera, 7 February 2020, 20200219095144
[266] 'Malaysia Still on the Wrong Path on Women's Rights', The Diplomat, 26 February 2018, CXBB8A1DA23247; 'Female circumcision Culture and religion in Malaysia see millions of girls undergo cut', Australian Broadcasting Corporation (News), 13 November 2018, CXBB8A1DA38323
[267] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.26, 20200312091714
[268] 'Malaysia urged to abolish female genital mutilation', The Star, 22 February 2018, CXBB8A1DA2276
[269] 'Women's ministry defends infant female circumcision at UN human rights review', Malaysiakini, 9 November 2018, CXBB8A1DA38229; '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.27, 20200312091714

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Common Claims

Malaysia

Country of Origin Information Services Section (COISS)

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Governance

Parliament

Malaysia is a constitutional monarchy in which executive power is vested in the prime minister and cabinet. The monarch is elected for five-year terms by fellow hereditary rulers from 9 of Malaysia's 13 states.[1] The role of the king is largely ceremonial, though he retains the power to approve the prime minister.[2] Executive power lies with the prime minister and the cabinet.[3] The upper house of the bicameral Parliament, the Senate, or Dewan Negara, consists of 44 members appointed by the king and 26 members elected by the 13 state legislatures, serving three-year terms.[4] The House of Representatives, or Dewan Rakyat, has 222 seats filled through regular elections.[5]

2020 Political Crisis

The United Malays National Organisation is the dominant party within the ruling Perikatan Nasional coalition. The United Malays National Organisation (UMNO) had been the dominant party within the former Barisan Nasional (BN) ruling coalition since independence in 1957, but lost the 2018 general election to the Pakatan Harapan (PN) coalition.[6] The former UMNO-led government had a history of maintaining power by manipulating electoral districts, appealing to ethnic nationalism, and suppressing criticism through restrictive speech laws and politicised prosecutions of opposition leaders.[7] In September 2019, UMNO signed a cooperation pact with right-wing Parti Islam Se Malaysia (PAS), laying the groundwork for an opposition bloc based on ethnic Malay and Islamist interests.[8] In February 2020, the Pakatan Harapan coalition collapsed after Mahathir Mohamad resigned as prime minister in protest over political manoeuvring by some members within the Pakatan Harapan coalition, and opposition members from PAS and UMNO.[9] In recent months, parties have continued to formalise their alliances with the prospect of an earlier than scheduled general election.[10] Most recently, Prime Minster Muhyiddin passed a key test of his leadership by winning enough support in parliament for his 2021 budget – a vote akin to a vote of confidence.[11] Shortly after the budget test, the Prime Minster Muhyiddin announced that "when COVID-19 is over, we will hold a general election".[12]

COVID-19

Malaysia is experiencing a third wave of covid-19 which is restricting social, cultural and economic activities. Many states in Malaysia remain under 'recovery' or 'conditional' movement

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[1] 'Freedom in the World 2020 – Malaysia', Freedom House, 4 March 2020, A1, 20200417153315
[2] 'Freedom in the World 2020 – Malaysia', Freedom House, 4 March 2020, A1, 20200417153315
[3] 'BTI 2020 Country Report Malaysia', Bertelsmann Stiftung, 29 April 2020, p.4, 20200429144341
[4] 'Freedom in the World 2020 – Malaysia', Freedom House, 4 March 2020, A1, 20200417153315
[5] 'Freedom in the World 2020 – Malaysia', Freedom House, 4 March 2020, A1, 20200417153315
[6] 'BTI 2020 Country Report Malaysia', Bertelsmann Stiftung, 29 April 2020, pp.3-4, 20200429144341
[7] 'Freedom in the World 2020 – Malaysia', Freedom House, 4 March 2020, Overview, 20200417153315
[8] 'Freedom in the World 2020 – Malaysia', Freedom House, 4 March 2020, Key Developments in 2019, 20200417153315
[9] 'Inside story behind Malaysia's political meltdown', Asia Times, 25 February 2020, 20200226115540
[10] 'PAS backs Bersatu entry into Muafakat, says will create 'Melayu Raya' caucus', Malay Mail, 17 August 2020, 20200818091632; 'UMNO and PAS welcome PM Muhyiddin's Bersatu into Muafakat Nasional coalition', Channel News Asia, 17 August 2020, 20200818092728; 'Mahathir's new party setting out to be kingmaker in next polls', The Straits Times, 14 August 2020, 20200814093925; 'What we know about former Malaysian PM Mahathir's new political party so far', Channel News Asia, 13 August 2020, 20200818092937; 'Mahathir calls new political party Fighters of the Nation', The Straits Times, 13 August 2020, 20200813141136; 'Muhyiddin's Bersatu hit by defections to Mahathir's new party', The Straits Times, 10 August 2020, 20200810104905; 'Mahathir's Pejuang submits application to register as new political party', The Straits Times, 20 August 2020, 20200820104740; 'Muhyiddin's Bersatu to hold internal polls amid challenges', The Straits Times, 20 August 2020, 20200820111352
[11] 'Malaysia Leader Wins Budget Vote, Passes Key Leadership Test', Bloomberg, 26 November 2020, 20201127073546; 'Malaysian PM Muhyiddin triumphs at budget vote but more challenges lie ahead', The Straits Times, 27 November 2020, 20201127112813
[12] 'Malaysia will hold elections after coronavirus crisis is over: PM', Aljazeera, 28 November 2020, 20201130094536

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control orders which limit international travel and social and cultural activities but permit most economic activities.[13] In some circumstances, 'enhanced' movement control orders similar to a lockdown are implemented for short periods in virus hotspots to control outbreaks.[14] Individuals who breach Malaysia's quarantine order are liable for fines and imprisonment.[15]

Malaysia has a robust healthcare system and welfare to manage COVID-19. Malaysia's response to the pandemic has been recognised globally for its effectiveness.[16] Malaysia has relatively well-developed healthcare and social protection systems.[17] The Malaysian government has implemented a number of stimulus and welfare measures in response to the economic and social impacts of COVID-19.[18] Additional welfare support for vulnerable low income persons is included in the proposed 2021 federal budget.[19]

The effectiveness of the government's response to COVID-19 differs in some parts of the country. Unrestricted campaigning in the recent Sabah state election caused Malaysia's largest spike in COVID-19 cases which the government has yet to effectively control.[20] In Sabah and elsewhere in Malaysia, undocumented migrant workers and stateless residents may evade authorities and medical workers for fear of being detained making COVID-19 outbreaks difficult to control.[21] Adding to this complication, Sabah's healthcare system receives less funding compared to Peninsular Malaysia.[22]

Also see Social Protection

Ethnicity

Malaysia's population is ethnically split into two categories namely Bumiputera and non-Bumiputera (indigenous and non-indigenous). Malaysia's Bumiputera (sons of the soil) account for more than 60 percent of county's population, and are comprised of Malays and other indigenous groups, including the Orang Asli, Dayak, and Anak Negeril amongst others.[23] Chinese and Indian Malaysians constitute the country's largest non-Bumiputera population, accounting for approximately 20 and 6 percent respectively.[24]

Malaysia's constitution affords special privileges to Bumiputera effectively discriminating against non-Bumiputera. Malaysia's Constitution affords special privileges to Bumiputera which has given rise to the creation of affirmative action policies that benefit Bumiputera, including economic

[13] 'Weekly Southeast Asia Covid-19 Tracker Update: November 12, 2020', Center for Strategic and International Studies, 12 November 2020, 20201120150105; 'State-wide CMCO imposed in K'tan; lifted in Kedah, T'ganu, Johor, Malacca', Malaysiakini, 20 November 2020, 20201124121902; 'CMCO in most states from Nov 9 to Dec 6', Malaysiakini, 7 November 2020, 20201124123248; 'More states need CMCO to prevent what happened in S'gor, N9', Malaysiakini, 9 November 2020, 20201124124429
[14] 'EMCO for Salak Tinggi, Sepang from Thursday', Malaysiakini, 11 November 2020, 20201124123952
[15] 'CORONA VIRUS – The situation in Malaysia', 12 November 2020, Flanders Investment & Trade, 20201124134653; 'Malaysia jails Indian man linked to fresh coronavirus outbreak', Reuters, 13 August 2020, 20200814095109
[16] 'WHO recognises Malaysia's health system - Noor Hisham', Bernama, 5 September 2020, ; 'The Malaysian response to COVID-19: building preparedness for 'surge capacity', testing efficiency and containment', European Pharmaceutical Review, 4 August 2020, 20200806114854; 'Najib verdict complicates Malaysia's game of thrones', East Asia Forum, 2 August 2020, 20200804095619
[17] 'A Guide to Social Protection in Malaysia', The Centre, 19 October 2019, 20200512115042; 'Healthcare Costs in Malaysia', The Centre, 28 October 2019, 20200512121033; 'National Health Insurance', The Centre, 6 November 2019, 20200512120852
[18] 'Some Malaysians relieved they can now dip into retirement funds, others pledge prudence', Channel News Asia, 24 November 2020, 20201124170213; 'Lessons from a Pandemic: Social Protection for a New Normal', The Centre, 28 March 2020, 20200512115328
[19] 'Govt's concern for vulnerable groups led to increase in allowance', Bernama, 12 November 2020, 20201126082317
[20] 'Weekly Southeast Asia Covid-19 Tracker Update: November 12, 2020', Center for Strategic and International Studies, 12 November 2020, 20201120150105,
[21] 'In Malaysia's Sabah, COVID-19 pandemic rages as migrants flee testing', Channel News Asia, 23 November 2020, 20201124074002; 'In Malaysia's Sabah, Covid-19 pandemic rages as migrants flee testing', Malay Mail, 23 November 2020, 20201124091800; 'End Abusive Immigration Detention', Human Rights Watch, 20 November 2020, 20201124081319; 'Urban Mixed Migration - Kuala Lumpur case study', Mixed Migration Centre, 12 November 2020, 20201124115620
[22] 'COVID-19 surge creates new headache for beleaguered PM Muhyiddin', Aljazzera, 6 November 2020, 20201130142311
[23] 'The World Factbook Malaysia', Central Intelligence Agency, 1 April 2020, 20200403111705
[24] 'The World Factbook Malaysia', Central Intelligence Agency, 1 April 2020, 20200403111705

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programs to boost the economic position of Bumiputera.[25] There is discontent over Bumiputera polices amongst the non-Bumiputera Chinese and Indians ethnic groups.[26] The reformist former Pakatan Harapan government encountered significant headwinds from opposition Bumiputera political parties such as UMNO and PAS when attempting to implement reforms portrayed by the opposition to disadvantage Malays rather than promote equality amongst Malaysians.[27]

Religion

Religious freedom

Malaysia largely respects religious freedom. The Constitution states that 'every person has the right to profess and practice his religion,' but gives federal and state governments the power to control or restrict proselytization to Muslims.[28] The law does not restrict the rights of non-Muslims to change their religious beliefs and affiliation.[29] The Constitution defines Malays as Muslim from birth.[30] Almost 20 percent of Malaysia's population are Buddhist, approximately 9 percent are Christian, over 6 percent are Hindu, and there are small populations of Confucians, Taoists, and other traditional Chinese religions.[31] Members of all minority faiths are allowed to proselytise amongst their minority communities.[32]

Islam

Malaysia's official interpretation of Islam is Sunni. A 1996 fatwa supported by state laws requires the country to follow only Sunni teachings of the Shafi'i school and prohibits Muslims from possessing, publishing, or distributing material contrary to those teachings.[33] Those differing from the official interpretation of Islam can face adverse government action, including mandatory rehabilitation in centres that teach and enforce government-approved Islamic practices.[34] Federal and state governments consider several non-Sunni Islamic groups deviant, including Shia, Ahmadiyya, and Al-

[25] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, pp.30-31, 20200312091714; 'BTI 2020 Country Report Malaysia', Bertelsmann Stiftung, 29 April 2020, pp.4-5, 23, 29-30, 34, 20200429144341
[26] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, pp.30-31, 20200312091714; 'BTI 2020 Country Report Malaysia', Bertelsmann Stiftung, 29 April 2020, p.34, 20200429144341
[27] 'Can New Malaysia Move Beyond Old Race Divides?', Jha, P, The Diplomat, 14 August 2019, 20200516163339; 'Malaysia's 'Malay First' Malaise', Nair, C., The Diplomat, 4 March 2020, 20200516165042; 'Analysing Malaysia's Refusal to Ratify the ICERD', Anuar, K K, Oxford Human Rights Hub, 7 January 2019, 20200516164408; 'Malaysia's dangerous racial and religious trajectory', Interpreter, The (Lowy Institute for International Policy), 24 September 2019, 20191021164421'The LGBT Quandary in New Malaysia', Tan, H B, Australian Journal of Asian Law, volume 20, number 1, article 15, November 2019, p.7, 20200522113725
[28] '2019 Report on International Religious Freedom: Malaysia', US Department of State, 10 June 2020, section II, 20200612122612; 'Federal Constitution', Government of Malaysia, introduced 31 August 1957, amended 27 December 2007, reprinted 1 November 2010, The Commissioner of Law Revision, Article 3, CISDCDCAAB1747
[29] '2019 Report on International Religious Freedom: Malaysia', US Department of State, 10 June 2020, section II, 20200612122612
[30] '2019 Report on International Religious Freedom: Malaysia', US Department of State, 10 June 2020, section II, 20200612122612; 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634
[31] 'The World Factbook Malaysia', Central Intelligence Agency, 1 April 2020, 20200403111705
[32] 'United States Commission on International Religious Freedom Annual Report 2019', United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.211, 20190508143726
[33] '2019 Report on International Religious Freedom: Malaysia', US Department of State, 10 June 2020, section II, 20200612122612
[34] '2019 Report on International Religious Freedom: Malaysia', US Department of State, 10 June 2020, section II, 20200612122612

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Arqam.[35] The Constitution grants state and federal government officials the authority to forbid proselytising to Sunni Muslims but Sunni Muslims are free to proselytise unimpeded.[36]

Religious adherence

Apostasy is a crime under syariah law in some states. Muslims who seek to leave Islam or convert to another religion must first obtain approval from a syariah court to declare themselves apostates.[37] Syariah courts seldom grant such requests, especially for those born a Muslim, and are reluctant to allow conversion for those who had previously converted to Islam.[38] For those who are born Muslim (Malays) and identify as non-religious, there is the risk of criminal prosecution for apostasy.[39] At least six states – Perak, Melaka, Sabah, Pahang, Kelantan, and Terengganu – criminalise apostasy with fines, imprisonment, and/or detention in a rehabilitation centre.[40] While not enforced, the maximum penalty for apostasy in Kelantan and Terengganu is death.[41]

Atheism is not illegal. In 2017, the Malaysian federal government determined atheism to be unconstitutional.[42] Muslims are generally not prosecuted for disbelief.[43] Some atheists maintain a low-profile in society and are known to socialise with likeminded people.[44] Some Muslims make no attempt to hide their atheism from society.[45]

Non-Muslims must convert to Islam when marrying a Muslim. There are two primary statutes in Malaysia for marriage, the secular Law Reform (Marriage and Divorce) Act (1976) and the Islamic Family Law Act (Federal Territories) (1984).[46] Legally, a non-Muslim must convert to Islam to marry a Muslim.[47] Malaysian authorities do not recognise marriages between Muslims and non-Muslims and consider children born of such marriages illegitimate.[48] The legal age of children to marry varies in each state between Muslims and non-Muslims, with a lower age and fewer protections for Muslim children.[49] Some Sunni and Shia Muslims intermarry and have family members that practice either form of Islam.[50]

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[35] '2019 Report on International Religious Freedom: Malaysia', US Department of State, 10 June 2020, section II, 20200612122612; 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.76, 20200429103634
[36] 'United States Commission on International Religious Freedom Annual Report 2019', United States Commission on International Religious Freedom (USCIRF), 29 April 2019, pp.211-212, 20190508143726
[37] '2019 Report on International Religious Freedom: Malaysia', US Department of State, 10 June 2020, section II, 20200612122612
[38] '2019 Report on International Religious Freedom: Malaysia', US Department of State, 10 June 2020, section II, 20200612122612
[39] 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634
[40] ''USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634
[41] 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634
[42] 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634
[43] 'Intolerance Rising: Atheists at Risk in Malaysia', The Diplomat, 22 August 2017, CXC90406612572
[44] 'Intolerance Rising: Atheists at Risk in Malaysia, The Diplomat, 22 August 2017, CXC90406612572
[45] 'Moderation under threat as Malaysia faces Islamic tide, The Australian, 17 August 2017, CXC90406620453
[46] 'Law Reform (Marriage and Divorce) Act (164) 1976', Federal Government of Malaysia, 6 March 1976, (amendments to 1 January 2006), the Commissioner of Law Reform, CISBE8E6BE702; 'Islamic Family Law Act (Federal Territories) Act (303) 1984', Federal Government of Malaysia, 27 June 1984, amendments to 1 January 2006, the Commissioner of Law Reform, CIS883493140
[47] 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634
[48] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.10, 20200312091714
[49] 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634
[50] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.45, p.27, 20191213141745

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Ahmadi Muslims

Ahmadi Muslims are generally able to worship within the confines of their own worship centres. In 1975, the Selangor Fatwa Council decreed that Ahmadis were not Muslim.[51] In July 2018, the High Court in Selangor state ruled that religious authorities do not have jurisdiction over the Ahmadi community because they are not recognised as Muslims, but state religious authorities have appealed the decision.[52] Ahmadi community leaders expressed optimism about the ruling, viewing it a form of protection of their freedom to worship without harassment by state Islamic authorities.[53] Ahmadi Muslims have reported generally being able to maintain a worship centre but government religious authorities forbid them from holding Friday prayers stating that they could only be performed in an officially registered mosque.[54] In August 2020, the Court of Appeal remitted to the High Court to decide whether Ahmadi persons are Muslims or otherwise, a decision that will determine whether syariah courts have jurisdiction over Ahmadis.[55]

Shia Muslims

Shia Muslims face official discrimination. In 1996, the Fatwa Committee for Religious Affairs issued a fatwa prohibiting the proselytism, promulgation, and professing of Shia Islam, which 11 of 13 states adopted.[56] Sunni imams regularly denounce Shia in their sermons.[57] In September 2019, authorities detained and later released some Shia Muslims commemorating Ashura.[58] In September 2018, 50 Shia were arrested in Kelantan for practicing their religion.[59] Reportedly, the Shia followers had been conducting their activities on the same premises for several years.[60] Despite barriers to their worship, most Shia Muslims live free from discrimination and violence on a day-to-day basis.[61]

Forced conversion

The indigenous Orang Asli community are vulnerable to forced religious conversion. Orang Asli account for approximately half of a percent of Malaysia's population and are one of the most traditional but also vulnerable groups in society.[62] Although Orang Asli are traditionally animist, a number of Orang Asli have become either Muslim or Christian, or embraced religions such as Buddhism and Taoism due to intermarriage.[63] In 2019, state religious authorities from Perak

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[51] 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634
[52] 'High Court tells Selangor Islamic Sharia enforcers to keep hands off Ahmadis', Malay Mail, 6 July 2018, 20191004090848; '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section II, pp.12-13, 20190625160543
[53] '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section II, p.12, 20190625160543
[54] '2019 Report on International Religious Freedom: Malaysia', US Department of State, 10 June 2020, section II, 20200612122612
[55] 'Court orders trial judge to determine religious status of 39 Ahmadiyya followers', Free Malaysia Today, 27 August 2020, 20201125103852
[56] 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634
[57] 'Malaysia detains dozens of minority Shia Muslims sparking fears of a crackdown', Agence France-Presse, 11 September 2019, 20201125110041
[58] 'Human Rights in Asia-Pacific: Review of 2019', Amnesty International, 29 January 2020, p.34, 20200130115738; 'World Report 2020. Events of 2019: Malaysia', Human Rights Watch (HRW), 14 January 2020, 20201120142201; 'Shiite detentions in Malaysia fuel fears of crackdown', Agence France Presse (AFP) - France, 25 November 2019, 20191128094242; 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634
[59] 'World Report 2019', Human Rights Watch, 17 January 2019, p.369, 20190118091502
[60] '50 suspected Syiah followers detained in Kota Baru', New Straits Times, 31 August 2018, 20190125145959
[61] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.50, p.28, 20191213141745
[62] 'Malaysia's indigenous tribes fight for ancestral land and rights in a modern world', Channel News Asia, 1 September 2019, 20200403171142; 'Malaysia's indigenous people protest forced conversions', UCA News, 10 July 2019, 20200403170642; 'The World Factbook Malaysia', Central Intelligence Agency, 1 April 2020, 20200403111705
[63] 'Malaysia's indigenous tribes fight for ancestral land and rights in a modern world', Channel News Asia, 1 September 2019, 20200403171142; The World Factbook Malaysia', Central Intelligence Agency, 1 April 2020, 20200403111705

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reportedly registered some Orang Asli as Muslim in their identification cards despite them not converting.[64] Subsequently, Kelantan state religious authorities announced plans to convert Orang Asli to Islam by 2049.[65] Concerned members of the Orang Asli community have expressed their grievances to the federal government about local coercive practices involving Muslim and Christian preachers being sent to their communities to proselytise them.[66]

Christians

Christians practice freely and generally do not experience discrimination. Christians comprise approximately 9.2 per cent of the religious population and two-thirds of the Christian population reside in the East Malaysian states of Sabah and Sarawak.[67] There is a ban against non-Muslims using approximately 31 words, including "Allah", under the pretence of protecting public order that affects Christians.[68] Authorities and societal actors often use exaggerated fears of "Christianisation" for political purposes to motivate support from Muslim communities and escalate tensions between majority and minority groups.[69] Christian leaders have spoken out against tactics by UMNO and PAS that portray Christianity as a threat to the Muslim majority.[70] Malaysian Christians are usually able to practise their religion without interference.[71]

Buddhists and Hindus

Buddhists and Hindus generally practice their religion without interference. Buddhists represent the second largest religion in Malaysia accounting for almost 20 per cent of the religious population.[72] Hindus account for just over six per cent of the religious population.[73] Federal and state governments have supported the building of Hindu or Buddhist places of worship throughout Malaysia.[74] Members of faith communities report that Buddhist temples are restricted from building higher than local mosques and that Sikh Gurdwaras are prevented from building domes, since domes are associated with Islamic architecture.[75]

Inter-ethnic marriage

Inter-ethnic marriages occurs amongst non-Muslims. Malaysian law does not restrict the rights of non-Muslims to marry.[76] Conversion sometimes takes place due to marriage, with one partner

[64] 'Malaysia's indigenous tribes fight for ancestral land and rights in a modern world', Channel News Asia, 1 September 2019, 20200403171142
[65] 'Human Rights in Asia-Pacific: Review of 2019', Amnesty International, 29 January 2020, p.34, 20200130115738; 'Malaysia's indigenous tribes fight for ancestral land and rights in a modern world', Channel News Asia, 1 September 2019, 20200403171142
[66] 'Malaysia's indigenous people protest forced conversions', UCA News, 10 July 2019, 20200403170642
[67] '2019 Report on International Religious Freedom: Malaysia', US Department of State, 10 June 2020, section I, 20200612122612; 'The World Factbook Malaysia', Central Intelligence Agency, 1 April 2020, 20200403111705
[68] 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634
[69] 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, pp.77, 20200429103634
[70] 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634
[71] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.62, p.30, 20191213141745
[72] '2019 Report on International Religious Freedom: Malaysia', US Department of State, 10 June 2020, section I, 20200612122612
[73] '2019 Report on International Religious Freedom: Malaysia', US Department of State, 10 June 2020, section I, 20200612122612
[74] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.64, p.30, 20191213141745
[75] 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634
[76] 'Registration of Marriage For Non-Muslim', National Registration Department – Ministry of Home Affairs, n.d., accessed 10 August 2017, CISEDB50AD5251

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choosing to convert or both partners choosing to adopt a new faith; however, this is not compulsory.[77] Malaysian law does not restrict the rights of people from different ethnic groups to marry,[78] although as Malaysian law considers all Malays to be Muslim, a non-Muslim of another ethnicity intending to marry a Malay must convert for the marriage to be legitimate.[79] Individuals in a mixed marriage sometimes face pressure or stigma from within their family, friends or community, while couples of different ethnicities may also encounter racism.[80]

Particular social groups

Lesbian, Gay, Bisexual, Transgender, Intersex (LGBTI)

Malaysian secular law criminalises same-sex sexual acts but in practice the law is rarely invoked. A former British colony, Malaysia has retained its colonial-era law against sodomy.[81] Malaysia's Penal Code criminalises sodomy (homosexual) and oral sex (homosexual and heterosexual) acts, but authorities rarely enforce the law.[82] Secular law that criminalizes male-male sexual acts has been extended to female-female acts.[83] Sodomy laws have only been invoked seven times since 1938, four of those instances against former Deputy Prime Ministry Anwar Ibrahim.[84] International observers and human rights organisations viewed sodomy charges against Anwar Ibrahim as politically motivated.[85] Those found guilty under section 377A of the Penal Code for 'carnal intercourse against the order of nature' are liable for imprisonment of up to twenty years and a whipping.[86]

Islamic laws in several states prohibit same-sex sexual acts. Some Malaysian states apply their own penalties to Muslims under syariah statutes, and in several states same-sex sexual acts between Muslims are illegal and can incur jail terms and mandatory whipping.[87] In November 2019, the Selangor State syariah court sentenced five men to six to seven months in jail, six strokes of the cane,

[77] 'A M'sian union – interracial couples share their stories', Malaysiakini, 16 September 2016, CX6A26A6E16886; 'Interracial marriage as beacon of light in upholding Malaysia's unity', The Rakyat Post, 14 July 2015, CXBD6A0DE19504
[78] 'Registration of Marriage For Non-Muslim', National Registration Department – Ministry of Home Affairs, n.d. accessed 10 August 2017, CISEDB50AD5251
[79] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.24, p.23, and section 3.68, p.30, 20191213141745
[80] 'Interracial marriage as beacon of light in upholding Malaysia's diversity', The Rakyat Post, 14 July 2015, CXBD6A0DE19504; 'A M'sian union – interracial couples share their stories', Malaysiakini, 16 September 2016, CX6A26A6E16886
[81] 'Trans Legal Mapping Report: Recognition Before the Law ', International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), 30 September 2020, pp.88-89, 20201001140359; 'Anwar Ibrahim's rebirth and Malaysia's LBGT+ rights', Pursuit (University of Melbourne), 27 May 2018, CIS7B839411105
[82] 'Human Rights in Asia-Pacific: Review of 2019', Amnesty International, 29 January 2020, p.34, 20200130115738; '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.32, 20200312091714; 'Penal Code', Government of Malaysia, enacted 1936, amended 31 December 2014, sections 377A, 377B, CISEDB50AD9259
[83] 'State-Sponsored Homophobia 2017 – A World Survey of Sexual Orientation Laws: Criminalisation, Protection and 'Recognition, International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA)', 1 May 2017, p.169, CISEDB50AD4462
[84] 'Malaysia: On the Record: Violence Against Lesbians, Bisexual Women and Transgender Persons In Malaysia', International 'Gay and Lesbian Human Rights Commission', 6 May 2014, p.33, CIS2F827D91966
[85] Anwar Ibrahim's rebirth and Malaysia's LBGT+ rights, Pursuit (University of Melbourne), 27 May 2018, CIS7B839411105; 'Convictions for sodomy follow unfair trials', Amnesty International, 8 October 1998, CIS11891
[86] 'Penal Code', Government of Malaysia, enacted 1936, amended 31 December 2014, sections 377A, 377B, CISEDB50AD9259; 'Criminalisation of Homosexuality', Human Dignity Trust, 25 October 2015, CISEC96CF110372
[87] 'Trans Legal Mapping Report: Recognition Before the Law ', International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), 30 September 2020, pp.88-89, 20201001140359; 'Criminalisation of Homosexuality', Human Dignity Trust, 25 October 2015, CISEC96CF110372; 'Human Rights in Asia-Pacific: Review of 2019', Amnesty International, 29 January 2020, p.34, 20200130115738; '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.32, 20200312091714

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and 4,800-4,900 ringit in fines for attempting to have intercourse against the order of nature.[88] In May 2020, the Federal Court allowed one of the individuals arrested in Selangor leave to challenge charges brought against him under the Syariah Criminal Offences (Selangor Enactment (1995) for 'attempting to commit' sexual 'intercourse against the order of nature' – a charge that is also an offense under the country's Penal Code.[89] The case will challenge state Islamic law's jurisdiction over criminal law, and could be significant if won given that civil law is seldom used to prosecute against the offense, except in cases that are politically motivated.[90] The caning of women is banned under civil law, but allowed under Islamic laws in some states.[91] In October 2018, Terengganu state was the first state in Malaysia to cane two LGBTI Muslim women under syariah law for musahaqah (attempting to have lesbian sex).[92]

Also see 'Syariah law'

Segments of the Malaysian government and society oppose gender equality considering LGBTI lifestyles inconsistent with Islam. Religious and cultural taboos against same-sexual conduct are widespread.[93] Drawing on Gallup data, the 2019 Legatum Prosperity Index shows that Malaysia ranks 159th out of 167 countries for its 'perceived tolerance of LGBT individuals', equating to its lowest ranking since 2009.[94] The 2019 ranking shows a sharp decline compared with 2018 when tolerance of LGBT ranked 82nd.[95] The results of a 2013 global survey on the acceptance of homosexuality found that an 'overwhelming majority' of Muslim countries, including 86 per cent of persons surveyed in Malaysia, reject homosexuality.[96] Former Prime Minister Mahathir publically acknowledged that the Pakatan Harapan government did not support LGBT unions, which it see as an element of human rights in Western society rather than aligning with Malaysian values.[97]

Malaysia's LGBTI community experience discrimination in some spheres of society. LGBTI individuals face a moderate risk of official and societal discrimination.[98] LGBTI persons report discrimination in employment, housing, and access to some government services because of their sexuality.[99] The appointment of a transgender representative to the federal Ministry of Health's Country Coordinating Mechanism, a committee supported by the Global Fund to Fight AIDS, Tuberculosis and Malaria was criticised by a representative of the of Parti Islam Se Malaysia (PAS) who said the committee's representative should be an "ex-transgender" person who had "gone through a positive phase and returned to [the original path]," adding that the "promotion of gender

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[88] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.32, 20200312091714
[89] 'Federal Court allows challenge to Syariah jurisdiction on unnatural sex', Malaysiakini, 27 May 2020, 20200527121016
[90] 'Selangor man accused of unnatural sex loses bid to remain anonymous', New Straits Times, 6 October 2020, 20201127143551; 'Malaysian wins landmark right to challenge Muslim gay sex ban', Reuters, 27 May 2020, 20200528110133; 'Federal Court allows challenge to Syariah jurisdiction on unnatural sex', Malaysiakini, 27 May 2020, 20200527121016; 'Man gets Federal Court's nod to proceed with challenge of Selangor's Shariah law criminalising unnatural sex', Malay Mail, 27 May 2020, 20200528095926; Anwar Ibrahim's rebirth and Malaysia's LBGT+ rights, Pursuit (University of Melbourne), 27 May 2018, CIS7B839411105; 'Convictions for sodomy follow unfair trials', Amnesty International, 8 October 1998, CIS11891
[91] 'Two Malaysian Muslim women caned in public for attempting to have sex in car', Australian Broadcasting Corporation News (ABC News), 4 September 2018, CXBB8A1DA39062; 'State-Sponsored Homophobia 2019', Mendos, L R., International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), 20 March 2019, p.450, 20190327100813
[92] 'How public caning is performed in Terengganu', Malaysiakini, 5 September 2018, CXBB8A1DA34939
'Two Malaysian women caned for lesbian sex', Agence France Presse, 4 September 2018, CXBB8A1DA34672
[93] 'Human Rights in Asia-Pacific: Review of 2019', Amnesty International, 29 January 2020, p.34, 20200130115738; '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.32, 20200312091714
[94] '2019 Legatum Prosperity Index', Legatum Institute, 25 November 2019, 20191206104103
[95] 'Study: In post-GE14 Malaysia, more person freedom but tolerance took a dive', Malay Mail, 27 November 2019, 20191206095708
[96] 'The Global Divide on Homosexuality: Greater Acceptance in More Secular and Affluent Countries', Pew Research Center, 4 June 2013, p.3, CIS26344
[97] 'PM slams West for erosion of values, same-sex marriage', Malaysiakini, 22 November 2019, 20191206082228; 'Mahathir Malaysia cannot accept same-sex marriage', Reuters, 22 September 2018, CXBB8A1DA35827; 'Don't force' LGBT rights on Malaysia, Mahathir says', Agence France Presse, 25 October 2018, CXBB8A1DA37446; 'World Report 2020. Events of 2019: Malaysia', Human Rights Watch (HRW), 14 January 2020, 20201120142201
[98] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.141, p.46, 20191213141745; 'Suaram's Human Rights Overview Report on Malaysia 2019', Suara Rakyat Malaysia (SUARAM), 9 December 2019, pp.32-34, 20200116163323
[99] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.33, 20200312091714

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equality is not the culture here in Malaysia. We support the stand made by deputy Prime Minister Datuk Seri Dr Wan Azizah, who has objected to the LGBT agenda and urged any agenda for the normalisation of LGBT to stop because it contradicts our religion and constitution."[100] Malaysia's Islamic authorities have published materials and conducted outreach activities encouraging Muslim LGBTI persons to undergo sexuality rehabilitation.[101] The outreach program, a three-day camp held eight times each year, has been criticised by the Malaysian Aids Council as having become a place where LGBTI are being "converted" to the "right path" instead of its original intent of to "provide a safe, non-judgmental space" to the transgender community.[102]

Transgender individuals experience discrimination and occasional violence. Authorities often charge transgender persons for cross-dressing with "indecent behaviour" and also for "importuning for immoral purposes" in public, and those convicted are liable for a fine of 25 ringit and potentially a prison sentence of up to 14 days.[103] Justice for Sisters (JFS), an advocacy group for the LGBTI community, said it has experienced difficulty obtaining legal representation for its clients who were charged under anti-crossdressing state Islamic laws.[104] Local advocates contend that imprisoned transgender women served their sentences in prisons designated for men and that police and inmates often abused them verbally and sexually.[105] Transgender people may face discrimination in many facets of society, including education, employment, healthcare, and housing.[106] Transgender individuals may face discrimination in public healthcare facilities, including undergoing forcible HIV/AIDS testing or being housed in male wards where they can be exposed to violence and abuse.[107] NGO Justice for Sisters report that between 2014 and 2019 there have been 10 known cases of transgender murders, but note that some murders are unlikely reported.[108] A 2018 survey by a local transgender rights group reported more than two-thirds of transgender women experienced some form of physical or emotional abuse.[109] In July 2020, the Religious Affairs Minister called for the arrest and "education" of transgender people in Malaysia.[110]

Numerous organisations and groups support the LGBTI community and advocate for gender equality. Mainstream Christian churches and the Malaysian Consultative Council of Buddhism, Christianity, Hinduism, Sikhism and Taoism have also spoken out against discrimination and violence

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[100] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.32, 20200312091714

[101] 'Malaysian authorities release video claiming homosexuality can be 'cured'', Gay Community News (GCN), 18 December 2019, 20191220100405; 'Jakim issues e-book on LGBT rehab; minister says phenomenon 'under control'', Malay Mail, 24 October 2018, CXBB8A1DA37286; 'New M'sia should find 'right path' on LGBT rights, Malaysiakini, 7 August 2018, CXBB8A1DA39089; 'Malaysia Should Find 'Right Path' on LGBT Rights', Human Rights Watch, 7 August 2018, 20190206102849

[102] 'AIDS council slams Jakim's 'conversion therapy' for LGBTs', Free Malaysia Today, 24 December 2018, 20190125114340

[103] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.32, 20200312091714; 'Public Opinion of Transgender Rights in Malaysia', Luhur, W., Brown, T N T., Goh, J N, Wiliams Institute, 8 September 2020, p.1, 20201117102545; 'Trans Legal Mapping Report: Recognition Before the Law ', International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), 30 September 2020, pp.88-89, 20201001140359

[104] 'Why Muslims accused of Shariah offences lack access to justice', Malay Mail, 8 October 2018, 20190606092708

[105] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.32, 20200312091714; 'Is There Room for Transgender Rights in the 'New Malaysia'?', The Diplomat, 4 April 2019, 20201117103608

[106] 'Study on Discrimination Against Transgender Persons Based in Kuala Lumpur and Selangor', Human Rights Commission of Malaysia (SUHAKAM), 19 July 2019, pp.3-6, 20201117101357

[107] 'Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Addendum: Visit to Malaysia (19 November–2 December 2014)', United Nations Human Rights Council, May 2015, p.16, CISEC96CF14228; 'How life is tough for transgenders in conservative Malaysia, who face violence, religious and official bias, and abusive me', South China Morning Post, 15 November 2017, CXC90406617584; 'Submission by Human Rights Watch to the United Nations Committee on the Elimination of Discrimination against Women 69th pre-sessional working group', Human Rights Watch, May 2017, CISEDB50AD4317; 'Transgender women in Malaysia, in the context of HIV and Islam: a qualitative study of stakeholders' perceptions', Barmania, S, Aljunid S M, BMC International Health and Human Rights, article 30, 20200424150731

[108] 'Gov't must curb increasing violence against transgenders', Malaysiakini, 20 November 2019, 20191206075644; NGOs raise alarm over yet another murder of a transgender woman', Free Malaysia Today, 3 January 2019, 20190125100210; 'Klang Transgender Dies From Cracked Skull After Brutal Assault By Men', SAYS, 14 December 2018, 20190125120728

[109] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.32, 20200312091714

[110] 'Trans Legal Mapping Report: Recognition Before the Law ', International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), 30 September 2020, p.89, 20201001140359

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towards gay and lesbian people.[111] Leadership Program for Gays (LPG) provides a network for LGBTI business people and organises group activities such as gatherings and sports events.[112] PLUPenang is an LGBTI organisation dedicated to supporting and fostering friendships amongst LGBTI members, and arranges recreational events and provides a safe space for LGBT people to express themselves.[113] Pertubuhan Kebajkan dan Persekitaran Positif Malaysia (SEED) is an officially registered community organisation that provides support services, including a drop-in centre, primarily for the transgender community.[114] Justice for Sisters is a campaign organised to raise public awareness about issues pertaining to transgender individuals and raise funds to finance court cases against transgender individuals in syariah courts.[115] The PT Foundation provides support to the LGBTI community, including those affected with HIV/AIDS, offering services such as healthcare and drop-in services, and offers seminars, operates a telephone counselling line and offers outreach programmes at third-party venues.[116] Seksualiti Merdeka advocates for LGBTI rights and supports Malaysians who have been marginalised because of their sexual orientation and gender identity.[117]

Women

Malaysian society is patriarchal. Women are active in all areas of society, but cultural and social barriers limit their levels of participation.[118] Moreover, there is a lack of resources available to women to assist them re-entering the workforce after childbirth.[119] Malaysia has the lowest rate of women's workforce participation in Southeast Asia.[120] Although there has been an increase in labour force participation by women over the last decade, wages for women do not equate to those of men for similar work.[121] The 2020 Global Gender Gap Report ranked Malaysia at 104 out of 153 countries representing a decline from previous years.[122] Economic participation and opportunity as well as political empowerment for women are below parity in Malaysia.[123]

Women's representation in politics increased during the Pakatan Harapan government but has diminished in the current Perikatan Nasional government. The Pakatan Harapan government included more women and minority representatives in more positions of power.[124] Between 2011 and 2017, approximately 10 percent of seats in parliament were held by women.[125] During Pakatan Harapan rule, 13.9 and 22.1 percent of the lower and upper house seats were occupied by women respectively,[126] and Azizah Ismail, wife of Mr Anwar, became the country's first female deputy prime

[111] 'LGBT Organisations in Malaysia', Angloinfo Malaysia, n.d., accessed 29 June 2018, CISEDB50AD3776; 'Beauty and the Beast censorship attempt shows the good, the bad and the ugly of LGBT rights in Malaysia', The Conversation, 29 March 2017, CXC9040667196
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[113] 'PLUPenang website', PLUPenang, n.d., accessed 23 November 2018, CIS7B8394110276
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[115] 'About Justice for Sisters', Justice for Sisters, n.d., accessed 8 November 2018, CIS7B8394110071; 'Justice for Sisters', Astraea Lesbian Foundation For Justice, n.d., accessed 8 November 2018, CIS7B8394110072
[116] 'About Us PT Foundation', PT Foundation, n.d., accessed 8 November 2018, CIS7B8394110073
[117] 'Seksualiti Merdeka Facebook page', Facebook, n.d., accessed 23 November 2018, CIS7B8394110278
[118] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.118, p.41, 20191213141745
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[121] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.119, p.41, 20191213141745
[122] 'World Economic Forum Global Gender Gap Report 2020', World Economic Forum, 18 December 2019, p.233, 20191218105643
[123] 'World Economic Forum Global Gender Gap Report 2020', World Economic Forum, 18 December 2019, p.233, 20191218105643
[124] 'Freedom in the World 2020 – Malaysia', Freedom House, 4 March 2020, B4, 20200417153315
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[126] 'World Classification', Women in Parliament, 1 October 2018, CIS7B8394110256

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minister.[127] The current Perikatan Nasional government has been criticised for unravelling the Pakatan Harapan government's efforts to empower women leaders.[128]

Muslim women may be adversely affected by syariah law. Malaysia's Constitution prohibits discrimination based on gender and gives women equal rights to inherit, acquire, manage or dispose of property, including land.[129] However, syariah law can deviate from these constitutional principles in some areas such as Islamic inheritance law that typically favours male children and male relatives.[130] Syariah law generally requires a husband's consent for divorce, but a small and steadily increasing number of women obtain divorces under syariah without their husband's consent.[131] Although syariah law favours fathers, equal parental rights are extended to Muslim mothers in four states, Johor, Selangor, Negri Sembilan and Pahang.[132]

A 2010 amendment to Malaysia's Constitution provides equal gender rights to Malaysian parents to confer nationality to their child born abroad but the process is more cumbersome if the father is not a Malaysian citizen. Children born in Malaysia to either a Malaysian mother or father automatically acquire Malaysian citizenship.[133] Malaysia's Federal Constitution allows application for citizenship to a child born abroad to a Malaysian citizen parent and was amended in June 2010 to achieve gender equality.[134] If only the mother is a Malaysian citizen, the decision to grant citizenship is at discretion of the Federal Government.[135] In practice, there is a more arduous process to obtain citizenship for a child which can potentially take years to resolve.[136]

Social protection

Malaysia is an upper-middle income country in which absolute poverty has been largely eradicated. Malaysia recorded average annual economic growth of more than 7 per cent between 1967 and 1997, while growth in recent years has continued to exceed 5 per cent.[137] Economic growth has been inclusive, with less than 1 per cent of the population living in extreme poverty.[138] Rates of poverty are low among Malays (0.8 per cent), Chinese (0.1 per cent), and Indians (0.6 per cent), although the poverty rate is higher in rural areas than in cities.[139] Malaysian authorities have turned their attention to reducing income inequality – which remains high in comparison to other East Asian countries but is gradually declining – and addressing the well-being of the poorest 40 per cent of the population, who remain vulnerable to increases in the cost of living or economic shocks.[140] The United

[127] 'Malaysia's ruling party may be gone, but its racial policies survive', The Economist, 7 June 2018, CXBB8A1DA28917
[128] 'Women leaders collateral damage as Malaysian PM Muhyiddin secures grip on power', The Straits Times, 22 April 2020, 20200423075826; 'Group sees red as women make up only 9% of Sabah election candidates', Free Malaysia Today, 21 September 2020, 20201125115256
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[130] 'Freedom in the World 2020 – Malaysia', Freedom House, 4 March 2020, G2, 20200417153315; '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.27, 20200312091714
[131] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.27, 20200312091714
[132] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.27, 20200312091714
[133] 'Background Note on Gender Equality, Nationality Laws and Statelessness 2020', United Nations High Commissioner for Refugees (UNHCR), 14 July 2020, p.11, 20200715081230
[134] 'Report on Citizenship Law Malaysia and Singapore', Global Citizenship Observatory (CLOBALCIT), Choo Chin Loo, February 2017, p.16, CISEDB50AD7469
[135] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 13 December 2019, p.47, section 3.146, 20191213141745; 'Background Note on Gender Equality, Nationality Laws and Statelessness 2020', United Nations High Commissioner for Refugees (UNHCR), 14 July 2020, p.11, 20200715081230
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[140] 'OECD Economic Surveys – Malaysia', OECD, November 2016, p.4, CIS38A80124917; 'The World Bank in Malaysia', The World Bank, April 2017, CISEDB50AD5041

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Nations Development Programme's Human Development Index ranked Malaysia 61 out of 189 countries and territories in 2018, placing it in the 'very high human development' category.[141]

Malaysia's welfare system is generally well developed. Broadly speaking, there are three categories of social welfare namely, social insurance and pensions, public assistance, and labour market programmes.[142] The Employees Provident Fund is the primary social security institution that employers and employees are required to contribute.[143] Employers in the formal labour market are required to contribute to the employment insurance scheme which provides retrenched employees with income replacement of up to 4,000 ringgit.[144] Coverage of the provident fund has been extended to include housewives, widows, and single mothers enlisted in the eKasih (national poverty database).[145] The bottom 40 percent (B40[146]) of income earners in Malaysia receive an income supplement called the Household Living Aid (BSH),[147] and may be eligible for additional income assistance and healthcare.[148] Various welfare assistance and support services are also administered by state governments, including the Zakat system that provides payments to needy and vulnerable persons.[149]

Malaysia has a universal healthcare system integrated with income protection support for low income groups. The public healthcare system is heavily subsidised and accessible to all Malaysians, with the basic treatment fee costing one ringgit (approximately AUD 33 cents).[150] In 2019, the government introduced the B40 National Protection Scheme called mySalam, which provides health protection to the country's lowest 40 percent income earners.[151] The mySalam scheme provides recipients' healthcare and income protection payments if diagnosed with one of 45 critical illnesses.[152] Also introduced in 2019, the Healthcare Scheme for Group B40 (PeKa B40) provides eligible B40 recipients income supplement and assistance.[153] The PeKa B40 scheme is focused on healthcare for non-communicable diseases such as cancer and mental health.[154]

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[154] 'All The Social Safety Nets We Could Find For Malaysians In Times Of Trouble', Rakyat Post, 15 June 2020, 20201116164636; 'A Guide to Social Protection in Malaysia', The Centre, 19 October 2019, 20200512115042

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Political opinion

Civil society organisations

Civil society groups operate in Malaysia but may be subject to harassment from authorities. Numerous non-governmental organisations (NGOs) operate in Malaysia, and they have a strong record of campaigning for electoral, anticorruption, and other reforms.[155] NGOs must be approved and registered by the government, which has refused or revoked registrations for political reasons in the past.[156] Many human rights and civil society organisations experience difficulties obtaining government recognition as NGOs, so instead register as companies, which creates legal and bureaucratic obstacles to raising money to support their activities.[157] Some international human rights organisations have been forbidden from forming local branches.[158] Some NGOs report the government monitors their activities in order to intimidate them.[159]

Freedom of expression

Freedom of expression is limited. The Constitution allows restrictions on the freedom of expression 'in the interest of the security of the Federation… [or] public order.'[160] The law prohibits sedition and public comment on issues defined as sensitive, including racial and religious matters or criticism of the King or ruling sultans.[161] The government regularly restricts freedom of expression for members of the public, media, and civil society, citing reasons such as upholding Islam and the special status of ethnic Malays, protecting national security, maintaining public order, and preserving friendly relations with other countries.[162] Despite these restrictions, opposition parties, civil and political activists, unions, online news sites, and other online forums frequently publish views critical of government policies, with online media and blogs providing views not reported in mainstream media.[163] However, journalists and media outlets, activists and ordinary internet users may be subject to judicial harassment or prosecution for transgressing these boundaries.[164] Criminal defamation laws and the

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[155] 'Freedom in the World 2020 – Malaysia', Freedom House, 4 March 2020, E2, 20200417153315
[156] 'Freedom in the World 2020 – Malaysia', Freedom House, 4 March 2020, E2, 20200417153315; '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.16, 20200312091714
[157] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.17, 20200312091714
[158] 'Freedom in the World 2020 – Malaysia', Freedom House, 4 March 2020, E2, 20200417153315
[159] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.17, 20200312091714; 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, pp.77, 20200429103634; 'Johor top cop confirms NGO activist under investigation for making baseless allegations', Malay Mail, 25 November 2020, 20201126100924
[160] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.11, 20200312091714
[161] 'Freedom on the Net 2020 - Malaysia', Freedom House, 14 October 2020, B4, 20201022140322, '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.11, 20200312091714; 'Freedom in the World 2020 – Malaysia', Freedom House, 4 March 2020, D4, 20200417153315; 'Amnesty International Report 2017/18', Amnesty International, 22 February 2018, p.249, NGED867A612; 'Human Rights in Asia-Pacific: Review of 2019', Amnesty International, 29 January 2020, p.33, 20200130115738
[162] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.11,13, 20200312091714; 'BTI 2020 Country Report Malaysia', Bertelsmann Stiftung, 29 April 2020, p.7, 20200429144341; 'Human Rights in Asia-Pacific: Review of 2019', Amnesty International, 29 January 2020, p.33, 20200130115738; '10 years' jail for insulting Islam excessive - MCA agrees with DAP', Malaysiakini, 11 March 2019, 20200204140736; 'Reduced sentence for Sarawakian convicted of insulting Islam', Free Malaysia Today, 13 September 2019, 20200204141618; 'Suaram's Human Rights Overview Report on Malaysia 2019', Suara Rakyat Malaysia (SUARAM), 9 December 2019, p.20, 20200116163323; 'KL raids offices of 3 broadcasters in probe over documentary', The Straits Times, 5 August 2020, 20200805082802; 'Why Malaysia's Muhyiddin fears a free press', Asia Times, 9 August 2020, 20200810101253
[163] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.12, 20200312091714
[164] 'Malaysian police raid Al Jazeera's office, seize computers', Aljazeera, 5 August 2020, 20201125162649; 'Johor top cop confirms NGO activist under investigation for making baseless allegations', Malay Mail, 25 November 2020, 20201126100924; 'Freedom on the Net 2020 - Malaysia', Freedom House, 14 October 2020, B4, C3, 20201022140322; 2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.14, 20200312091714; 'Activist Fadiah, three others at Dang Wangi over Dataran Merdeka rally', The Star (Malaysia), 3 July 2020, 20200703112240; 'Malaysia: New

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Section Act (1948), Communications and Multimedia Act (1998) and the Printing Presses and Publications Act (1984) among others may be used to curb freedom of expression and often result in media self-censorship [165] Some of these laws are also used by the ruling administration to intimidate opposition politicians.[166]

Freedom of assembly

Peaceful assembly is generally permitted when police are correctly notified in advance but authorities may intimidate organisers or activists with criminal law and laws that curb speech on sensitive topics. The constitution provides for the freedom of peaceful assembly.[167] Although the law does not require groups to obtain a permit for assemblies, police place time, location, and other restrictions on assemblies.[168] Organisers of an assembly are required to notify police five days prior the event, and failure to provide adequate notification may be considered a criminal offense.[169] Reports indicate that authorities have harassed civil and political activists over rallies that involve sensitive topics and for not providing five days' notice prior to a rally.[170] Otherwise, protests deemed acceptable by the government usually proceed without interference.[171]

State protection

Royal Malaysia Police (RMP)

The RMP is generally considered a professional and effective force. The RMP operates 837 police stations nationwide and employs approximately 115,000 officers.[172] Local and international sources indicate the RMP is a professional and effective police force, although the quality of its members' responses varies depending on levels of training, capacity and engagement in corruption.[173] A Transparency International survey found that 57 per cent of Malaysian respondents

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Government Backslides on Free Speech', Human Rights Watch, 10 June 2020, 20200708154306; 'Judicial Harassment of Fadiah Nadwa Fikri', Front Line Defenders (International Foundation for the Protection of Human Rights Defenders), 5 March 2020, 20200702181533; 'End harassment of student activists', Article 19, 9 November 2020, 20201127091646; 'Malaysia's New Government Cracks Down on Critics', Voice of America (VOA), 16 June 2020, 20200708114215

[165] 'Freedom on the Net 2020 - Malaysia', Freedom House, 14 October 2020, B4, C2, 20201022140322; '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.14, 20200312091714; 'Suaram's Human Rights Overview Report on Malaysia 2019', Suara Rakyat Malaysia (SUARAM), 9 December 2019, pp.20-26, 20200116163323

[166] 'Parliamentarians at Risk: Reprisals against opposition MPs in South-east Asia', ASEAN Parliamentarians for Human Rights (APHR), 7 November 2020, p.19-23, 20201125160159

[167] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.16, 20200312091714

[168] 'Freedom in the World 2020 – Malaysia', Freedom House, 4 March 2020, E1, 20200417153315; '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.16, 20200312091714; 'Human Rights in Asia-Pacific: Review of 2019', Amnesty International, 29 January 2020, pp.33-34, 20200130115738

[169] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.16, 20200312091714; 'Cops quiz Ambiga, Marina Mahathir and 17 other activists', Malaysiakini, 04 March 2020, 20200305085946; 'Cops to quiz Bersih 2.0 chairman over Facebook post urging protest against 'Sheraton Move'', Malay Mail, 6 July 2020, 20200708124849

[170] 'Judicial Harassment of Fadiah Nadwa Fikri', Front Line Defenders (International Foundation for the Protection of Human Rights Defenders), 5 March 2020, 20200702181533; 'Fadiah, three other activists leave police station after questioning', The Star Online (Malaysia), 4 March 2020, 20200703105544; 'Rights activist, 13 others under investigation over pro-democracy demonstration', Malay Mail, 3 March 2020, 20200703113902; 'Malaysians have democratic rights to protest, Pakatan says amid probes on activists', Malay Mail, 3 March 2020, 20200703114855

[171] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.16, 20200312091714; 'Suaram's Human Rights Overview Report on Malaysia 2019', Suara Rakyat Malaysia (SUARAM), 9 December 2019, pp.27-28, 20200116163323

[172] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 5.5, p.55, 20191213141745

[173] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 5.5, p.55, 20191213141745; 'Center to Combat Corruption and Cronyism (C4 Center)', 28 October 2020, 20201117094952 'Officers from three Malaysian police departments to be transferred on suspicion of working with criminals', Straits Times, 16 November 2020, 20201117090941; 'IGP confirms 20 cops transferred following Macau scam, online gambling probe', Bernama, 16 November 2020, 20201117092931

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thought that corruption was a problem within the RMP – a result that was significantly above the regional average.[174]

Incidents of mistreatment in custody and impunity for police/security forces personnel are reported. Incidents of torture and ill-treatment in police custody have been reported.[175] Incidents of physical violence inflicted upon detainees under remand or during investigation are prevalent especially when there are elements of chain remand or detention under security laws.[176] The government has claimed that deaths in police custody, particularly those caused by police, were rare, but civil-society activists' dispute this claim.[177] Malaysian independent civil and political rights organisation Suara Rakyat Malaysia (SUARAM) said there were six cases of custodial deaths reported between January and October 2019.[178] SUARAM report that police shootings were of concern but have reduced during 2019.[179] Amendments to an Independent Police Conduct Commission (IPCC) bill which seeks to establish an independent commission to investigate police misconduct are expected to be debated by parliament in the near future.[180] Civil and rights advocates have criticised the bill which they view as a 'watered-down' version of its predecessor, the Independent Police Conduct Commission Bill introduced by the former Pakatan Harapan government.[181]

Criminal justice system

A number of existing laws undermine due process guarantees. The Security Offences (Special Measures) Act (2012) (SOSMA) allows police to detain anyone for up to 28 days without judicial review for broadly defined 'security offences' and to hold suspects for 48 hours before being granted access to a lawyer and was renewed for another five years in 2017.[182] In 2017, lawmakers amended the Prevention of Crime Act (1959) (a law ostensibly aimed at combating organised crime) to revoke detainees' right to address the government-appointed Prevention of Crime Board, which is empowered to order the detention of individuals listed by the Home Ministry for renewable two-year terms without trial or legal representation.[183] The Prevention of Terrorism Act (2015) together with the National Security Council Act (2016) gives the National Security Council (led by the prime minister) wide powers of arrest, search, and seizure without a warrant in areas deemed as security risks and in the context of countering terrorism.[184] Chain remand under certain security laws was reportedly common during 2019.[185]

[174] 'Global Corruption Barometer – Asia Pacific', Transparency International, 28 February 2017, p.41, CISEDB50AD5225
[175] 'Freedom in the World 2020 – Malaysia', Freedom House, 4 March 2020, F3, 20200417153315; 'Malaysia Human Rights Report 2019', Suaram (Suara Rakyat Malaysia), 11 August 2020, 20200910073340; 'Suaram's Human Rights Overview Report on Malaysia 2019', Suara Rakyat Malaysia (SUARAM), 9 December 2019, pp.13-14, 20200116163323
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[177] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.4, 20200312091714
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[182] 'Freedom in the World 2020 – Malaysia', Freedom House, 4 March 2020, F2, 20200417153315
[183] 'Freedom in the World 2020 – Malaysia', Freedom House, 4 March 2020, F2, 20200417153315
[184] 'Freedom in the World 2020 – Malaysia', Freedom House, 4 March 2020, F2, 20200417153315
[185] 'Malaysia Human Rights Report 2019', Suaram (Suara Rakyat Malaysia), 11 August 2020, pp.24-25, 20200910073340

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Judiciary

Trial procedures are typically fair. The constitution provides for a fair and public trial, and the judiciary generally enforced this right.[186] The civil law system is based on British common law and defendants are presumed innocent until proven guilty.[187] Defendants have the right to be informed promptly of the charges against them, to a timely trial, and to be present at their trial.[188] Defendants have the right to communicate with an attorney of their choice or to have counsel appointed at public expense if they face charges that carry the death penalty.[189] Defendants also may apply for a public defender in certain other cases.[190]

The majority of cases in Malaysian courts are processed in accordance with the rule of law. According to the Malaysian Bar Council, defendants generally had adequate time and facilities to prepare a defence if they had the means to engage private counsel.[191] Otherwise, defendants must rely on legal aid and the amount of time to prepare for trial is at the discretion of the judge.[192] Authorities provide defendants free interpretation in Mandarin, Tamil, and some other commonly used dialects from the moment charged through all appeals.[193] The right to confront witnesses is limited by provisions allowing the identity of prosecution witnesses to be kept secret from the defence before a trial, which inhibits cross-examination of those witnesses.[194] Defendants may present witnesses and evidence on their behalf. Limited pre-trial discovery in criminal cases can impede the defence.[195]

Judicial independence may be compromised by executive interference. Three constitutional articles provide the basis for an independent judiciary; however, other constitutional provisions, legislation restricting judicial review, and executive influence over judicial appointments limit judicial independence and strengthen executive influence over the judiciary.[196] The judiciary frequently defers to police or executive authority in cases those parties deem as affecting their interests.[197] Members of the Malaysian Bar Council, NGO representatives, and other observers express 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.[198]

Syariah law

Malaysia maintains a dual legal system with the coexistence of syariah law alongside civil law. Malaysia's secular legal system is based on English common law.[199] Muslims are subjected to both

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[186] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.9, 20200312091714
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the general laws enacted by parliament and religious laws enacted by their state legislature.[200] Syariah courts in the judicial system have three levels (except for Perak state which instituted a Supreme Court in December 2018).[201]

The jurisdiction of syariah law is confined to family law and religion. The dual legal system results in different treatment of Muslims and non-Muslims in 'moral' and family law cases.[202] Syariah courts are highly influential in general, because their decisions frequently involve conversions to Islam, which in turn affect such matters as child-custody, burial rites and inheritance.[203] Some penalties imposed by syariah courts are limited by federal civil law.[204] Two states, Kelantan and Terengganu, have symbolically enacted hudood (Islamic penal law) for criminal offenses such as apostasy, slander, adultery, and alcohol consumption.[205]

Islamic religious enforcement officers conduct moral policing operations. Religious enforcement officers have a range of powers, depending on the particular Islamic laws that apply in each state.[206] State Islamic religious enforcement officers have the authority to accompany police on raids of private premises and public establishments, and to enforce syariah, including for violations such as indecent dress, distribution of banned publications, alcohol consumption, or khalwat (close proximity to a nonfamily member of the opposite sex).[207] Moral breaches of syariah law typically result in a warning or a fine but may include caning or up to one month imprisonment for the most serious offences.[208] Kelantan's Islamic Affairs and Religious Department fined 39 women for "dressing sexily and behaving indecently in public" during Ramadan in 2019.[209] In Johor, Segamat Municipal Council enforcement officers disguised themselves as food stall operators, cooks and waiters in a bid to catch Muslims who do not fast during Ramadan in 2019.[210]

Corruption

Corruption is common in Malaysia. During the former Pakatan Harapan government, the Malaysian Anti-Corruption Commission and other law enforcement institutions became more active, initiating various investigations against former leadership.[211] Several government officials were charged with corruption, including former prime minster Najib, but there remained a broadly held perception of widespread corruption and cronyism in government institutions.[212] Transparency International's 2019 Corruption Perception Index (CPI) ranks Malaysia in 51st position, which is an improvement over recent years.[213] The CPI result reflects the efforts of the former Pakatan Harapan reformist

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government to investigate serious corruption scandals and charges laid against several political figures rather than anti-corruption efforts of the current Perikatan Nasional government.[214]

Crime

On-going police operations target criminal gangs and crime syndicates. In recent years, police report to have made an increasing number of criminal gang related arrests.[215] Numerous media reports show that targeted police operations disrupt gang criminal activity across the country.[216] Police operations of this nature have been occurring for a number of years.[217]

Loan sharks

Malaysian police respond to threats and harassment from unlicensed moneylenders and some non-government association's offer assistance to loan shark clients. Loans from unlicensed moneylenders, typically referred to as 'loan sharks' or an 'ah long' in Malay, are common in Malaysia. Unlicensed money lending activities, including harassment or intimidation of a borrowers, are offences under the Moneylenders Act (1951).[218] Individuals prosecuted under the moneylenders act face a maximum 1 million ringgit fine or five years imprisonment.[219] Police respond to complaints of illegal money lending activities, including harassment and intimidation, and conduct operations targeting illegal moneylending, resulting in the prosecution of persons under the moneylenders act and the penal code.[220] In December 2017, Malaysia's central bank cautioned the public about illegal money

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lending activities conducted by companies using fake licences purportedly issued by the central bank, advising the public to report such instances to the police for investigation.[221] A non-governmental organisation, the Malaysian Muslim Consumers Association (PPIM), offers support for those encountering problems with loan sharks, including a call centre, website, and assistance settling debts.[222] The Malaysian Chinese Association's Public Services and Complaints Department acts as an intermediary between loan sharks and Chinese Malaysian victims who are unable to repay debt, negotiating loan repayments with lower rates.[223]

Death penalty

Malaysia introduced legislation that removes the mandatory death sentence for some offenses, including some drug-related offenses. Malaysia announced a moratorium on executions in July 2018.[224] In November 2017 (effective March 2018), parliament passed the Dangerous Drugs (Amendment) Act (2017) (DDA) to remove the mandatory death sentence for drug-related offences by giving judges the discretion to punish drug offenders with either life imprisonment or hanging.[225] However, judicial discretion is limited only to certain circumstances specified in section 39B (2A) of the DDA, namely where the accused is merely a drug mule and has assisted law enforcement in disrupting drug trafficking activities.[226] The amendment does not apply in retrospect for previous convictions.[227] Amnesty International reports that there were no executions recorded during 2019, but there were 26 recorded death sentences, bringing the total number of known death sentences to 1,280.[228]

Malaysia has yet to abolish the mandatory death penalty for all offences. There are 11 offences that attract the mandatory death penalty within two acts – nine under the Penal Code, including for murder, waging war against Malaysia's King, and committing terrorist acts, and a further two under the Firearms (Increased Penalties) Act (1971).[229] In February 2020, a special committee to review alternative sentences to the mandatory death penalty submitted its report to the government.[230] In August 2020, the Federal Court ruled in a challenge of the constitutionality of the mandatory death

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penalty that only parliament has the power to enact legislation on offences and to prescribe punishments for offences.[231]

Domestic violence/familial abuse

Family violence

Amendments to domestic violence law have strengthened protections for victims. Domestic violence is prevalent in Malaysia despite law prohibiting domestic and sexual violence.[232] Domestic violence victims can obtain protection orders which attract a prison sentence of up to one year or a fine if breached.[233] Although marital rape that causes hurt or fear of death is punishable under the Penal Code, syariah law in many states creates ambiguity because it prohibits wives from disobeying the 'lawful orders' of their husbands, effectively discouraging victims from reporting incidents.[234] In 2017, amendments to domestic violence law broadened the scope of the definition of domestic violence to include spouses, former spouses, children, family members, incapacitated adults who are living as members of the family, and de facto spouses who have undertaken religious or customary marriage.[235] Despite improved protections introduced by the amendments including broader protection orders for victims and introduce penalties for perpetrators who transgress them, unmarried couples and marital rape remain excluded from the definition of domestic violence and Penal Code respectively.[236]

Government and non-government shelters and assistance to victims of domestic violence is often insufficient to meet the need. Almost every hospital in Malaysia has a crisis centre where victims of rape and domestic violence can make reports without going to a police station, and which offer services such as examination by female doctors, evidence management, referrals and crisis intervention, counselling, temporary shelter, and legal assistance.[237] The Women's Aid Organisation reports that there are One Stop Crisis Centre services in 102 government hospitals nationwide that cater to between 10 to over 500 clients each year.[238] There is a sexual investigations unit at each police headquarters to help victims of sexual crimes and abuse, and police sometimes assign psychologists or counsellors to provide emotional support.[239] Activists assert that support mechanisms for victims of domestic violence are inadequate.[240] The Ministry of Women, Family and

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[240] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.26, 20200312091714

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Community Development organises legal literacy seminars designed to inform women of their rights in cases related to issues such as marital problems and divorce.[241]

Child marriage

Malaysia's legal system permits child marriage under certain circumstance. In most states, Islamic law sets the minimum age for marriage at 16 for girls and 18 for boys, but marriage below the minimum age is allowed if permission is granted by a syariah court.[242] Civil law also permits non-Muslims to marry from the age of 18, but girls can marry as early as 16 if permitted by the state's Chief Minister or Mentri Besar.[243] Customary laws in Sabah and Sarawak sets the minimum age for marriage at 18 for boys and 16 for girls, but marriage below the minimum age can occur with written consent of a parent or legal guardian.[244] Child marriage is typically more common in Sarawak, Kelantan and Sabah, and amongst Muslims, but has also become increasingly common amongst non-Muslims in recent years.[245] Various civil groups and political actors advocate for changes to laws to protect children from underage marriage but limited progress has been made.[246]

Female genital circumcision

Female circumcision is considered an Islamic cultural practice and is widely practiced across Malaysia despite international criticism. Malaysia's National Council of Islamic Religious Affairs issued a fatwa in 2009 that ruled female circumcision obligatory for Muslim women unless found to be physically harmful.[247] Female circumcision is often performed during infancy and a 2012 study found that 93 per cent of Muslim women respondents had undergone the practice.[248] The law does not prohibit female genital circumcision and it is a common practice..[249] A relatively small survey of Muslim doctors in Malaysia that included 366 participants conducted between 2018 and 2019 found that 20.5 percent practiced female circumcision.[250] In February 2018, representatives from Muslim-majority countries such as Bangladesh and Egypt criticised the practice as un-Islamic at the Constructive Dialogue session of the 69th session of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).[251] At Malaysia's Universal Periodic Review on human rights on 8 November 2018, a representative of the Women, Family and Community Development Ministry defended the on-going practice of the circumcision of female infants in the country as a "cultural obligation" and is performed only by medical professionals.[252]

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Australian Government
Department of Home Affairs

Common Claims

Malaysia

Country of Origin Information Services Section (COISS)

Effective 26 March 2021

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Governance

Parliament

Malaysia is a constitutional monarchy in which executive power is vested in the prime minister and cabinet. The monarch is elected for five-year terms by fellow hereditary rulers from 9 of Malaysia's 13 states.[1] The role of the king is largely ceremonial, though during 2020 he played a greater role in politics by appointing Prime Minister Muyhiddin, and in 2021 allowing the prime minister to declare a state of emergency.[2] Executive power lies with the prime minister and the cabinet.[3] The upper house of the bicameral Parliament, the Senate, or Dewan Negara, consists of 44 members appointed by the king and 26 members elected by the 13 state legislatures, serving three-year terms.[4] The House of Representatives, or Dewan Rakyat, has 222 seats filled through regular elections.[5]

Political situation

Malaysia's ruling Perikatan Nasional government ousted the former Pakatan Harapan government in early 2020. The United Malays National Organisation (UMNO) had been the dominant party within the former Barisan Nasional (BN) ruling coalition since independence in 1957, but lost the 2018 general election to the Pakatan Harapan (PN) coalition.[6] The former UMNO-led government had a history of maintaining power by manipulating electoral districts, appealing to ethnic nationalism, and suppressing criticism through restrictive speech laws and politicised prosecutions of opposition leaders.[7] In September 2019, UMNO signed a cooperation pact with right-wing Parti Islam Se Malaysia (PAS), laying the groundwork for an opposition bloc based on ethnic Malay and Islamist interests.[8] In February 2020, the Pakatan Harapan coalition collapsed after Mahathir Mohamad resigned as prime minister in protest over political manoeuvring by some members within the Pakatan Harapan coalition, and opposition members from PAS and UMNO.[9]

Politicians continue to form alliances in the lead-up to the next general election. Since coming to power, the prime minister has held only a slim majority.[10] The formation of political alliances including defections to and from political parties is on-going as parties seek to strengthen their position before the next general election.[11] The prime minster has indicated that a general election will occur following the epidemic.[12] In August 2020, the prime minister's Bersatu party joined the UMNO/PAS 'Muafakat Nasional' alliance to form a dominant ethnic Malay alliance within the ruling Perikatan Nasional coalition.[13] However, the Muafakat Nasional alliance has proven to be unstable

[1] 'Freedom in the World 2021', Freedom House, 15 March 2021, A1, 20210315153050
[2] 'As Malaysia's politicians bicker, its royals gain authority', The Economist, 18 February 2021, 20210219075010
[3] 'BTI 2020 Country Report Malaysia', Bertelsmann Stiftung, 29 April 2020, p.4, 20200429144341
[4] 'Freedom in the World 2021', Freedom House, 15 March 2021, A2, 20210315153050
[5] 'Freedom in the World 2021', Freedom House, 15 March 2021, A2, 20210315153050
[6] 'BTI 2020 Country Report Malaysia', Bertelsmann Stiftung, 29 April 2020, pp.3-4, 20200429144341
[7] 'Freedom in the World 2021', Freedom House, 15 March 2021, Overview, 20210315153050
[8] 'Freedom in the World 2020 – Malaysia', Freedom House, 4 March 2020, Key Developments in 2019, 20200417153315
[9] 'Inside story behind Malaysia's political meltdown', Asia Times, 25 February 2020, 20200226115540
[10] 'Malaysia PM Muhyiddin's parliamentary majority hangs in the balance as Umno MP withdraws backing', The Straits Times, 9 January 2021, 20210111092910; 'Malaysia PM Wins Budget Vote in Parliament, Affirms Majority', Bloomberg, 15 December 2020, 20210318142613
[11] 'Malaysian Bar Urges the Government to Enact Anti-Hopping Legislation', The Malaysian Bar, 18 March 2021, 20210319151151; 'Dismantle Excessive Incumbency Advantages Or Sheraton Moves Are The New Norm Even After GE15', BERSIH 2.0 (The Coalition for Free and Fair Elections Malaysia), 1 March 2021, 20210302094855; 'Hadi: PAS open to accepting party hoppers', Malaysiakini, 17 March 2021, 20210318113507; 'IDEAS supports MACC's call for politicians to report party-hopping bribes', Institute for Democracy and Economic Affairs, 16 March 2021, 20210317095327
[12] 'Malaysian PM Muhyiddin says election will be held as soon as Covid-19 pandemic ends', The Straits Times, 1 March 2021, 20210302075013
[13] 'PM Muhyiddin's Bersatu has formally joined Muafakat to form a grand Malay alliance', The Straits Times, 22 August 2020, 20210312121453

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with on-going power struggles between Bersatu and UMNO factions.[14] In February 2021, UMNO declined to contest the next general election with Bersatu.[15] Recently, the Prime Minister's Bersatu party has sought to shore up support with defectors from Anwar Ibrahim's Parti Keadilan Rakyat (KPK) party.[16]

COVID-19

To manage COVID-19 Malaysia has declared a state of emergency until 1 August 2021. In January 2021, Malaysia declared a state of emergency in an attempt to rein in COVID-19 infections.[17] The emergency Ordinance confers wide powers on the government to control the threat posed to the security, economic life and public order in the country during COVID-19.[18] Under the emergency rule, parliament has been suspended.[19] In March 2021, the government introduced a controversial new ordinance to penalise fake news about COVID-19 and the state of emergency.[20] The law makes it an offence to publish or reproduce any "wholly or partly false" content related to the pandemic or the government's emergency declaration.[21] Critics say the fake news ordinance resembles the fake news law introduced by former Prime Minster Najib that curbed free speech and expression.[22]

Malaysia continues to experience daily influxes of COVID-19 cases which are managed with movement restrictions in infection hotspots. In March 2021, the Malaysian government began to impose movement control orders (MCO) only in localities with high numbers of COVID-19 infections.[23] Fines for non-compliance with COVID-19 restrictions are in place.[24]

Malaysia has a robust healthcare system and welfare to manage COVID-19. Malaysia's response to the pandemic has been recognised globally for its effectiveness.[25] Malaysia has relatively well-developed healthcare and social protection systems.[26] Nonetheless, the prolonged pandemic has put considerable strain on Malaysia's healthcare system.[27] The Malaysian government has implemented a number of stimulus and welfare measures in response to the economic and social impacts of

[14] 'Shifting political alliances on the cards after UMNO-Bersatu split, say analysts', Channel News Asia, 5 March 2021, 20210318133422
[15] 'UMNO president Zahid Hamidi's many headaches', Channel News Asia, 13 March 2021, 20210318134434
[16] 'Anwar, PKR shaky after Azmin's move', Malay Mail, 17 March 2021, 20210318131157
[17] 'The Emergency (Essential Powers) Ordinance 2021', Mondaq, 8 February 2021, 20210318103551
[18] 'The Emergency (Essential Powers) Ordinance 2021', Mondaq, 8 February 2021, 20210318103551
[19] 'Why a state of emergency raises concerns in Malaysia', Reuters, 12 January 2021, 20210128082307
[20] 'Emergency (Essential Powers) (No.2) Ordinance 2021', Attorney-General's Chambers (Malaysia), 12 March 2021, 20210312084132; 'Malaysia imposes emergency law to clamp down on COVID fake news', Reuters, 11 March 2021, 20210312072508; 'MPs decry fake news Emergency Ordinance as 'deplorable' clampdown', Malaysiakini, 11 March 2021, 20210312134703
[21] 'Malaysia imposes emergency law to clamp down on COVID fake news', Reuters, 11 March 2021, 20210312072508
[22] 'Repeal 'fake news' emergency ordinance', Article 19, 15 March 2021, 20210316113801; 'Revoke 'Fake News' Ordinance', Human Rights Watch, 13 March 2021, 20210315112147; 'Lawyers concerned over ordinance combating 'fake news'', Malaysiakini, 12 March 2021, 20210312143506; 'CIJ appalled by 'extreme punitive measures' in govt's 'fake news' move', Malaysiakini, 12 March 2021, 20210312153504; 'Malaysian government criticised for 'draconian' use of emergency powers to outlaw fake news', Straits Times, 12 March 2021, 20210315103754
[23] 'KL plans to avoid imposing countrywide, statewide curbs', The Straits Times, 18 March 2021, 20210318093315; 'Malaysia aims to impose MCO only in targeted areas to reduce economic damage: PM Muhyiddin', The Straits Times, 18 March 2021, 20210318091501
[24] 'Malaysian govt backtracks on Covid-19 fines after public outrage', The Straits Times, 17 March 2021, 20210318092321
[25] 'WHO recognises Malaysia's health system - Noor Hisham', Bernama, 5 September 2020, ; 'The Malaysian response to COVID-19: building preparedness for 'surge capacity', testing efficiency and containment', European Pharmaceutical Review, 4 August 2020, 20200806114854; 'Najib verdict complicates Malaysia's game of thrones', East Asia Forum, 2 August 2020, 20200804095619
[26] 'A Guide to Social Protection in Malaysia', The Centre, 19 October 2019, 20200512115042; 'Healthcare Costs in Malaysia', The Centre, 28 October 2019, 20200512121033; 'National Health Insurance', The Centre, 6 November 2019, 20200512120852
[27] 'Surge in active Covid-19 cases overwhelms Malaysia's healthcare system', The Straits Times, 19 January 2021, 20210318115317; 'Malaysia's private hospitals step up to fight COVID-19 as cases surge', Channel News Asia, 5 February 2021, 20210312130234; 'Cases up by 1,219, bringing total to 327,253', The Star Online (Malaysia), 17 March 2021, 20210318111401

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COVID-19.[28] Malaysia's COVID-19 vaccine program began in February 2021 and aims to achieve herd immunity with 80 percent of its population vaccinated by December 2021.[29]

Also see Social Protection

Ethnicity

Malaysia's population is ethnically split into two categories namely Bumiputera and non-Bumiputera (indigenous and non-indigenous). Malaysia's Bumiputera (sons of the soil) account for more than 60 percent of the country's population, and are comprised of Malays and other indigenous groups, including the Orang Asli, Dayak, and Anak Negeril amongst others.[30] Chinese and Indian Malaysians constitute the country's largest non-Bumiputera population, accounting for approximately 20 and 6 percent respectively.[31]

Malaysia's Constitution affords special privileges to Bumiputera effectively discriminating against non-Bumiputera. Malaysia's Constitution affords special privileges to Bumiputera which has given rise to the creation of affirmative action policies that benefit Bumiputera, including economic programs to boost the economic position of Bumiputera.[32] There is discontent over Bumiputera polices amongst the non-Bumiputera Chinese and Indian ethnic groups.[33] The former reformist Pakatan Harapan government encountered significant headwinds from opposition Bumiputera political parties such as UMNO and PAS when attempting to implement reforms portrayed by the opposition to disadvantage Malays rather than promote equality amongst all Malaysians.[34]

Religion

Religious freedom

Malaysia's Constitution grants religious freedom and this right is generally respected. The Federal Constitution states that 'every person has the right to profess and practice his religion,' but gives federal and state governments the power to control or restrict proselytisation to Muslims.[35] The law does not restrict the rights of non-Muslims to change their religious beliefs and affiliation.[36] The

[28] 'RM11b fiscal injection in latest Pemerkasa stimulus package', Malaysiakini, 17 March 2021, 20210318083130; 'Some Malaysians relieved they can now dip into retirement funds, others pledge prudence', Channel News Asia, 24 November 2020, 20201124170213; 'Lessons from a Pandemic: Social Protection for a New Normal', The Centre, 28 March 2020, 20200512115328

[29] 'Malaysia to start COVID-19 vaccination drive early as first doses arrive', Reuters, 21 February 2021, 20210308102321; 'Malaysia aims to impose MCO only in targeted areas to reduce economic damage: PM Muhyiddin', The Straits Times, 18 March 2021, 20210318091501

[30] 'The World Factbook Malaysia', Central Intelligence Agency, 9 March 2021, 20210317160858

[31] 'The World Factbook Malaysia', Central Intelligence Agency, 9 March 2021, 20210317160858

[32] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, pp.30-31, 20200312091714; 'BTI 2020 Country Report Malaysia', Bertelsmann Stiftung, 29 April 2020, pp.4-5, 23, 29-30, 34, 20200429144341

[33] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, pp.30-31, 20200312091714; 'BTI 2020 Country Report Malaysia', Bertelsmann Stiftung, 29 April 2020, p.34, 20200429144341

[34] 'Can New Malaysia Move Beyond Old Race Divides?', Jha, P, The Diplomat, 14 August 2019, 20200516163339; 'Malaysia's 'Malay First' Malaise', Nair, C., The Diplomat, 4 March 2020, 20200516165042; 'Analysing Malaysia's Refusal to Ratify the ICERD', Anuar, K K, Oxford Human Rights Hub, 7 January 2019, 20200516164408; 'Malaysia's dangerous racial and religious trajectory', The Interpreter (Lowy Institute for International Policy), 24 September 2019, 20191021164421'The LGBT Quandary in New Malaysia', Tan, H B, Australian Journal of Asian Law, volume 20, number 1, article 15, November 2019, p.7, 20200522113725

[35] '2019 Report on International Religious Freedom: Malaysia', US Department of State, 10 June 2020, section II, 20200612122612; 'Federal Constitution', Government of Malaysia, introduced 31 August 1957, amended 11 September 2019, reprint 15 October 2020, Article 3, 20201215114415

[36] '2019 Report on International Religious Freedom: Malaysia', US Department of State, 10 June 2020, section II, 20200612122612

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Constitution defines Malays as Muslim from birth.[37] Muslims represent approximately 60 percent of the population.[38] Almost 20 percent of Malaysia's population are Buddhist, approximately 9 percent are Christian, over 6 percent are Hindu, and there are small populations of Confucians, Taoists, and other traditional Chinese religions.[39] Members of all minority faiths are allowed to proselytise amongst their minority communities.[40]

Islam

Malaysia's official interpretation of Islam is Sunni. A 1996 fatwa supported by state laws requires the country to follow only Sunni teachings of the Shafi'i school and prohibits Muslims from possessing, publishing, or distributing material contrary to those teachings.[41] Those differing from the official interpretation of Islam can face adverse government action, including mandatory rehabilitation in centres that teach and enforce government-approved Islamic practices.[42] Federal and state governments consider several non-Sunni Islamic groups deviant, including Shia, Ahmadiyya, and Al-Arqam.[43] The Constitution grants state and federal government officials the authority to forbid proselytising to Sunni Muslims but Sunni Muslims are free to proselytise unimpeded.[44]

Religious adherence

Apostasy is a crime under syariah law. Muslims who seek to leave Islam or convert to another religion must first obtain approval from a syariah court to declare themselves apostates.[45] Syariah courts seldom grant such requests, especially for those born a Muslim, and are reluctant to allow conversion for those who had previously converted to Islam.[46] For those who are born Muslim and identify as non-religious, there is the risk of criminal prosecution for apostasy.[47] At least six states – Perak, Melaka, Sabah, Pahang, Kelantan, and Terengganu – criminalise apostasy with fines, imprisonment, and/or detention in a rehabilitation centre.[48] While not enforced, the maximum penalty for apostasy in Kelantan and Terengganu is death.[49]

Atheists are typically not prosecuted. In 2017, the Malaysian federal government determined atheism to be unconstitutional.[50] Muslims are generally not prosecuted for disbelief.[51] Some atheists

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[37] '2019 Report on International Religious Freedom: Malaysia', US Department of State, 10 June 2020, section II, 20200612122612; 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634
[38] 'The World Factbook Malaysia', Central Intelligence Agency, 9 March 2021, 20210317160858
[39] 'The World Factbook Malaysia', Central Intelligence Agency, 9 March 2021, 20210317160858
[40] 'United States Commission on International Religious Freedom Annual Report 2019', United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.211, 20190508143726
[41] '2019 Report on International Religious Freedom: Malaysia', US Department of State, 10 June 2020, section II, 20200612122612
[42] '2019 Report on International Religious Freedom: Malaysia', US Department of State, 10 June 2020, section II, 20200612122612
[43] '2019 Report on International Religious Freedom: Malaysia', US Department of State, 10 June 2020, section II, 20200612122612; 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.76, 20200429103634
[44] 'United States Commission on International Religious Freedom Annual Report 2019', United States Commission on International Religious Freedom (USCIRF), 29 April 2019, pp.211-212, 20190508143726
[45] '2019 Report on International Religious Freedom: Malaysia', US Department of State, 10 June 2020, section II, 20200612122612
[46] '2019 Report on International Religious Freedom: Malaysia', US Department of State, 10 June 2020, section II, 20200612122612
[47] 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634; 'Man who allegedly insulted Islam, converted Muslim woman surrenders - police', Bernama, 10 March 2021, 20210311102951
[48] ''USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634
[49] 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634
[50] 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634
[51] 'Intolerance Rising: Atheists at Risk in Malaysia', The Diplomat, 22 August 2017, CXC90406612572

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maintain a low-profile in society and are known to socialise with likeminded people.[52] Some Muslims make no attempt to hide their atheism from society.[53]

Non-Muslims must convert to Islam before marrying a Muslim. There are two primary statutes in Malaysia for marriage, the secular Law Reform (Marriage and Divorce) Act (1976) and the Islamic Family Law Act (Federal Territories) (1984).[54] Legally, a non-Muslim must convert to Islam to marry a Muslim.[55] Malaysian authorities do not recognise marriages between Muslims and non-Muslims and consider children born of such marriages illegitimate.[56] The legal age of children to marry varies in each state between Muslims and non-Muslims, with a lower age and fewer protections for Muslim children.[57] Some Sunni and Shia Muslims intermarry and have family members that practice either form of Islam.[58]

Ahmadi Muslims

Ahmadi Muslims are generally able to worship within the confines of their own worship centres. In 1975, the Selangor Fatwa Council decreed that Ahmadis were not Muslim.[59] In July 2018, the High Court in Selangor state ruled that religious authorities do not have jurisdiction over the Ahmadi community because they are not recognised as Muslims, but state religious authorities have appealed the decision.[60] Ahmadi community leaders expressed optimism about the ruling, viewing it a form of protection of their freedom to worship without harassment by state Islamic authorities.[61] Ahmadi Muslims have reported generally being able to maintain a worship centre but government religious authorities forbid them from holding Friday prayers stating that they could only be performed in an officially registered mosque.[62] In August 2020, the Court of Appeal remitted to the High Court to decide whether Ahmadi persons are Muslims or otherwise, a decision that will determine whether syariah courts have jurisdiction over Ahmadis.[63]

Shia Muslims

Shia Muslims face official discrimination. In 1996, the Fatwa Committee for Religious Affairs issued a fatwa prohibiting the proselytism, promulgation, and professing of Shia Islam, which 11 of 13 states adopted.[64] Sunni imams regularly denounce Shia in their sermons.[65] In September 2019,

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[52] 'Intolerance Rising: Atheists at Risk in Malaysia, The Diplomat, 22 August 2017, CXC90406612572
[53] 'Moderation under threat as Malaysia faces Islamic tide, The Australian, 17 August 2017, CXC90406620453
[54] 'Law Reform (Marriage and Divorce) Act (164) 1976', Federal Government of Malaysia, 6 March 1976, (amendments to 1 January 2006), the Commissioner of Law Reform, CISBE8E6BE702; 'Islamic Family Law Act (Federal Territories) Act (303) 1984', Federal Government of Malaysia, 27 June 1984, amendments to 1 January 2006, the Commissioner of Law Reform, CIS883493140
[55] 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634
[56] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.10, 20200312091714
[57] 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634
[58] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.45, p.27, 20191213141745
[59] 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634
[60] 'High Court tells Selangor Islamic Sharia enforcers to keep hands off Ahmadis', Malay Mail, 6 July 2018, 20191004090848; '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section II, pp.12-13, 20190625160543
[61] '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section II, p.12, 20190625160543
[62] '2019 Report on International Religious Freedom: Malaysia', US Department of State, 10 June 2020, section II, 20200612122612
[63] 'Court orders trial judge to determine religious status of 39 Ahmadiyya followers', Free Malaysia Today, 27 August 2020, 20201125103852; 'World Report 2021. Events of 2020', Human Rights Watch (HRW), 13 January 2021, 20210114072851
[64] 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634
[65] 'Malaysia detains dozens of minority Shia Muslims sparking fears of a crackdown', Agence France-Presse, 11 September 2019, 20201125110041

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authorities detained and later released some Shia Muslims commemorating Ashura.[66] In September 2018, 50 Shia were arrested in Kelantan for practicing their religion.[67] Reportedly, the Shia followers had been conducting their activities on the same premises for several years.[68] Despite barriers to their worship, most Shia Muslims live free from discrimination and violence on a day-to-day basis.[69]

Forced conversion

The indigenous Orang Asli community are vulnerable to forced religious conversion. Orang Asli account for approximately half of a percent of Malaysia's population and are one of the most traditional but also vulnerable groups in society.[70] Although Orang Asli are traditionally animist, a number of Orang Asli have become either Muslim or Christian, or embraced religions such as Buddhism and Taoism due to intermarriage.[71] In 2019, state religious authorities from Perak reportedly registered some Orang Asli as Muslim in their identification cards despite them not converting.[72] Subsequently, Kelantan state religious authorities announced plans to convert Orang Asli to Islam by 2049.[73] Concerned members of the Orang Asli community have expressed their grievances to the federal government about local coercive practices involving Muslim and Christian preachers being sent to their communities to proselytise them.[74]

Christians

Christians practice freely and generally do not experience discrimination. Christians comprise approximately 9.2 per cent of the religious population and two-thirds of the Christian population reside in the East Malaysian states of Sabah and Sarawak.[75] Malaysian Christians are usually able to practise their religion without interference.[76]

In March 2021, a High Court ruling overturned a ban on Christians using "Allah" and three other words in religious publications. Since 1986, there has been a ban against non-Muslims using approximately 31 words, including "Allah", under the pretence of protecting public order.[77] However in March 2021, the Kuala Lumpur High Court overturned the 35 year ban preventing non-Muslims using the word "Allah" in educational publications to refer to God along with three other Arabic words, declaring the ban unlawful and unconstitutional.[78] Malays nationalist party UMNO and

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[66] 'Human Rights in Asia-Pacific: Review of 2019', Amnesty International, 29 January 2020, p.34, 20200130115738; 'World Report 2020. Events of 2019: Malaysia', Human Rights Watch (HRW), 14 January 2020, 20201120142201; 'Shiite detentions in Malaysia fuel fears of crackdown', Agence France Presse (AFP) - France, 25 November 2019, 20191128094242; 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634

[67] 'World Report 2019', Human Rights Watch, 17 January 2019, p.369, 20190118091502

[68] '50 suspected Syiah followers detained in Kota Baru', New Straits Times, 31 August 2018, 20190125145959

[69] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.50, p.28, 20191213141745

[70] 'Malaysia's indigenous tribes fight for ancestral land and rights in a modern world', Channel News Asia, 1 September 2019, 20200403171142; 'Malaysia's indigenous people protest forced conversions', UCA News, 10 July 2019, 20200403170642; 'The World Factbook Malaysia', Central Intelligence Agency, 9 March 2021, 20210317160858

[71] 'Malaysia's indigenous tribes fight for ancestral land and rights in a modern world', Channel News Asia, 1 September 2019, 20200403171142; 'The World Factbook Malaysia', Central Intelligence Agency, 9 March 2021, 20210317160858

[72] 'Malaysia's indigenous tribes fight for ancestral land and rights in a modern world', Channel News Asia, 1 September 2019, 20200403171142

[73] 'Human Rights in Asia-Pacific: Review of 2019', Amnesty International, 29 January 2020, p.34, 20200130115738; 'Malaysia's indigenous tribes fight for ancestral land and rights in a modern world', Channel News Asia, 1 September 2019, 20200403171142

[74] 'Malaysia's indigenous people protest forced conversions', UCA News, 10 July 2019, 20200403170642

[75] '2019 Report on International Religious Freedom: Malaysia', US Department of State, 10 June 2020, section I, 20200612122612; 'The World Factbook Malaysia', Central Intelligence Agency, 9 March 2021, 20210317160858

[76] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.62, p.30, 20191213141745

[77] 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634

[78] 'Malaysian court overturns ban on use of 'Allah' by non-Muslim publications', Reuters, 10 March 2021, 20210311073139; 'Malaysia high court rules that Christians may use the word 'Allah' in religious publications', Channel News Asia, 10 March

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Islamic party PAS announced they view the court ruling with concern and demanded the government pursue the case in the Appeals Court.[79] The government lodged an appeal saying it was "not satisfied" with the ruling.[80] Authorities and Muslim groups have long argued that allowing non-Muslims to use the word "Allah" may confuse, and entice Muslims to convert.[81] Sometimes authorities and societal actors exaggerate fears of "Christianisation" for political purposes to motivate support from Muslim communities and escalate tensions between majority and minority groups.[82] Christian leaders have spoken out against tactics by UMNO and PAS that portray Christianity as a threat to the Muslim majority.[83]

Buddhists and Hindus

Buddhists and Hindus generally practice their religion without interference. Buddhists represent the second largest religion in Malaysia accounting for almost 20 per cent of the religious population.[84] Hindus account for just over six per cent of the religious population.[85] Federal and state governments have supported the building of Hindu or Buddhist places of worship throughout Malaysia.[86] Members of faith communities report that Buddhist temples are restricted from building higher than local mosques and that Sikh Gurdwaras are prevented from building domes, since domes are associated with Islamic architecture.[87]

Inter-ethnic marriage

Inter-ethnic marriage occurs amongst non-Muslims. Malaysian law does not restrict the rights of non-Muslims to marry.[88] Conversion sometimes takes place due to marriage, with one partner choosing to convert or both partners choosing to adopt a new faith; however, this is not compulsory.[89] Malaysian law does not restrict the rights of people from different ethnic groups to marry,[90] although as Malaysian law considers all Malays to be Muslim, a non-Muslim of another ethnicity intending to marry a Malay must convert for the marriage to be legitimate.[91] Individuals in a mixed marriage sometimes face pressure or stigma from within their family, friends or community, while couples of different ethnicities may also encounter racism.[92]

2021, 20210311153223; 'Sarawak bishop hails court ruling on 'Allah' use by Christians as victory for 'common sense'', Malay Mail, 10 March 2021, 20210311154908

[79] 'Malaysian court rules non-Muslims can use 'Allah'', Associated Press, 11 March 2020, 20210311151708

[80] 'Malaysia government appeals ruling on Christians using 'Allah'', Agence France Presse, 15 March 2021, 20210316083752

[81] 'Malaysian Christians cleared to use 'Allah' but anger lingers', The Australian, 16 March 2021, 20210317080208; 'Malaysia government appeals ruling on Christians using 'Allah'', Agence France Presse, 15 March 2021, 20210316083752; 'Malaysian govt files appeal against court ruling allowing use of 'Allah' word in Christian publications', Straits Times, 15 March 2021, 20210316094502

[82] 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, pp.77, 20200429103634

[83] 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634

[84] '2019 Report on International Religious Freedom: Malaysia', US Department of State, 10 June 2020, section I, 20200612122612

[85] '2019 Report on International Religious Freedom: Malaysia', US Department of State, 10 June 2020, section I, 20200612122612

[86] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.64, p.30, 20191213141745

[87] 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634

[88] 'Registration of Marriage For Non-Muslim', National Registration Department – Ministry of Home Affairs, n.d., accessed 10 August 2017, CISEDB50AD5251

[89] 'A M'sian union – interracial couples share their stories', Malaysiakini, 16 September 2016, CX6A26A6E16886; 'Interracial marriage as beacon of light in upholding Malaysia's unity', The Rakyat Post, 14 July 2015, CXBD6A0DE19504

[90] 'Registration of Marriage For Non-Muslim', National Registration Department – Ministry of Home Affairs, n.d. accessed 10 August 2017, CISEDB50AD5251

[91] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.24, p.23, and section 3.68, p.30, 20191213141745

[92] 'Interracial marriage as beacon of light in upholding Malaysia's diversity', The Rakyat Post, 14 July 2015, CXBD6A0DE19504; 'A M'sian union – interracial couples share their stories', Malaysiakini, 16 September 2016, CX6A26A6E16886

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Particular social groups

Lesbian, Gay, Bisexual, Transgender, Intersex (LGBTI)

Malaysian secular law criminalises same-sex sexual acts but in practice the law is rarely invoked. A former British colony, Malaysia has retained its colonial-era law against sodomy.[93] Malaysia's Penal Code criminalises sodomy (homosexual) and oral sex (homosexual and heterosexual) acts, but authorities rarely enforce the law.[94] The Penal Code has only been invoked seven times since 1938, with four of those instances against former deputy prime minister Anwar Ibrahim.[95] International observers and human rights organisations viewed sodomy charges against Anwar Ibrahim as politically motivated.[96] Those found guilty under section 377A of the Penal Code for 'carnal intercourse against the order of nature' are liable for imprisonment of up to twenty years and a whipping.[97]

Malaysia's Federal Court recently ruled that the provision in Selangor's syariah law that criminalises same-sex sexual acts is invalid. In the past, some Malaysian states applied their own penalties to Muslims under syariah statutes, and in several states same-sex sexual acts between Muslims were illegal and could incur jail terms and mandatory whipping.[98] In November 2019, the Selangor State syariah court sentenced five men to six to seven months in jail, six strokes of the cane, and 4,800-4,900 ringgit (approximately AUD1,600) in fines for attempting to have intercourse against the order of nature.[99] In May 2020, the Federal Court allowed one of the individuals arrested in Selangor leave to challenge charges brought against him under the Syariah Criminal Offences (Selangor Enactment (1995) for 'attempting to commit' sexual 'intercourse against the order of nature' – a charge that is also an offense under the country's Penal Code.[100] In February 2021, the Federal Court unanimously declared Selangor's state law's provision that make same-sex acts a syariah offence is invalid on the grounds the offence falls under the jurisdiction of the federal and not state laws.[101]

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[93] State-Sponsored Homophobia 2020: Global Legislation Overview Update', Lucas Ramón Mendos, International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), 15 December 2020, p.133, 20201222140105; 'Trans Legal Mapping Report: Recognition Before the Law ', International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), 30 September 2020, pp.88-89, 20201001140359; 'Anwar Ibrahim's rebirth and Malaysia's LBGT+ rights', Pursuit (University of Melbourne), 27 May 2018, CIS7B839411105

[94] 'Human Rights in Asia-Pacific: Review of 2019', Amnesty International, 29 January 2020, p.34, 20200130115738; '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.32, 20200312091714; 'Penal Code', Government of Malaysia, enacted 1936, amended 31 December 2014, sections 377A, 377B, CISEDB50AD9259

[95] 'Malaysia: On the Record: Violence Against Lesbians, Bisexual Women and Transgender Persons In Malaysia', International 'Gay and Lesbian Human Rights Commission', 6 May 2014, p.33, CIS2F827D91966

[96] Anwar Ibrahim's rebirth and Malaysia's LBGT+ rights, Pursuit (University of Melbourne), 27 May 2018, CIS7B839411105; 'Convictions for sodomy follow unfair trials', Amnesty International, 8 October 1998, CIS11891

[97] 'Penal Code', Government of Malaysia, enacted 1936, amended 31 December 2014, sections 377A, 377B, CISEDB50AD9259; 'Criminalisation of Homosexuality', Human Dignity Trust, 25 October 2015, CISEC96CF110372

[98] State-Sponsored Homophobia 2020: Global Legislation Overview Update', Lucas Ramón Mendos, International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), 15 December 2020, p.133, 20201222140105; 'Trans Legal Mapping Report: Recognition Before the Law ', International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), 30 September 2020, pp.88-89, 20201001140359; 'Criminalisation of Homosexuality', Human Dignity Trust, 25 October 2015, CISEC96CF110372; 'Human Rights in Asia-Pacific: Review of 2019', Amnesty International, 29 January 2020, p.34, 20200130115738; '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.32, 20200312091714

[99] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.32, 20200312091714

[100] 'Federal Court allows challenge to Syariah jurisdiction on unnatural sex', Malaysiakini, 27 May 2020, 20200527121016

[101] 'Federal Court unanimously declares Selangor Shariah law criminalising 'unnatural sex' void, unconstitutional', Malay Mail, 25 February 2021, 20210226074942; 'Selangor syariah law against unnatural sex is invalid: Federal Court', Malaysiakini, 25 February 2021, 20210226073341

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The LGBTI community are opposed by those who view their lifestyles to be inconsistent with Islam. Religious and cultural taboos against same-sexual conduct are widespread.[102] Drawing on Gallup data, the 2019 Legatum Prosperity Index shows that Malaysia ranks 159th out of 167 countries for its 'perceived tolerance of LGBT individuals', equating to its lowest ranking since 2009.[103] The 2019 ranking shows a sharp decline compared with 2018 when tolerance of LGBT ranked 82nd.[104] The results of a 2013 global survey on the acceptance of homosexuality found that an 'overwhelming majority' of Muslim countries, including 86 per cent of persons surveyed in Malaysia, reject homosexuality.[105] Former Prime Minister Mahathir publically acknowledged that the former Pakatan Harapan government did not support LGBT unions, which it saw as an element of human rights in Western society rather than aligning with Malaysian values.[106] During a recent speech with ASEAN nations, Prime Minster Muhyiddin called for tougher laws against hate speech, including for harassment and threats made against members of the LGBTI community amongst others.[107] Muhyiddin's comments came shortly after a controversial statement made by a deputy minister in the Prime Minister's Department for Religious Affairs, who said the government does not rule out the possibility of amending syariah law to mete out harsher punishments to members of the LGBTI community, and also urging the public to come forward with information about LGBTI individuals so authorities can enforce action against them. [108]

Malaysia's LGBTI community experience discrimination. Discrimination against LGBTI persons in Malaysia is pervasive.[109] LGBTI individuals face a moderate risk of official and societal discrimination.[110] LGBTI persons report discrimination in employment, housing, and access to some government services because of their sexuality.[111] The appointment of a transgender representative to the federal Ministry of Health's Country Coordinating Mechanism, a committee supported by the Global Fund to Fight AIDS, Tuberculosis and Malaria, was criticised by a representative of the of Parti Islam Se Malaysia (PAS) who said the committee's representative should be an "ex-transgender" person who had "gone through a positive phase and returned to [the original path]," adding that the "promotion of gender equality is not the culture here in Malaysia. We support the stand made by Deputy Prime Minister Datuk Seri Dr Wan Azizah, who has objected to the LGBT agenda and urged any agenda for the normalisation of LGBT to stop because it contradicts our religion and constitution."[112] Malaysia's Islamic authorities have published materials and conducted outreach activities encouraging Muslim LGBTI persons to undergo sexuality rehabilitation.[113] The outreach program, a three-day camp held eight times each year, has been criticised by the Malaysian Aids

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[102] 'Human Rights in Asia-Pacific: Review of 2019', Amnesty International, 29 January 2020, p.34, 20200130115738; '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.32, 20200312091714
[103] '2019 Legatum Prosperity Index', Legatum Institute, 25 November 2019, 20191206104103
[104] 'Study: In post-GE14 Malaysia, more person freedom but tolerance took a dive', Malay Mail, 27 November 2019, 20191206095708
[105] 'The Global Divide on Homosexuality: Greater Acceptance in More Secular and Affluent Countries', Pew Research Center, 4 June 2013, p.3, CIS26344
[106] 'PM slams West for erosion of values, same-sex marriage', Malaysiakini, 22 November 2019, 20191206082228; 'Mahathir Malaysia cannot accept same-sex marriage', Reuters, 22 September 2018, CXBB8A1DA35827; 'Don't force' LGBT rights on Malaysia, Mahathir says', Agence France Presse, 25 October 2018, CXBB8A1DA37446; 'World Report 2020. Events of 2019: Malaysia', Human Rights Watch (HRW), 14 January 2020, 20201120142201
[107] 'LGBT Community Deserves Equal Protection Under the Law', The Malaysian Bar, 21 January 2021, 20210311162111
[108] 'LGBT Community Deserves Equal Protection Under the Law', The Malaysian Bar, 21 January 2021, 20210311162111
[109] 'World Report 2021. Events of 2020', Human Rights Watch, 13 January 2021, p.432, 20210114072851
[110] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.141, p.46, 20191213141745; 'Suaram's Human Rights Overview Report on Malaysia 2019', Suara Rakyat Malaysia (SUARAM), 9 December 2019, pp.32-34, 20200116163323; 'World Report 2021. Events of 2020', Human Rights Watch (HRW), 13 January 2021, p.432, 20210114072851
[111] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.33, 20200312091714
[112] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.32, 20200312091714
[113] 'Malaysian authorities release video claiming homosexuality can be 'cured'', Gay Community News (GCN), 18 December 2019, 20191220100405; 'Jakim issues e-book on LGBT rehab; minister says phenomenon 'under control'', Malay Mail, 24 October 2018, CXBB8A1DA37286; 'New M'sia should find 'right path' on LGBT rights, Malaysiakini, 7 August 2018, CXBB8A1DA39089; 'Malaysia Should Find 'Right Path' on LGBT Rights', Human Rights Watch, 7 August 2018, 20190206102849

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Council as having become a place where LGBTI are being "converted" to the "right path" instead of its original intent of to "provide a safe, non-judgmental space" to the transgender community.[114]

Transgender individuals experience discrimination and occasional violence. Authorities often charge transgender persons for cross-dressing with "indecent behaviour" and also for "importuning for immoral purposes" in public, and those convicted are liable for a fine of 25 ringgit and potentially a prison sentence of up to 14 days.[115] Justice for Sisters (JFS), an advocacy group for the LGBTI community, said it has experienced difficulty obtaining legal representation for its clients who were charged under anti-crossdressing state Islamic laws.[116] Local advocates contend that imprisoned transgender women served their sentences in prisons designated for men and that police and inmates often abused them verbally and sexually.[117] Transgender people may face discrimination in many facets of society, including education, employment, healthcare, and housing.[118] Transgender individuals may face discrimination in public healthcare facilities, including undergoing forcible HIV/AIDS testing or being housed in male wards where they can be exposed to violence and abuse.[119] NGO Justice for Sisters report that between 2014 and 2019 there have been 10 known cases of transgender murders, but note that some murders are unlikely reported.[120] A 2018 survey by a local transgender rights group reported more than two-thirds of transgender women experienced some form of physical or emotional abuse.[121] In July 2020, the Religious Affairs Minister called for the arrest and "education" of transgender people in Malaysia.[122]

Numerous organisations and groups support the LGBTI community and advocate for gender equality. Mainstream Christian churches and the Malaysian Consultative Council of Buddhism, Christianity, Hinduism, Sikhism and Taoism have also spoken out against discrimination and violence towards gay and lesbian people.[123] Leadership Program for Gays (LPG) provides a network for LGBTI business people and organises group activities such as gatherings and sports events.[124] PLUPenang is an LGBTI organisation dedicated to supporting and fostering friendships amongst LGBTI members, and arranges recreational events and provides a safe space for LGBT people to express themselves.[125] Pertubuhan Kebajkan dan Persekitaran Positif Malaysia (SEED) is an officially registered community organisation that provides support services, including a drop-in centre, primarily

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[114] 'AIDS council slams Jakim's 'conversion therapy' for LGBTs', Free Malaysia Today, 24 December 2018, 20190125114340
[115] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.32, 20200312091714; 'Public Opinion of Transgender Rights in Malaysia', Luhur, W., Brown, T N T., Goh, J N, Wiliams Institute, 8 September 2020, p.1, 20201117102545; 'Trans Legal Mapping Report: Recognition Before the Law ', International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), 30 September 2020, pp.88-89, 20201001140359
[116] 'Why Muslims accused of Shariah offences lack access to justice', Malay Mail, 8 October 2018, 20190606092708
[117] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.32, 20200312091714; 'Is There Room for Transgender Rights in the 'New Malaysia'?', The Diplomat, 4 April 2019, 20201117103608
[118] 'Study on Discrimination Against Transgender Persons Based in Kuala Lumpur and Selangor', Human Rights Commission of Malaysia (SUHAKAM), 19 July 2019, pp.3-6, 20201117101357; 'Medical woes: Try stepping into the shoes of a transgender person', Malaysiakini, 10 February 2021, 20210212094630
[119] 'Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Addendum: Visit to Malaysia (19 November–2 December 2014)', United Nations Human Rights Council, May 2015, p.16, CISEC96CF14228; 'How life is tough for transgenders in conservative Malaysia, who face violence, religious and official bias, and abusive me', South China Morning Post, 15 November 2017, CXC90406617584; 'Submission by Human Rights Watch to the United Nations Committee on the Elimination of Discrimination against Women 69th pre-sessional working group', Human Rights Watch, May 2017, CISEDB50AD4317; 'Transgender women in Malaysia, in the context of HIV and Islam: a qualitative study of stakeholders' perceptions', Barmania, S, Aljunid S M, BMC International Health and Human Rights, article 30, 20200424150731; Study on Discrimination Against Transgender Persons Based in Kuala Lumpur and Selangor', Human Rights Commission of Malaysia (SUHAKAM), 19 July 2019, pp.38-107, 20201117101357
[120] 'Gov't must curb increasing violence against transgenders', Malaysiakini, 20 November 2019, 20191206075644; NGOs raise alarm over yet another murder of a transgender woman', Free Malaysia Today, 3 January 2019, 20190125100210; 'Klang Transgender Dies From Cracked Skull After Brutal Assault By Men', SAYS, 14 December 2018, 20190125120728
[121] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.32, 20200312091714
[122] 'Trans Legal Mapping Report: Recognition Before the Law ', International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), 30 September 2020, p.89, 20201001140359
[123] 'LGBT Organisations in Malaysia', Angloinfo Malaysia, n.d., accessed 29 June 2018, CISEDB50AD3776; 'Beauty and the Beast censorship attempt shows the good, the bad and the ugly of LGBT rights in Malaysia', The Conversation, 29 March 2017, CXC9040667196
[124] 'LPG Community', Yahoo Groups, n.d., accessed 23 November 2018, CIS7B8394110273
[125] 'PLUPenang website', PLUPenang, n.d., accessed 23 November 2018, CIS7B8394110276

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for the transgender community.[126] Justice for Sisters is a campaign organised to raise public awareness about issues pertaining to transgender individuals and raise funds to finance court cases against transgender individuals in syariah courts.[127] The PT Foundation provides support to the LGBTI community, including those affected with HIV/AIDS, offering services such as healthcare and drop-in services, and offers seminars, operates a telephone counselling line and offers outreach programmes at third-party venues.[128] Seksualiti Merdeka advocates for LGBTI rights and supports Malaysians who have been marginalised because of their sexual orientation and gender identity.[129]

Women

Malaysian society is patriarchal. Women are active in all areas of society, but cultural and social barriers limit their levels of participation.[130] Moreover, there is a lack of resources available to women to assist them re-entering the workforce after childbirth.[131] Malaysia has the lowest rate of women's workforce participation in Southeast Asia.[132] Although there has been an increase in labour force participation by women over the last decade, wages for women do not equate to those of men for similar work.[133] The 2020 Global Gender Gap Report ranked Malaysia at 104 out of 153 countries representing a decline from previous years.[134] Economic participation and opportunity as well as political empowerment for women are below parity in Malaysia.[135]

Muslim women may be adversely affected by syariah law. Malaysia's Federal Constitution prohibits discrimination based on gender and gives women equal rights to inherit, acquire, manage or dispose of property, including land.[136] However, syariah law can deviate from these constitutional principles in some areas such as Islamic inheritance law that typically favours male children and male relatives.[137] Syariah law generally requires a husband's consent for divorce, but a small and steadily increasing number of women obtain divorces under syariah without their husband's consent.[138] Although syariah law favours fathers, equal parental rights are extended to Muslim mothers in four states, Johor, Selangor, Negri Sembilan and Pahang.[139]

A 2010 amendment to Malaysia's Federal Constitution provides equal gender rights to Malaysian parents to confer nationality to their child born abroad but the process is cumbersome if the father is not a Malaysian citizen. Children born in Malaysia to either a Malaysian mother or father automatically acquire Malaysian citizenship.[140] Malaysia's Federal

[126] 'About SEED', Pertubuhan Kebajkan dan Persekitaran Positif Malaysia (SEED), n.d., accessed 8 November 2018, CIS7B8394110070
[127] 'About Justice for Sisters', Justice for Sisters, n.d., accessed 8 November 2018, CIS7B8394110071; 'Justice for Sisters', Astraea Lesbian Foundation For Justice, n.d., accessed 8 November 2018, CIS7B8394110072
[128] 'About Us PT Foundation', PT Foundation, n.d., accessed 8 November 2018, CIS7B8394110073
[129] 'Seksualiti Merdeka Facebook page', Facebook, n.d., accessed 23 November 2018, CIS7B8394110278
[130] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.118, p.41, 20191213141745
[131] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.118, p.41, 20191213141745
[132] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.119, p.41, 20191213141745
[133] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.119, p.41, 20191213141745
[134] 'World Economic Forum Global Gender Gap Report 2020', World Economic Forum, 18 December 2019, p.233, 20191218105643
[135] 'World Economic Forum Global Gender Gap Report 2020', World Economic Forum, 18 December 2019, p.233, 20191218105643
[136] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.27, 20200312091714
[137] 'Freedom in the World 2021', Freedom House, 15 March 2021, G2, 20210315153050; '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.27, 20200312091714
[138] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.27, 20200312091714
[139] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.27, 20200312091714
[140] 'Background Note on Gender Equality, Nationality Laws and Statelessness 2020', United Nations High Commissioner for Refugees (UNHCR), 14 July 2020, p.11, 20200715081230

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Constitution allows application for citizenship to a child born abroad to a Malaysian citizen parent and was amended in June 2010 to achieve gender equality.[141] If only the mother is a Malaysian citizen of a child born abroad, the decision to grant citizenship is at the discretion of the Federal Government rather than being granted by operation of the law when the father is a Malaysian national.[142] In practice, there is a more arduous process to obtain citizenship for a child born abroad whose father is not a Malaysian national and the process can potentially take years to resolve.[143] The Deputy Minister of Home Affairs stated that the citizenship application process for children born abroad to a foreign national father is to prevent the child being granted dual citizenship in case the child has been conferred citizenship by the foreign father.[144] Dual citizenship is not permitted in under Malaysian law.[145]

Social protection

Malaysia is an upper-middle income country with high income inequality. Rates of poverty are higher amongst the Malay and Indian ethnic groups and is more prevalent in rural areas.[146] Malaysia's claim to have significantly reduced poverty since the 1970s is undermined by an unrealistically low poverty line despite many years of robust economic growth.[147] Malaysia's low poverty line is not consistent with the increases in the cost of living that has occurred over many years of economic growth.[148] Accordingly, Malaysian authorities have turned their attention to reducing income inequality – which remains high in comparison to other East Asian countries but is gradually declining – and addressing the well-being of the poorest 40 per cent of the population (B40), who remain vulnerable to increases in the cost of living or economic shocks.[149] The United Nations Development Programme's Human Development Index ranked Malaysia 61 out of 189 countries and territories in 2018, placing it in the 'very high human development' category.[150]

Malaysia's welfare system is generally well developed. Broadly speaking, there are three categories of social welfare namely, social insurance and pensions, public assistance, and labour market programmes.[151] The Employees Provident Fund is the primary social security institution that

[141] 'Report on Citizenship Law Malaysia and Singapore', Global Citizenship Observatory (CLOBALCIT), Choo Chin Loo, February 2017, p.16, CISEDB50AD7469
[142] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 13 December 2019, p.47, section 3.146, 20191213141745; 'Background Note on Gender Equality, Nationality Laws and Statelessness 2020', United Nations High Commissioner for Refugees (UNHCR), 14 July 2020, p.11, 20200715081230; 'Background Note on Gender Equality, Nationality Laws and Statelessness 2021', United Nations High Commissioner for Refugees (UNHCR), 5 March 2021, p.11, 20210308081204; Left in limbo: Mothers speak of M'sian citizenship hurdles for overseas-born kids', Malaysiakini, 18 September 2019, 20191003093331
[143] 'Annual Report 2019', Human Rights Commission of Malaysia (SUHAKAM), 23 November 2020, p.158, 20201124095028
[144] M'sian women cannot confer nationality on children due to national security, Malaysiakini, 3 December 2020, 20201204100050; Maria Chin: Malaysian women discriminated as their children not automatically citizens, unlike men's, Malay Mail, 3 December 2020, 20201204101829
[145] 'Report on Citizenship Law Malaysia and Singapore', Global Citizenship Observatory (CLOBALCIT), Choo Chin Loo, February 2017, p.16, CISEDB50AD7469; M'sian women cannot confer nationality on children due to national security, Malaysiakini, 3 December 2020, 20201204100050
[146] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 2.10, p.10, 20191213141745
[147] 'Statement by Professor Philip Alston, United Nations Special Rapporteur on extreme poverty and human rights, on his visit to Malaysia, 13-23 August 2019', OHCHR, 23 August 2019, 20200729172426
[148] 'Statement by Professor Philip Alston, United Nations Special Rapporteur on extreme poverty and human rights, on his visit to Malaysia, 13-23 August 2019', OHCHR, 23 August 2019, 20200729172426; '2019 Economic Survey of Malaysia: Overview', OECD, July 2019, pp.27-29, 20210326113411
[149] 'The World Bank In Malaysia', The World Bank, April 2020, 20210326111722
[150] 'Human Development Report 2019: Malaysia', United Nations Development Programme, 9 December 2019, 20201116133639
[151] 'Social Protection Programme in Malaysia, Do We Need Integration?', Samad, S A and Shahid, M Md, International Journal for Studies on Children, Women, Elderly and Disabled, volume 5, October 2018, pp.72-73, 20201116170755; 'Social Security Programs Throughout the World: Asia and the Pacific, 2018: Malaysia', Social Security Administration, March 2019, 20201116141555; 'Social Protection for all: The next step of the Malaysian welfare', Koutronas, E, University of Virginia, 18 July 2020, chapter 2, 20201117115643

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employers and employees are required to contribute.[152] Employers in the formal labour market are required to contribute to the employment insurance scheme which provides retrenched employees with income replacement of up to 4,000 ringgit.[153] Coverage of the provident fund has been extended to include housewives, widows, and single mothers enlisted in the eKasih (national poverty database).[154] The bottom 40 percent (B40[155]) of income earners in Malaysia receive an income supplement called the Household Living Aid (BSH),[156] and may be eligible for additional income assistance and healthcare.[157] Various welfare assistance and support services are also administered by state governments, including the Zakat system that provides payments to needy and vulnerable persons.[158]

Malaysia has a universal healthcare system that has integrated income protection support for low income groups. The public healthcare system is heavily subsidised and accessible to all Malaysians, with the basic treatment fee costing one ringgit (approximately AUD 33 cents).[159] In 2019, the government introduced the B40 National Protection Scheme called mySalam, which provides health protection to the country's lowest 40 percent income earners.[160] The mySalam scheme provides recipients' healthcare and income protection payments if diagnosed with one of 45 critical illnesses.[161] Also introduced in 2019, the Healthcare Scheme for Group B40 (PeKa B40) provides eligible B40 recipients income supplement and assistance.[162] The PeKa B40 scheme is focused on healthcare for non-communicable diseases such as cancer and mental health.[163]

Political opinion

Civil society organisations

Civil society groups operate in Malaysia but may be subject to harassment from authorities. Numerous non-governmental organisations (NGOs) operate in Malaysia, and they have a strong record of campaigning for electoral, anticorruption, and other reforms.[164] NGOs must be approved and registered by the government, which has refused or revoked registrations for political reasons in the past.[165] Many human rights and civil society organisations experience difficulties obtaining government recognition as NGOs, so instead register as companies, which creates legal and

[152] 'Social Security Programs Throughout the World: Asia and the Pacific, 2018: Malaysia', Social Security Administration, March 2019, 20201116141555; 'BTI 2020 Country Report Malaysia', Bertelsmann Stiftung, 29 April 2020, p.22, 20200429144341
[153] 'A Guide to Social Protection in Malaysia', The Centre, 19 October 2019, 20200512115042
[154] '2019 Economic Survey of Malaysia: Overview', Office for Economic Co-operation and Development (OECD), July 2019, p.35, 20201116160211
[155] 'Government's Aid for the People', Prime Minister's Office of Malaysia, n.d., accessed 17 November 2020, 20201117185421
[156] Formally known as *Bantuan Sara Hidup*. 'A Guide to Social Protection in Malaysia', The Centre, 19 October 2019, 20200512115042
[157] 'Peka B40', Ministry of Health (Malaysia), n.d., accessed 17 November 2020, 20201117180634; 'A Guide to Social Protection in Malaysia', The Centre, 19 October 2019, 20200512115042
[158] 'A Decade of Social Protection Development in Selected Asian Countries', OECD, 11 May 2017, p.60, CISEDB50AD5044
[159] 'All The Social Safety Nets We Could Find For Malaysians In Times Of Trouble', Rakyat Post, The, 15 June 2020, 20201116164636
[160] 'BTI 2020 Country Report Malaysia', Bertelsmann Stiftung, 29 April 2020, p.23, 20200429144341; 'mySalam National Health Protection Scheme', mySalam, n.d., accessed 17 November 2020, 20201117171815
[161] 'A Guide to Social Protection in Malaysia', The Centre, 19 October 2019, 20200512115042; 'mySalam National Health Protection Scheme – Types of Critical Illnesses', mySalam, n.d., accessed 17 November 2020, 20201117172145; 'mySalam National Health Protection Scheme – Bantuan Sara Hidup (BSH) Recipients', mySalam, n.d., accessed 17 November 2020, 20201117172635
[162] 'A Guide to Social Protection in Malaysia', The Centre, 19 October 2019, 20200512115042, 'mySalam National Health Protection Scheme - FAQ About mySalam', mySalam, n.d., accessed 17 November 2020, 20201117171503
[163] 'All The Social Safety Nets We Could Find For Malaysians In Times Of Trouble', Rakyat Post, 15 June 2020, 20201116164636; 'A Guide to Social Protection in Malaysia', The Centre, 19 October 2019, 20200512115042
[164] 'Freedom in the World 2021', Freedom House, 15 March 2021, E2, 20210315153050
[165] 'Freedom in the World 2021', Freedom House, 15 March 2021, E2, 20210315153050; '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.16, 20200312091714

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bureaucratic obstacles to raising money to support their activities.[166] Some international human rights organisations have been forbidden from forming local branches.[167] Some NGOs report the government monitors their activities in order to intimidate them.[168]

Freedom of expression

Freedom of expression is limited. The Constitution allows restrictions on the freedom of expression 'in the interest of the security of the Federation… [or] public order.'[169] The law prohibits sedition and public comment on issues defined as sensitive, including racial and religious matters or criticism of the King or ruling sultans.[170] The government regularly restricts freedom of expression for members of the public, media, and civil society, citing reasons such as upholding Islam and the special status of ethnic Malays, protecting national security, maintaining public order, and preserving friendly relations with other countries.[171] Despite these restrictions, opposition parties, civil and political activists, unions, online news sites, and other online forums frequently publish views critical of government policies, with online media and blogs providing views not reported in mainstream media.[172] However, journalists and media outlets, activists and ordinary internet users may be subject to judicial harassment or prosecution for transgressing these boundaries.[173] Criminal defamation laws and the Section Act (1948), Communications and Multimedia Act (1998) and the Printing Presses and Publications Act (1984) among others may be used to curb freedom of expression and often result in media self-censorship.[174] Some of these laws are also used by the ruling administration to intimidate

[166] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.17, 20200312091714
[167] 'Freedom in the World 2021', Freedom House, 15 March 2021, E2, 20210315153050
[168] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.17, 20200312091714; 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, pp.77, 20200429103634; 'Johor top cop confirms NGO activist under investigation for making baseless allegations', Malay Mail, 25 November 2020, 20201126100924
[169] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.11, 20200312091714
[170] 'Freedom on the Net 2020 - Malaysia', Freedom House, 14 October 2020, B4, 20201022140322, '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.11, 20200312091714; 'Amnesty International Report 2017/18', Amnesty International, 22 February 2018, p.249, NGED867A612; 'Human Rights in Asia-Pacific: Review of 2019', Amnesty International, 29 January 2020, p.33, 20200130115738
[171] 'Rights in Reverse: One year under the Perikatan Nasional government in Malaysia', Article 19, 8 March 2021, 20210309082801; '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.11,13, 20200312091714; 'BTI 2020 Country Report Malaysia', Bertelsmann Stiftung, 29 April 2020, p.7, 20200429144341; 'Human Rights in Asia-Pacific: Review of 2019', Amnesty International, 29 January 2020, p.33, 20200130115738; '10 years' jail for insulting Islam excessive - MCA agrees with DAP', Malaysiakini, 11 March 2019, 20200204140736; 'Reduced sentence for Sarawakian convicted of insulting Islam', Free Malaysia Today, 13 September 2019, 20200204141618; 'Suaram's Human Rights Overview Report on Malaysia 2019', Suara Rakyat Malaysia (SUARAM), 9 December 2019, p.20, 20200116163323; 'KL raids offices of 3 broadcasters in probe over documentary', The Straits Times, 5 August 2020, 20200805082802; 'Why Malaysia's Muhyiddin fears a free press', Asia Times, 9 August 2020, 20200810101253
[172] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.12, 20200312091714
[173] 'Sedition probes almost doubled in 2020 - Suaram', Malaysiakini, 9 December 2020, 20201210103908; 'SUARAM Human Rights Overview Report on Malaysia 2020', Suaram (Suara Rakyat Malaysia), 9 December 2020, 20201210103243 'Double Blow to Press Freedom in Malaysia', Asia Sentinel, 19 February 2021, 20210222083113; 'Malaysia holds media freedom in contempt of court', Asia Times, 19 February 2021, 20210222080909; 'Rights in Reverse: One year under the Perikatan Nasional government in Malaysia', Article 19, 8 March 2021, pp.11-12, 20210309082801; 'Malaysiakini in contempt over readers' comments, rules Federal Court', Malaysiakini, 19 February 2021, 20210224094720; 'Criticising a court decision should not amount to sedition - Guan Eng', Malaysiakini, 22 February 2021, 20210224095531; 'Malaysian police raid Al Jazeera's office, seize computers', Aljazeera, 5 August 2020, 20201125162649; 'Johor top cop confirms NGO activist under investigation for making baseless allegations', Malay Mail, 25 November 2020, 20201126100924; 'Freedom on the Net 2020 - Malaysia', Freedom House, 14 October 2020, B4, C3, 20201022140322; 2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.14, 20200312091714; 'Activist Fadiah, three others at Dang Wangi over Dataran Merdeka rally', The Star (Malaysia), 3 July 2020, 20200703112240; 'Malaysia: New Government Backslides on Free Speech', Human Rights Watch, 10 June 2020, 20200708154306; 'Judicial Harassment of Fadiah Nadwa Fikri', Front Line Defenders (International Foundation for the Protection of Human Rights Defenders), 5 March 2020, 20200702181533; 'End harassment of student activists', Article 19, 9 November 2020, 20201127091646; 'Malaysia's New Government Cracks Down on Critics', Voice of America (VOA), 16 June 2020, 20200708114215
[174] 'Freedom on the Net 2020 - Malaysia', Freedom House, 14 October 2020, B4, C2, 20201022140322; '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.14, 20200312091714; 'Suaram's Human Rights Overview Report on Malaysia 2019', Suara Rakyat Malaysia (SUARAM), 9 December 2019, pp.20-26, 20200116163323

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opposition politicians.[175] Although most controversial content posted on social media about sensitive issues by the general public does not result in prosecutions, a relatively small number of investigations result in fines under the Communications and Multimedia Act (1998).[176] But there has been a very few occasions when members of the public have served time in jail over offensive social media posts.[177]

Also see **Political situation** for information about a fake news ordinance invoked during emergency rule.

Freedom of assembly

Peaceful assembly is generally permitted when police are correctly notified in advance but authorities may intimidate organisers or activists with criminal law and laws that curb speech on sensitive topics. The constitution provides for the freedom of peaceful assembly.[178] Police place time, location, and other restrictions on assemblies.[179] Organisers of an assembly are required to notify police five days prior to the event, and failure to provide adequate notification may be considered a criminal offense.[180] Reports indicate that authorities have harassed civil and political activists over rallies that involve sensitive topics and for not providing five days' notice prior to a rally.[181] Otherwise, protests deemed acceptable by the government usually proceed without interference.[182]

State protection

Royal Malaysia Police (RMP)

The RMP is generally considered a professional and effective force. The RMP operates 837 police stations nationwide and employs approximately 115,000 officers.[183] Local and international sources indicate the RMP is a professional and effective police force, although the quality of its members' responses varies depending on levels of training, capacity and engagement in

[175] 'Parliamentarians at Risk: Reprisals against opposition MPs in South-east Asia', ASEAN Parliamentarians for Human Rights (APHR), 7 November 2020, p.19-23, 20201125160159; 'Police grill Guan Eng over Harapan's statement on emergency', Malaysiakini, 11 March 2021, 20210312132514
[176] IGP Over 500 police reports about insulting royalty received', The Star, 25 April 2019, 20191028141648 'SUARAM Human Rights Overview Report on Malaysia 2020', Suaram, 9 December 2020, p.15 ff, 20201210103243; 'Suaram's human rights overview on Malaysia 2018', Suaram, 28 November 2018, p.23 ff, CIS7B8394110621
[177] IGP Over 500 police reports about insulting royalty received', The Star, 25 April 2019, 20191028141648 'SUARAM Human Rights Overview Report on Malaysia 2020', Suaram, 9 December 2020, p.15 ff, 20201210103243; 'Suaram's human rights overview on Malaysia 2018', Suaram, 28 November 2018, p.23 ff, CIS7B8394110621
[178] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.16, 20200312091714
[179] 'Freedom in the World 2021', Freedom House, 15 March 2021, E1, 20210315153050; '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.16, 20200312091714; 'Human Rights in Asia-Pacific: Review of 2019', Amnesty International, 29 January 2020, pp.33-34, 20200130115738
[180] 'Rights in Reverse: One year under the Perikatan Nasional government in Malaysia', Article 19, 8 March 2021, pp.15-17, 20210309082801; '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.16, 20200312091714; 'Cops quiz Ambiga, Marina Mahathir and 17 other activists', Malaysiakini, 4 March 2020, 20200305085946; 'Cops to quiz Bersih 2.0 chairman over Facebook post urging protest against 'Sheraton Move'', Malay Mail, 6 July 2020, 20200708124849
[181] 'Judicial Harassment of Fadiah Nadwa Fikri', Front Line Defenders (International Foundation for the Protection of Human Rights Defenders), 5 March 2020, 20200702181533; 'Fadiah, three other activists leave police station after questioning', The Star Online (Malaysia), 4 March 2020, 20200703105544; 'Rights activist, 13 others under investigation over pro-democracy demonstration', Malay Mail, 3 March 2020, 20200703113902; 'Malaysians have democratic rights to protest, Pakatan says amid probes on activists', Malay Mail, 3 March 2020, 20200703114855
[182] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.16, 20200312091714; 'Suaram's Human Rights Overview Report on Malaysia 2019', Suara Rakyat Malaysia (SUARAM), 9 December 2019, pp.27-28, 20200116163323
[183] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 5.5, p.55, 20191213141745

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corruption.[184] According to a Transparency International survey conducted during the latter part of 2020, public perceptions of corruption within the police was high compared to other public institutions, with 30 percent of those surveyed perceiving police to be corrupt.[185] The 2020 results are markedly better compared with Transparency International's perceptions survey conducted during 2016 that found 57 percent of respondents thought corruption was a problem within the police force.[186]

Incidents of mistreatment in custody and impunity for police/security forces personnel are reported. Incidents of torture and ill-treatment in police custody have been reported.[187] Incidents of physical violence inflicted upon detainees under remand or during investigation are prevalent especially when there are elements of chain remand or detention under security laws.[188] The government has claimed that deaths in police custody, particularly those caused by police, were rare, but civil-society activists' dispute this claim.[189] Malaysian independent civil and political rights organisation Suara Rakyat Malaysia (SUARAM) said there were six cases of custodial deaths reported between January and October 2019.[190] Nine deaths were reported between January and September 2020.[191] Amendments to an Independent Police Conduct Commission (IPCC) bill which seeks to establish an independent commission to investigate police misconduct were expected to be debated by parliament in March 2021 but parliament is suspended due to the country being in a state of emergency.[192] Civil and rights advocates have criticised the bill which they view as a 'watered-down' version of its predecessor, the Independent Police Conduct Commission Bill introduced by the former Pakatan Harapan government.[193]

Criminal justice system

A number of existing laws undermine due process guarantees. The Security Offences (Special Measures) Act (2012) (SOSMA) allows police to detain anyone for up to 28 days without judicial review for broadly defined 'security offences' and to hold suspects for 48 hours before being granted access to a lawyer and was renewed for another five years in 2017.[194] In 2017, lawmakers amended the Prevention of Crime Act (1959) (a law ostensibly aimed at combating organised crime) to revoke detainees' right to address the government-appointed Prevention of Crime Board, which is empowered to order the detention of individuals listed by the Home Ministry for renewable two-year terms without trial or legal representation.[195] The Prevention of Terrorism Act (2015) together with the National Security Council Act (2016) gives the National Security Council (led by the prime minister)

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[184] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 5.5, p.55, 20191213141745; 'Center to Combat Corruption and Cronyism (C4 Center)', 28 October 2020, 20201117094952 'Officers from three Malaysian police departments to be transferred on suspicion of working with criminals', Straits Times, 16 November 2020, 20201117090941; 'IGP confirms 20 cops transferred following Macau scam, online gambling probe', Bernama, 16 November 2020, 20201117092931

[185] 'Global Corruption Barometer - Asia', Transparency International, 24 November 2020, p.10 & 44, 20201202170007

[186] 'Global Corruption Barometer – Asia Pacific', Transparency International, 28 February 2017, p.41, CISEDB50AD5225

[187] Freedom in the World 2021', Freedom House, 15 March 2021, F3, 20210315153050; 'Malaysia Human Rights Report 2019', Suaram (Suara Rakyat Malaysia), 11 August 2020, 20200910073340; 'Suaram's Human Rights Overview Report on Malaysia 2019', Suara Rakyat Malaysia (SUARAM), 9 December 2019, pp.13-14, 20200116163323

[188] 'Suaram's Human Rights Overview Report on Malaysia 2018', Suara Rakyat Malaysia (SUARAM), 28 November 2018, p.17, CIS7B8394110621

[189] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.4, 20200312091714

[190] 'Suaram's Human Rights Overview Report on Malaysia 2019', Suara Rakyat Malaysia (SUARAM), 9 December 2019, p.12, 20200116163323

[191] 'SUARAM Human Rights Overview Report on Malaysia 2020', Suara Rakyat Malaysia (SUARAM), 9 December 2020, p.9, 20201210103243

[192] 'Emergency doesn't warrant power abuse, Suhakam repeats call for IPCC', Malaysiakini, 10 February 2021, 20210212091326; 'Saifuddin hints at 'positive changes' since filing of no-confidence motions', Malaysiakini, 2 November 2020, 20201118143617; 'Proposed Law Reverses Police Reforms', Human Rights Watch, 28 August 2020, 20200831092607;

[193] 'Proposed IPCC Bill a shameful step backwards in ensuring police accountability', Amnesty International, 28 August 2020, 20201127114209; 'New IPCC is significantly watered-down version of IPCMC', Malaysiakini, 28 August 2020, 20201029103114; 'IPCC Bill: Suhakam concerned over lack of independence, conflict of interest', Malaysiakini, 27 August 2020, 20200828093940

[194] 'Freedom in the World 2021', Freedom House, 15 March 2021, F2, 20210315153050

[195] 'Freedom in the World 2021', Freedom House, 15 March 2021, F2, 20210315153050

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wide powers of arrest, search, and seizure without a warrant in areas deemed as security risks and in the context of countering terrorism.[196] Chain remand under certain security laws was reportedly common during 2019.[197]

Judiciary

Trial procedures are typically fair. Malaysia's Constitution provides for a fair and public trial, and the judiciary generally enforced this right.[198] The civil law system is based on British common law and defendants are presumed innocent until proven guilty.[199] Defendants have the right to be informed promptly of the charges against them, to a timely trial, and to be present at their trial.[200] Defendants have the right to communicate with an attorney of their choice or to have counsel appointed at public expense if they face charges that carry the death penalty.[201] Defendants also may apply for a public defender in certain other cases.[202] According to a Transparency International survey conducted during the latter part of 2020, public perceptions of corruption amongst judges and magistrates were relatively low.[203]

The majority of cases in Malaysian courts are processed in accordance with the rule of law. According to the Malaysian Bar Council, defendants generally had adequate time and facilities to prepare a defence if they had the means to engage private counsel.[204] Otherwise, defendants must rely on legal aid and the amount of time to prepare for trial is at the discretion of the judge.[205] Authorities provide defendants free interpretation in Mandarin, Tamil, and some other commonly used dialects from the moment charged through all appeals.[206] The right to confront witnesses is limited by provisions allowing the identity of prosecution witnesses to be kept secret from the defence before a trial, which inhibits cross-examination of those witnesses.[207] Defendants may present witnesses and evidence on their behalf. Limited pre-trial discovery in criminal cases can impede the defence.[208]

Judicial independence may be compromised by executive interference. Three constitutional articles provide the basis for an independent judiciary; however, other constitutional provisions, legislation restricting judicial review, and executive influence over judicial appointments limit judicial independence and strengthen executive influence over the judiciary.[209] The judiciary frequently defers to police or executive authority in cases those parties deem as affecting their interests.[210] Members of the Malaysian Bar Council, NGO representatives, and other observers express serious concern about

[196] 'Freedom in the World 2021', Freedom House, 15 March 2021, 20210315153050
[197] 'Malaysia Human Rights Report 2019', Suaram (Suara Rakyat Malaysia), 11 August 2020, pp.24-25, 20200910073340
[198] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.9, 20200312091714
[199] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.9, 20200312091714
[200] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.9, 20200312091714
[201] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.9, 20200312091714
[202] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.9, 20200312091714
[203] 'Global Corruption Barometer - Asia', Transparency International, 24 November 2020, p.44, 20201202170007
[204] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.9, 20200312091714
[205] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.9, 20200312091714
[206] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.9, 20200312091714
[207] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.9, 20200312091714
[208] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.9, 20200312091714
[209] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.8, 20200312091714
[210] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.8, 20200312091714

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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.[211]

Syariah law

Malaysia maintains a dual legal system with the coexistence of syariah law alongside civil law. Malaysia's secular legal system is based on English common law.[212] Muslims are subjected to both the general laws enacted by parliament and religious laws enacted by their state legislature.[213] Syariah courts in the judicial system have three levels (except for Perak state which instituted a Supreme Court in December 2018).[214]

The jurisdiction of syariah law is confined to family law and religion. The dual legal system results in different treatment of Muslims and non-Muslims in 'moral' and family law cases.[215] Syariah courts are highly influential in general, because their decisions frequently involve conversions to Islam, which in turn affect such matters as child-custody, burial rites and inheritance.[216] Some penalties imposed by syariah courts are limited by federal civil law.[217] Two states, Kelantan and Terengganu, have symbolically enacted hudood (Islamic penal law) for criminal offenses such as apostasy, slander, adultery, and alcohol consumption.[218]

Islamic religious enforcement officers conduct moral policing operations. Religious enforcement officers have a range of powers, depending on the particular Islamic laws that apply in each state.[219] State Islamic religious enforcement officers have the authority to accompany police on raids of private premises and public establishments, and to enforce syariah, including for violations such as indecent dress, distribution of banned publications, alcohol consumption, or khalwat (close proximity to a nonfamily member of the opposite sex).[220] Moral breaches of syariah law typically result in a warning or a fine but may include caning or up to one month imprisonment for the most serious offences.[221]

Corruption

Corruption is common in Malaysia. In recent years several government officials have been charged with corruption, including former prime minster Najib, but there remained a broadly held perception of widespread corruption and cronyism in government institutions.[222] Following a change of government in early 2020, a Transparency International survey conducted during the latter part of that year indicates that public perceptions of corruption within the public services is high, with survey

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[211] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.8, 20200312091714
[212] 'BTI 2020 Country Report Malaysia', Bertelsmann Stiftung, 29 April 2020, p.7, 20200429144341
[213] Freedom in the World 2021', Freedom House, 15 March 2021, F2, 20210315153050; 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634
[214] 'Authorities want Shariah Supreme Court established in country following Perak's move', Bernama, 27 November 2019, 20191206105508
[215] Freedom in the World 2021', Freedom House, 15 March 2021, F2, 20210315153050
[216] 'BTI 2020 Country Report Malaysia', Bertelsmann Stiftung, 29 April 2020, p.7, 20200429144341
[217] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 5.3, p.54, 20191213141745
[218] 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634
[219] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 5.9, p.55, 20191213141745
[220] 'Country Reports on Human Rights Practices for 2018 - Malaysia', US Department of State, 13 March 2019, section 2, p.5, 20190314091511
[221] 'The female face of Islamic law in Malaysia', Aljazeera, 16 August 2017, CXC90406620329; 'Lawyer: Muslims can challenge khalwat offences', Free Malaysia Today, 7 December 2016, CX6A26A6E20451
[222] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.23, 20200312091714; 'Court sets April 12 next year for hearing of Zahid's corruption case on foreign visa system', Bernama, 23 November 2020, 20201124100523; 'Zahid's Sources of Stress: The Clobbering of UMNO's "Court Cluster"?', Fulcrum, 11 March 2021, 20210312103051; 'Zahid trial: Prosecution amends number of cheques in money laundering charge', Malaysiakini, 9 March 2021, 20210310082641

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respondents perceiving members of parliament, police, and federal government official the most corrupt institutions.[223] Transparency International's 2020 Corruption Perception Index (CPI) ranks Malaysia in 57th position; this represents a decline over the previous year.[224]

Crime

On-going police operations target criminal gangs and crime syndicates. In recent years, police report to have made an increasing number of criminal gang-related arrests.[225] Numerous media reports show that targeted police operations disrupt gang criminal activity across the country.[226] Police operations of this nature have been occurring for a number of years.[227]

Loan sharks

Malaysian police respond to threats and harassment from unlicensed moneylenders and some non-government associations offer assistance to loan shark clients. Loans from unlicensed moneylenders, typically referred to as 'loan sharks' or an 'ah long' in Malay, are common in Malaysia. Unlicensed money lending activities, including harassment or intimidation of borrowers, are offences under the Moneylenders Act (1951).[228] Individuals prosecuted under the Moneylenders Act face a maximum 1 million ringgit fine or five years imprisonment.[229] Police respond to complaints of illegal money lending activities, including harassment and intimidation, and conduct operations targeting illegal moneylending, resulting in the prosecution of persons under the moneylenders act and the penal code.[230] In December 2017, Malaysia's central bank cautioned the public about illegal money

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[223] 'Global Corruption Barometer - Asia', Transparency International, 24 November 2020, p.10 & 44, 20201202170007
[224] 'Corruption Perceptions Index 2020', Transparency International, 28 January 2021, p.2, 20210129073037, 'Corruption Perceptions Index 2019', Transparency International, 23 January 2020, 20200205081007; 'Malaysia drops six spots to 57th position in Corruption Perceptions Index', Bernama (Malaysian National News Agency), 28 January 2021, 20210308083356; 'Malaysia drops six spots in worldwide corruption perceptions index ranking', The Star Online (Malaysia), 28 January 2021, 20210308084253
[225] 'KL police prosecution, case-solving rate up since 2018, says city police chief', Malay Mail, 7 September 2020, 20201119182931
[226] 'Cops rearrest 25 members of 'TCB 21' gang over several serious crimes in KL', Bernama, 13 November 2020, 20201120124349; 'Police bust 'Muniandy Gang' as eight nabbed for spate of burglaries around Hulu Selangor', Bernama, 13 November 2020, 20201120124829; 'Cops detain 29 suspects allegedly involved in gangsterism, organised crime in Selangor', 5 November 2020, 20201120133621; 'Sungai Buloh police remand 13 for various crimes', Bernama, 26 October 2020, 20201120125136; 'Police bust Jamil Kancil burglary gang in Kulim', Bernama, 11 October 2020, 20201120132350; 'Miri cops bust two burglary gangs, solve 24 cases', Borneo Post Online, 9 October 2020, 20201120133239; 'Johor cops nab seven Gang 21 members linked to shooting-cum-robbery', Malay Mail, 30 September 2020, 20201120134925; 'Selangor police cripple Weng Gang, arrest 13 including leader', Bernama, 28 September 2020, 20201120135209
[227] 'Notorious AYT 99 gang crippled by cops, gun used in 2017 shooting of ex-AG's driver among firearms seized', Malay Mail, 17 February 2020, 20200520141705; 'Cops to charge 10 over crime spate, including murder', The Star, 7 April 2020, 20201119184839; 'Cops nab Gang 08 members for extortion', Malay Mail, 27 February 2019, 20190228085736; 'Police: Those sporting gang tattoos can be arrested', Bernama, 25 February 2019, 20190227121915; 'Gang 08 members arrested for extortion', The Sun Daily, 27 February 2019, 20200520142026; '57 go on trial in Kajang Prison for alleged links to Gang 360 Devan', Bernama, 6 September 2018, CXBB8A1DA34959; 'Datuk Seri and Datuk among 36 charged with being members of Gang 08', The Sun Daily, 27 April 2018, 20200520142455; '3 cops held as 08 Gang, 18 Gang busted', The Sun Daily, 9 April 2018, 20200520142237; 'Chinese have the most gangs; Indian gangs the most members: Police', The Sun Daily, 11 March 2018, 20200520142712; '36 suspected underworld gang members arrested in Malaysia', Bernama, 20 February 2018, CXBB8A1DA22559; 'Op Cantas crackdown on triads: 1,444 arrested', Astro Awani, 13 August 2016, CX6A26A6E8262; 'Malaysia's gang menace', Aljazeera, 11 July 2014, CX1B9ECAB10299; '79,414 individuals detained throughout 'Ops Cantas Khas'', Bernama, 10 June 2014, CX1B9ECAB11435; 'Cops deal crime a crippling blow since Ops Cantas Khas launch', The Star, 23 September 2013, CXC28129414715
[228] 'Moneylenders Act 1951 (Malaysia)', amended 15 April 2011, Attorney General's Chambers of Malaysia, sections 5(2), 29AA, 29B(1), CISEC96CF110366
[229] 'Moneylenders Act 1951 (Malaysia)', amended 15 April 2011, Attorney General's Chambers of Malaysia, CISEC96CF110366
[230] ''Two illegal moneylenders nabbed in 'Ops Vulture'', The Star Online (Malaysia), 12 March 2021, 20210312154232; 'Police nab five 'Ah Long' for keeping victim captive in Kedah', Bernama, 9 November 2020, 20201116130219; 'Johor cops arrest seven for loan shark activities', The Star, 3 November 2020, 20201116114714; ''Datuk' arrested in Kuala Lumpur for posing as senior police officer', Bernama, 18 October 2020, 20201116112655; 'Johor cops open 398 investigation papers on loan sharks in eight months', The Star Online (Malaysia), 1 September 2020, 20201116113908; 'Cops detain 12 men over 'Ah Long' syndicate in Johor', Bernama, 1 September 2020, 20201116131456; '18 nabbed over Ah Long activities in Selangor', The Star (Malaysia), 10 June 2020, 20201116115902; '14 held for illegal money lending in Pahang, items worth RM1million seized', New Straits Times, 4 November 2019, 20201116121933; 'Women, teens among 16 held for 'Ah Long' activities in Sungai Petani',

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lending activities conducted by companies using fake licences purportedly issued by the central bank, advising the public to report such instances to the police for investigation.[231] A non-governmental organisation, the Malaysian Muslim Consumers Association (PPIM), offers support for those encountering problems with loan sharks, including a call centre, website, and assistance settling debts.[232] The Malaysian Chinese Association's Public Services and Complaints Department acts as an intermediary between loan sharks and Chinese Malaysian victims who are unable to repay debt, negotiating loan repayments with lower rates.[233]

Death penalty

Malaysia introduced legislation that removes the mandatory death sentence for some offenses, including some drug-related offenses. Malaysia announced a moratorium on executions in July 2018.[234] In November 2017 (effective March 2018), parliament passed the Dangerous Drugs (Amendment) Act (2017) (DDA) to remove the mandatory death sentence for drug-related offences by giving judges the discretion to punish drug offenders with either life imprisonment or hanging.[235] However, judicial discretion is limited only to certain circumstances specified in section 39B (2A) of the DDA, namely where the accused is merely a drug mule and has assisted law enforcement in disrupting drug trafficking activities.[236] The amendment does not apply in retrospect for previous convictions.[237] Amnesty International reports that there were no executions recorded during 2019, but there were 26 recorded death sentences, bringing the total number of known death sentences to 1,280.[238]

Malaysia has yet to abolish the mandatory death penalty for all offences. There are 11 offences that attract the mandatory death penalty within two acts – nine under the Penal Code, including for murder, waging war against Malaysia's King, and committing terrorist acts, and a further two under the Firearms (Increased Penalties) Act (1971).[239] In February 2020, a special committee to review alternative sentences to the mandatory death penalty submitted its report to the government.[240] In August 2020, the Federal Court ruled in a challenge to the constitutionality of the mandatory death

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Bernama, 8 August 2019, 20201116131106; 'Unlicensed money lenders claim trial for harassing, threatening borrowers', New Straits Times, 6 September 2018, CXBB8A1DA37862; 'Malaysian man unwittingly borrows money from loan sharks so son could have 'dream wedding'', Asia News Network, 19 April 2018, CXBB8A1DA37866; 'Police detain 35 in action against illegal money-lending', Bernama, 25 August 2017, CXC90406624824; 'Four loan shark operations busted with arrest of 29 people', The Star, 4 August 2017, CXC90406611700; 'Loan shark ring busted, 31 nabbed in nationwide raids', The Sun Daily, 18 April 2017, CXC9040665990; 'Rich loan sharks nabbed', The Star, 13 January 2017, CXC904066329; '26 loan sharks nabbed, RM2m seized', Daily Express, 13 January 2017, CXC904066572; '4 loan sharks fined RM8,000 each for red paint splashed on debtor home', Bernama, 5 November 2016, CX6A26A6E12449

[231] 'BNM warns of illegal money lenders, Bernama, 6 December 2017, CXC90406624823

[232] 'More expected to borrow from loan sharks', The Star, 23 June 2020, 20201116122942; 'Loan sharks sharpen their bite', The Star, 20 January 2018, CXBB8A1DA22631; 'PPIM urges govt to put an end to 'ah long' posters', Bernama, 6 September 2018, CXBB8A1DA35970' 'For Malaysia's sake, consumers group seeks to save civil servants trapped in debt', Malay Mail, 3 August 2017, CXC90406624589; 'More than 10,000 people sought PPIM's help over Ah Long cases', Bernama, 18 October 2016, CX6A26A6E31142

[233] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.113, p.40, 20191213141745

[234] 'Parliament must consign death penalty to the history books', Amnesty International, 10 October 2018, CXBB8A1DA38216; 'Suaram's Human Rights Overview Report on Malaysia 2019', Suara Rakyat Malaysia (SUARAM), 9 December 2019, pp.35-36, 20200116163323

[235] 'No more mandatory death sentence soon as amendments to Dangerous Drugs Act passed in Parliament', New Straits Times, 30 November 2017, CXC90406618546; 'Group against death penalty warns amended Drug Act still has flaws', Malay Mail, 15 March 2018, CXBB8A1DA23929; 'Death Sentences and Executions 2018', Amnesty International, 10 April 2019, p.23, 20190411090834

[236] 'A Call to End the Mandatory Death Penalty in Malaysia', Union Internationale des Avocates (UIA), 20 February 2018, CXBB8A1DA22745; 'Amnesty International Report 2017/18', Amnesty International, 22 February 2018, p.250, NGED867A612; 'Death Sentences and Executions 2018', Amnesty International, 10 April 2019, p.23, 20190411090834; 'Human Rights Watch World Report 2019', Human Rights Watch, 17 January 2019, p.367, 20190118091502

[237] 'Parliament removes mandatory death penalty for drug offences, judges to get discretion'', Malay Mail, 30 November 2017, CXC90406618547

[238] 'Death sentences and executions 2019 ', Amnesty International, 21 April 2020, p.21, 20200422083142

[239] 'Law minister: Bill to repeal mandatory death penalty to be tabled in October', Bernama, 13 July 2019, 20190716132419

[240] 'Death sentence - committee submits report on alternatives', Malaysiakini, 11 February 2020, 20200212080446

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penalty that only parliament has the power to enact legislation on offences and to prescribe punishments for offences.[241]

Domestic violence/familial abuse

Family violence

Amendments to domestic violence law have strengthened protections for victims. Domestic violence is prevalent in Malaysia despite law prohibiting domestic and sexual violence.[242] Domestic violence victims can obtain protection orders which attract a fine and/or prison sentence of up to one year or a fine if breached.[243] In 2017, amendments to domestic violence law broadened the scope of the definition of domestic violence to include spouses, former spouses, children, family members, incapacitated adults who are living as members of the family, and de facto spouses who have undertaken religious or customary marriage.[244] Despite improved protections introduced by the amendments, including broader protection orders for victims and introducing penalties for perpetrators who transgress them, unmarried couples and marital rape remain excluded from the definition of domestic violence and Penal Code respectively.[245] In the Penal Code, marital rape that causes hurt or fear of death is punishable, but syariah law in many states creates ambiguity because it prohibits wives from disobeying the 'lawful orders' of their husbands, effectively discouraging victims from reporting incidents.[246]

Government and non-government shelters and assistance to victims of domestic violence is often insufficient to meet the need. Almost every hospital in Malaysia has a crisis centre where victims of rape and domestic violence can make reports without going to a police station, and which offer services such as examination by female doctors, evidence management, referrals and crisis intervention, counselling, temporary shelter, and legal assistance.[247] The Women's Aid Organisation reports that there are One Stop Crisis Centre services in 102 government hospitals nationwide that cater to between 10 to over 500 clients each year.[248] There is a sexual investigations unit at each police headquarters to help victims of sexual crimes and abuse, and police sometimes assign psychologists or counsellors to provide emotional support.[249] Activists assert that support

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[241] 'Court's decision to abolish death penalty should be dealt by Parliament, says Suhakam commissioner', The Star, 15 August 2020, 20200817080528; 'Federal Court: Parliament empowered to enact laws on offences, punishments including death penalty', Bernama, 13 August 2020, 20200814083750; 'World Report 2021. Events of 2020', Human Rights Watch, 13 January 2021, p.433, 20210114072851

[242] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.26, 20200312091714

[243] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.122, p.42, 20191213141745; 'Domestic Violence Act 1994: An Overview', Mondaq, 3 February 2021, 20210318145504

[244] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.122, p.42, 20191213141745

[245] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.122, p.42, 20191213141745; 'Penal Code', Government of Malaysia, enacted 1936, amended 1 September 2017, section 375A, CISEDB50AD9259; 'Domestic Violence Act 1994: An Overview', Mondaq, 3 February 2021, 20210318145504; 'A brief history of marital rape — New Sin Yew', Malay Mail, 4 November 2018, CXBB8A1DA38587

[246] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.122, p.42, 20191213141745; 'Domestic Violence Act 1994: An Overview', Mondaq, 3 February 2021, 20210318145504

[247] 'One Stop Crisis Centre (OSCC)', One Stop Crisis Centre (OSCC) website, 2017, CISEDB50AD5269; 'Country Reports on Human Rights Practices for 2018 - Malaysia', US Department of State, 13 March 2019, section 6, p.24, 2019031409151; 'Knowledge, attitude and practice among healthcare staffs in the Emergency Department, Hospital Universiti Sains Malaysia towards Rape Victims In One Stop Crisis Centre (OSCC)', Medical Journal of Malaysia, 3 June 2015, p.162, CISEC96CF15553; 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.126, p.42, 20191213141745; '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.26, 20200312091714

[248] 'Country Information Report Malaysia', Department of Foreign Affairs and Trade (Australia), 13 December 2019, section 3.126, p.42, 20191213141745

[249] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.26, 20200312091714

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mechanisms for victims of domestic violence are inadequate.[250] The Ministry of Women, Family and Community Development organises legal literacy seminars designed to inform women of their rights in cases related to issues such as marital problems and divorce.[251]

Child marriage

Malaysia's legal system permits child marriage under certain circumstance. In most states, Islamic law sets the minimum age for marriage at 16 for girls and 18 for boys, but marriage below the minimum age is allowed if permission is granted by a syariah court.[252] Civil law also permits non-Muslims to marry from the age of 18, but girls can marry as early as 16 if permitted by the state's Chief Minister or Mentri Besar.[253] Customary laws in Sabah and Sarawak sets the minimum age for marriage at 18 for boys and 16 for girls, but marriage below the minimum age can occur with written consent of a parent or legal guardian.[254] Child marriage is typically more common in Sarawak, Kelantan and Sabah, and amongst Muslims, but has also become increasingly common amongst non-Muslims in recent years.[255] Various civil groups and political actors advocate for changes to laws to protect children from underage marriage but limited progress has been made.[256]

Female genital circumcision

Female circumcision is considered an Islamic cultural practice and is widely practiced across Malaysia despite international criticism. Malaysia's National Council of Islamic Religious Affairs issued a fatwa in 2009 that ruled female circumcision obligatory for Muslim women unless found to be physically harmful.[257] Female circumcision is often performed during infancy and a 2012 study found that 93 per cent of Muslim women respondents had undergone the practice.[258] The law does not prohibit female genital circumcision and it is a common practice.[259] A relatively small survey of Muslim doctors in Malaysia that included 366 participants conducted between 2018 and 2019 found that 20.5 percent practiced female circumcision.[260] In February 2018, representatives from Muslim-majority countries such as Bangladesh and Egypt criticised the practice as un-Islamic at the Constructive Dialogue session of the 69th session of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).[261] At Malaysia's Universal Periodic Review on human rights on 8 November 2018, a representative of the Women, Family and Community Development

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[250] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.26, 20200312091714
[251] 'Good Practices: Eliminating Violence Against Women and Children (EVAWC)', Ministry of Women, Family and Community Development, Malaysia and ASEAN Commission on the Promotion and Protection of the Rights of Women and Children, n.d., accessed 15 August 2017, p.38, CISEDB50AD5272
[252] 'World Report 2021. Events of 2020', Human Rights Watch, 13 January 2021, 20210114072851; 'Non-Muslim child marriages on the rise', The Star Online (Malaysia), 15 July 2019, 20201120155548
[253] 'Non-Muslim child marriages on the rise', The Star Online (Malaysia), 15 July 2019, 20201120155548; 'World Report 2021. Events of 2020', Human Rights Watch, 13 January 2021, 20210114072851
[254] 'Non-Muslim child marriages on the rise', The Star Online (Malaysia), 15 July 2019, 20201120155548
[255] 'Why girls get married early in Sarawak, Malaysia - an exploratory qualitative study', Kohno et al., BMC Women's Health, 4 March 2020, 20201120172533; 'Child marriage: Why it is still a problem in 2018', Malay Mail, 10 November 2018, 20201120170801; 'Non-Muslim child marriages on the rise', The Star Online (Malaysia), 15 July 2019, 20201120155548
[256] 'Govt committed to addressing child marriage', Malaysiakini, 9 March 2020, 20210310081145; 'United States Commission on International Religious Freedom Annual Report 2019', United States Commission on International Religious Freedom (USCIRF), 29 April 2019, p.214, 20190508143726; 'Malaysia still missing firm plan to end child marriage, says Sisters In Islam', Malay Mail, 11 June 2020, 20200623153636; 'DPM discloses five-year plan to end child marriages in Malaysia', Malay Mail, 16 January 2020, 20201120173200; 'Get moving on better laws to protect children, Putrajaya told', Free Malaysia Today, 11 October 2020, 20201120174149
[257] 'Malaysia Still on the Wrong Path on Women's Rights', The Diplomat, 26 February 2018, CXBB8A1DA23247; 'Malaysia's anti-FGM advocates: Leave our bodies alone', Aljazeera, 7 February 2020, 20200219095144
[258] 'Malaysia Still on the Wrong Path on Women's Rights', The Diplomat, 26 February 2018, CXBB8A1DA23247; 'Female circumcision Culture and religion in Malaysia see millions of girls undergo cut', Australian Broadcasting Corporation (News), 13 November 2018, CXBB8A1DA38323
[259] '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.26, 20200312091714
[260] 'Medicalization of female genital cutting in Malaysia: A mixed methods study', Ashid A, Iguchi Y, Afiqah SN, PLOS, 27 October 2020, pp.1 & 18-19, 20201028091757
[261] 'Malaysia urged to abolish female genital mutilation', The Star Online (Malaysia), 22 February 2018, CXBB8A1DA2276

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Ministry defended the on-going practice of the circumcision of female infants in the country as a "cultural obligation" and is performed only by medical professionals.[262]

[262] 'Women's ministry defends infant female circumcision at UN human rights review', Malaysiakini, 9 November 2018, CXBB8A1DA38229; '2019 Country Reports on Human Rights Practices: Malaysia', US Department of State, 11 March 2020, p.27, 20200312091714

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Australian Government
Department of Home Affairs

Common Claims

Malaysia

Country of Origin Information Services Section (COISS)

Effective 3 August 2021

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Governance

Parliament

Malaysia is a constitutional monarchy in which executive power is vested in the prime minister and cabinet. The monarch is elected for five-year terms by fellow hereditary rulers from 9 of Malaysia's 13 states.[1] The role of the king is largely ceremonial, though during 2020 he played a greater role in politics by appointing Prime Minister Muyhiddin, and in 2021 allowing the prime minister to declare a state of emergency.[2] Executive power lies with the prime minister and the cabinet.[3] The upper house of the bicameral Parliament, the Senate, or Dewan Negara, consists of 44 members appointed by the king and 26 members elected by the 13 state legislatures, serving three-year terms.[4] The House of Representatives, or Dewan Rakyat, has 222 seats filled through regular elections.[5]

Political situation

Malaysia's ruling Perikatan Nasional government ousted the former Pakatan Harapan government in early 2020. The United Malays National Organisation (UMNO) had been the dominant party within the former Barisan Nasional (BN) ruling coalition since independence in 1957, but lost the 2018 general election to the Pakatan Harapan (PN) coalition.[6] The former UMNO-led government had a history of maintaining power by manipulating electoral districts, appealing to ethnic nationalism, and suppressing criticism through restrictive speech laws and politicised prosecutions of opposition leaders.[7] In September 2019, UMNO signed a cooperation pact with right-wing Parti Islam Se Malaysia (PAS), laying the groundwork for an opposition bloc based on ethnic Malay and Islamist interests.[8] In February 2020, the Pakatan Harapan coalition collapsed after Mahathir Mohamad resigned as prime minister in protest over political manoeuvring by some members within the Pakatan Harapan coalition, and opposition members from PAS and UMNO.[9]

COVID-19

A state of emergency and related ordinances used to manage the COVID-19 pandemic have lapsed but remain in effect for a further six months. In January 2021, Malaysia declared a state of emergency in an attempt to rein in COVID-19 infections.[10] The emergency ordinance conferred wide powers on the government to control the threat posed to the security, economic life and public order in the country during COVID-19.[11] In March 2021, the government introduced a controversial new ordinance to penalise fake news about COVID-19 and the state of emergency.[12] The ordinance made it an offence to publish or reproduce any "wholly or partly false" content related to the pandemic or the government's emergency declaration.[13] Critics say the fake news ordinance resembles the fake news

[1] 'Freedom in the World 2021', Freedom House, 15 March 2021, A1, 20210315153050
[2] 'As Malaysia's politicians bicker, its royals gain authority', The Economist, 18 February 2021, 20210219075010
[3] 'BTI 2020 Country Report Malaysia', Bertelsmann Stiftung, 29 April 2020, p.4, 20200429144341
[4] 'Freedom in the World 2021', Freedom House, 15 March 2021, A2, 20210315153050
[5] 'Freedom in the World 2021', Freedom House, 15 March 2021, A2, 20210315153050
[6] 'BTI 2020 Country Report Malaysia', Bertelsmann Stiftung, 29 April 2020, pp.3-4, 20200429144341
[7] 'Freedom in the World 2021', Freedom House, 15 March 2021, Overview, 20210315153050
[8] 'Freedom in the World 2020 – Malaysia', Freedom House, 4 March 2020, Key Developments in 2019, 20200417153315
[9] 'Inside story behind Malaysia's political meltdown', Asia Times, 25 February 2020, 20200226115540
[10] 'The Emergency (Essential Powers) Ordinance 2021', Mondaq, 8 February 2021, 20210318103551
[11] 'The Emergency (Essential Powers) Ordinance 2021', Mondaq, 8 February 2021, 20210318103551
[12] 'Emergency (Essential Powers) (No.2) Ordinance 2021', Attorney-General's Chambers (Malaysia), 12 March 2021, 20210312084132; 'Malaysia imposes emergency law to clamp down on COVID fake news', Reuters, 11 March 2021, 20210312072508; 'MPs decry fake news Emergency Ordinance as 'deplorable' clampdown', Malaysiakini, 11 March 2021, 20210312134703
[13] 'Malaysia imposes emergency law to clamp down on COVID fake news', Reuters, 11 March 2021, 20210312072508; 'Bukit Aman says 12 investigation papers opened on Covid-19 fake news', Bernama 5 May 2021, 20210506091841; 'Cops invoke anti-fake news ordinance over India flights viral post', Malaysiakini, 5 May 2021, 20210506100733; 'Housewife, tutor first to be charged under Emergency Ordinance', Bernama, 2 June 2021, 20210603080821

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law introduced by former Prime Minster Najib that curbed free speech and expression.[14] Without obtaining necessary approval from the King, the government announced it had revoked the ordinances on 21 July, shortly prior to a special five-day session of Parliament.[15] Critics view the revocation of the state of emergency ordinance prior to the parliamentary sitting as an attempt by the Prime Minister to avoid a vote of no confidence.[16] In accordance with the Constitution, the ordinances remain effective for a period of six months after their official end date of 1 August 2021.[17]

COVID-19 infections are high placing strain on Malaysia's healthcare system. Malaysia has a well-developed universal healthcare system.[18] Nevertheless, the Delta strain of COVID-19 has put hospitals under considerable pressure following an influx of patients.[19] Malaysia's COVID-19 vaccine program began in February 2021 and aims to fully vaccinate all adults this year or early next.[20]

The government provides various income support to assist persons affected by COVID-19. Malaysia has a social protection system in place with additional support measures for persons affected by COVID-19.[21] Nevertheless, the prolonged nature and severity of the pandemic has put considerable strain on the healthcare and welfare systems.[22] The Malaysian government has implemented a number of stimulus and welfare measures in response to the economic impacts of COVID-19.[23] However, there are reports of financial hardship due to prolonged lockdown, and suicides are increasingly common.[24]

Also see Social Protection

Ethnicity

Malaysia's population is ethnically split into two categories namely Bumiputera and non-Bumiputera. Malaysia's Bumiputera (sons of the soil) account for more than 60 percent of the country's population, and are comprised of Malays and other indigenous groups, including the Orang

[14] 'Repeal 'fake news' emergency ordinance', Article 19, 15 March 2021, 20210316113801; 'Revoke 'Fake News' Ordinance', Human Rights Watch, 13 March 2021, 20210315112147; 'Lawyers concerned over ordinance combating 'fake news'', Malaysiakini, 12 March 2021, 20210312143506; 'CIJ appalled by 'extreme punitive measures' in govt's 'fake news' move', Malaysiakini, 12 March 2021, 20210312153504; 'Malaysian government criticised for 'draconian' use of emergency powers to outlaw fake news', Straits Times, 12 March 2021, 20210315103754

[15] 'Malaysia's Parliament opens after 7 months, emergency to end', Associated Press, 26 July 2021, 20210729130600

[16] 'Emergency ends but crisis deepens in Malaysia', Asia Times, 29 July 2021, 20210730105034; 'Malaysia suspends parliament session citing risk of COVID infection', Reuters, 31 July 2021, 20210802112813

[17] 'Different interpretations over the Malaysian king's role in revoking emergency ordinances', Channel News Asia, 2 August 2021, 20210803095338

[18] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, sections 2.21-2.22, p.13, 20210629092134; 'A Guide to Social Protection in Malaysia', The Centre, 19 October 2019, 20200512115042; 'Healthcare Costs in Malaysia', The Centre, 28 October 2019, 20200512121033; 'National Health Insurance', The Centre, 6 November 2019, 20200512120852

[19] 'Anger as Covid-ravaged Malaysia lifts pandemic measures', BBC News, 28 July 2021, 20210729095347; 'Malaysia doctors strike, parliament meets as COVID strain shows', Aljazeera, 26 July 2021, 20210728115404; 'Malaysia's 'Total Lockdown' Failure Plunges Hospitals Into Crisis', The Diplomat, 12 July 2021, 20210713103931

[20] 'Jabs for all M'sian adults by October', The Star (Malaysia), 27 July 2021, 20210728154247

[21] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, sections 3.156-3.158, p.51, 20210629092134; 'A Guide to Social Protection in Malaysia', The Centre, 19 October 2019, 20200512115042; 'Healthcare Costs in Malaysia', The Centre, 28 October 2019, 20200512121033; 'National Health Insurance', The Centre, 6 November 2019, 20200512120852

[22] 'Surge in active Covid-19 cases overwhelms Malaysia's healthcare system', The Straits Times, 19 January 2021, 20210318115317; 'Malaysia's private hospitals step up to fight COVID-19 as cases surge', Channel News Asia, 5 February 2021, 20210312130234; 'Cases up by 1,219, bringing total to 327,253', The Star Online (Malaysia), 17 March 2021, 20210318111401

[23] 'RM11b fiscal injection in latest Pemerkasa stimulus package', Malaysiakini, 17 March 2021, 20210318083130; 'Some Malaysians relieved they can now dip into retirement funds, others pledge prudence', Channel News Asia, 24 November 2020, 20201124170213; 'Lessons from a Pandemic: Social Protection for a New Normal', The Centre, 28 March 2020, 20200512115328; "Malaysia Announces Massive COVID-19 Aid Package as Thailand Tightens Restrictions', The Diplomat, 29 June 2021, 20210701092909; 'Malaysia unveils additional $48b aid package as Covid-19', The Straits Times, 28 June 2021, 20210728155908

[24] 'Struggling Malaysians fly the white flag for help', Asia Times, 7 July 2021, 20210729105104; 'Malaysians suffering amid lockdown fly white flag for help', Associated Press (AP), 6 July 2021, 20210706090121

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Asli, Dayak, and Anak Negeril amongst others.[25] Chinese and Indian Malaysians constitute the country's largest non-Bumiputera population, accounting for approximately 20 and 6 percent respectively.[26]

Malaysia's Constitution affords special privileges to Bumiputera effectively discriminating against non-Bumiputera. Malaysia's Constitution affords special privileges to Bumiputera which has given rise to the creation of affirmative action policies that benefit Bumiputera, including preferential programs to boost the economic position of Bumiputera.[27] Preferential programs limit opportunities for non-Bumiputera in higher education and government employment, and government procurement and licensing policies favour Bbumiputera-owned businesses.[28] There is discontent over Bumiputera polices amongst the non-Bumiputera Chinese and Indian ethnic groups.[29] The former reformist Pakatan Harapan government encountered significant headwinds from opposition Bumiputera political parties such as UMNO and PAS when attempting to implement reforms portrayed by the opposition to disadvantage Malays rather than promote equality amongst all Malaysians.[30]

Religion

Religious freedom

Malaysia has a diverse religious population. According to the most recent census in 2010, Muslims represent approximately 60 percent of the population.[31] Almost 20 percent of Malaysia's population are Buddhist, approximately 9 percent are Christian, over 6 percent are Hindu, and there are small populations of Confucians, Taoists, and other traditional Chinese religions.[32] Other minority religious groups include animists, Sikhs, and Baha'i.[33]

Malaysia's Constitution grants religious freedom and this right is generally respected. Malaysia's Constitution states that Islam is the religion of the Federation but that other religions can be practised.[34] The Constitution defines ethnic Malays as Muslim and also states that persons have the right to profess and practise their religion, but that federal and state government can use the law to restrict other religions proselytising Muslims.[35] Malaysian law prohibits speech considered insulting to Islam.[36] Human rights organisations and religious leaders view society becoming less tolerant of

[25] 'The World Factbook Malaysia', Central Intelligence Agency, 13 July 2021, 20210729134620
[26] 'The World Factbook Malaysia', Central Intelligence Agency, 13 July 2021, 20210729134620
[27] '2020 Country Reports on Human Rights Malaysia', US Department of State, 30 March 2021, pp.33-34, 20210331113809; 'BTI 2020 Country Report Malaysia', Bertelsmann Stiftung, 29 April 2020, pp.4-5, 23, 29-30, 34, 20200429144341
[28] '2020 Country Reports on Human Rights Malaysia', US Department of State, 30 March 2021, pp.33-34, 20210331113809
[29] '2020 Country Reports on Human Rights Malaysia', US Department of State, 30 March 2021, pp.33-34, 20210331113809; 'BTI 2020 Country Report Malaysia', Bertelsmann Stiftung, 29 April 2020, p.34, 20200429144341
[30] 'Can New Malaysia Move Beyond Old Race Divides?', Jha, P, The Diplomat, 14 August 2019, 20200516163339; 'Malaysia's 'Malay First' Malaise', Nair, C., The Diplomat, 4 March 2020, 20200516165042; 'Analysing Malaysia's Refusal to Ratify the ICERD', Anuar, K K, Oxford Human Rights Hub, 7 January 2019, 20200516164408; 'Malaysia's dangerous racial and religious trajectory', The Interpreter (Lowy Institute for International Policy), 24 September 2019, 20191021164421'The LGBT Quandary in New Malaysia', Tan, H B, Australian Journal of Asian Law, volume 20, number 1, article 15, November 2019, p.7, 20200522113725
[31] 'The World Factbook Malaysia', Central Intelligence Agency, 13 July 2021, 20210729134620
[32] 'The World Factbook Malaysia', Central Intelligence Agency, 13 July 2021, 20210729134620
[33] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.23, p.24, 20210629092134
[34] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.21, p.24, 20210629092134; 'Federal Constitution', Government of Malaysia, introduced 31 August 1957, amended 11 September 2019, reprint 15 October 2020, Article 3(1), 20201215114415
[35] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, sections 3.22 & 3.24, p.24, 20210629092134; 'Federal Constitution', Government of Malaysia, introduced 31 August 1957, amended 11 September 2019, reprint 15 October 2020, Article 11(1) and (4), 20201215114415
[36] '2020 Report on International Religious Freedom: Malaysia', US Department of State, 12 May 2021, p.4, 20210513090814

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religious diversity.[37] Religious groups other than Sunni Muslims experience low level official discrimination that extends from Malaysia's emphasis on Sunni Muslim identity.[38]

Islam

Malaysia's official interpretation of Islam is Sunni. A 1996 fatwa supported by state laws requires the country to follow only Sunni teachings of the Shafi'i school and prohibits Muslims from possessing, publishing, or distributing material contrary to those teachings.[39] Those differing from the official interpretation of Islam can face adverse government action, including mandatory rehabilitation in centres that teach and enforce government-approved Islamic practices.[40] Federal and state governments consider several non-Sunni Islamic groups deviant, including Shia, Ahmadiyya, and Al-Arqam.[41]

Religious adherence

Apostasy is a crime under syariah law. Muslims who seek to leave Islam or convert to another religion must first obtain approval from a syariah court to declare themselves apostates.[42] Syariah courts seldom grant such requests, especially for those born Muslim (ethnic Malays), and are reluctant to grant permission to persons who converted to Islam from other religions.[43] At least six states – Perak, Melaka, Sabah, Pahang, Kelantan, and Terengganu – criminalise apostasy with fines or imprisonment.[44] While not enforced, the maximum penalty for apostasy in Kelantan and Terengganu is death.[45] Those who choose to convert out of Islam prefer to do so privately without legal approval.[46]

Atheists are typically not prosecuted. In 2017, the Malaysian federal government determined atheism to be unconstitutional.[47] Muslims are generally not prosecuted for disbelief.[48] Some atheists maintain a low-profile in society and are known to socialise with likeminded people.[49] Some Muslims make no attempt to hide their atheism from society.[50] DFAT assess that non-Malay atheists face a low risk of societal harassment, but ethnic Malays who renounce Islam for atheism face a high risk of official discrimination.[51]

Non-Muslims must convert to Islam before marrying a Muslim. There are two primary statutes in Malaysia for marriage, the secular Law Reform (Marriage and Divorce) Act (1976) and the Islamic

[37] '2020 Report on International Religious Freedom: Malaysia', US Department of State, 12 May 2021, pp.17-18, 20210513090814
[38] 'United States Commission on International Religious Freedom Annual Report 2021', United States Commission on International Religious Freedom (USCIRF), 21 April 2021, p.78, 20210422095313; 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.47 & 3.55, p.28; sections 3.52 & 3.49, p.29, 20210629092134
[39] '2020 Report on International Religious Freedom: Malaysia', US Department of State, 12 May 2021, p.2, 20210513090814; 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.42, p.27, 20210629092134
[40] '2020 Report on International Religious Freedom: Malaysia', US Department of State, 12 May 2021, p.9, 20210513090814
[41] '2020 Report on International Religious Freedom: Malaysia', US Department of State, 12 May 2021, p.12, 20210513090814
[42] '2020 Report on International Religious Freedom: Malaysia', US Department of State, 12 May 2021, pp.3-4, 20210513090814
[43] '2020 Report on International Religious Freedom: Malaysia', US Department of State, 12 May 2021, p.4, 20210513090814
[44] '2020 Report on International Religious Freedom: Malaysia', US Department of State, 12 May 2021, p.4, 20210513090814
[45] '2020 Report on International Religious Freedom: Malaysia', US Department of State, 12 May 2021, p.4, 20210513090814
[46] '2020 Report on International Religious Freedom: Malaysia', US Department of State, 12 May 2021, p.4, 20210513090814
[47] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.72, p.32, 20210629092134
[48] 'Intolerance Rising: Atheists at Risk in Malaysia', The Diplomat, 22 August 2017, CXC90406612572; 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.75, p.33, 20210629092134
[49] 'Intolerance Rising: Atheists at Risk in Malaysia, The Diplomat, 22 August 2017, CXC90406612572
[50] 'Moderation under threat as Malaysia faces Islamic tide, The Australian, 17 August 2017, CXC90406620453
[51] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.76, p.33, 20210629092134

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Family Law Act (Federal Territories) (1984).[52] A non-Muslim must convert to Islam to marry a Muslim for the marriage to be legally recognised.[53] Malaysian authorities do not recognise marriages between Muslims and non-Muslims and consider children born of such marriages illegitimate.[54] The legal age to marry for Muslim females is 16 and Muslim males 18, except in Selangor state where females must be 18.[55] In some circumstances persons below the stipulated marriage age marry with permission from syariah courts or approval from their state's chief minister.[56] Some Sunni and Shia Muslims intermarry and have family members that practice either form of Islam.[57]

Ahmadi Muslims

Ahmadi Muslims are generally able to worship within the confines of their own worship centres. Federal and state governments forbid religious assembly and worship of Islamic groups considered deviant, including Ahmadiyya.[58] Ahmadi Muslims generally can maintain worship centres but government religious authorities forbid them from holding Friday prayers on the basis that these can only be performed in an officially registered mosque.[59] DFAT assess that Ahmadis generally do not experience societal discrimination but do experience low level official discrimination.[60]

Selangor state religious authorities have issued fatwas that has led to official discrimination against Ahmadis. In the past, the Selangor Fatwa Council decreed Ahmadis are not Muslim and also declared them infidels that should be converted to Sunni Islam.[61] In July 2018, the High Court in Selangor state ruled that religious authorities do not have jurisdiction over the Ahmadi community because they are not recognised as Muslims, but state religious authorities have appealed the decision.[62] In an August 2020 Court of Appeal petition to the High Court to decide whether Ahmadis are Muslims, the High Court ruled Ahmadis are entitled to the Constitutional right of freedom of religion and that a dual legal system and their recognition as Muslims on identity cards creates ambiguity for Ahmadis and puts them at risk of syariah investigation and prosecution.[63]

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[52] 'Law Reform (Marriage and Divorce) Act (164) 1976', Federal Government of Malaysia, 6 March 1976, (amendments to 1 January 2006), the Commissioner of Law Reform, CISBE8E6BE702; 'Islamic Family Law Act (Federal Territories) Act (303) 1984', Federal Government of Malaysia, 27 June 1984, amendments to 1 January 2006, the Commissioner of Law Reform, CIS883493140

[53] '2020 Report on International Religious Freedom: Malaysia', US Department of State, 12 May 2021, p.4, 20210513090814; 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.81, p.34, 20210629092134

[54] '2020 Report on International Religious Freedom: Malaysia', US Department of State, 12 May 2021, p.17, 20210513090814

[55] '2020 Report on International Religious Freedom: Malaysia', US Department of State, 12 May 2021, p.6, 20210513090814; 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.149, p.49, 20210629092134

[56] '2020 Report on International Religious Freedom: Malaysia', US Department of State, 12 May 2021, p.17, 20210513090814; 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.149, p.49, 20210629092134

[57] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.41, p.27, 20210629092134; 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.51, p.29, 20210629092134

[58] '2020 Report on International Religious Freedom: Malaysia', US Department of State, 12 May 2021, pp.12-13, 20210513090814; 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.51, p.29, 20210629092134

[59] '2020 Report on International Religious Freedom: Malaysia', US Department of State, 12 May 2021, p.12, 20210513090814

[60] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.52, p.29, 20210629092134

[61] 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634; 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.49, p.29, 20210629092134

[62] 'High Court tells Selangor Islamic Sharia enforcers to keep hands off Ahmadis', Malay Mail, 6 July 2018, 20191004090848; '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section II, pp.12-13, 20190625160543

[63] '2020 Report on International Religious Freedom: Malaysia', US Department of State, 12 May 2021, pp.12-13, 20210513090814

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Shia Muslims

Shia Muslims face official discrimination. Federal and state governments forbid religious assembly and worship of Islamic groups considered deviant, including Shia.[64] The Fatwa Committee for Religious Affairs previously issued a fatwa prohibiting the proselytism, promulgation, and professing of Shia Islam, which most adopted.[65] Sunni imams regularly denounce Shia in their sermons.[66] In September 2019, authorities detained and later released some Shia Muslims commemorating Ashura.[67] In September 2018, 50 Shia were arrested in Kelantan for practicing their religion.[68] Reportedly, the Shia followers had been conducting their activities on the same premises for several years.[69] Despite barriers to their worship, most Shia Muslims live free from discrimination and violence on a day-to-day basis but experience a low level of official discrimination.[70]

Forced conversion

The indigenous Orang Asli community are vulnerable to forced religious conversion. Orang Asli account for approximately half of a percent of Malaysia's population and are one of the most traditional but also vulnerable groups in society.[71] Although Orang Asli are traditionally animist, a number of Orang Asli have become either Muslim or Christian, or embraced religions such as Buddhism and Taoism due to intermarriage.[72] In 2019, state religious authorities from Perak reportedly registered some Orang Asli as Muslim in their identification cards despite them not converting.[73] Subsequently, Kelantan state religious authorities announced plans to convert Orang Asli to Islam by 2049.[74] Concerned members of the Orang Asli community have expressed their grievances to the federal government about local coercive practices involving Muslim and Christian preachers being sent to their communities to proselytise them.[75]

Christians

Christians practice freely and generally do not experience discrimination. Christians comprise approximately 9.2 per cent of the religious population and two-thirds of the Christian population reside

[64] '2020 Report on International Religious Freedom: Malaysia', US Department of State, 12 May 2021, p.12, 20210513090814; 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.51, p.29, 20210629092134
[65] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.42, p.27-28, 20210629092134
[66] 'Malaysia detains dozens of minority Shia Muslims sparking fears of a crackdown', Agence France-Presse, 11 September 2019, 20201125110041
[67] 'Human Rights in Asia-Pacific: Review of 2019', Amnesty International, 29 January 2020, p.34, 20200130115738; 'World Report 2020. Events of 2019: Malaysia', Human Rights Watch (HRW), 14 January 2020, 20201120142201; 'Shiite detentions in Malaysia fuel fears of crackdown', Agence France Presse (AFP) - France, 25 November 2019, 20191128094242; 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.43, p.28, 20210629092134
[68] 'World Report 2019', Human Rights Watch, 17 January 2019, p.369, 20190118091502
[69] '50 suspected Syiah followers detained in Kota Baru', New Straits Times, 31 August 2018, 20190125145959; 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.43, p.28, 20210629092134
[70] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.47, p.28, 20210629092134
[71] 'Malaysia's indigenous tribes fight for ancestral land and rights in a modern world', Channel News Asia, 1 September 2019, 20200403171142; 'Malaysia's indigenous people protest forced conversions', UCA News, 10 July 2019, 20200403170642; 'The World Factbook Malaysia', Central Intelligence Agency, 13 July 2021, 20210729134620
[72] 'Malaysia's indigenous tribes fight for ancestral land and rights in a modern world', Channel News Asia, 1 September 2019, 20200403171142; 'The World Factbook Malaysia', Central Intelligence Agency, 13 July 2021, 20210729134620
[73] 'Malaysia's indigenous tribes fight for ancestral land and rights in a modern world', Channel News Asia, 1 September 2019, 20200403171142; 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.13, p.59, 20210629092134
[74] 'Human Rights in Asia-Pacific: Review of 2019', Amnesty International, 29 January 2020, p.34, 20200130115738; 'Malaysia's indigenous tribes fight for ancestral land and rights in a modern world', Channel News Asia, 1 September 2019, 20200403171142; 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.13, p.59, 20210629092134
[75] 'Malaysia's indigenous people protest forced conversions', UCA News, 10 July 2019, 20200403170642

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in the East Malaysian states of Sabah and Sarawak.[76] Malaysian Christians are typically able to practise their religion without interference and generally do not experience societal discrimination.[77]

In March 2021, a High Court ruling overturned a ban on Christians using "Allah" and three other words in religious publications. Since 1986, there has been a ban against non-Muslims using approximately 31 words, including "Allah", under the pretence of protecting public order.[78] However in March 2021, the Kuala Lumpur High Court overturned the 35 year ban preventing non-Muslims using the word "Allah" in educational publications to refer to God along with three other Arabic words, declaring the ban unlawful and unconstitutional.[79] Malays nationalist party UMNO and Islamic party PAS announced they view the court ruling with concern and demanded the government pursue the case in the Appeals Court.[80] The High Court ruling has been met with considerable resistance.[81] The government lodged an appeal saying it was "not satisfied" with the ruling.[82] Authorities and Muslim groups have long argued that allowing non-Muslims to use the word "Allah" may confuse, and entice Muslims to convert.[83] Sometimes authorities and societal actors exaggerate fears of "Christianisation" for political purposes to motivate support from Muslim communities and escalate tensions between majority and minority groups.[84] Christian leaders have spoken out against tactics by UMNO and PAS that portray Christianity as a threat to the Muslim majority.[85]

Buddhists and Hindus

Buddhists and Hindus generally practice their religion without interference. Federal and state governments have supported the building of Hindu or Buddhist places of worship throughout Malaysia.[86] However, members of faith communities report that Buddhist temples are restricted from building higher than local mosques and that Sikh Gurdwaras are prevented from building domes, since domes are associated with Islamic architecture.[87] Furthermore, a Buddhist complex in Selangor was relocated away from its planned central location to a remote district without easy public transport following opposition to its central location.[88] Additionally, for many years Hindu temples have been demolished and relocated to other areas.[89] A number of temple demolitions and relocations occur due

[76] 'The World Factbook Malaysia', Central Intelligence Agency, 13 July 2021, 20210729134620
[77] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.58, p.30, 20210629092134
[78] 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634
[79] 'Malaysian court overturns ban on use of 'Allah' by non-Muslim publications', Reuters, 10 March 2021, 20210311073139; 'Malaysia high court rules that Christians may use the word 'Allah' in religious publications', Channel News Asia, 10 March 2021, 20210311153223; 'Sarawak bishop hails court ruling on 'Allah' use by Christians as victory for 'common sense'', Malay Mail, 10 March 2021, 20210311154908; 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.55, pp.29-30, 20210629092134
[80] 'Malaysian court rules non-Muslims can use 'Allah'', Associated Press, 11 March 2020, 20210311151708; 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.55, pp.29-30, 20210629092134
[81] 'Kedah ruler: The use of word 'Allah' is only allowed for Muslims', Malaysiakini, 12 May 2021, 20210513092716; 'Negri Islamic religious council: 'Allah' use strictly for Muslims, in Islam only', Bernama, 21 April 2021, 20210422142707; 'Putrajaya to issue directive on 'Allah'', Free Malaysia Today, 15 April 2021, 20210419090430
[82] 'Malaysia government appeals ruling on Christians using 'Allah'', Agence France Presse, 15 March 2021, 20210316083752
[83] 'Malaysian Christians cleared to use 'Allah' but anger lingers', The Australian, 16 March 2021, 20210317080208; 'Malaysia government appeals ruling on Christians using 'Allah'', Agence France Presse, 15 March 2021, 20210316083752; 'Malaysian govt files appeal against court ruling allowing use of 'Allah' word in Christian publications', Straits Times, 15 March 2021, 20210316094502
[84] 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, pp.77, 20200429103634
[85] 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634
[86] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.60, p.30, 20210629092134
[87] 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634
[88] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.60, p.30, 20210629092134
[89] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.61, p.30, 20210629092134; 'United States Commission on International Religious Freedom Annual Report 2021', United States Commission on International Religious Freedom (USCIRF), 21 April 2021, p.78, 20210422095313

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to urban planning and development and/or involve temples that were built without the required permission from the government.[90] The US Commission on International Religious Freedom report that temple destruction and relocation is religiously motivated, resulting from Malaysia's systematic emphasis on Sunni Muslim identity.[91]

Inter-ethnic marriage

Inter-ethnic marriage occurs amongst non-Muslims. Malaysian law does not restrict the rights of non-Muslims to marry.[92] Conversion sometimes takes place due to marriage, with one partner choosing to convert or both partners choosing to adopt a new faith; however, this is not compulsory.[93] Malaysian law does not restrict the rights of people from different ethnic groups to marry,[94] although as Malaysian law considers all Malays to be Muslim, a non-Muslim of another ethnicity intending to marry a Malay must convert for the marriage to be legitimate.[95] Individuals in a mixed marriage sometimes face pressure or stigma from within their family, friends or community, while couples of different ethnicities may also encounter racism.[96]

Particular social groups

Lesbian, Gay, Bisexual, Transgender, Intersex (LGBTI)

Malaysian secular law criminalises same-sex sexual acts but in practice the law is rarely invoked. A former British colony, Malaysia has retained its colonial-era law against sodomy.[97] Malaysia's Penal Code criminalises sodomy (homosexual) and oral sex (homosexual and heterosexual) acts, but authorities rarely enforce the law.[98] The Penal Code has only been invoked seven times since 1938, with four of those instances against former deputy prime minister Anwar Ibrahim.[99] International observers and human rights organisations viewed sodomy charges against Anwar Ibrahim as politically motivated.[100] Those found guilty under section 377A of the Penal Code

[90] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.61, p.30, 20210629092134; 'Temple riot exposes Malaysia's Indian minority', Asia Times, 6 December 2018, 20210803115650; 'Fracas over Hindu temple opens up old issue of land ownership for places of worship in Malaysia', Straits Times, 27 November 2018, 20210803120331

[91] 'United States Commission on International Religious Freedom Annual Report 2021', United States Commission on International Religious Freedom (USCIRF), 21 April 2021, p.78, 20210422095313

[92] 'Registration of Marriage For Non-Muslim', National Registration Department – Ministry of Home Affairs, n.d., accessed 10 August 2017, CISEDB50AD5251

[93] 'A M'sian union – interracial couples share their stories', Malaysiakini, 16 September 2016, CX6A26A6E16886; 'Interracial marriage as beacon of light in upholding Malaysia's unity', The Rakyat Post, 14 July 2015, CXBD6A0DE19504

[94] 'Registration of Marriage For Non-Muslim', National Registration Department – Ministry of Home Affairs, n.d. accessed 10 August 2017, CISEDB50AD5251

[95] '2020 Report on International Religious Freedom: Malaysia', US Department of State, 12 May 2021, p.4, 20210513090814

[96] 'Interracial marriage as beacon of light in upholding Malaysia's diversity', The Rakyat Post, 14 July 2015, CXBD6A0DE19504; 'A M'sian union – interracial couples share their stories', Malaysiakini, 16 September 2016, CX6A26A6E16886

[97] State-Sponsored Homophobia 2020: Global Legislation Overview Update', Lucas Ramón Mendos, International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), 15 December 2020, p.133, 20201222140105; 'Trans Legal Mapping Report: Recognition Before the Law ', International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), 30 September 2020, pp.88-89, 20201001140359; 'Anwar Ibrahim's rebirth and Malaysia's LBGT+ rights', Pursuit (University of Melbourne), 27 May 2018, CIS7B839411105

[98] 'Human Rights in Asia-Pacific: Review of 2019', Amnesty International, 29 January 2020, p.34, 20200130115738; '2020 Country Reports on Human Rights Malaysia', US Department of State, 30 March 2021, p.36, 20210331113809; 'Penal Code', Government of Malaysia, enacted 1936, amended 31 December 2014, sections 377A, 377B, CISEDB50AD9259

[99] 'Malaysia: On the Record: Violence Against Lesbians, Bisexual Women and Transgender Persons In Malaysia', International 'Gay and Lesbian Human Rights Commission', 6 May 2014, p.33, CIS2F827D91966

[100] Anwar Ibrahim's rebirth and Malaysia's LBGT+ rights, Pursuit (University of Melbourne), 27 May 2018, CIS7B839411105; 'Convictions for sodomy follow unfair trials', Amnesty International, 8 October 1998, CIS11891, 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.134, p.45, 20210629092134

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for 'carnal intercourse against the order of nature' are liable for imprisonment of up to twenty years and a whipping.[101]

Malaysia's Federal Court recently ruled that syariah law in Selangor's that criminalises same-sex sexual acts is invalid. Some Malaysian states have applied their own penalties to Muslims under syariah statutes, and in several states same-sex sexual acts between Muslims were illegal and could incur jail terms and mandatory whipping.[102] In November 2019, the Selangor State syariah court sentenced five men to six to seven months in jail, six strokes of the cane, and a fine for attempting to have intercourse against the order of nature.[103] In May 2020, the Federal Court allowed one of the individuals arrested in Selangor leave to challenge charges brought against him under the Syariah Criminal Offences (Selangor Enactment) (1995) for 'attempting to commit' sexual 'intercourse against the order of nature' – a charge that is also an offense under the country's Penal Code.[104] In February 2021, the Federal Court unanimously declared Selangor's state law's provision that make same-sex acts a syariah offence is invalid on the grounds the offence falls under the jurisdiction of federal, not state, laws.[105] In April 2021, Selangor's Chief Syariah prosecutor dropped the charges.[106]

The LGBTI community are opposed by those who view their lifestyles to be inconsistent with Islam. Religious and cultural taboos against same-sexual conduct are widespread.[107] The 2019 Legatum Prosperity Index shows that Malaysia ranks 159th out of 167 countries for its 'perceived tolerance of LGBT individuals', equating to its lowest ranking since 2009.[108] The 2019 ranking shows a sharp decline compared to 2018 when tolerance of LGBT ranked 82nd.[109] The results of a 2013 global survey on the acceptance of homosexuality found that an 'overwhelming majority' of Muslim countries, including 86 per cent of persons surveyed in Malaysia, reject homosexuality.[110]

Transgender individuals experience discrimination and occasional violence. Authorities often charge transgender persons for cross-dressing with "indecent behaviour" and also for "importuning for immoral purposes" in public, and those convicted are liable for a fine of 25 ringgit and potentially a prison sentence of up to 14 days.[111] Justice for Sisters, an advocacy group for the LGBTI community, said it has experienced difficulty obtaining legal representation for its clients who were charged under anti-crossdressing state Islamic laws.[112] Due to their increased visibility transgender persons are vulnerable to raids by religious authorities and subsequent placement in re-education centres.[113]

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[101] 'Penal Code', Government of Malaysia, enacted 1936, amended 31 December 2014, sections 377A, 377B, CISEDB50AD9259; 'Criminalisation of Homosexuality', Human Dignity Trust, 25 October 2015, CISEC96CF110372; 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, sections 3.130 & 3.134, p. 43 & p.45, 20210629092134

[102] State-Sponsored Homophobia 2020: Global Legislation Overview Update', Lucas Ramón Mendos, International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), 15 December 2020, p.133, 20201222140105; 'Trans Legal Mapping Report: Recognition Before the Law ', International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), 30 September 2020, pp.88-89, 20201001140359; 'Criminalisation of Homosexuality', Human Dignity Trust, 25 October 2015, CISEC96CF110372; '2020 Country Reports on Human Rights Malaysia', US Department of State, 30 March 2021, p.35, 20210331113809

[103] '2020 Country Reports on Human Rights Malaysia', US Department of State, 30 March 2021, p.35, 20210331113809

[104] 'Federal Court allows challenge to Syariah jurisdiction on unnatural sex', Malaysiakini, 27 May 2020, 20200527121016

[105] 'Federal Court unanimously declares Selangor Shariah law criminalising 'unnatural sex' void, unconstitutional', Malay Mail, 25 February 2021, 20210226074942; 'Selangor syariah law against unnatural sex is invalid: Federal Court', Malaysiakini, 25 February 2021, 20210226073341

[106] 'Syariah 'unnatural sex' charges dropped after Federal Court ruling', Malaysiakini, 21 April 2021, 20210422115244

[107] '2020 Country Reports on Human Rights Malaysia', US Department of State, 30 March 2021, p.35 and section 2a, 20210331113809; 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, sections 3.134-3.147, pp.45-49, 20210629092134

[108] '2019 Legatum Prosperity Index', Legatum Institute, 25 November 2019, 20191206104103

[109] 'Study: In post-GE14 Malaysia, more person freedom but tolerance took a dive', Malay Mail, 27 November 2019, 20191206095708

[110] 'The Global Divide on Homosexuality: Greater Acceptance in More Secular and Affluent Countries', Pew Research Center, 4 June 2013, p.3, CIS26344

[111] '2020 Country Reports on Human Rights Malaysia', US Department of State, 30 March 2021, p.35, 20210331113809; 'Public Opinion of Transgender Rights in Malaysia', Luhur, W., Brown, T N T., Goh, J N, Williams Institute, 8 September 2020, p.1, 20201117102545; 'Trans Legal Mapping Report: Recognition Before the Law ', International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), 30 September 2020, pp.88-89, 20201001140359

[112] 'Why Muslims accused of Shariah offences lack access to justice', Malay Mail, 8 October 2018, 20190606092708

[113] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.144, p.48, 20210629092134

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Local advocates contend that imprisoned transgender women served their sentences in prisons designated for men and that police and inmates often abused them verbally and sexually.[114] Transgender people may face discrimination in many facets of society, including education, employment, healthcare, and housing.[115] Transgender individuals may face discrimination in public healthcare facilities, including undergoing forcible HIV/AIDS testing or being housed in male wards where they can be exposed to violence and abuse.[116] Justice for Sisters report that between 2014 and 2019 there have been 10 known cases of transgender murders, but note that some murders are unlikely reported.[117] A 2018 survey by a local transgender rights group reported more than two-thirds of transgender women experienced some form of physical or emotional abuse.[118] In July 2020, the Religious Affairs Minister called for the Federal Territories Islamic Religious Department (JAWI) to arrest and "education" (rehabilitation) of transgender people in Malaysia.[119]

Malaysia's LGBTI community experience discrimination. LGBTI persons in Malaysia experience discrimination.[120] The level and frequency of discrimination typically correlates with their socio-economic status, religion, geographic location and degree of openness about their sexual orientation/identity.[121] Society in Kuala Lumpur is generally more permissive of LGBTI persons compared to East Coast peninsula Malaysia or Sarawak and Sabah.[122] LGBTI persons report discrimination in employment, housing, and access to some government services.[123] Muslim LGBTI persons may be subject to Islamic conversion therapy or 're-education'.[124] Discrimination is more prevalent for Malays, transgender persons, and LGBTI individuals in poorer settings or rural areas.[125]

Numerous organisations and groups support the LGBTI community and advocate for gender equality. Mainstream Christian churches and the Malaysian Consultative Council of Buddhism, Christianity, Hinduism, Sikhism and Taoism have spoken out against discrimination and violence towards gay and lesbian people.[126] Leadership Program for Gays (LPG) provides a network for LGBTI business people and organises group activities such as gatherings and sports events.[127] PLUPenang

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[114] '2020 Country Reports on Human Rights Malaysia', US Department of State, 30 March 2021, p.35, 20210331113809; 'Is There Room for Transgender Rights in the 'New Malaysia'?', The Diplomat, 4 April 2019, 20201117103608
[115] 'Study on Discrimination Against Transgender Persons Based in Kuala Lumpur and Selangor', Human Rights Commission of Malaysia (SUHAKAM), 19 July 2019, pp.3-6, 20201117101357; 'Medical woes: Try stepping into the shoes of a transgender person', Malaysiakini, 10 February 2021, 20210212094630
[116] 'Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Addendum: Visit to Malaysia (19 November–2 December 2014)', United Nations Human Rights Council, May 2015, p.16, CISEC96CF14228; 'How life is tough for transgenders in conservative Malaysia, who face violence, religious and official bias, and abusive me', South China Morning Post, 15 November 2017, CXC90406617584; 'Submission by Human Rights Watch to the United Nations Committee on the Elimination of Discrimination against Women 69th pre-sessional working group', Human Rights Watch, May 2017, CISEDB50AD4317; 'Transgender women in Malaysia, in the context of HIV and Islam: a qualitative study of stakeholders' perceptions', Barmania, S, Aljunid S M, BMC International Health and Human Rights, article 30, 20200424150731; Study on Discrimination Against Transgender Persons Based in Kuala Lumpur and Selangor', Human Rights Commission of Malaysia (SUHAKAM), 19 July 2019, pp.38-107, 20201117101357
[117] 'Gov't must curb increasing violence against transgenders', Malaysiakini, 20 November 2019, 20191206075644; NGOs raise alarm over yet another murder of a transgender woman', Free Malaysia Today, 3 January 2019, 20190125100210; 'Klang Transgender Dies From Cracked Skull After Brutal Assault By Men', SAYS, 14 December 2018, 20190125120728
[118] '2020 Country Reports on Human Rights Malaysia', US Department of State, 30 March 2021, p.35, 20210331113809
[119] 'Trans Legal Mapping Report: Recognition Before the Law ', International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), 30 September 2020, p.89, 20201001140359; 'Government must end persecution of transgender people', Amnesty International 11 July 2020, 20210707125821; 'Outcry as Malaysian minister calls to arrest and 'educate' transgender people', South China Morning Post, 17 July 2020, 20210707130100
[120] 'World Report 2021. Events of 2020', Human Rights Watch, 13 January 2021, p.432, 20210114072851; 'Suaram's Human Rights Overview Report on Malaysia 2019', Suara Rakyat Malaysia (SUARAM), 9 December 2019, pp.32-34, 20200116163323
[121] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.146, p.49, 20210629092134
[122] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.146, p.49, 20210629092134
[123] '2020 Country Reports on Human Rights Malaysia', US Department of State, 30 March 2021, p.36, 20210331113809
[124] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.147, p.49, 20210629092134
[125] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.147, p.49, 20210629092134
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[127] 'LPG Community', Yahoo Groups, n.d., accessed 23 November 2018, CIS7B8394110273

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is an LGBTI organisation dedicated to supporting and fostering friendships amongst LGBTI members, and arranges recreational events and provides a safe space for LGBT people to express themselves.[128] Pertubuhan Kebajkan dan Persekitaran Positif Malaysia (SEED) is an officially registered community organisation that provides support services, including a drop-in centre, primarily for the transgender community.[129] Justice for Sisters is a campaign organised to raise public awareness about issues pertaining to transgender individuals and raise funds to finance court cases against transgender individuals in syariah courts.[130] The PT Foundation provides support to the LGBTI community, including those affected with HIV/AIDS, offering services such as healthcare and drop-in services, and offers seminars, operates a telephone counselling line and offers outreach programmes at third-party venues.[131] Seksualiti Merdeka advocates for LGBTI rights and supports Malaysians who have been marginalised because of their sexual orientation and gender identity.[132]

Women

Malaysian society is patriarchal. Women are active in all areas of society, but cultural and social barriers limit their levels of participation.[133] Moreover, there is a lack of resources available to women to assist them re-entering the workforce after childbirth.[134] Malaysia has the lowest rate of women's workforce participation in Southeast Asia.[135] Although there has been an increase in labour force participation by women over the last decade, wages for women do not equate to those of men for similar work.[136] The 2020 Global Gender Gap Report ranked Malaysia at 104 out of 153 countries representing a decline from previous years.[137] Economic participation and opportunity as well as political empowerment for women are below parity in Malaysia.[138]

Muslim women may be adversely affected by syariah law. Malaysia's Constitution prohibits gender discrimination and gives women equal rights to inherit, acquire, manage or dispose of property, including land.[139] However, syariah law can deviate from these constitutional principles in some areas such as Islamic inheritance law that typically favours male children and male relatives.[140] Syariah law generally requires a husband's consent for divorce, but a small and steadily increasing number of women obtain divorces under syariah without their husband's consent.[141] Although syariah law favours fathers, equal parental rights are extended to Muslim mothers in four states, Johor, Selangor, Negri Sembilan and Pahang.[142]

A child born abroad whose mother is a Malaysian citizen but father is not does not acquire citizenship by operation of law. Children born in Malaysia to either a Malaysian mother or father

[128] 'PLUPenang website', PLUPenang, n.d., accessed 23 November 2018, CIS7B8394110276
[129] 'About SEED', Pertubuhan Kebajkan dan Persekitaran Positif Malaysia (SEED), n.d., accessed 8 November 2018, CIS7B8394110070
[130] 'About Justice for Sisters', Justice for Sisters, n.d., accessed 8 November 2018, CIS7B8394110071; 'Justice for Sisters', Astraea Lesbian Foundation For Justice, n.d., accessed 8 November 2018, CIS7B8394110072
[131] 'About Us PT Foundation', PT Foundation, n.d., accessed 8 November 2018, CIS7B8394110073
[132] 'Seksualiti Merdeka Facebook page', Facebook, n.d., accessed 23 November 2018, CIS7B8394110278
[133] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.118, p.41, 20210629092134
[134] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.118, p.41, 20210629092134
[135] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.119, p.41, 20210629092134
[136] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.119, p.41, 20210629092134
[137] 'World Economic Forum Global Gender Gap Report 2020', World Economic Forum, 18 December 2019, p.233, 20191218105643
[138] 'World Economic Forum Global Gender Gap Report 2020', World Economic Forum, 18 December 2019, p.233, 20191218105643
[139] '2020 Country Reports on Human Rights Malaysia', US Department of State, 30 March 2021, p.30, 20210331113809
[140] 'Freedom in the World 2021', Freedom House, 15 March 2021, G2, 20210315153050; '2020 Country Reports on Human Rights Malaysia', US Department of State, 30 March 2021, p.30, 20210331113809
[141] '2020 Country Reports on Human Rights Malaysia', US Department of State, 30 March 2021, p.30, 20210331113809
[142] '2020 Country Reports on Human Rights Malaysia', US Department of State, 30 March 2021, p.30, 20210331113809

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acquire Malaysian citizenship by operation of law.[143] A child born abroad obtains citizenship through operation of law only if the father is a Malaysian citizen.[144] If the mother is a Malaysian citizen but the father is not, an application for citizenship is made and is granted at the discretion of the Federal Government.[145] In practice, an application for citizenship is not linear and can potentially take years to resolve.[146] A previous Deputy Minister of Home Affairs stated that there is a citizenship application process for children born abroad whose father who is a foreign to prevent the child being granted dual citizenship in case the child has been conferred citizenship by the foreign father.[147] Dual citizenship is not permitted under Malaysian law.[148] A group of Malaysian mothers have mounted a legal challenge against the government to change citizenship law that discriminates against women.[149]

Social protection

Malaysia is an upper-middle income country with high income inequality. Rates of poverty are higher amongst the Malay ethnic group and is more prevalent in rural areas.[150] Malaysia's claim to have significantly reduced poverty since the 1970s is undermined by an unrealistically low poverty line despite many years of robust economic growth.[151] Malaysia's low poverty line is not consistent with the increases in the cost of living that has occurred over many years of economic growth.[152] Accordingly, Malaysian authorities have turned their attention to reducing income inequality, focusing the poorest 40 per cent of the population (B40) who remain vulnerable to increases in the cost of living or economic shocks.[153] The United Nations Development Programme's Human Development Index ranked Malaysia 61 out of 189 countries and territories in 2018, placing it in the 'very high human development' category.[154]

Malaysia's welfare system is generally well developed. Broadly speaking, there are three categories of social welfare namely, social insurance and pensions, public assistance, and labour market programmes.[155] The Employees Provident Fund is the primary social security institution that employers and employees are required to contribute.[156] Employers in the formal labour market are required to contribute to the employment insurance scheme which provides retrenched employees

[143] 'Background Note on Gender Equality, Nationality Laws and Statelessness 2020', United Nations High Commissioner for Refugees (UNHCR), 14 July 2020, p.11, 20200715081230
[144] 'Report on Citizenship Law Malaysia and Singapore', Global Citizenship Observatory (CLOBALCIT), Choo Chin Loo, February 2017, p.16, CISEDB50AD7469
[145] 'Report on Citizenship Law Malaysia and Singapore', Global Citizenship Observatory (CLOBALCIT), Choo Chin Loo, February 2017, p.16, CISEDB50AD7469
[146] 'Malaysian mothers fight government over 'sexist' citizenship law', Reuters, 14 July 2021, 20210715091156
[147] M'sian women cannot confer nationality on children due to national security, Malaysiakini, 3 December 2020, 20201204100050; Maria Chin: Malaysian women discriminated as their children not automatically citizens, unlike men's, Malay Mail, 3 December 2020, 20201204101829
[148] 'Report on Citizenship Law Malaysia and Singapore', Global Citizenship Observatory (CLOBALCIT), Choo Chin Loo, February 2017, p.16, CISEDB50AD7469; M'sian women cannot confer nationality on children due to national security, Malaysiakini, 3 December 2020, 20201204100050
[149] 'Malaysian mothers fight government over 'sexist' citizenship law', Reuters, 14 July 2021, 20210715091156
[150] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 2.10, p.10, 20210629092134
[151] 'Statement by Professor Philip Alston, United Nations Special Rapporteur on extreme poverty and human rights, on his visit to Malaysia, 13-23 August 2019', OHCHR, 23 August 2019, 20200729172426
[152] 'Statement by Professor Philip Alston, United Nations Special Rapporteur on extreme poverty and human rights, on his visit to Malaysia, 13-23 August 2019', OHCHR, 23 August 2019, 20200729172426; '2019 Economic Survey of Malaysia: Overview', OECD, July 2019, pp.27-29, 20210326113411
[153] 'The World Bank In Malaysia', The World Bank, April 2020, 20210326111722
[154] 'Human Development Report 2019: Malaysia', United Nations Development Programme, 9 December 2019, 20201116133639
[155] 'Social Protection Programme in Malaysia, Do We Need Integration?', Samad, S A and Shahid, M Md, International Journal for Studies on Children, Women, Elderly and Disabled, volume 5, October 2018, pp.72-73, 20201116170755; 'Social Security Programs Throughout the World: Asia and the Pacific, 2018: Malaysia', Social Security Administration, March 2019, 20201116141555; 'Social Protection for all: The next step of the Malaysian welfare', Koutronas, E, University of Virginia, 18 July 2020, chapter 2, 20201117115643
[156] 'Social Security Programs Throughout the World: Asia and the Pacific, 2018: Malaysia', Social Security Administration, March 2019, 20201116141555; 'BTI 2020 Country Report Malaysia', Bertelsmann Stiftung, 29 April 2020, p.22, 20200429144341

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with income replacement of up to 4,000 ringgit.[157] Coverage of the provident fund has been extended to include housewives, widows, and single mothers enlisted in the eKasih (national poverty database).[158] B40[159] income earners receive an income supplement called the Household Living Aid (BSH),[160] and may be eligible for additional income assistance and healthcare.[161] Various welfare assistance and support services are also administered by state governments, including the Zakat system that provides payments to needy and vulnerable persons.[162]

Malaysia has a universal healthcare system that has integrated income protection support for low income groups. The public healthcare system is heavily subsidised and accessible to all Malaysians, with the basic treatment fee costing between one and five ringgit.[163] In 2019, the government introduced the B40 National Protection Scheme called mySalam, which provides health protection to the country's lowest 40 percent of income earners.[164] The mySalam scheme provides recipients' healthcare and income protection payments if diagnosed with one of 45 critical illnesses.[165] Also introduced in 2019, the Healthcare Scheme for Group B40 (PeKa B40) provides eligible B40 recipients income supplement and assistance.[166] The PeKa B40 scheme is focused on healthcare for non-communicable diseases such as cancer and mental health.[167]

Political opinion

Civil society organisations

Civil society groups operate in Malaysia but may be subject to harassment from authorities. Numerous non-governmental organisations (NGOs) operate in Malaysia, and they have a strong record of campaigning for electoral, anticorruption, and other reforms.[168] NGOs must be approved and registered by the government, which has refused or revoked registrations for political reasons in the past.[169] Many human rights and civil society organisations experience difficulties obtaining government recognition as NGOs, so instead register as companies, which creates legal and bureaucratic obstacles to raising money to support their activities.[170] Some international human rights

[157] 'A Guide to Social Protection in Malaysia', The Centre, 19 October 2019, 20200512115042
[158] '2019 Economic Survey of Malaysia: Overview', Office for Economic Co-operation and Development (OECD), July 2019, p.35, 20201116160211
[159] 'Government's Aid for the People', Prime Minister's Office of Malaysia, n.d., accessed 17 November 2020, 20201117185421
[160] Formally known as *Bantuan Sara Hidup.* 'A Guide to Social Protection in Malaysia', The Centre, 19 October 2019, 20200512115042
[161] 'Peka B40', Ministry of Health (Malaysia), n.d., accessed 17 November 2020, 20201117180634; 'A Guide to Social Protection in Malaysia', The Centre, 19 October 2019, 20200512115042
[162] 'A Decade of Social Protection Development in Selected Asian Countries', OECD, 11 May 2017, p.60, CISEDB50AD5044
[163] 'All The Social Safety Nets We Could Find For Malaysians In Times Of Trouble', The Rakyat Post, 15 June 2020, 20201116164636; 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 2.22 p.13, 20210629092134
[164] 'BTI 2020 Country Report Malaysia', Bertelsmann Stiftung, 29 April 2020, p.23, 20200429144341; 'mySalam National Health Protection Scheme', mySalam, n.d., accessed 17 November 2020, 20201117171815
[165] 'A Guide to Social Protection in Malaysia', The Centre, 19 October 2019, 20200512115042; 'mySalam National Health Protection Scheme – Types of Critical Illnesses', mySalam, n.d., accessed 17 November 2020, 20201117172145; 'mySalam National Health Protection Scheme – Bantuan Sara Hidup (BSH) Recipients', mySalam, n.d., accessed 17 November 2020, 20201117172635
[166] 'A Guide to Social Protection in Malaysia', The Centre, 19 October 2019, 20200512115042, 'mySalam National Health Protection Scheme - FAQ About mySalam', mySalam, n.d., accessed 17 November 2020, 20201117171503
[167] 'All The Social Safety Nets We Could Find For Malaysians In Times Of Trouble', Rakyat Post, 15 June 2020, 20201116164636; 'A Guide to Social Protection in Malaysia', The Centre, 19 October 2019, 20200512115042
[168] 'Freedom in the World 2021', Freedom House, 15 March 2021, E2, 20210315153050
[169] 'Freedom in the World 2021', Freedom House, 15 March 2021, E2, 20210315153050
[170] '2020 Country Reports on Human Rights Malaysia', US Department of State, 30 March 2021, p.18, 20210331113809; 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.93, p.35, 20210629092134

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organisations have been forbidden from forming local branches.[171] Some NGOs report the government monitors their activities in order to intimidate them.[172]

Freedom of expression

Freedom of expression is limited. The Constitution allows restrictions on the freedom of expression 'in the interest of the security of the Federation… [or] public order.'[173] The law prohibits sedition and public comment on issues defined as sensitive, including racial and religious matters or criticism of the King or ruling sultans.[174] The government regularly restricts freedom of expression for members of the public, media, and civil society, citing reasons such as upholding Islam and the special status of ethnic Malays, protecting national security, maintaining public order, and preserving friendly relations with other countries.[175] Despite these restrictions, opposition parties, civil and political activists, unions, online news sites, and other online forums frequently publish views critical of government policies, with online media and blogs providing views not reported in mainstream media.[176] However, journalists and media outlets, activists and ordinary internet users may be subject to judicial harassment or prosecution for transgressing these boundaries.[177] Criminal defamation laws, the Section Act (1948), Communications and Multimedia Act (1998) and the Printing Presses and Publications Act (1984) among others, may be used to curb freedom of expression and often result in media self-censorship.[178] Some of these laws are also used by the ruling administration to intimidate opposition politicians.[179] Although most controversial content posted on social media about sensitive issues by the general public does not result in prosecutions, a relatively small number of investigations result in fines under the Communications and Multimedia Act (1998).[180] There have been very few occasions when members of the public have served time in jail over offensive social media posts.[181]

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[171] 'Freedom in the World 2021', Freedom House, 15 March 2021, E2, 20210315153050
[172] '2020 Country Reports on Human Rights Malaysia', US Department of State, 30 March 2021, p.18, 20210331113809; 'Johor top cop confirms NGO activist under investigation for making baseless allegations', Malay Mail, 25 November 2020, 20201126100924
[173] '2020 Country Reports on Human Rights Malaysia', US Department of State, 30 March 2021, p.11, 20210331113809
[174] 'Amnesty International Report 2020/21: The State of the World's Human Rights', Amnesty International, 6 April 2021, pp.237-238, 20210407093348; 'Freedom on the Net 2020 - Malaysia', Freedom House, 14 October 2020, B4, 20201022140322
[175] 'Malaysia slides down RSF's press freedom index', Malaysiakini, 20 April 2021, 20210421083857; 'Rights in Reverse: One year under the Perikatan Nasional government in Malaysia', Article 19, 8 March 2021, 20210309082801; 'BTI 2020 Country Report Malaysia', Bertelsmann Stiftung, 29 April 2020, p.7, 20200429144341;'Human Rights in Asia-Pacific: Review of 2019', Amnesty International, 29 January 2020, p.33, 20200130115738; '10 years' jail for insulting Islam excessive - MCA agrees with DAP', Malaysiakini, 11 March 2019, 20200204140736; 'Reduced sentence for Sarawakian convicted of insulting Islam', Free Malaysia Today, 13 September 2019, 20200204141618; 'Suaram's Human Rights Overview Report on Malaysia 2019', Suara Rakyat Malaysia (SUARAM), 9 December 2019, p.20, 20200116163323; 'KL raids offices of 3 broadcasters in probe over documentary', The Straits Times, 5 August 2020, 20200805082802; 'Why Malaysia's Muhyiddin fears a free press', Asia Times, 9 August 2020, 20200810101253
[176] '2020 Country Reports on Human Rights Malaysia', US Department of State, 30 March 2021, p.12, 20210331113809
[177] '2020 Country Reports on Human Rights Malaysia', US Department of State, 30 March 2021, pp.12-14, 20210331113809 'Free Speech Under Increasing Threat', Human Rights Watch, 19 May 2021, 20210520081826
[178] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.82, p.34, 20210629092134; 'Freedom on the Net 2020 - Malaysia', Freedom House, 14 October 2020, B4, C2, 20201022140322; 'Suaram's Human Rights Overview Report on Malaysia 2019', Suara Rakyat Malaysia (SUARAM), 9 December 2019, pp.20-26, 20200116163323
[179] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.86, p.35, 20210629092134; 'Parliamentarians at Risk: Reprisals against opposition MPs in South-east Asia', ASEAN Parliamentarians for Human Rights (APHR), 7 November 2020, p.19-23, 20201125160159; 'Police grill Guan Eng over Harapan's statement on emergency', Malaysiakini, 11 March 2021, 20210312132514; 'Undi18 protest: Eight questioned by police today', Malaysiakini, 30 March 2021, 20210331091000; 'Amnesty International Report 2020/21: The State of the World's Human Rights', Amnesty International, 6 April 2021, p.237, 20210407093348
[180] IGP Over 500 police reports about insulting royalty received', The Star, 25 April 2019, 20191028141648 'SUARAM Human Rights Overview Report on Malaysia 2020', Suaram, 9 December 2020, p.15 ff, 20201210103243; 'Suaram's human rights overview on Malaysia 2018', Suaram, 28 November 2018, p.23 ff, CIS7B8394110621
[181] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.105 & 3.107, p.38, 20210629092134; 'Amnesty International Report 2020/21: The State of the World's Human Rights', Amnesty International, 6 April 2021, p.237, 20210407093348; 'IGP Over 500 police reports about insulting royalty received', The Star, 25 April 2019, 20191028141648 'SUARAM Human Rights Overview Report on Malaysia 2020', Suaram, 9 December 2020, p.15

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Also see **Political situation** for information about a fake news ordinance invoked during emergency rule.

Freedom of assembly

Peaceful assembly is generally permitted when police are correctly notified in advance but authorities may intimidate organisers or activists with criminal law and laws that curb speech on sensitive topics. The Constitution provides for the freedom of peaceful assembly.[182] Police place time, location, and other restrictions on assemblies.[183] Organisers of an assembly are required to notify police five days prior to the event.[184] Reports indicate that authorities have harassed civil and political activists over rallies that involve sensitive topics and for not providing five days' prior notice.[185] Otherwise, protests deemed acceptable by the government usually proceed without interference.[186]

State protection

Royal Malaysia Police (RMP)

The RMP is generally considered a professional and effective force. The RMP operates 837 police stations nationwide and employs approximately 115,000 officers.[187] Local and international sources indicate the RMP is a professional and effective police force, although the quality of its members' responses varies depending on levels of training, capacity and engagement in corruption.[188] According to a Transparency International survey conducted during the latter part of 2020, public perceptions of corruption within the police was high compared to other public institutions, with 30 percent of those surveyed perceiving police to be corrupt.[189] The 2020 results are markedly better compared with Transparency International's perceptions survey conducted during 2016 that found 57 percent of respondents thought corruption was a problem within the police force.[190]

ff, 20201210103243; 'Suaram's human rights overview on Malaysia 2018', Suaram, 28 November 2018, p.23 ff, CIS7B8394110621

[182] '2020 Country Reports on Human Rights Malaysia', US Department of State, 30 March 2021, p.17, 20210331113809

[183] 'Freedom in the World 2021', Freedom House, 15 March 2021, E1, 20210315153050; '2020 Country Reports on Human Rights Malaysia', US Department of State, 30 March 2021, p.17, 20210331113809

[184] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.88, p.35, 20210629092134; 'Rights in Reverse: One year under the Perikatan Nasional government in Malaysia', Article 19, 8 March 2021, pp.15-17, 20210309082801; 'Cops quiz Ambiga, Marina Mahathir and 17 other activists', Malaysiakini, 4 March 2020, 20200305085946; 'Cops to quiz Bersih 2.0 chairman over Facebook post urging protest against 'Sheraton Move'', Malay Mail, 6 July 2020, 20200708124849

[185] 'Undi18 protest: Eight questioned by police today', Malaysiakini, 30 March 2021, 20210331091000; 'Judicial Harassment of Fadiah Nadwa Fikri', Front Line Defenders (International Foundation for the Protection of Human Rights Defenders), 5 March 2020, 20200702181533; 'Fadiah, three other activists leave police station after questioning', The Star Online (Malaysia), 4 March 2020, 20200703105544; 'Rights activist, 13 others under investigation over pro-democracy demonstration', Malay Mail, 3 March 2020, 20200703113902; 'Malaysians have democratic rights to protest, Pakatan says amid probes on activists', Malay Mail, 3 March 2020, 20200703114855

[186] '2020 Country Reports on Human Rights Malaysia', US Department of State, 30 March 2021, p.17, 20210331113809; 'Suaram's Human Rights Overview Report on Malaysia 2019', Suara Rakyat Malaysia (SUARAM), 9 December 2019, pp.27-28, 20200116163323

[187] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 5.5, p.55, 20210629092134

[188] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 5.5, p.55, 20210629092134; '34 law enforcers part of 'Nicky Gang' payroll, says IGP', Star Online, The (Malaysia), 30 March 2021, 20210331083730; 'Center to Combat Corruption and Cronyism (C4 Center)', 28 October 2020, 20201117094952 'Officers from three Malaysian police departments to be transferred on suspicion of working with criminals', Straits Times, 16 November 2020, 20201117090941; 'IGP confirms 20 cops transferred following Macau scam, online gambling probe', Bernama, 16 November 2020, 20201117092931

[189] 'Global Corruption Barometer - Asia', Transparency International, 24 November 2020, p.10 & 44, 20201202170007

[190] 'Global Corruption Barometer – Asia Pacific', Transparency International, 28 February 2017, p.41, CISEDB50AD5225

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Incidents of mistreatment or deaths in custody and impunity for police/security forces personnel are reported. Incidents of torture and ill-treatment in police custody are reported.[191] Incidents of physical violence inflicted upon detainees under remand or during investigation are prevalent especially when there are elements of chain remand or detention under security laws.[192] The government has claimed that deaths in police custody, particularly those caused by police, were rare, but civil-society activists' dispute this claim.[193] A concerning number of deaths in custody have been reported in recent years.[194] By July 2021, twelve custodial deaths had been reported since the beginning of the year – four were being investigated for possible human rights infringements by Malaysia's Human Rights Commission (SUHAKAM).[195] Amendments to an Independent Police Conduct Commission (IPCC) bill that sought to establish an independent commission to investigate police misconduct were expected to be debated by parliament in March 2021 but parliament is suspended due to the country being in a state of emergency.[196] Civil and rights advocates have criticised the bill which they view as a 'watered-down' version of its predecessor, the Independent Police Conduct Commission Bill introduced by the former Pakatan Harapan government.[197]

Criminal justice system

A number of existing laws undermine due process guarantees. The Security Offences (Special Measures) Act (2012) (SOSMA) allows police to detain anyone for up to 28 days without judicial review for broadly defined 'security offences' and to hold suspects for 48 hours before being granted access to a lawyer and was renewed for another five years in 2017.[198] In 2017, lawmakers amended the Prevention of Crime Act (1959) (a law ostensibly aimed at combating organised crime) to revoke detainees' right to address the government-appointed Prevention of Crime Board, which is empowered to order the detention of individuals listed by the Home Ministry for renewable two-year terms without trial or legal representation.[199] The Prevention of Terrorism Act (2015) together with the National Security Council Act (2016) gives the National Security Council (led by the prime minister) wide powers of arrest, search, and seizure without a warrant in areas deemed as security risks and in the context of countering terrorism.[200] Chain remand under certain security laws is reportedly common.[201]

[191] 'Freedom in the World 2021', Freedom House, 15 March 2021, F3, 20210315153050; 'Malaysia Human Rights Report 2019', Suaram (Suara Rakyat Malaysia), 11 August 2020, 20200910073340; 'Suaram's Human Rights Overview Report on Malaysia 2019', Suara Rakyat Malaysia (SUARAM), 9 December 2019, pp.13-14, 20200116163323
[192] 'Suaram's Human Rights Overview Report on Malaysia 2018', Suara Rakyat Malaysia (SUARAM), 28 November 2018, p.17, CIS7B8394110621
[193] '2020 Country Reports on Human Rights Practices: Malaysia', US Department of State, 30 March 2021, p.3, 20210331113809
[194] 'Suaram's Human Rights Overview Report on Malaysia 2019', Suara Rakyat Malaysia (SUARAM), 9 December 2019, p.12 & p.12, 20200116163323
[195] 'Human rights groups call for inquests into recent police custodial deaths', Malay Mail, 7 June 2021, 20210726135852; 'Suhakam probing four death-in-custody cases', Free Malaysia Today, 14 July 2021, 20210726140045
[196] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, sections 4.4-4.8, p.53, 20210629092134; 'Emergency doesn't warrant power abuse, Suhakam repeats call for IPCC', Malaysiakini, 10 February 2021, 20210212091326; 'Saifuddin hints at 'positive changes' since filing of no-confidence motions', Malaysiakini, 2 November 2020, 20201118143617; 'Proposed Law Reverses Police Reforms', Human Rights Watch, 28 August 2020, 20200831092607;
[197] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.105 & 4.7, p.53, 20210629092134; 'Proposed IPCC Bill a shameful step backwards in ensuring police accountability', Amnesty International, 28 August 2020, 20201127114209; 'New IPCC is significantly watered-down version of IPCMC', Malaysiakini, 28 August 2020, 20201029103114; 'IPCC Bill: Suhakam concerned over lack of independence, conflict of interest', Malaysiakini, 27 August 2020, 20200828093940
[198] 'Freedom in the World 2021', Freedom House, 15 March 2021, F2, 20210315153050
[199] 'Freedom in the World 2021', Freedom House, 15 March 2021, F2, 20210315153050
[200] 'Freedom in the World 2021', Freedom House, 15 March 2021, 20210315153050
[201] 'Malaysia Human Rights Report 2019', Suaram (Suara Rakyat Malaysia), 11 August 2020, pp.24-25, 20200910073340; 'Stop police abuse of chain remands, lawyer urges IGP', Free Malaysia Today, 18 April 2021, 20210419083130

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Judiciary

Trial procedures are typically fair. Malaysia's Constitution provides for a fair and public trial, and the judiciary has generally enforced this right.[202] The civil law system is based on British common law and defendants are presumed innocent until proven guilty.[203] Defendants have the right to be informed promptly of the charges against them, to a timely trial, and to be present at their trial.[204] Defendants have the right to communicate with an attorney of their choice or to have counsel appointed at public expense if they face charges that carry the death penalty.[205] Defendants also may apply for a public defender in certain other cases.[206] According to a Transparency International survey conducted during the latter part of 2020, public perceptions of corruption amongst judges and magistrates were relatively low.[207]

The majority of cases in Malaysian courts are processed in accordance with the rule of law. According to the Malaysian Bar Council, defendants generally had adequate time and facilities to prepare a defence if they had the means to engage private counsel.[208] Otherwise, defendants must rely on legal aid and the amount of time to prepare for trial is at the discretion of the judge.[209] Authorities provide defendants free interpretation in Mandarin, Tamil, and some other commonly used dialects from the moment charged through all appeals.[210] The right to confront witnesses is limited by provisions allowing the identity of prosecution witnesses to be kept secret from the defence before a trial, which inhibits cross-examination of those witnesses.[211] Defendants may present witnesses and evidence on their behalf. Limited pre-trial discovery in criminal cases can impede the defence.[212]

Judicial independence may be compromised by executive interference. Three constitutional articles provide the basis for an independent judiciary; however, other constitutional provisions, legislation restricting judicial review, and executive influence over judicial appointments limit judicial independence and strengthen executive influence over the judiciary.[213] The judiciary frequently defers to police or executive authority in cases those parties deem as affecting their interests.[214] Members of the Malaysian Bar Council, NGO representatives, and other observers express 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.[215]

Syariah law

Malaysia maintains a dual legal system with the coexistence of syariah law alongside civil law. Malaysia's secular legal system is based on English common law.[216] Muslims are subjected to both the general laws enacted by parliament and religious laws enacted by their state legislature.[217]

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[202] '2020 Country Reports on Human Rights Practices: Malaysia', 30 March 2021, p.9, 20210331113809
[203] '2020 Country Reports on Human Rights Practices: Malaysia', 30 March 2021, p.9, 20210331113809
[204] '2020 Country Reports on Human Rights Practices: Malaysia', 30 March 2021, p.9, 20210331113809
[205] '2020 Country Reports on Human Rights Practices: Malaysia', 30 March 2021, p.9, 20210331113809
[206] '2020 Country Reports on Human Rights Practices: Malaysia', 30 March 2021, p.9, 20210331113809
[207] 'Global Corruption Barometer - Asia', Transparency International, 24 November 2020, p.44, 20201202170007
[208] ''2020 Country Reports on Human Rights Practices: Malaysia', 30 March 2021, p.9, 20210331113809
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Syariah courts in the judicial system have three levels (except for Perak state which instituted a Supreme Court in December 2018).[218]

The jurisdiction of syariah law is confined to family law and religion. The dual legal system results in different treatment of Muslims and non-Muslims in 'moral' and family law cases.[219] Syariah courts are highly influential in general, because their decisions frequently involve conversions to Islam, which in turn affect such matters as child-custody, burial rites and inheritance.[220] Some penalties imposed by syariah courts are limited by federal civil law; Kelantan and Terengganu, have symbolically enacted hudood (Islamic penal law) for criminal offenses such as apostasy, slander, adultery, and alcohol consumption, but states cannot implement these laws without amendments to federal legislation and agreement of the sultan.[221]

Islamic religious enforcement officers conduct moral policing operations. Religious enforcement officers have a range of powers, depending on the particular Islamic laws that apply in each state.[222] State Islamic religious enforcement officers have the authority to accompany police on raids of private premises and public establishments, and to enforce syariah, including for violations such as indecent dress, distribution of banned publications, alcohol consumption, or khalwat (close proximity to a nonfamily member of the opposite sex).[223] During Ramadan, religious enforcement officers monitor food outlets and this may result in a penalty for those who skip fasting.[224] Moral breaches of syariah law typically result in a warning or a fine but may include caning or up to one month imprisonment for the most serious offences.[225]

Corruption

Corruption is common in Malaysia. In recent years several government officials have been charged with corruption, including former Prime Minster Najib.[226] There remains a broadly held perception that corruption and cronyism in government institutions is widespread.[227] Following a change of government in early 2020, a Transparency International survey conducted during the latter part of that year indicates that public perceptions of corruption within the public services is high, with survey respondents perceiving members of parliament, police, and federal government official the most corrupt institutions.[228] Transparency International's 2020 Corruption Perception Index (CPI) ranks Malaysia in 57th position; this represents a decline over the previous year.[229]

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Crime

On-going police operations target criminal gangs and crime syndicates. In recent years, police report to have made an increasing number of criminal gang-related arrests.[230] Numerous media reports show that targeted police operations disrupt gang criminal activity across the country.[231] Police operations of this nature have been occurring for a number of years.[232]

Loan sharks

Malaysian police respond to threats and harassment from unlicensed moneylenders and some non-government associations offer assistance to loan shark clients. Loans from unlicensed moneylenders, typically referred to as 'loan sharks' or an 'ah long' in Malay, are common in Malaysia.[233] Unlicensed money lending activities, including harassment or intimidation of borrowers, are offences under the Moneylenders Act (1951).[234] Individuals prosecuted under the Moneylenders Act face a maximum 1 million ringgit fine or five years imprisonment.[235] Police respond to complaints of illegal money lending activities, including harassment and intimidation, and conduct operations targeting illegal moneylending, resulting in the prosecution of persons under the moneylenders act and the penal code.[236] In December 2017, Malaysia's central bank cautioned the public about illegal money lending activities conducted by companies using fake licences purportedly issued by the

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central bank, advising the public to report such instances to the police for investigation.[237] A non-governmental organisation, the Malaysian Muslim Consumers Association (PPIM), offers support for those encountering problems with loan sharks, including a call centre, website, and assistance settling debts.[238] The Malaysian Chinese Association's Public Services and Complaints Department acts as an intermediary between loan sharks and Chinese Malaysian victims who are unable to repay debt, negotiating loan repayments with lower rates.[239]

Death penalty

Malaysia introduced legislation that removes the mandatory death sentence for some offenses, including some drug-related offenses. Malaysia announced a moratorium on executions in July 2018.[240] In November 2017 (effective March 2018), parliament passed the Dangerous Drugs (Amendment) Act (2017) (DDA) to remove the mandatory death sentence for drug-related offences by giving judges the discretion to punish drug offenders with either life imprisonment or hanging.[241] However, judicial discretion is limited only to certain circumstances specified in section 39B (2A) of the DDA, namely where the accused is merely a drug mule and has assisted law enforcement in disrupting drug trafficking activities.[242] The amendment does not apply in retrospect for previous convictions.[243] Amnesty International reports that there were no executions recorded during 2020, but there were 22 recorded death sentences, bringing the total number of known death sentences to 1,314.[244]

Malaysia has yet to abolish the mandatory death penalty for all offences. There are 11 offences that attract the mandatory death penalty within two acts – nine under the Penal Code, including for murder, waging war against Malaysia's King, and committing terrorist acts, and a further two under the Firearms (Increased Penalties) Act (1971).[245] In February 2020, a special committee to review alternative sentences to the mandatory death penalty submitted its report to the government.[246] In August 2020, the Federal Court ruled in a challenge to the constitutionality of the mandatory death penalty that only parliament has the power to enact legislation on offences and to prescribe punishments for offences.[247]

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Domestic violence/familial abuse

Family violence

Amendments to domestic violence law have strengthened protections for victims. In 2017, the law was amended to provide better protections for victims of domestic violence.[248] Domestic violence victims can obtain protection orders which attract a fine and/or prison sentence of up to one year or a fine if breached.[249] 2017 amendments to domestic violence law broadened the scope of the definition of domestic violence to include spouses, former spouses, children, family members, incapacitated adults who are living as members of the family, and de facto spouses who have undertaken religious or customary marriage.[250] Despite improved protections introduced by the amendments, including broader protection orders for victims and introducing penalties for perpetrators who transgress them, unmarried couples and marital rape remain excluded from the definition of domestic violence and Penal Code respectively.[251] In the Penal Code, marital rape that causes hurt or fear of death is punishable, but syariah law in many states creates ambiguity because it prohibits wives from disobeying the 'lawful orders' of their husbands, effectively discouraging victims from reporting incidents.[252]

Government and non-government shelters and assistance to victims of domestic violence is often insufficient to meet the need. Almost every hospital in Malaysia has a crisis centre where victims of rape and domestic violence can make reports without going to a police station, and which offer services such as examination by female doctors, evidence management, referrals and crisis intervention, counselling, temporary shelter, and legal assistance.[253] The Women's Aid Organisation reports that there are One Stop Crisis Centre services in 102 government hospitals nationwide that cater to between 10 to over 500 clients each year.[254] There is a sexual investigations unit at each police headquarters to help victims of sexual crimes and abuse, and police sometimes assign psychologists or counsellors to provide emotional support.[255] Activists assert that support mechanisms for victims of domestic violence are inadequate.[256] The Ministry of Women, Family and Community Development organises legal literacy seminars designed to inform women of their rights in cases related to issues such as marital problems and divorce.[257]

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Child marriage

Malaysia's legal system permits child marriage under certain circumstance. Islamic law sets the minimum age for marriage at 16 for girls and 18 for boys, but marriage below the minimum age is allowed if permission is granted by a syariah court.[258] Civil law also permits non-Muslims to marry from the age of 18, but girls can marry as early as 16 if permitted by the state's Chief Minister or Mentri Besar.[259] Customary laws in Sabah and Sarawak sets the minimum age for marriage at 18 for boys and 16 for girls, but marriage below the minimum age can occur with written consent of a parent or legal guardian.[260] Child marriage is typically more common in Sarawak, Kelantan and Sabah, and amongst Muslims, but has also become increasingly common amongst non-Muslims in recent years.[261] Various civil groups and political actors advocate for changes to laws to protect children from underage marriage but limited progress has been made.[262]

Female genital circumcision

Female circumcision is considered an Islamic cultural practice and is widely practiced across Malaysia despite international criticism. Malaysia's National Council of Islamic Religious Affairs issued a fatwa in 2009 that ruled female circumcision obligatory for Muslim women unless found to be physically harmful.[263] Female circumcision is often performed during infancy and a 2012 study found that 93 per cent of Muslim women respondents had undergone the practice.[264] The law does not prohibit female genital circumcision and it is a common practice.[265] A relatively small survey of Muslim doctors in Malaysia that included 366 participants conducted between 2018 and 2019 found that 20.5 percent practiced female circumcision.[266] In February 2018, representatives from Muslim-majority countries such as Bangladesh and Egypt criticised the practice as un-Islamic at the Constructive Dialogue session of the 69th session of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).[267] At Malaysia's Universal Periodic Review on human rights on 8 November 2018, a representative of the Women, Family and Community Development Ministry defended the on-going practice of the circumcision of female infants in the country as a "cultural obligation" and is performed only by medical professionals.[268]

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Australian Government
Department of Home Affairs

Common Claims

Malaysia

Country of Origin Information Services Section (COISS)

Effective 30 November 2021

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Governance

Parliament

Malaysia is a constitutional monarchy in which executive power is vested in the prime minister and cabinet. The monarch is elected for five-year terms by fellow hereditary rulers from 9 of Malaysia's 13 states.[1] The role of the King is largely ceremonial, though recently he has played a greater role during a period of political instability appointing prime ministers and also allowing a prime minister to declare a state of emergency to manage COVID-19.[2] Executive power lies with the prime minister and the cabinet.[3] The upper house of the bicameral Parliament, the Senate, or Dewan Negara, consists of 44 members appointed by the king and 26 members elected by the 13 state legislatures, serving three-year terms.[4] The House of Representatives, or Dewan Rakyat, has 222 seats filled through regular elections.[5]

Political situation

UMNO being the party that lost the 2018 general election have returned to power following a period of destabilising politics. In February 2020, the Pakatan Harapan (PH) government was ousted and replaced by a new ruling coalition, the Perikatan Nasional (PN or National Alliance), which included parties from the Barisan Nasional (BN) political coalition that ruled Malaysia since independence until its election defeat in 2018.[6] BN political veterans maintained power by appealing to ethnic nationalism and suppressing criticism through restrictive speech laws and politicised prosecutions of opposition leaders and activists.[7] The PN government led by Muhyiddin Yassin resisted reforms and was criticised for curbing democratic freedoms.[8] In August 2021, Muhyiddin Yassin resigned following a period of infighting and loss of support within the ruling coalition.[9] The King appointed as Prime Minister, Ismail Sabri Yaakob, vice-president of the BN's largest party, United Malaysia National Organisation (UMNO).[10]

COVID-19

Malaysia has been transitioning into the final stages of its COVID-19 recovery plan. Malaysia's National Recovery Plan is a roadmap to control the pandemic while progressively reopening society and the economy.[11] Malaysian states have moved into either of the final two phases of the recovery plan.[12] Under the final phase transmissions are contained, vaccination rates are high, and hospitals have moderate ICU capacity.[13] Malaysia's COVID-19 vaccination program is projected to fully vaccinate 80 percent of the population by mid-2022.[14]

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[6] 'Inside story behind Malaysia's political meltdown', Asia Times, 25 February 2020, 20200226115540; 'Malaysia', Congressional Research Service, 9 June 2020, 20211117101415; 'BTI 2020 Country Report Malaysia', Bertelsmann Stiftung, 29 April 2020, pp.3-4, 20200429144341
[7] 'Malaysia', Congressional Research Service, 9 June 2020, p.1, 20211117101415; 'BTI 2020 Country Report Malaysia', Bertelsmann Stiftung, 29 April 2020, pp.4-5 & p.11, 20200429144341;
[8] 'Rights in Reverse: One year under the Perikatan Nasional government in Malaysia', Article 19, 8 March 2021, 20210309082801; ''Old Malaysia' triumphs for now', Bridget Welsh, East Asia Forum, 7 March 2020, 20200316092321
[9] 'PM's resignation opens power vacuum in Malaysia', Asia Times, 16 August 2021, 20210817101919
[10] 'Malaysia's new prime minister brings graft-tainted party back to power', Reuters, 20 August 2021, 20210823093732
[11] 'Indicators & Current Thresholds', National Recovery Council (Malaysia), 9 November 2021, 20211109155329
[12] 'Indicators & Current Thresholds', National Recovery Council (Malaysia), 9 November 2021, 20211109155329
[13] 'Indicators & Current Thresholds', National Recovery Council (Malaysia), 9 November 2021, 20211109155329
[14] 'Vaccinations in Malaysia', Ministry of Health (Malaysia), 8 November 2021, 20211109144406

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During the height of COVID-19 infections the government enforced a state of emergency and implemented various ordinances to manage the pandemic. In January 2021, Malaysia declared a state of emergency in an attempt to rein in COVID-19 infections.[15] The emergency ordinance conferred wide powers on the government to control the threat posed to the security, economic life and public order.[16] In March 2021, the government introduced a controversial new ordinance to penalise fake news about COVID-19 and the state of emergency.[17] The ordinance made it an offence to publish or reproduce any "wholly or partly false" content related to the pandemic or the government's emergency declaration.[18] Critics say the fake news ordinance resembles the fake news law introduced by former Prime Minster Najib that curbed free speech and expression.[19] The government announced it had revoked the ordinances on 21 July 2021.[20] In accordance with the Constitution, the ordinances remain effective for a period of six months after their official end date of 1 August 2021.[21]

COVID-19 placed Malaysia's healthcare system under considerable stress. Malaysia has a well-developed universal healthcare system.[22] Nevertheless, the Delta strain of COVID-19 put hospitals under considerable pressure following an influx of patients.[23]

The government provides various welfare support to assist persons affected by COVID-19. Malaysia has a social protection system in place with additional support measures for persons affected by COVID-19.[24] Nevertheless, the prolonged nature and severity of the pandemic has put considerable strain on the healthcare and welfare systems.[25] The Malaysian government has implemented a number of stimulus and welfare measures in response to the economic impacts of

[15] 'The Emergency (Essential Powers) Ordinance 2021', Mondaq, 8 February 2021, 20210318103551
[16] 'The Emergency (Essential Powers) Ordinance 2021', Mondaq, 8 February 2021, 20210318103551
[17] 'Emergency (Essential Powers) (No.2) Ordinance 2021', Attorney-General's Chambers (Malaysia), 12 March 2021, 20210312084132; 'Malaysia imposes emergency law to clamp down on COVID fake news', Reuters, 11 March 2021, 20210312072508; 'MPs decry fake news Emergency Ordinance as 'deplorable' clampdown', Malaysiakini, 11 March 2021, 20210312134703
[18] 'Malaysia imposes emergency law to clamp down on COVID fake news', Reuters, 11 March 2021, 20210312072508; 'Bukit Aman says 12 investigation papers opened on Covid-19 fake news', Bernama 5 May 2021, 20210506091841; 'Cops invoke anti-fake news ordinance over India flights viral post', Malaysiakini, 5 May 2021, 20210506100733; 'Housewife, tutor first to be charged under Emergency Ordinance', Bernama, 2 June 2021, 20210603080821
[19] 'Repeal 'fake news' emergency ordinance', Article 19, 15 March 2021, 20210316113801; 'Revoke 'Fake News' Ordinance', Human Rights Watch, 13 March 2021, 20210315112147; 'Lawyers concerned over ordinance combating 'fake news'', Malaysiakini, 12 March 2021, 20210312143506; 'CIJ appalled by 'extreme punitive measures' in govt's 'fake news' move', Malaysiakini, 12 March 2021, 20210312153504; 'Malaysian government criticised for 'draconian' use of emergency powers to outlaw fake news', Straits Times, 12 March 2021, 20210315103754
[20] 'Malaysia's Parliament opens after 7 months, emergency to end', Associated Press, 26 July 2021, 20210729130600
[21] 'Different interpretations over the Malaysian king's role in revoking emergency ordinances', Channel News Asia, 2 August 2021, 20210803095338; 'Fake news continues to be controlled after revocation of Emergency Ordinances, says minister', Bernama (Malaysian National News Agency), 25 October 2021, 20211026134425
[22] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, sections 2.21-2.22, p.13, 20210629092134; 'A Guide to Social Protection in Malaysia', The Centre, 19 October 2019, 20200512115042; 'Healthcare Costs in Malaysia', The Centre, 28 October 2019, 20200512121033; 'National Health Insurance', The Centre, 6 November 2019, 20200512120852
[23] 'Anger as Covid-ravaged Malaysia lifts pandemic measures', BBC News, 28 July 2021, 20210729095347; 'Malaysia doctors strike, parliament meets as COVID strain shows', Aljazeera, 26 July 2021, 20210728115404; 'Malaysia's 'Total Lockdown' Failure Plunges Hospitals Into Crisis', The Diplomat, 12 July 2021, 20210713103931
[24] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, sections 3.156-3.158, p.51, 20210629092134; 'A Guide to Social Protection in Malaysia', The Centre, 19 October 2019, 20200512115042; 'Healthcare Costs in Malaysia', The Centre, 28 October 2019, 20200512121033; 'National Health Insurance', The Centre, 6 November 2019, 20200512120852
[25] 'Surge in active Covid-19 cases overwhelms Malaysia's healthcare system', The Straits Times, 19 January 2021, 20210318115317; 'Malaysia's private hospitals step up to fight COVID-19 as cases surge', Channel News Asia, 5 February 2021, 20210312130234; 'Cases up by 1,219, bringing total to 327,253', The Star Online (Malaysia), 17 March 2021, 20210318111401

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COVID-19.[26] However, there are reports of financial hardship due to prolonged lockdown, and suicides are increasingly common.[27]

See also Social Protection

Ethnicity

Malaysia's population is ethnically split into two categories namely Bumiputera and non-Bumiputera. Malaysia's Bumiputera (sons of the soil) account for more than 60 percent of the country's population, and are comprised of Malays and other indigenous groups, including the Orang Asli, Dayak, and Anak Negeril amongst others.[28] Chinese and Indian Malaysians constitute the country's largest non-Bumiputera population, accounting for approximately 20 and 6 percent respectively.[29]

Malaysia's affirmative action policies are race-based rather than needs based. Malaysia's Constitution affords special privileges to Bumiputera that has given rise to the creation of affirmative action policies including preferential programs to boost the economic position of Bumiputera.[30] Preferential programs limit opportunities for non-Bumiputera in higher education and government employment, and government procurement and licensing policies favour Bumiputera-owned businesses.[31] Critics argue that despite reductions in poverty, affirmative action policies do not significantly benefit Bumiputera but note that the country's elite have benefited significantly through a patronage system.[32] The ethno-nationalist government justifies affirmative action policies as a means to attain ethnic harmony and political stability however these polices have contributed to discontent and disunity within society particularly amongst the non-Bumiputera ethnic groups.[33] Discontent reportedly contributes towards an outflow of skilled labour from Malaysia.[34] The former reformist Pakatan Harapan government encountered significant headwinds from opposition pro-Malay political parties such as UMNO and PAS when attempting to implement reforms portrayed by the opposition to disadvantage Malays rather than promote equality amongst all Malaysians.[35] In October 2021, the government released its five-year road map, known as the 12th Malaysia Plan, which reinstates race-based affirmative action policies and bolsters Malay support for the upcoming general election.[36]

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[26] 'RM11b fiscal injection in latest Pemerkasa stimulus package', Malaysiakini, 17 March 2021, 20210318083130; 'Some Malaysians relieved they can now dip into retirement funds, others pledge prudence', Channel News Asia, 24 November 2020, 20201124170213; 'Lessons from a Pandemic: Social Protection for a New Normal', The Centre, 28 March 2020, 20200512115328; "Malaysia Announces Massive COVID-19 Aid Package as Thailand Tightens Restrictions', The Diplomat, 29 June 2021, 20210701092909; 'Malaysia unveils additional $48b aid package as Covid-19', The Straits Times, 28 June 2021, 20210728155908; 'Budget 2021 Assistance', Ministry of Finance (Malaysia), 9 November 2021, 20211109160552

[27] 'Struggling Malaysians fly the white flag for help', Asia Times, 7 July 2021, 20210729105104; 'Malaysians suffering amid lockdown fly white flag for help', Associated Press (AP), 6 July 2021, 20210706090121

[28] 'The World Factbook Malaysia', Central Intelligence Agency, 13 July 2021, 20210729134620

[29] 'The World Factbook Malaysia', Central Intelligence Agency, 13 July 2021, 20210729134620

[30] '2020 Country Reports on Human Rights Malaysia', US Department of State, 30 March 2021, pp.33-34, 20210331113809; 'BTI 2020 Country Report Malaysia', Bertelsmann Stiftung, 29 April 2020, pp.4-5, 23, 29-30, 34, 20200429144341

[31] '2020 Country Reports on Human Rights Malaysia', US Department of State, 30 March 2021, pp.33-34, 20210331113809; 'Discrimination in Education Survey', Architects of Diversity Malaysia, Sekolah Semua (Malaysia), 16 September 2021, 20210917142810

[32] 'Malaysia's Crony Enrichment Plan', Dennis Ignatius, Asia Sentinel, 3 November 2021, 20211110114004; 'Time to act on Malaysia's affirmative action', Jayant Menon, East Asia Forum, 20 August 2018, 20211110114524

[33] '2020 Country Reports on Human Rights Malaysia', US Department of State, 30 March 2021, pp.33-34, 20210331113809; 'BTI 2020 Country Report Malaysia', Bertelsmann Stiftung, 29 April 2020, p.34, 20200429144341

[34] 'Time to act on Malaysia's affirmative action', Jayant Menon, East Asia Forum, 20 August 2018, 20211110114524

[35] 'Can New Malaysia Move Beyond Old Race Divides?', Jha, P, The Diplomat, 14 August 2019, 20200516163339; 'Malaysia's 'Malay First' Malaise', Nair, C., The Diplomat, 4 March 2020, 20200516165042; 'Analysing Malaysia's Refusal to Ratify the ICERD', Anuar, K K, Oxford Human Rights Hub, 7 January 2019, 20200516164408; 'Malaysia's dangerous racial and religious trajectory', The Interpreter (Lowy Institute for International Policy), 24 September 2019, 20191021164421'The LGBT Quandary in New Malaysia', Tan, H B, Australian Journal of Asian Law, volume 20, number 1, article 15, November 2019, p.7, 20200522113725

[36] 'Malaysia's Ismail reverts to a race-based past', Asia Times, 6 October 2021, 20211007092547; 'Bumiputeras vs 'the Others' in Malaysia's 2022 Budget: Moral Outrage is Not Enough', FULCRUM, 18 November 2021, 20211122090020

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Religion

Religious freedom

Malaysia has a diverse religious population. According to the most recent census in 2010, Muslims represent approximately 60 percent of the population.[37] Almost 20 percent of Malaysia's population are Buddhist, approximately 9 percent are Christian, over 6 percent are Hindu, and there are small populations of Confucians, Taoists, and other traditional Chinese religions.[38] Other minority religious groups include animists, Sikhs, and Baha'i.[39]

Malaysia's Constitution grants religious freedom and this right is generally respected. Malaysia's Constitution states that Islam is the religion of the Federation but that other religions can be practised.[40] The Constitution defines ethnic Malays as Muslim and also states that persons have the right to profess and practise their religion, but that federal and state government can use the law to restrict other religions proselytising Muslims.[41] Malaysian law prohibits speech considered insulting to Islam.[42] Human rights organisations and religious leaders view society becoming less tolerant of religious diversity.[43] Religious groups other than Sunni Muslims experience low level official discrimination that extends from Malaysia's emphasis on Sunni Muslim identity.[44]

Islam

Malaysia's official interpretation of Islam is Sunni. A 1996 fatwa supported by state laws requires the country to follow only Sunni teachings of the Shafi'i school and prohibits Muslims from possessing, publishing, or distributing material contrary to those teachings.[45] Those differing from the official interpretation of Islam can face adverse government action, including mandatory rehabilitation in centres that teach and enforce government-approved Islamic practices.[46] Federal and state governments consider several non-Sunni Islamic groups deviant, including Shia, Ahmadi, and Al-Arqam.[47]

Religious adherence

Apostasy is a crime under syariah law. Muslims who seek to leave Islam or convert to another religion must first obtain approval from a syariah court to declare themselves apostates.[48] Syariah

[37] 'The World Factbook Malaysia', Central Intelligence Agency, 13 July 2021, 20210729134620
[38] 'The World Factbook Malaysia', Central Intelligence Agency, 13 July 2021, 20210729134620
[39] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.23, p.24, 20210629092134
[40] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.21, p.24, 20210629092134; 'Federal Constitution', Government of Malaysia, introduced 31 August 1957, amended 11 September 2019, reprint 15 October 2020, Article 3(1), 20201215114415
[41] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, sections 3.22 & 3.24, p.24, 20210629092134; 'Federal Constitution', Government of Malaysia, introduced 31 August 1957, amended 11 September 2019, reprint 15 October 2020, Article 11(1) and (4), 20201215114415
[42] '2020 Report on International Religious Freedom: Malaysia', US Department of State, 12 May 2021, p.4, 20210513090814
[43] '2020 Report on International Religious Freedom: Malaysia', US Department of State, 12 May 2021, pp.17-18, 20210513090814
[44] 'United States Commission on International Religious Freedom Annual Report 2021', United States Commission on International Religious Freedom (USCIRF), 21 April 2021, p.78, 20210422095313; 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.47 & 3.55, p.28; sections 3.52 & 3.49, p.29, 20210629092134
[45] '2020 Report on International Religious Freedom: Malaysia', US Department of State, 12 May 2021, p.2, 20210513090814; 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.42, p.27, 20210629092134
[46] '2020 Report on International Religious Freedom: Malaysia', US Department of State, 12 May 2021, p.9, 20210513090814
[47] '2020 Report on International Religious Freedom: Malaysia', US Department of State, 12 May 2021, p.12, 20210513090814
[48] '2020 Report on International Religious Freedom: Malaysia', US Department of State, 12 May 2021, pp.3-4, 20210513090814

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courts seldom grant such requests, especially for those born Muslim (ethnic Malays), and are reluctant to grant permission to persons who converted to Islam from other religions.[49] At least six states – Perak, Melaka, Sabah, Pahang, Kelantan, and Terengganu – criminalise apostasy with fines or imprisonment.[50] While not enforced, the maximum penalty for apostasy in Kelantan and Terengganu is death.[51] Those who choose to convert out of Islam prefer to do so privately without legal approval.[52]

Atheists are typically not prosecuted. In 2017, the Malaysian federal government determined atheism to be unconstitutional.[53] Muslims are generally not prosecuted for disbelief.[54] Some atheists maintain a low-profile in society and are known to socialise with likeminded people.[55] Some Muslims make no attempt to hide their atheism from society.[56] DFAT assess that non-Malay atheists face a low risk of societal harassment, but ethnic Malays who renounce Islam for atheism face a high risk of official discrimination.[57]

Non-Muslims must convert to Islam before marrying a Muslim. There are two primary statutes in Malaysia for marriage, the secular Law Reform (Marriage and Divorce) Act (1976) and the Islamic Family Law Act (Federal Territories) (1984).[58] A non-Muslim must convert to Islam to marry a Muslim for the marriage to be legally recognised.[59] Malaysian authorities do not recognise marriages between Muslims and non-Muslims and consider children born of such marriages illegitimate.[60] The legal age to marry for Muslim females is 16 and Muslim males 18, except in Selangor state where females must be 18.[61] In some circumstances persons below the stipulated marriage age marry with permission from syariah courts or approval from their state's chief minister.[62] Some Sunni and Shia Muslims intermarry and have family members that practice either form of Islam.[63]

Ahmadi Muslims

Ahmadi Muslims are generally able to worship within the confines of their own worship centres. Federal and state governments forbid religious assembly and worship of Islamic groups considered deviant, including Ahmadi.[64] Ahmadi Muslims generally can maintain worship centres but government religious authorities forbid them from holding Friday prayers on the basis that these can

[49] '2020 Report on International Religious Freedom: Malaysia', US Department of State, 12 May 2021, p.4, 20210513090814
[50] '2020 Report on International Religious Freedom: Malaysia', US Department of State, 12 May 2021, p.4, 20210513090814
[51] '2020 Report on International Religious Freedom: Malaysia', US Department of State, 12 May 2021, p.4, 20210513090814
[52] '2020 Report on International Religious Freedom: Malaysia', US Department of State, 12 May 2021, p.4, 20210513090814
[53] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.72, p.32, 20210629092134
[54] 'Intolerance Rising: Atheists at Risk in Malaysia', The Diplomat, 22 August 2017, CXC90406612572; 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.75, p.33, 20210629092134
[55] 'Intolerance Rising: Atheists at Risk in Malaysia, The Diplomat, 22 August 2017, CXC90406612572
[56] 'Moderation under threat as Malaysia faces Islamic tide, The Australian, 17 August 2017, CXC90406620453
[57] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.76, p.33, 20210629092134
[58] 'Law Reform (Marriage and Divorce) Act (164) 1976', Federal Government of Malaysia, 6 March 1976, (amendments to 1 January 2006), the Commissioner of Law Reform, CISBE8E6BE702; 'Islamic Family Law Act (Federal Territories) Act (303) 1984', Federal Government of Malaysia, 27 June 1984, amendments to 1 January 2006, the Commissioner of Law Reform, CIS883493140
[59] '2020 Report on International Religious Freedom: Malaysia', US Department of State, 12 May 2021, p.4, 20210513090814; 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.81, p.34, 20210629092134
[60] '2020 Report on International Religious Freedom: Malaysia', US Department of State, 12 May 2021, p.17, 20210513090814
[61] '2020 Report on International Religious Freedom: Malaysia', US Department of State, 12 May 2021, p.6, 20210513090814; 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.149, p.49, 20210629092134
[62] '2020 Report on International Religious Freedom: Malaysia', US Department of State, 12 May 2021, p.17, 20210513090814; 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.149, p.49, 20210629092134
[63] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.41, p.27, 20210629092134; 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.51, p.29, 20210629092134
[64] '2020 Report on International Religious Freedom: Malaysia', US Department of State, 12 May 2021, pp.12-13, 20210513090814; 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.51, p.29, 20210629092134

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only be performed in an officially registered mosque.[65] DFAT assess that Ahmadis generally do not experience societal discrimination but do experience low level official discrimination.[66]

Selangor state religious authorities have issued fatwas that has led to official discrimination against Ahmadis. In the past, the Selangor Fatwa Council decreed Ahmadis are not Muslim and also declared them infidels that should be converted to Sunni Islam.[67] In July 2018, the High Court in Selangor state ruled that religious authorities do not have jurisdiction over the Ahmadi community because they are not recognised as Muslims, but state religious authorities have appealed the decision.[68] In an August 2020 Court of Appeal petition to the High Court to decide whether Ahmadis are Muslims, the High Court ruled Ahmadis are entitled to the constitutional right of freedom of religion and that a dual legal system and their recognition as Muslims on identity cards creates ambiguity for Ahmadis and puts them at risk of syariah investigation and prosecution.[69]

Shia Muslims

Shia Muslims face official discrimination. Federal and state governments forbid religious assembly and worship of Islamic groups considered deviant, including Shia.[70] The Fatwa Committee for Religious Affairs previously issued a fatwa prohibiting the proselytism, promulgation, and professing of Shia Islam, which most adopted.[71] Sunni imams regularly denounce Shia in their sermons.[72] In September 2019, authorities detained and later released some Shia Muslims commemorating Ashura.[73] In September 2018, 50 Shia were arrested in Kelantan for practicing their religion.[74] Reportedly, the Shia followers had been conducting their activities on the same premises for several years.[75] Despite barriers to their worship, most Shia Muslims live free from discrimination and violence on a day-to-day basis but experience a low level of official discrimination.[76]

Forced conversion

The indigenous Orang Asli community are vulnerable to forced religious conversion. Orang Asli account for approximately half of a percent of Malaysia's population and are one of the most traditional but also vulnerable groups in society.[77] Although Orang Asli are traditionally animist, a

[65] '2020 Report on International Religious Freedom: Malaysia', US Department of State, 12 May 2021, p.12, 20210513090814
[66] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.52, p.29, 20210629092134
[67] 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634; 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.49, p.29, 20210629092134
[68] 'High Court tells Selangor Islamic Sharia enforcers to keep hands off Ahmadis', Malay Mail, 6 July 2018, 20191004090848; '2018 Report on International Religious Freedom: Malaysia', US Department of State, 21 June 2019, section II, pp.12-13, 20190625160543
[69] '2020 Report on International Religious Freedom: Malaysia', US Department of State, 12 May 2021, pp.12-13, 20210513090814
[70] '2020 Report on International Religious Freedom: Malaysia', US Department of State, 12 May 2021, p.12, 20210513090814; 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.51, p.29, 20210629092134
[71] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.42, p.27-28, 20210629092134
[72] 'Malaysia detains dozens of minority Shia Muslims sparking fears of a crackdown', Agence France-Presse, 11 September 2019, 20201125110041
[73] 'Human Rights in Asia-Pacific: Review of 2019', Amnesty International, 29 January 2020, p.34, 20200130115738; 'World Report 2020. Events of 2019: Malaysia', Human Rights Watch (HRW), 14 January 2020, 20201120142201; 'Shiite detentions in Malaysia fuel fears of crackdown', Agence France Presse (AFP) - France, 25 November 2019, 20191128094242; 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.43, p.28, 20210629092134
[74] 'World Report 2019', Human Rights Watch, 17 January 2019, p.369, 20190118091502
[75] '50 suspected Syiah followers detained in Kota Baru', New Straits Times, 31 August 2018, 20190125145959; 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.43, p.28, 20210629092134
[76] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.47, p.28, 20210629092134
[77] 'Malaysia's indigenous tribes fight for ancestral land and rights in a modern world', Channel News Asia, 1 September 2019, 20200403171142; 'Malaysia's indigenous people protest forced conversions', UCA News, 10 July 2019, 20200403170642; 'The World Factbook Malaysia', Central Intelligence Agency, 13 July 2021, 20210729134620

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number of Orang Asli have become either Muslim or Christian, or embraced religions such as Buddhism and Taoism due to intermarriage.[78] In 2019, state religious authorities from Perak reportedly registered some Orang Asli as Muslim in their identification cards despite them not converting.[79] Subsequently, Kelantan state religious authorities announced plans to convert Orang Asli to Islam by 2049.[80] Concerned members of the Orang Asli community have expressed their grievances to the federal government about local coercive practices involving Muslim and Christian preachers being sent to their communities to proselytise them.[81]

Christians

Christians practice freely and generally do not experience discrimination. Christians comprise approximately 9.2 per cent of the religious population and two-thirds of the Christian population reside in the East Malaysian states of Sabah and Sarawak.[82] Malaysian Christians are typically able to practise their religion without interference and generally do not experience societal discrimination.[83]

In March 2021, a High Court ruling overturned a ban on Christians using "Allah" and three other words in religious publications. Since 1986, there has been a ban against non-Muslims using approximately 31 words, including "Allah", under the pretence of protecting public order.[84] However in March 2021, the Kuala Lumpur High Court overturned the 35 year ban preventing non-Muslims using the word "Allah" in educational publications to refer to God along with three other Arabic words, declaring the ban unlawful and unconstitutional.[85] Malays nationalist party UMNO and Islamic party PAS announced they view the court ruling with concern and demanded the government pursue the case in the Appeals Court.[86] The High Court ruling has been met with considerable resistance.[87] The government lodged an appeal saying it was "not satisfied" with the ruling.[88] Authorities and Muslim groups have long argued that allowing non-Muslims to use the word "Allah" may confuse, and entice Muslims to convert.[89] Sometimes authorities and societal actors exaggerate fears of "Christianisation" for political purposes to motivate support from Muslim communities and

[78] 'Malaysia's indigenous tribes fight for ancestral land and rights in a modern world', Channel News Asia, 1 September 2019, 20200403171142; 'The World Factbook Malaysia', Central Intelligence Agency, 13 July 2021, 20210729134620
[79] 'Malaysia's indigenous tribes fight for ancestral land and rights in a modern world', Channel News Asia, 1 September 2019, 20200403171142; 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.13, p.59, 20210629092134
[80] 'Human Rights in Asia-Pacific: Review of 2019', Amnesty International, 29 January 2020, p.34, 20200130115738; 'Malaysia's indigenous tribes fight for ancestral land and rights in a modern world', Channel News Asia, 1 September 2019, 20200403171142; 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.13, p.59, 20210629092134
[81] 'Malaysia's indigenous people protest forced conversions', UCA News, 10 July 2019, 20200403170642
[82] 'The World Factbook Malaysia', Central Intelligence Agency, 13 July 2021, 20210729134620
[83] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.58, p.30, 20210629092134
[84] 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634
[85] 'Malaysian court overturns ban on use of 'Allah' by non-Muslim publications', Reuters, 10 March 2021, 20210311073139; 'Malaysia high court rules that Christians may use the word 'Allah' in religious publications', Channel News Asia, 10 March 2021, 20210311153223; 'Sarawak bishop hails court ruling on 'Allah' use by Christians as victory for 'common sense'', Malay Mail, 10 March 2021, 20210311154908; 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.55, pp.29-30, 20210629092134
[86] 'Malaysian court rules non-Muslims can use 'Allah'', Associated Press, 11 March 2020, 20210311151708; 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.55, pp.29-30, 20210629092134
[87] 'Kedah ruler: The use of word 'Allah' is only allowed for Muslims', Malaysiakini, 12 May 2021, 20210513092716; 'Negri Islamic religious council: 'Allah' use strictly for Muslims, in Islam only', Bernama, 21 April 2021, 20210422142707; 'Putrajaya to issue directive on 'Allah'', Free Malaysia Today, 15 April 2021, 20210419090430
[88] 'Malaysia government appeals ruling on Christians using 'Allah'', Agence France Presse, 15 March 2021, 20210316083752
[89] 'Malaysian Christians cleared to use 'Allah' but anger lingers', The Australian, 16 March 2021, 20210317080208; 'Malaysia government appeals ruling on Christians using 'Allah'', Agence France Presse, 15 March 2021, 20210316083752; 'Malaysian govt files appeal against court ruling allowing use of 'Allah' word in Christian publications', Straits Times, 15 March 2021, 20210316094502

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escalate tensions between majority and minority groups.[90] Christian leaders have spoken out against tactics by UMNO and PAS that portray Christianity as a threat to the Muslim majority.[91]

Buddhists and Hindus

Buddhists and Hindus generally practice their religion without interference. Federal and state governments have supported the building of Hindu or Buddhist places of worship throughout Malaysia.[92] However, members of faith communities report that Buddhist temples are restricted from building higher than local mosques and that Sikh Gurdwaras are prevented from building domes, since domes are associated with Islamic architecture.[93] Furthermore, a Buddhist complex in Selangor was relocated away from its planned central location to a remote district without easy public transport following opposition to its central location.[94] Additionally, for many years Hindu temples have been demolished and relocated to other areas.[95] A number of temple demolitions and relocations occur due to urban planning and development and/or involve temples that were built without the required permission from the government.[96] The US Commission on International Religious Freedom report that temple destruction and relocation is religiously motivated, resulting from Malaysia's systematic emphasis on Sunni Muslim identity.[97]

Inter-ethnic marriage

Inter-ethnic marriage occurs amongst non-Muslims. Malaysian law does not restrict the rights of non-Muslims to marry.[98] Conversion sometimes takes place due to marriage, with one partner choosing to convert or both partners choosing to adopt a new faith; however, this is not compulsory.[99] Malaysian law does not restrict the rights of people from different ethnic groups to marry,[100] although as Malaysian law considers all Malays to be Muslim, a non-Muslim of another ethnicity intending to marry a Malay must convert for the marriage to be legitimate.[101] Individuals in a mixed marriage sometimes face pressure or stigma from within their family, friends or community, while couples of different ethnicities may also encounter racism.[102]

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[90] 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, pp.77, 20200429103634
[91] 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634
[92] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.60, p.30, 20210629092134
[93] 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634
[94] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.60, p.30, 20210629092134
[95] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.61, p.30, 20210629092134; 'United States Commission on International Religious Freedom Annual Report 2021', United States Commission on International Religious Freedom (USCIRF), 21 April 2021, p.78, 20210422095313
[96] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.61, p.30, 20210629092134; 'Temple riot exposes Malaysia's Indian minority', Asia Times, 6 December 2018, 20210803115650; 'Fracas over Hindu temple opens up old issue of land ownership for places of worship in Malaysia', Straits Times, 27 November 2018, 20210803120331
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[101] '2020 Report on International Religious Freedom: Malaysia', US Department of State, 12 May 2021, p.4, 20210513090814
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Particular social groups

Lesbian, Gay, Bisexual, Transgender, Intersex (LGBTI)

Malaysian secular law criminalises same-sex sexual acts but in practice the law is rarely invoked. A former British colony, Malaysia has retained its colonial-era law against sodomy.[103] Malaysia's Penal Code criminalises sodomy (homosexual) and oral sex (homosexual and heterosexual) acts, but authorities rarely enforce the law.[104] The Penal Code has only been invoked seven times since 1938, with four of those instances against former deputy prime minister Anwar Ibrahim.[105] International observers and human rights organisations viewed sodomy charges against Anwar Ibrahim as politically motivated.[106] Those found guilty under section 377A of the Penal Code for 'carnal intercourse against the order of nature' are liable for imprisonment of up to twenty years and a whipping.[107]

Malaysia's Federal Court recently ruled that syariah law does not have jurisdiction to prosecute same-sex sexual acts. Some Malaysian states have applied their own penalties to Muslims under syariah statutes, and in several states same-sex sexual acts between Muslims were illegal and could incur jail terms and mandatory whipping.[108] In November 2019, the Selangor State syariah court sentenced five men to six to seven months in jail, six strokes of the cane, and a fine for attempting to have intercourse against the order of nature.[109] In May 2020, the Federal Court allowed one of the individuals arrested in Selangor leave to challenge charges brought against him under the Syariah Criminal Offences (Selangor Enactment) (1995) for 'attempting to commit' sexual 'intercourse against the order of nature' – a charge that is also an offense under the country's Penal Code.[110] In February 2021, the Federal Court unanimously declared Selangor's state law's provision that make same-sex acts a syariah offence is invalid on the grounds the offence falls under the jurisdiction of federal, not state, laws.[111] In April 2021, Selangor's Chief Syariah prosecutor dropped the charges.[112]

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[103] State-Sponsored Homophobia 2020: Global Legislation Overview Update', Lucas Ramón Mendos, International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), 15 December 2020, p.133, 20201222140105; 'Trans Legal Mapping Report: Recognition Before the Law ', International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), 30 September 2020, pp.88-89, 20201001140359; 'Anwar Ibrahim's rebirth and Malaysia's LBGT+ rights', Pursuit (University of Melbourne), 27 May 2018, CIS7B839411105

[104] 'Human Rights in Asia-Pacific: Review of 2019', Amnesty International, 29 January 2020, p.34, 20200130115738; '2020 Country Reports on Human Rights Malaysia', US Department of State, 30 March 2021, p.36, 20210331113809; 'Penal Code', Government of Malaysia, enacted 1936, amended 31 December 2014, sections 377A, 377B, CISEDB50AD9259

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[107] 'Penal Code', Government of Malaysia, enacted 1936, amended 31 December 2014, sections 377A, 377B, CISEDB50AD9259; 'Criminalisation of Homosexuality', Human Dignity Trust, 25 October 2015, CISEC96CF110372; 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, sections 3.130 & 3.134, p. 43 & p.45, 20210629092134

[108] State-Sponsored Homophobia 2020: Global Legislation Overview Update', Lucas Ramón Mendos, International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), 15 December 2020, p.133, 20201222140105; 'Trans Legal Mapping Report: Recognition Before the Law ', International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), 30 September 2020, pp.88-89, 20201001140359; 'Criminalisation of Homosexuality', Human Dignity Trust, 25 October 2015, CISEC96CF110372; '2020 Country Reports on Human Rights Malaysia', US Department of State, 30 March 2021, p.35, 20210331113809

[109] '2020 Country Reports on Human Rights Malaysia', US Department of State, 30 March 2021, p.35, 20210331113809

[110] 'Federal Court allows challenge to Syariah jurisdiction on unnatural sex', Malaysiakini, 27 May 2020, 20200527121016

[111] 'Federal Court unanimously declares Selangor Shariah law criminalising 'unnatural sex' void, unconstitutional', Malay Mail, 25 February 2021, 20210226074942; 'Selangor syariah law against unnatural sex is invalid: Federal Court', Malaysiakini, 25 February 2021, 20210226073341

[112] 'Syariah 'unnatural sex' charges dropped after Federal Court ruling', Malaysiakini, 21 April 2021, 20210422115244

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Conservatives who view their lifestyles to be inconsistent with Islam oppose the LGBTI community. Religious and cultural taboos against same-sexual conduct are widespread.[113] The 2019 Legatum Prosperity Index shows that Malaysia ranks 159th out of 167 countries for its 'perceived tolerance of LGBT individuals', equating to its lowest ranking since 2009.[114] The 2019 ranking shows a sharp decline compared to 2018 when tolerance of LGBT ranked 82nd.[115] The results of a 2013 global survey on the acceptance of homosexuality found that an 'overwhelming majority' of Muslim countries, including 86 per cent of persons surveyed in Malaysia, reject homosexuality.[116]

Malaysia's LGBTI community experience discrimination. LGBTI persons in Malaysia experience discrimination.[117] The level and frequency of discrimination typically correlates with their socio-economic status, religion, geographic location and degree of openness about their sexual orientation/identity.[118] Society in Kuala Lumpur is generally more permissive of LGBTI persons compared to East Coast peninsula Malaysia or Sarawak and Sabah.[119] LGBTI persons report discrimination in employment, housing, and access to some government services.[120] Muslim LGBTI persons may be subject to Islamic conversion therapy or 're-education'.[121] Discrimination is more prevalent for Malays, transgender persons, and LGBTI individuals in poorer settings or rural areas.[122]

Muslim transgender individuals are liable for prosecution under sharia law. Authorities often charge transgender persons for cross-dressing with "indecent behaviour" and also for "importuning for immoral purposes" in public, and those convicted are liable for a fine of 25 ringgit and potentially a prison sentence of up to 14 days.[123] Justice for Sisters, an advocacy group for the LGBTI community, said it has experienced difficulty obtaining legal representation for its clients who were charged under anti-crossdressing state Islamic laws.[124] Due to their increased visibility transgender persons are vulnerable to raids by religious authorities and subsequent placement in re-education centres.[125] Local advocates contend that imprisoned transgender women served their sentences in prisons designated for men and that police and inmates often abused them verbally and sexually.[126] In July 2020, the Religious Affairs Minister called for the Federal Territories Islamic Religious Department (JAWI) to arrest and "education" (rehabilitation) of transgender people in Malaysia.[127] In 2021, Prime

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[113] '2020 Country Reports on Human Rights Malaysia', US Department of State, 30 March 2021, p.35 and section 2a, 20210331113809; 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, sections 3.134-3.147, pp.45-49, 20210629092134; 'Man opens up on struggle with religion, homosexuality, and coming out in Mecca', Coconuts KL, 12 June 2020, 20210920111929

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[117] 'World Report 2021. Events of 2020', Human Rights Watch, 13 January 2021, p.432, 20210114072851; 'Suaram's Human Rights Overview Report on Malaysia 2019', Suara Rakyat Malaysia (SUARAM), 9 December 2019, pp.32-34, 20200116163323

[118] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.146, p.49, 20210629092134

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[121] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.147, p.49, 20210629092134

[122] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.147, p.49, 20210629092134

[123] '2020 Country Reports on Human Rights Malaysia', US Department of State, 30 March 2021, p.35, 20210331113809; 'Public Opinion of Transgender Rights in Malaysia', Luhur, W., Brown, T N T., Goh, J N, Williams Institute, 8 September 2020, p.1, 20201117102545; 'Trans Legal Mapping Report: Recognition Before the Law ', International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), 30 September 2020, pp.88-89, 20201001140359

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[125] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.144, p.48, 20210629092134

[126] '2020 Country Reports on Human Rights Malaysia', US Department of State, 30 March 2021, p.35, 20210331113809; 'Is There Room for Transgender Rights in the 'New Malaysia'?', The Diplomat, 4 April 2019, 20201117103608

[127] 'Trans Legal Mapping Report: Recognition Before the Law ', International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), 30 September 2020, p.89, 20201001140359; 'Government must end persecution of transgender people', Amnesty International 11 July 2020, 20210707125821; 'Outcry as Malaysian minister calls to arrest and 'educate' transgender people', South China Morning Post, 17 July 2020, 20210707130100

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Minster Ismail Sabri Yaakob said, “any individual who violates the law must face action. Nevertheless, at the same time, they need to be guided and be made aware so that they can return to the right path”.[128] Recently, a Muslim transgender individual with a high public profile fled Malaysia after religious authorities threatened to imprison or place her in a rehabilitation camp.[129]

Transgender individuals experience discrimination and occasional violence. Transgender people may face discrimination in many facets of society, including education, employment, healthcare, and housing.[130] Transgender individuals may face discrimination in public healthcare facilities, including undergoing forcible HIV/AIDS testing or being housed in male wards where they can be exposed to violence and abuse.[131] Justice for Sisters report that between 2014 and 2019 there have been 10 known cases of transgender murders, but note that some murders are unlikely reported.[132] A 2018 survey by a local transgender rights group reported more than two-thirds of transgender women experienced some form of physical or emotional abuse.[133]

Numerous organisations and groups support the LGBTI community and advocate for gender equality. Mainstream Christian churches and the Malaysian Consultative Council of Buddhism, Christianity, Hinduism, Sikhism and Taoism have spoken out against discrimination and violence towards gay and lesbian people.[134] Leadership Program for Gays (LPG) provides a network for LGBTI business people and organises group activities such as gatherings and sports events.[135] PLUPenang is an LGBTI organisation dedicated to supporting and fostering friendships amongst LGBTI members, and arranges recreational events and provides a safe space for LGBT people to express themselves.[136] Pertubuhan Kebajkan dan Persekitaran Positif Malaysia (SEED) is an officially registered community organisation that provides support services, including a drop-in centre, primarily for the transgender community.[137] Justice for Sisters is a campaign organised to raise public awareness about issues pertaining to transgender individuals and raise funds to finance court cases against transgender individuals in syariah courts.[138] The PT Foundation provides support to the LGBTI community, including those affected with HIV/AIDS, offering services such as healthcare and drop-in services, and offers seminars, operates a telephone counselling line and offers outreach programmes at third-party venues.[139] Seksualiti Merdeka advocates for LGBTI rights and supports Malaysians who have been marginalised because of their sexual orientation and gender identity.[140]

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[133] '2020 Country Reports on Human Rights Malaysia', US Department of State, 30 March 2021, p.35, 20210331113809
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Women

Malaysian society is patriarchal. Women are active in all areas of society, but cultural and social barriers limit their levels of participation.[141] Moreover, there is a lack of resources available to women to assist them re-entering the workforce after childbirth.[142] Malaysia has the lowest rate of women's workforce participation in Southeast Asia.[143] Although there has been an increase in labour force participation by women over the last decade, wages for women do not equate to those of men for similar work.[144] The 2020 Global Gender Gap Report ranked Malaysia at 104 out of 153 countries representing a decline from previous years.[145] Economic participation and opportunity as well as political empowerment for women are below parity in Malaysia.[146]

Syariah law may adversely affect Muslim women. Malaysia's Constitution prohibits gender discrimination and gives women equal rights to inherit, acquire, manage or dispose of property, including land.[147] However, syariah law can deviate from these constitutional principles in some areas such as Islamic inheritance law that typically favours male children and male relatives.[148] Syariah law generally requires a husband's consent for divorce, but a small and steadily increasing number of women obtain divorces under syariah without their husband's consent.[149] Although syariah law favours fathers, equal parental rights are extended to Muslim mothers in four states, Johor, Selangor, Negri Sembilan and Pahang.[150]

A child born abroad whose mother is a Malaysian citizen but father is not does not acquire citizenship by operation of law. Children born in Malaysia to either a Malaysian mother or father acquire Malaysian citizenship by operation of law.[151] A child born abroad obtains citizenship through operation of law only if the father is a Malaysian citizen.[152] If the mother is a Malaysian citizen but the father is not, an application for citizenship is made and is granted at the discretion of the Federal Government.[153] In practice, an application for citizenship is not linear and can potentially take years to resolve.[154] A previous Deputy Minister of Home Affairs stated that there is a citizenship application process for children born abroad whose father who is a foreign to prevent the child being granted dual citizenship in case the child has been conferred citizenship by the foreign father.[155] Dual citizenship is not permitted under Malaysian law.[156] A group of Malaysian mothers have mounted a legal challenge

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[142] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.118, p.41, 20210629092134
[143] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.119, p.41, 20210629092134
[144] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.119, p.41, 20210629092134
[145] 'World Economic Forum Global Gender Gap Report 2020', World Economic Forum, 18 December 2019, p.233, 20191218105643
[146] 'World Economic Forum Global Gender Gap Report 2020', World Economic Forum, 18 December 2019, p.233, 20191218105643
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[148] 'Freedom in the World 2021', Freedom House, 15 March 2021, G2, 20210315153050; '2020 Country Reports on Human Rights Malaysia', US Department of State, 30 March 2021, p.30, 20210331113809
[149] '2020 Country Reports on Human Rights Malaysia', US Department of State, 30 March 2021, p.30, 20210331113809
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[156] 'Report on Citizenship Law Malaysia and Singapore', Global Citizenship Observatory (CLOBALCIT), Choo Chin Loo, February 2017, p.16, CISEDB50AD7469; M'sian women cannot confer nationality on children due to national security, Malaysiakini, 3 December 2020, 20201204100050

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against the government to change citizenship law that discriminates against women.[157] The High Court ruled in favour of the plaintiffs allowing them to confer citizenship onto their children born abroad and ordered the government to issue identity documents and passport to the plaintiff's children.[158] The has government has appealed the High Court ruling,[159] at the same time indicating it would amend the Federal Constitution in line with the ruling.[160] Amending the constitution would be a difficult and lengthy process, requiring two-thirds majority and cross-partisan support for women's equality.[161]

Social protection

Malaysia is an upper-middle income country with high income inequality. Rates of poverty are higher amongst the Malay ethnic group and is more prevalent in rural areas.[162] Malaysia's claim to have significantly reduced poverty since the 1970s is undermined by an unrealistically low poverty line despite many years of robust economic growth.[163] Malaysia's low poverty line is not consistent with the increases in the cost of living that has occurred over many years of economic growth.[164] Accordingly, Malaysian authorities have turned their attention to reducing income inequality, focusing the poorest 40 per cent of the population (B40) who remain vulnerable to increases in the cost of living or economic shocks.[165] The United Nations Development Programme's Human Development Index ranked Malaysia 61 out of 189 countries and territories in 2018, placing it in the 'very high human development' category.[166]

Malaysia's welfare system is generally well developed. Broadly speaking, there are three categories of social welfare namely, social insurance and pensions, public assistance, and labour market programmes.[167] The Employees Provident Fund is the primary social security institution that employers and employees are required to contribute.[168] Employers in the formal labour market are required to contribute to the employment insurance scheme which provides retrenched employees with income replacement of up to 4,000 ringgit.[169] Coverage of the provident fund has been extended to include housewives, widows, and single mothers enlisted in the eKasih (national poverty

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[159] 'Court to hear govt's appeal against citizenship for Malaysian mothers' overseas-born children in March 2022', Malay Mail, 17 November 2021, 20211118074318
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[165] 'The World Bank In Malaysia', The World Bank, April 2020, 20210326111722
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[169] 'A Guide to Social Protection in Malaysia', The Centre, 19 October 2019, 20200512115042

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database).[170] B40[171] income earners receive an income supplement called the Household Living Aid (BSH),[172] and may be eligible for additional income assistance and healthcare.[173] Various welfare assistance and support services are also administered by state governments, including the Zakat system that provides payments to needy and vulnerable persons.[174]

Malaysia has a universal healthcare system that has integrated income protection support for low income groups. The public healthcare system is heavily subsidised and accessible to all Malaysians, with the basic treatment fee costing between one and five ringgit.[175] In 2019, the government introduced the B40 National Protection Scheme called mySalam, which provides health protection to the country's lowest 40 percent of income earners.[176] The mySalam scheme provides recipients' healthcare and income protection payments if diagnosed with one of 45 critical illnesses.[177] Also introduced in 2019, the Healthcare Scheme for Group B40 (PeKa B40) provides eligible B40 recipients income supplement and assistance.[178] The PeKa B40 scheme is focused on healthcare for non-communicable diseases such as cancer and mental health.[179]

Political opinion

Civil society organisations

Civil society groups operate in Malaysia but may be subject to harassment from authorities. Numerous non-governmental organisations (NGOs) operate in Malaysia, and they have a strong record of campaigning for electoral, anticorruption, and other reforms.[180] NGOs must be approved and registered by the government, which has refused or revoked registrations for political reasons in the past.[181] Many human rights and civil society organisations experience difficulties obtaining government recognition as NGOs, so instead register as companies, which creates legal and bureaucratic obstacles to raising money to support their activities.[182] Some international human rights organisations have been forbidden from forming local branches.[183] Some NGOs report the government monitors their activities in order to intimidate them.[184]

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[181] 'Freedom in the World 2021', Freedom House, 15 March 2021, E2, 20210315153050
[182] '2020 Country Reports on Human Rights Malaysia', US Department of State, 30 March 2021, p.18, 20210331113809; 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.93, p.35, 20210629092134
[183] 'Freedom in the World 2021', Freedom House, 15 March 2021, E2, 20210315153050
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Freedom of expression

Freedom of expression is limited. The Constitution allows restrictions on the freedom of expression 'in the interest of the security of the Federation… [or] public order.'[185] The law prohibits sedition and public comment on issues defined as sensitive, including racial and religious matters or criticism of the King or ruling sultans.[186] The government regularly restricts freedom of expression for members of the public, media, and civil society, citing reasons such as upholding Islam and the special status of ethnic Malays, protecting national security, maintaining public order, and preserving friendly relations with other countries.[187] Despite these restrictions, opposition parties, civil and political activists, unions, online news sites, and other online forums frequently publish views critical of government policies, with online media and blogs providing views not reported in mainstream media.[188] However, journalists and media outlets, activists and ordinary internet users may be subject to judicial harassment or prosecution for transgressing these boundaries.[189] Criminal defamation laws, the Section Act (1948), Communications and Multimedia Act (1998) and the Printing Presses and Publications Act (1984) among others, may be used to curb freedom of expression and often result in media self-censorship.[190] Some of these laws are also used by the ruling administration to intimidate opposition politicians.[191] Although most controversial content posted on social media about sensitive issues by the general public does not result in prosecutions, a relatively small number of investigations result in fines under the Communications and Multimedia Act (1998).[192] There have been very few occasions when members of the public have served time in jail over offensive social media posts.[193]

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[186] 'Amnesty International Report 2020/21: The State of the World's Human Rights', Amnesty International, 6 April 2021, pp.237-238, 20210407093348; 'Freedom on the Net 2020 - Malaysia', Freedom House, 14 October 2020, B4, 20201022140322
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Freedom of assembly

Peaceful assembly is generally permitted when police are correctly notified in advance but authorities may intimidate organisers or activists with criminal law and laws that curb speech on sensitive topics. The Constitution provides for the freedom of peaceful assembly.[194] Police place time, location, and other restrictions on assemblies.[195] Organisers of an assembly are required to notify police five days prior to the event.[196] Reports indicate that authorities have harassed civil and political activists over rallies that involve sensitive topics and for not providing five days' prior notice.[197] Otherwise, protests deemed acceptable by the government usually proceed without interference.[198]

State protection

Royal Malaysia Police (RMP)

The RMP is generally considered a professional and effective force. The RMP operates 837 police stations nationwide and employs approximately 115,000 officers.[199] Local and international sources indicate the RMP is a professional and effective police force, although the quality of its members' responses varies depending on levels of training, capacity and engagement in corruption.[200] According to a Transparency International survey conducted during the latter part of 2020, public perceptions of corruption within the police was high compared to other public institutions, with 30 percent of those surveyed perceiving police to be corrupt.[201] The 2020 results are markedly better compared with Transparency International's perceptions survey conducted during 2016 that found 57 percent of respondents thought corruption was a problem within the police force.[202]

Incidents of mistreatment or deaths in custody and impunity for police/security forces personnel are reported. Incidents of torture and ill-treatment in police custody are reported.[203] Incidents of physical violence inflicted upon detainees under remand or during investigation are prevalent especially when there are elements of chain remand or detention under security laws.[204]

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[194] '2020 Country Reports on Human Rights Malaysia', US Department of State, 30 March 2021, p.17, 20210331113809
[195] 'Freedom in the World 2021', Freedom House, 15 March 2021, E1, 20210315153050; '2020 Country Reports on Human Rights Malaysia', US Department of State, 30 March 2021, p.17, 20210331113809
[196] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.88, p.35, 20210629092134; 'Rights in Reverse: One year under the Perikatan Nasional government in Malaysia', Article 19, 8 March 2021, pp.15-17, 20210309082801; 'Cops quiz Ambiga, Marina Mahathir and 17 other activists', Malaysiakini, 4 March 2020, 20200305085946; 'Cops to quiz Bersih 2.0 chairman over Facebook post urging protest against 'Sheraton Move'', Malay Mail, 6 July 2020, 20200708124849
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[200] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 5.5, p.55, 20210629092134; '34 law enforcers part of 'Nicky Gang' payroll, says IGP', Star Online, The (Malaysia), 30 March 2021, 20210331083730; 'Center to Combat Corruption and Cronyism (C4 Center)', 28 October 2020, 20201117094952 'Officers from three Malaysian police departments to be transferred on suspicion of working with criminals', Straits Times, 16 November 2020, 20201117090941; 'IGP confirms 20 cops transferred following Macau scam, online gambling probe', Bernama, 16 November 2020, 20201117092931
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[203] 'Freedom in the World 2021', Freedom House, 15 March 2021, F3, 20210315153050; 'Malaysia Human Rights Report 2019', Suaram (Suara Rakyat Malaysia), 11 August 2020, 20200910073340; 'Suaram's Human Rights Overview Report on Malaysia 2019', Suara Rakyat Malaysia (SUARAM), 9 December 2019, pp.13-14, 20200116163323
[204] 'Suaram's Human Rights Overview Report on Malaysia 2018', Suara Rakyat Malaysia (SUARAM), 28 November 2018, p.17, CIS7B8394110621

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The government has claimed that deaths in police custody, particularly those caused by police, were rare, but civil-society activists' dispute this claim.[205] A concerning number of deaths in custody have been reported in recent years.[206] By July 2021, twelve custodial deaths had been reported since the beginning of the year – four were being investigated for possible human rights infringements by Malaysia's Human Rights Commission (SUHAKAM).[207] Amendments to an Independent Police Conduct Commission (IPCC) bill that sought to establish an independent commission to investigate police misconduct were expected to be debated by parliament in March 2021 but parliament is suspended due to the country being in a state of emergency.[208] Civil and rights advocates have criticised the bill which they view as a 'watered-down' version of its predecessor, the Independent Police Conduct Commission Bill introduced by the former Pakatan Harapan government.[209]

Criminal justice system

A number of existing laws undermine due process guarantees. The Security Offences (Special Measures) Act (2012) (SOSMA) allows police to detain anyone for up to 28 days without judicial review for broadly defined 'security offences' and to hold suspects for 48 hours before being granted access to a lawyer and was renewed for another five years in 2017.[210] In 2017, lawmakers amended the Prevention of Crime Act (1959) (a law ostensibly aimed at combating organised crime) to revoke detainees' right to address the government-appointed Prevention of Crime Board, which is empowered to order the detention of individuals listed by the Home Ministry for renewable two-year terms without trial or legal representation.[211] The Prevention of Terrorism Act (2015) together with the National Security Council Act (2016) gives the National Security Council (led by the prime minister) wide powers of arrest, search, and seizure without a warrant in areas deemed as security risks and in the context of countering terrorism.[212] Chain remand under certain security laws is reportedly common.[213]

Judiciary

Trial procedures are typically fair. Malaysia's Constitution provides for a fair and public trial, and the judiciary has generally enforced this right.[214] The civil law system is based on British common law and defendants are presumed innocent until proven guilty.[215] Defendants have the right to be informed promptly of the charges against them, to a timely trial, and to be present at their trial.[216] Defendants

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[205] '2020 Country Reports on Human Rights Practices: Malaysia', US Department of State, 30 March 2021, p.3, 20210331113809
[206] 'Suaram's Human Rights Overview Report on Malaysia 2019', Suara Rakyat Malaysia (SUARAM), 9 December 2019, p.12 & p.12, 20200116163323
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[210] 'Freedom in the World 2021', Freedom House, 15 March 2021, F2, 20210315153050
[211] 'Freedom in the World 2021', Freedom House, 15 March 2021, F2, 20210315153050
[212] 'Freedom in the World 2021', Freedom House, 15 March 2021, 20210315153050
[213] 'Malaysia Human Rights Report 2019', Suaram (Suara Rakyat Malaysia), 11 August 2020, pp.24-25, 20200910073340; 'Stop police abuse of chain remands, lawyer urges IGP', Free Malaysia Today, 18 April 2021, 20210419083130
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[215] '2020 Country Reports on Human Rights Practices: Malaysia', US Department of State, 30 March 2021, p.9, 20210331113809
[216] '2020 Country Reports on Human Rights Practices: Malaysia', US Department of State, 30 March 2021, p.9, 20210331113809

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have the right to communicate with an attorney of their choice or to have counsel appointed at public expense if they face charges that carry the death penalty.[217] Defendants also may apply for a public defender in certain other cases.[218] According to a Transparency International survey conducted during the latter part of 2020, public perceptions of corruption amongst judges and magistrates were relatively low.[219]

The majority of cases in Malaysian courts are processed in accordance with the rule of law. According to the Malaysian Bar Council, defendants generally had adequate time and facilities to prepare a defence if they had the means to engage private counsel.[220] Otherwise, defendants must rely on legal aid and the amount of time to prepare for trial is at the discretion of the judge.[221] Authorities provide defendants free interpretation in Mandarin, Tamil, and some other commonly used dialects from the moment charged through all appeals.[222] The right to confront witnesses is limited by provisions allowing the identity of prosecution witnesses to be kept secret from the defence before a trial, which inhibits cross-examination of those witnesses.[223] Defendants may present witnesses and evidence on their behalf. Limited pre-trial discovery in criminal cases can impede the defence.[224]

Judicial independence may be compromised by executive interference. Three constitutional articles provide the basis for an independent judiciary; however, other constitutional provisions, legislation restricting judicial review, and executive influence over judicial appointments limit judicial independence and strengthen executive influence over the judiciary.[225] The judiciary frequently defers to police or executive authority in cases those parties deem as affecting their interests.[226] Members of the Malaysian Bar Council, NGO representatives, and other observers express 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.[227]

Syariah law

Malaysia maintains a dual legal system with the coexistence of syariah law alongside civil law. Malaysia's secular legal system is based on English common law.[228] Muslims are subjected to both the general laws enacted by parliament and religious laws enacted by their state legislature.[229] Syariah courts in the judicial system have three levels (except for Perak state which instituted a Supreme Court in December 2018).[230]

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[217] '2020 Country Reports on Human Rights Practices: Malaysia', US Department of State, 30 March 2021, p.9, 20210331113809
[218] '2020 Country Reports on Human Rights Practices: Malaysia', US Department of State, 30 March 2021, p.9, 20210331113809
[219] 'Global Corruption Barometer - Asia', Transparency International, 24 November 2020, p.44, 20201202170007
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[222] '2020 Country Reports on Human Rights Practices: Malaysia', US Department of State, 30 March 2021, p.9, 20210331113809
[223] '2020 Country Reports on Human Rights Practices: Malaysia', US Department of State, 30 March 2021, pp.9-10, 20210331113809
[224] '2020 Country Reports on Human Rights Practices: Malaysia', US Department of State, 30 March 2021, pp.9-10, 20210331113809
[225] '2020 Country Reports on Human Rights Practices: Malaysia', US Department of State, 30 March 2021, p.8, 20210331113809
[226] '2020 Country Reports on Human Rights Practices: Malaysia', US Department of State, 30 March 2021, p.8, 20210331113809
[227] '2020 Country Reports on Human Rights Practices: Malaysia', US Department of State, 30 March 2021, p.8, 20210331113809; 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, sections 5.14-5.18, p.60, 20210629092134
[228] 'BTI 2020 Country Report Malaysia', Bertelsmann Stiftung, 29 April 2020, p.7, 20200429144341
[229] Freedom in the World 2021', Freedom House, 15 March 2021, F2, 20210315153050; 'United States Commission on International Religious Freedom Annual Report 2021', United States Commission on International Religious Freedom (USCIRF), 21 April 2021, p.79, 20210422095313
[230] 'Authorities want Shariah Supreme Court established in country following Perak's move', Bernama, 27 November 2019, 20191206105508

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The jurisdiction of syariah law is confined to family law and religion. The dual legal system results in different treatment of Muslims and non-Muslims in 'moral' and family law cases.[231] Syariah courts are highly influential in general, because their decisions frequently involve conversions to Islam, which in turn affect such matters as child-custody, burial rites and inheritance.[232] Some penalties imposed by syariah courts are limited by federal civil law; Kelantan and Terengganu, have symbolically enacted *hudud* (Islamic penal law) for criminal offenses such as apostasy, slander, adultery, and alcohol consumption, but states cannot implement these laws without amendments to federal legislation and agreement of the sultan.[233] During 2021, the federal government has been drafting the Shariah Courts (Criminal Jurisdiction) (Amendment) Act to increase criminal powers of Shariah Courts.[234]

Islamic religious enforcement officers conduct moral policing operations. Religious enforcement officers have a range of powers, depending on the particular Islamic laws that apply in each state.[235] State Islamic religious enforcement officers have the authority to accompany police on raids of private premises and public establishments, and to enforce syariah, including for violations such as indecent dress, distribution of banned publications, alcohol consumption, or khalwat (close proximity to a nonfamily member of the opposite sex).[236] During Ramadan, religious enforcement officers monitor food outlets and this may result in a penalty for those who skip fasting.[237] Moral breaches of syariah law typically result in a warning or a fine but may include caning or up to one month imprisonment for the most serious offences.[238]

Corruption

Corruption is common in Malaysia. In recent years several government officials have been charged with corruption, including former Prime Minster Najib.[239] There remains a broadly held perception that corruption and cronyism in government institutions is widespread.[240] Following a change of government in early 2020, a Transparency International survey conducted during the latter part of that year indicates that public perceptions of corruption within the public services is high, with survey respondents perceiving members of parliament, police, and federal government official the most corrupt institutions.[241] Transparency International's 2020 Corruption Perception Index (CPI) ranks Malaysia in 57th position; this represents a decline over the previous year.[242]

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[231] Freedom in the World 2021', Freedom House, 15 March 2021, F2, 20210315153050
[232] 'BTI 2020 Country Report Malaysia', Bertelsmann Stiftung, 29 April 2020, p.7, 20200429144341
[233] 'USCIRF 2020 Annual Report', United States Commission on International Religious Freedom (USCIRF), 28 April 2020, p.77, 20200429103634; 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, section 3.67, p.31, 20210629092134
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[240] '2020 Country Reports on Human Rights Malaysia', US Department of State, 30 March 2021, p.26, 20210331113809; 'Court to hear submissions in Zahid graft trial on Aug 5', The Star (Malaysia), 3 July 2021, 20210726145426; Court sets April 12 next year for hearing of Zahid's corruption case on foreign visa system', Bernama, 23 November 2020, 20201124100523; 'Zahid's Sources of Stress: The Clobbering of UMNO's "Court Cluster"?', Fulcrum, 11 March 2021, 20210312103051; 'Zahid trial: Prosecution amends number of cheques in money laundering charge', Malaysiakini, 9 March 2021, 20210310082641
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[242] 'Corruption Perceptions Index 2020', Transparency International, 28 January 2021, p.2, 20210129073037, 'Corruption Perceptions Index 2019', Transparency International, 23 January 2020, 20200205081007; 'Malaysia drops six spots to 57th position in Corruption Perceptions Index', Bernama (Malaysian National News Agency), 28 January 2021, 20210308083356; 'Malaysia drops six spots in worldwide corruption perceptions index ranking', The Star Online (Malaysia), 28 January 2021, 20210308084253

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Crime

On-going police operations target criminal gangs and crime syndicates. In recent years, police report to have made an increasing number of criminal gang-related arrests.[243] Numerous media reports show that targeted police operations disrupt gang criminal activity across the country.[244] Police operations of this nature have been occurring for a number of years.[245]

Loan sharks

Malaysian police respond to threats and harassment from unlicensed moneylenders and some non-government associations offer assistance to loan shark clients. Loans from unlicensed moneylenders, typically referred to as 'loan sharks' or an 'ah long' in Malay, are common in Malaysia.[246] Unlicensed money lending activities, including harassment or intimidation of borrowers, are offences under the Moneylenders Act (1951).[247] Individuals prosecuted under the Moneylenders Act face a maximum 1 million ringgit fine or five years imprisonment.[248] Police respond to complaints of illegal money lending activities, including harassment and intimidation, and conduct operations targeting illegal moneylending, resulting in the prosecution of persons under the moneylenders act and the penal code.[249] In December 2017, Malaysia's central bank cautioned the public about illegal money lending activities conducted by companies using fake licences purportedly issued by the

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[243] 'KL police prosecution, case-solving rate up since 2018, says city police chief', Malay Mail, 7 September 2020, 20201119182931

[244] 'Cops nab 11 suspected members of Gang 35 in Kulim... following TikTok video on Father's Day celebration', Malay Mail, 22 June 2021, 20210726150510; 'Seven men charged in Ipoh over alleged involvement in gang-related activities', Malay Mail, 6 May 2021, 20210726150748; 'Cops rearrest 25 members of 'TCB 21' gang over several serious crimes in KL', Bernama, 13 November 2020, 20201120124349; 'Police bust 'Muniandy Gang' as eight nabbed for spate of burglaries around Hulu Selangor', Bernama, 13 November 2020, 20201120124829; 'Cops detain 29 suspects allegedly involved in gangsterism, organised crime in Selangor', 5 November 2020, 20201120133621; 'Sungai Buloh police remand 13 for various crimes', Bernama, 26 October 2020, 20201120125136; 'Police bust Jamil Kancil burglary gang in Kulim', Bernama, 11 October 2020, 20201120132350; 'Miri cops bust two burglary gangs, solve 24 cases', Borneo Post Online, 9 October 2020, 20201120133239; 'Johor cops nab seven Gang 21 members linked to shooting-cum-robbery', Malay Mail, 30 September 2020, 20201120134925; 'Selangor police cripple Weng Gang, arrest 13 including leader', Bernama, 28 September 2020, 20201120135209

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[246] 'DFAT Country Information Report Malaysia', Department of Foreign Affairs and Trade, 29 June 2021, sections 3.109-3.118, pp.40-42, 20210629092134

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central bank, advising the public to report such instances to the police for investigation.[250] A non-governmental organisation, the Malaysian Muslim Consumers Association (PPIM), offers support for those encountering problems with loan sharks, including a call centre, website, and assistance settling debts.[251] The Malaysian Chinese Association's Public Services and Complaints Department acts as an intermediary between loan sharks and Chinese Malaysian victims who are unable to repay debt, negotiating loan repayments with lower rates.[252]

Death penalty

Malaysia introduced legislation that removes the mandatory death sentence for some offenses, including some drug-related offenses. Malaysia announced a moratorium on executions in July 2018.[253] In November 2017 (effective March 2018), parliament passed the Dangerous Drugs (Amendment) Act (2017) (DDA) to remove the mandatory death sentence for drug-related offences by giving judges the discretion to punish drug offenders with either life imprisonment or hanging.[254] However, judicial discretion is limited only to certain circumstances specified in section 39B (2A) of the DDA, namely where the accused is merely a drug mule and has assisted law enforcement in disrupting drug trafficking activities.[255] The amendment does not apply in retrospect for previous convictions.[256] Amnesty International reports that there were no executions recorded during 2020, but there were 22 recorded death sentences, bringing the total number of known death sentences to 1,314.[257] As of November 2021, 76 convicts were sentenced to death marking a four year decline in death sentences since the announcement of a moratorium on executions in 2018.[258]

Malaysia has yet to abolish the mandatory death penalty for all offences. There are 11 offences that attract the mandatory death penalty within two acts – nine under the Penal Code, including for murder, waging war against Malaysia's King, and committing terrorist acts, and a further two under the Firearms (Increased Penalties) Act (1971).[259] In February 2020, a special committee to review alternative sentences to the mandatory death penalty submitted its report to the government.[260] In August 2020, the Federal Court ruled in a challenge to the constitutionality of the mandatory death penalty that only parliament has the power to enact legislation on offences and to prescribe punishments for offences.[261]

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Domestic violence/familial abuse

Family violence

Amendments to domestic violence law have strengthened protections for victims. In 2017, the law was amended to provide better protections for victims of domestic violence.[262] Domestic violence victims can obtain protection orders which attract a fine and/or prison sentence of up to one year or a fine if breached.[263] 2017 amendments to domestic violence law broadened the scope of the definition of domestic violence to include spouses, former spouses, children, family members, incapacitated adults who are living as members of the family, and de facto spouses who have undertaken religious or customary marriage.[264] Despite improved protections introduced by the amendments, including broader protection orders for victims and introducing penalties for perpetrators who transgress them, unmarried couples and marital rape remain excluded from the definition of domestic violence and Penal Code respectively.[265] In the Penal Code, marital rape that causes hurt or fear of death is punishable, but syariah law in many states creates ambiguity because it prohibits wives from disobeying the 'lawful orders' of their husbands, effectively discouraging victims from reporting incidents.[266]

Government and non-government shelters and assistance to victims of domestic violence is often insufficient to meet the need. Almost every hospital in Malaysia has a crisis centre where victims of rape and domestic violence can make reports without going to a police station, and which offer services such as examination by female doctors, evidence management, referrals and crisis intervention, counselling, temporary shelter, and legal assistance.[267] The Women's Aid Organisation reports that there are One Stop Crisis Centre services in 102 government hospitals nationwide that cater to between 10 to over 500 clients each year.[268] There is a sexual investigations unit at each police headquarters to help victims of sexual crimes and abuse, and police sometimes assign psychologists or counsellors to provide emotional support.[269] Activists assert that support mechanisms for victims of domestic violence are inadequate.[270] The Ministry of Women, Family and Community Development organises legal literacy seminars designed to inform women of their rights in cases related to issues such as marital problems and divorce.[271]

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Child marriage

Malaysia's legal system permits child marriage under certain circumstance. Islamic law sets the minimum age for marriage at 16 for girls and 18 for boys, but marriage below the minimum age is allowed if permission is granted by a syariah court.[272] Civil law also permits non-Muslims to marry from the age of 18, but girls can marry as early as 16 if permitted by the state's Chief Minister or Mentri Besar.[273] Customary laws in Sabah and Sarawak sets the minimum age for marriage at 18 for boys and 16 for girls, but marriage below the minimum age can occur with written consent of a parent or legal guardian.[274] Child marriage is typically more common in Sarawak, Kelantan and Sabah, and amongst Muslims, but has also become increasingly common amongst non-Muslims in recent years.[275] Various civil groups and political actors advocate for changes to laws to protect children from underage marriage but limited progress has been made.[276]

Female genital circumcision

Female circumcision is considered an Islamic cultural practice and is widely practiced across Malaysia despite international criticism. Malaysia's National Council of Islamic Religious Affairs issued a fatwa in 2009 that ruled female circumcision obligatory for Muslim women unless found to be physically harmful.[277] Female circumcision is often performed during infancy and a 2012 study found that 93 per cent of Muslim women respondents had undergone the practice.[278] The law does not prohibit female genital circumcision and it is a common practice.[279] A relatively small survey of Muslim doctors in Malaysia that included 366 participants conducted between 2018 and 2019 found that 20.5 percent practiced female circumcision.[280] In February 2018, representatives from Muslim-majority countries such as Bangladesh and Egypt criticised the practice as un-Islamic at the Constructive Dialogue session of the 69th session of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).[281] At Malaysia's Universal Periodic Review on human rights on 8 November 2018, a representative of the Women, Family and Community Development Ministry defended the on-going practice of the circumcision of female infants in the country as a "cultural obligation" and is performed only by medical professionals.[282]

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