

## Malaysia

**Country:**

[Malaysia](#)

**Year:**

2016

**Freedom Status:**

Partly Free

**Political Rights:**

4

**Civil Liberties:**

4

**Aggregate Score:**

45

**Freedom Rating:**

4.0

**Overview:**

Prime Minister Najib Razak struggled during 2015 to suppress mounting criticism over mismanagement of and possible embezzlement from the state-owned development fund 1MDB. Najib denied any wrongdoing and took steps to remove potential threats within the ruling party, in part through a reorganization of his cabinet.

A coalition of civil society organizations and opposition parties known as Bersih (Clean) organized a multicity protest in August, calling for Najib's resignation as well as electoral reforms and anticorruption measures. Bersih leaders were subsequently charged for organizing what the authorities said was an illegal demonstration, and government supporters responded in September with a pro-Najib, "Malay pride" rally in which participants chanted anti-Chinese slogans; the opposition enjoys significant support among the ethnic Chinese minority. In December, Parliament adopted a law that allows the National Security Council, headed by the prime minister, to declare security zones in which police would have enhanced powers.

The authorities continued to enforce conservative social norms regarding women's clothing as well as gender identity, and an October court ruling reversed a 2014 judgment that struck down laws used to prosecute transgender women.

Also during 2015, the government faced renewed scrutiny of its refugee policies after the discovery of multiple camps along the Thailand-Malaysia border that were apparently used by human traffickers to hold and extort money from migrants and refugees. The Malaysian government was also criticized for initially refusing to aid a large group of migrants and refugees whose boats had been abandoned at sea in nearby waters.

**Political Rights and Civil Liberties:**

## **Political Rights: 18 / 40 (-1) [Key]**

### **A. Electoral Process: 6 / 12**

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. King Tuanku Abdul Halim Mu'adzam Shah was elected to the post in 2011. The role of the king is largely ceremonial.

Executive power is vested in the prime minister and cabinet. The leader of the coalition that wins a plurality of seats in legislative elections becomes the prime minister. The upper house of the bicameral Parliament, the Senate, consists of 44 members appointed by the king and 26 members elected by the 13 state legislatures, serving three-year terms. The House of Representatives, or Dewan Rakyat, has 222 seats; its members are elected by popular vote at least every five years.

The ruling National Front (BN) coalition won the 2013 parliamentary elections, capturing 133 seats in the lower house despite receiving only 47 percent of the overall popular vote. Among the main opposition parties, the Democratic Action Party (DAP) took 38 seats, the People's Justice Party (PKR) took 30, and the Pan-Malaysian Islamic Party (PAS) won 21. The opposition and observers accused the BN of electoral fraud, citing irregularities like phantom voting and power outages that occurred in vote-tallying centers in a number of constituencies that opposition parties hoped to win. Malapportioned voting districts and other structural flaws in the electoral system also favored the ruling coalition. Following the elections, a People's Tribunal was held to record individuals' accounts of electoral problems. The resulting report, issued in March 2014, concluded that electoral irregularities contributed to the BN's victory.

The Election Commission (EC) is frequently accused of manipulating electoral rolls and gerrymandering districts to aid the ruling coalition, and the Registrar of Societies arbitrarily decides which parties can participate in politics. The first-past-the-post voting system also increases the power of the largest grouping. In 2012, a government committee issued recommendations for electoral reforms, many of which had been called for by the Coalition for Free and Fair Elections (Bersih). However, there is continuing skepticism over the EC's effective implementation of all recommended changes. One change implemented for the 2013 elections was the use of indelible ink to mark voters who had already cast their ballots; voters and electoral watchdogs charged that the ink was easily removed. Watchdogs have also voiced concerns about the EC's opaque handling of electoral delineations, which the Electoral Integrity Project assessed as a major cause of the low integrity of the 2013 elections. In December 2015, federal lawmakers approved a redelineation of districts in the state of Sarawak despite opposition complaints that it heavily favored the BN's traditional voting blocs. The courts had rejected an attempt to challenge the constitutionality of the plan earlier in the year.

### **B. Political Pluralism and Participation: 7 / 16**

The BN and its pre-1973 predecessor organization have governed Malaysia since 1957. Most of its constituent parties have an ethnic or regional base, including the dominant United Malays National Organization (UMNO) and the United Traditional Bumiputera Party, whose stronghold is in Sarawak. The delineation of electoral districts gives uneven voting power to ethnic Malays and other indigenous groups, especially those in rural areas, at the expense of groups considered more likely to vote for the opposition, such as city dwellers and ethnic minorities.

In addition to the skewed electoral system, opposition parties face obstacles such as unequal access to the media, restrictions on campaigning and freedom of assembly, and politicized prosecutions. In recent years, politicians and political activists have increasingly been charged with

sedition and other criminal offenses for criticizing the government or organizing demonstrations. PKR leader Anwar Ibrahim has been dogged by claims that he “sodomized” a male aide in 2008, a charge seen as politically motivated. He was acquitted in 2012, but the Court of Appeal reversed that verdict and sentenced him to five years in prison in 2014. The Federal Court, Malaysia’s highest court, confirmed the sentence in February 2015. Anwar’s daughter, lawmaker Nurul Izzah Anwar, was arrested on sedition charges and temporarily detained in March after she criticized the judiciary in Parliament for its handling of her father’s case. At least two members of Parliament were formally charged with sedition later in the year for making similar remarks.

### **C. Functioning of Government: 5 / 12 (-1)**

Elected officials determine and implement government policy, but the unfair electoral framework weakens their legitimacy, and corruption provides a strong incentive to serve partisan patronage networks rather than the public interest.

Government favoritism 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. Political parties are allowed to own or have financial holdings in corporate enterprises. The Whistleblower Protection Act, which took effect in 2010, has not significantly improved accountability. Malaysia was ranked 54 out of 168 countries and territories surveyed in Transparency International’s 2015 Corruption Perceptions Index.

In July 2015, it was reported that officials investigating mismanagement at the state-owned 1MDB development fund suspected the diversion of some \$700 million into Prime Minister Najib’s private bank accounts ahead of the 2013 elections. Najib denied any wrongdoing, and the Malaysian Anti-Corruption Commission stated in August that the money in question had come from a donation and not from 1MDB, providing little detail. Multiple investigations, including by foreign agencies examining possible money laundering in their jurisdictions, were ongoing at year’s end.

Meanwhile, Najib worked to suppress scrutiny within the government and his own party. In July, he replaced the attorney general and fired cabinet ministers, including Deputy Prime Minister Muhyiddin Yassin, who had been critical of Najib’s handling of the scandal. Najib then promoted four members of a parliamentary committee investigating 1MDB to his cabinet, temporarily halting the committee’s work. In September, authorities detained UMNO member Khairuddin Abu Hassan under a security law to prevent him from traveling to the United States and assisting a U.S. investigation of 1MDB money transfers. Muhyiddin and other Najib critics were barred from speaking at an annual UMNO meeting in December.

## **Civil Liberties: 27 / 60**

### **D. Freedom of Expression and Belief: 7 / 16**

Freedom of expression is constitutionally guaranteed but restricted in practice. The 1984 Printing Presses and Publications Act was amended in 2012, retaining the home minister’s authority to suspend or revoke publishing licenses but allowing judicial review of such decisions. In July 2015, the *Edge* newspaper received a three-month suspension over its coverage of the 1MDB scandal; a court lifted the suspension in September.

Most private publications are controlled by parties or businesses allied with the BN, as are most private television stations, which generally censor programming according to government guidelines. State outlets reflect government views. Books and films are directly censored or banned

for profanity, violence, and political and religious content. Publications often face harassment from the government; police raided the offices of two online newspapers in November 2015 over alleged defamation in their corruption coverage.

The internet has emerged as a primary outlet for free discussion and the exposure of political corruption, but the Malaysian Communication and Multimedia Commission monitors websites and can order the removal of material considered provocative or subversive. 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. The government engages in legal harassment of bloggers, activists, academics, students, lawyers, and journalists who post critical content, charging them under defamation laws, the Official Secrets Act, and the Sedition Act, all of which include imprisonment as a possible penalty. At least 91 people were arrested, charged, or investigated for sedition during 2015, according to Amnesty International. In one prominent case, the political cartoonist Zulkiflee Anwar Haque (Zunar) was charged in April for his criticism of the Anwar sodomy conviction on social media.

While some members of the BN government continue to articulate the need for a tolerant and inclusive form of Islam in Malaysia, religious freedom is restricted. Ethnic Malays are defined under the constitution as Muslims. Practicing a version of Islam other than Sunni Islam is prohibited, and Shiites face discrimination. Muslim children and civil servants are required to receive religious education using government-approved curriculums and instructors. Proselytizing among Muslims by other religious groups is prohibited, and a 2007 ruling by the Federal Court effectively made it impossible for Muslims to have their conversions to other faiths recognized by the state. Non-Muslims are not able to build houses of worship as easily as Muslims, and the state retains the right to demolish unregistered religious statues and houses of worship. In 2014, the Federal Court upheld the reinstatement of a ban on non-Muslims using the word “Allah” to refer to God. Malay-speaking Christians had widely used the word in their scriptures, including Christian bibles, and in daily life.

Teachers 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. Following a 2011 court finding that the constitution protected students’ involvement in political campaigns, Parliament amended the UUCA in 2012 to allow students to take part in political activities off campus, but those activities are closely monitored.

Open and free private discussion has been undermined in recent years by increasing use of sedition and other charges to suppress critical speech, the ban on non-Muslims’ use of the word “Allah,” and growing state enforcement of conservative social norms.

## **E. Associational and Organizational Rights: 6 / 12**

Freedoms of assembly and association are limited on the grounds of maintaining security and public order. The 2011 Peaceful Assembly Act lifted a rule requiring police permits for nearly all public gatherings, but other restrictions remain, including a prohibition on street protests and excessive fines for noncompliance. The law delineates 21 public places where assemblies cannot be held—including within 50 meters of houses of worship, schools, and hospitals—and prohibits persons under the age of 15 from attending any public assembly.

In August 2015, Bersih organized mass demonstrations to call for Najib’s resignation and electoral and anticorruption reforms in the wake of the 1MDB scandal. The government declared the protests illegal and banned the Bersih movement’s distinctive yellow shirts. Two Bersih leaders and two Sarawak DAP lawmakers were later charged with violating the Peaceful Assembly Act. A

progovernment, UMNO-backed rally that was allowed to go forward in September featured expressions of anti-Chinese hostility by its mostly ethnic Malay participants.

The Societies Act of 1996 defines a society as any association of seven or more people, excluding schools, businesses, and trade unions. Societies must be approved and registered by the government, which has refused or revoked registrations for political reasons. Numerous nongovernmental organizations operate in Malaysia, but some international human rights organizations are forbidden from forming local branches.

Most Malaysian workers can join trade unions, but the law contravenes international guidelines by restricting unions to representing workers in a single or similar trade. The director general of trade unions can refuse or withdraw registration arbitrarily. Collective bargaining is limited, as is the right to strike. Amendments to the Employment Act in 2011 weakened the responsibilities of employers to workers by allowing for the greater use of subcontractors.

## **F. Rule of Law: 5 / 16**

Judicial independence is compromised by extensive executive influence. Arbitrary or politically motivated verdicts are common, as seen in the convictions of Anwar Ibrahim in 1999, 2000, and 2014 on charges of corruption and sodomy. Malaysia's secular legal system is based on English common law. However, Muslims are subject to Sharia (Islamic law), the interpretation of which varies regionally, and the constitution's Article 121 stipulates that all matters related to Islam should be heard in Sharia courts. This results in vastly different treatment of Muslims and non-Muslims regarding "moral" and family law issues.

Allegations of torture and abuse, including deaths, in police custody continue to be reported, and a number of criminal offenses can be punished with caning. The 2012 Security Offences (Special Measures) Act 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. A 2013 amendment to the Prevention of Crime Act (PCA), a law ostensibly aimed at combating organized crime, allows a five-member board to order the detention of individuals listed by the Home Ministry for renewable two-year terms without trial or legal representation. In December 2015, Parliament approved the National Security Council Act, which gives the National Security Council—led by the prime minister—the authority to declare security zones in which police can impose curfews and conduct searches and arrests without a warrant, among other special powers.

Although the constitution provides for equal treatment of all citizens, it grants a "special position" to ethnic Malays and other indigenous people, known collectively as *bumiputera*. The government maintains programs intended to boost the economic status of bumiputera, who receive preferential treatment in areas including property ownership, higher education, civil service jobs, business affairs, and government contracts.

LGBT (lesbian, gay, bisexual, and transgender) Malaysians face widespread discrimination and harassment. Same-sex sexual relations are punishable by up to 20 years in prison under the penal code, and some states apply their own penalties to Muslims under Sharia statutes. The Ministries of Health and Education conduct campaigns to "prevent, overcome, and correct" symptoms of homosexuality in children, while the Ministry of Information has banned television and radio shows depicting gay characters. The Malaysian Islamic Development Department operates camps to "rehabilitate" transgender Muslims. In October 2015, citing procedural flaws, the Federal Court overturned the Court of Appeal's 2014 finding that Sharia statutes in most states banning "a male person posing as a woman" were unconstitutional. The laws have been used to sentence transgender women to fines and short jail terms, and arrests and harassment reportedly increased

after the latest ruling. Three states similarly prohibit “a woman posing as a man.” Enforcement of these laws is often accompanied by physical and sexual abuse.

Malaysia is home to about 150,000 refugees and asylum seekers, including some 45,000 members of Myanmar’s persecuted Rohingya minority. However, the country does not formally grant permanent asylum or accept refugees for settlement, and refugees are not legally permitted to work. In May 2015, the authorities discovered a network of camps along the Thailand-Malaysia border where human traffickers allegedly held migrants and refugees in deplorable conditions while demanding money from their relatives. Mass graves were found at the sites, and authorities on both sides of the border were accused of complicity in the traffickers’ criminal activity. Also in May, the Malaysian government initially refused to rescue hundreds of migrants and refugees who were stranded at sea after being abandoned by traffickers. Malaysia subsequently took in 1,100 of the survivors; while Bangladeshi nationals were repatriated, most of those identified as Rohingya refugees remained in detention pending third-country resettlement at year’s end.

### **G. Personal Autonomy and Individual Rights: 9 / 16**

Citizens are generally free to travel within and outside of Malaysia, as well as to change residence and employment. Malaysia is recognized as having a vibrant private business sector. However, professional and business opportunities and access to higher education are affected by regulations and practices favoring ethnic Malays and those with connections to political elites.

Women are underrepresented in politics, the civil service, and professional fields such as law, medicine, banking, and business. Violence against women remains a serious problem. Muslim women are legally disadvantaged because their family grievances are heard in Sharia courts, where men are favored in matters including inheritance and divorce, and women’s testimony is not given equal weight. Enforcement of conservative dress codes for government buildings was reportedly stepped up in 2015, with women denied entry if their clothing was deemed too revealing.

Foreign household workers are often subject to exploitation and abuse by employers. An estimated two million foreigners work illegally in various industries and are vulnerable to forced labor and sexual abuse. If arrested and found guilty of immigration offenses, they can be caned and detained indefinitely pending deportation. Legislation passed in July 2015 granted greater rights and protections to human trafficking victims, but it had yet to be fully implemented at year’s end. Enforcement of antitrafficking laws is considered weak given the scale of the problem, and no prosecutions of allegedly complicit officials were reported in connection with the migrant camps discovered in May.

### **Scoring Key: X / Y (Z)**

**X = Score Received**

**Y = Best Possible Score**

**Z = Change from Previous Year**

### **Full Methodology**

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