

Malaysia



Population: 25,715,819

Population Growth Rate: 1.723%

Birth Rate: 22.24 births/1,000 population

Life Expectancy: total population: 73.29 years; male: 70.56 years; female: 76.21 years

Literacy Rate: total population: 88.7%; male: 92%; female: 85.4%

Net Migration Rate: NA

Unemployment Rate: 3.7%

Gross Domestic Product per Capita: \$15,300

Religions: Muslim 60.4%, Buddhist 19.2%, Christian 9.1%, Hindu 6.3%, Confucianism, Taoism, other traditional Chinese religions 2.6%, other or unknown 1.5%, none 0.8% (2000 census)

Languages: Bahasa Malaysia (official), English, Chinese (Cantonese, Mandarin, Hokkien, Hakka, Hainan, Foochow), Tamil, Telugu, Malayalam, Panjabi, Thai

Ethnic Groups: Malay 50.4%, Chinese 23.7%, indigenous 11%, Indian 7.1%, other 7.8%

Capital: Kuala Lumpur¹

Trafficking Routes

Malaysia is a country of origin, destination, and transit for trafficking in women and children. Women and children are trafficked to Malaysia from Cambodia, China, Colombia, Ecuador, India, Indonesia, Laos, Myanmar, the Philippines, Russia, Thailand, Uzbekistan, and Vietnam.² Malaysians are trafficked to Australia, Canada, China, Hong Kong, Japan, Macau, Singapore, and Thailand. Sabah, a state in the south of Malaysia, is the main entrance point to Malaysia from the Philippines, particularly for Filipinas trafficked for the sex industry.³ Malaysia is a transit country for trafficking between Thailand and the Philippines, as well as between other countries, such as Japan, Korea, and the United States. Internal trafficking also occurs.⁴

Factors That Contribute to the Trafficking Infrastructure

¹ The World Factbook, "Malaysia," 2009, Central Intelligence Agency, available at <https://www.cia.gov/library/publications/the-world-factbook/geos/RM.html>

² *Regulating Immigration and Human Trafficking*, 27th Commonwealth Parliamentary Conference of Members from Small Countries, 24 September 2007, available at http://cpaafrika.org/uploadedFiles/Programmes_and_Activities/Professional_Development/27th%20SCC%203rd%20Plenary%20Session%20DRAFT%20REPORT.pdf

³ Diana Wong and Gusni Saat, *Trafficking of Filipino Women to Malaysia: Examining the Experiences and Perspectives of Victims, Government and NGO Experts: Executive Summary*, United Nations Global Program against Trafficking in Human Beings, Vienna, available at http://www.unodc.org/pdf/crime/human_trafficking/Exec_Summary_IKMAS.pdf.

⁴ "Signs that show Malaysia on human trafficking route," *New Strait Times*, 30 April 2009, <http://www.highbeam.com/doc/1P1-163452783.html>

Criminal networks throughout Southeast Asia traffic young girls and women for sexual exploitation. These women are often economically disadvantaged and make easy targets. Other factors that contribute to the trafficking infrastructure are scattered laws and nonuniform statistics on the trafficking problem in Malaysia. As Malaysia does not recognize refugees, the United Nations High Commissioner for Refugees has been allowed to process and resettle 27,000 “persons of concern” from Myanmar; it is estimated there are 30,000 more waiting to be processed.⁵

Forms of Trafficking

At least 200,000 to 225,000 women and children are estimated to be trafficked from Southeast Asia annually.⁶ In April 2009, reports surfaced that Malaysian immigration officials were capturing Burmese illegal immigrants and selling them to human traffickers in southern Thailand and Malaysia. The allegations, made in an April report by the U.S. Senate Committee on Foreign Relations, were initially denied by Malaysia’s Home Ministry secretary, calling the report “baseless.”⁷ However, the national police chief, as well as the prime minister, later said that the claims would be investigated and that “appropriate action” would be taken.⁸ The report alleged that Malaysian immigration officials, as well as the 500,000-strong civilian immigration corps, had been “complicit in the extortion and human trafficking of a few thousand Burmese refugees.”⁹ In a U.S. State Department report released in June 2009, Malaysia was cited as one of the world’s worst offenders in human trafficking. A top State Department official, Luis CdeBaca, who coordinates U.S. efforts in the global fight against human slavery, said he was “heartened by the tone and desire of the [Malaysian] government to achieve results, but in terms of having tangible results, that is something we have to continue to discuss.”¹⁰

Child trafficking in Malaysia is seen as a “serious threat”; however, there is a lack of collaboration between Malaysian authorities, and not one of the 15 cases brought against detained child traffickers has been heard in court.¹¹ Babies are illegally trafficked for adoption in Malaysia from Singapore. In May 2008, 23 people were arrested in Malaysia for the illegal adoption sale of four Singaporean babies, aged 7 months to 1 year. Investigations occurred in which personal

⁵ “Human Trafficking: Malaysians Extort, Thais Ignore”, *The Malaysian Insider*, 26 April 2009, <http://www.themalaysianinsider.com/index.php/malaysia/24563-human-trafficking-malaysians-extort-thais-ignore>

⁶ Mikel Flamm, *Exploited, Not Educated Trafficking of Women and Children in Southeast Asia*, *UN Chronicle*, Volume XL Number 2, 2003, available at <http://www.un.org/Pubs/chronicle/2003/issue2/0203p34.html>.

⁷ “Malaysia Denies Burmese Human Trafficking”, *Mizzima*, 2 June 2009, <http://www.mizzima.com/news/regional/2231-malaysia-denies-burmese-human-trafficking.html>

⁸ “Malaysia Vows Action on Myanmar Human Trafficking”, *The Seattle Times*, 24 April 2009, http://seattletimes.nwsourc.com/html/nationworld/2009114495_apasmalaysiamyanmartrafficking.html

⁹ “Human Trafficking: Malaysians Extort, Thais Ignore”, *The Malaysian Insider*, 26 April 2009, <http://www.themalaysianinsider.com/index.php/malaysia/24563-human-trafficking-malaysians-extort-thais-ignore>

¹⁰ “US to Malaysia: Stop Human Trafficking Quickly”, *BusinessWeek*, 27 August 2009, <http://www.businessweek.com/ap/financialnews/D9AB8CL80.htm>

¹¹ “The Horror of Child Trafficking”, *UPI Asia*, 8 September 2009, http://www.upiasia.com/Society_Culture/2009/09/08/the_horror_of_child_trafficking/3778/

belongings, \$1,242, as well as documents, were taken from the suspects.¹² The babies were bought by underprivileged women for \$200 and sold for about \$6,000 each.¹³

Government Responses

The Women and Girls Protection Act¹⁴ prohibits procurement of a female for the purpose of prostitution either inside the country or elsewhere.¹⁵ It is also illegal to detain a female in a brothel or any other place against her will with the intent that she be employed or used for the purpose of prostitution or for any unlawful or immoral purpose.¹⁶

Trafficking in female persons is explicitly prohibited. The act states that imprisonment for up to five years, a fine, or both will be imposed on “[a]ny person who buys, sells, traffics in, or procures or brings into or takes out of Malaysia for the purpose of such traffic, and whether or not for the purpose of present or subsequent prostitution, any female person.”¹⁷

Living on the earnings of prostitution is punishable by a fine, imprisonment for up to five years, or both.¹⁸ A second or subsequent offense is punishable by whipping in addition to the prison term.¹⁹ If a person is proven to live with or be habitually in the company of a woman in prostitution or to have exercised control, direction, or influence over the movements of a woman in prostitution in such a manner as to show that the person is aiding, abetting, or compelling her prostitution, the person is deemed to be knowingly living on the earnings of prostitution.²⁰

Keeping or managing a place of public resort for the purpose of prostitution is punishable by imprisonment for up to three years, a fine, or both.²¹ Maintaining a brothel is punishable by imprisonment for up to five years, a fine, or both.²² The act also prohibits soliciting in any place of public resort for the purpose of prostitution. Punishment is imprisonment for up to six months, a fine, or both.²³

The 1997 Anticorruption Act²⁴ criminalizes soliciting or accepting any gratification as an inducement or reward for doing or refraining from doing an act in relation to a public official’s public duties.²⁵ Punishment for the offense is up to 20 years’ imprisonment.²⁶ The act established the Anticorruption Agency to implement its provisions.²⁷

¹² *Malaysian Police Arrest 23 People in Illegal Adoption Syndicate*, Asia Pacific News, 25 May 2008, available at <http://uai-news.blogspot.com/2008/05/malaysian-police-arrest-23-people-in.html>

¹³ *Malaysian Police Rescue 4 Babies After Busting Child-Trafficking Ring*, International Herald Tribune, 25 May 2008, available at <http://uai-news.blogspot.com/2008/05/malaysian-police-arrest-23-people-in.html>.

¹⁴ Act No. 106 of 1973.

¹⁵ Act No. 106 of 1973, Article 16(a–g).

¹⁶ Act No. 106 of 1973, Article 16(h–j).

¹⁷ Act No. 106 of 1973, Article 18.

¹⁸ Act No. 106 of 1973, Article 19(1).

¹⁹ Act No. 106 of 1973, Article 19(2).

²⁰ Act No. 106 of 1973, Article 19(3).

²¹ Act No. 106 of 1973, Article 20.

²² Act No. 106 of 1973, Article 21.

²³ Act No. 106 of 1973, Article 22.

²⁴ Act No. 575 of 1997.

²⁵ Act No. 575 of 1997, Sections 10–15.

²⁶ Act No. 575 of 1997, Section 16.

²⁷ Act No. 575 of 1997, Sections 3–9.

In 2002, Malaysia passed the Child Act,²⁸ which provides for protection of children in need.²⁹ The act imposes a punishment of imprisonment for up to 15 years and a fine on anyone who (a) sells, lets for hire, buys, hires, or otherwise disposes of a child for the purpose of prostitution within or outside of Malaysia;³⁰ (b) procures a child for prostitution within or outside of Malaysia;³¹ (c) brings, takes out of Malaysia, or assists in bringing or taking out of Malaysia by false pretenses, false representation, fraudulent, or deceitful means a child for prostitution;³² (d) brings into Malaysia, receives, or harbors a child, knowing that a child has been procured for purposes of prostitution;³³ (e) detains a child in a brothel against the child's will;³⁴ (f) detains a child in a place against a child's will with the intent of employing a child in prostitution;³⁵ (g) advertises a child for purposes of prostitution or seeks information for that purpose;³⁶ or (h) attempts to do any of those acts.³⁷

Aiding, abetting, or controlling the prostitution of a child is punishable by imprisonment for up to three years, a fine, and whipping of not more than six strokes.³⁸ The same punishment is imposed on anyone who "engages or hires, for any valuable consideration, a child to provide services for that person's sexual gratification."³⁹

The act criminalizes participating in the unlawful transfer of possession, custody, or control of a child. Punishment is imprisonment for up to five years, a fine, or both.⁴⁰ The same punishment applies to any person who unlawfully harbors a child "with respect to whom the temporary or permanent possession, custody, or control has been transferred or conferred for valuable consideration by any other person within or outside Malaysia."⁴¹

The act punishes importation of a child by false pretenses by imprisonment for up to five years, a fine, or both.⁴² The same punishment applies to anyone who takes or sends out a child, whether within or outside of Malaysia, without appropriate consent of the person having lawful custody.⁴³

The Women and Girls Protection Act provides for the removal of a woman or girl in prostitution to a "place of refuge,"⁴⁴ especially if she is "in urgent need of protection as there is

²⁸ Act No. 611, 2001.

²⁹ Act No. 611, 200, Part VI.

³⁰ Act No. 611, 200, Article 43(1)(a).

³¹ Act No. 611, 200, Article 43(1)(b).

³² Act No. 611, 200, Article 43(1)(c).

³³ Act No. 611, 200, Article 43(1)(d).

³⁴ Act No. 611, 200, Article 43(1)(f).

³⁵ Act No. 611, 200, Article 43(1)(g).

³⁶ Act No. 611, 200, Article 43(1)(h).

³⁷ Act No. 611, 200, Article 43(1)(k).

³⁸ Act No. 611, 200, Article 43(1)(i).

³⁹ Act No. 611, 200, Article 43(1)(j).

⁴⁰ Act No. 611, 200, Article 48(1).

⁴¹ Act No. 611, 200, Article 48(2).

⁴² Act No. 611, 200, Article 49.

⁴³ Act No. 611, 200, Article 52.

⁴⁴ Section 7 states, "(1) If the Protector has reasonable cause to believe that any female person under the age of 21 years (a) is being trained or used for the purpose of prostitution or any immoral purposes, or (b) lives in or frequents any brothels, or (c) is habitually in the company or under the control of brothel-keepers or procurers or persons employed or directly interested in business carried on in brothels or in connection with prostitution, he may ... order such female person to be removed to a place of refuge and there temporarily detained and brought before the Court of a Magistrate within 24 hours." Under section 8 of the same act, she may be detained in a place of refuge for a

reasonable cause to believe that she is being threatened or intimidated for the purpose of prostitution.”⁴⁵ The act affords the same protection to a trafficked woman who “has been brought into or is to be sent out of Malaysia” for the purpose of prostitution.⁴⁶

The Women and Girls Protection Act provides that no witness in any proceeding under the act is obliged or permitted to disclose the identity of an informer or the substance of the information received from him or her. Similarly, a witness is not obliged or permitted to state any matter that might lead to the informer’s discovery.⁴⁷

The constitution states that “no person shall be held in slavery,”⁴⁸ and that “all forms of forced labor are prohibited.”⁴⁹

In 2002, when the penal Code was amended, a number of prostitution-related offenses from the Women and Girls Protection Act were adopted. In particular, the amendments included a crime of exploitation for the purposes of prostitution in section 372.

According to a recent Human Rights Watch report, Malaysia’s “employment laws do not extend equal protection to domestic workers, leaving their work hours, payment of overtime wages, rest days, and compensation for workplace injuries unregulated. The Malaysian government leaves the resolution of most workplace abuse cases to profit-motivated labor suppliers, who are often accused of committing abuses themselves.” Malaysian immigration policies tie domestic workers’ employment visas to their employers, thereby discouraging women from leaving their employers, even under abusive conditions. Immigration authorities and police detain and deport workers caught without valid documents, rarely identifying cases of abuse or trafficking.⁵⁰

SUHAKAM, the Human Rights Commission of Malaysia, was established under the Human Rights Commission of Malaysia Act 1999. The functions of SUHAKAM, as set out in section 4(1) of the act, are “to promote awareness of and provide education relating to human rights; to advise and assist the government in formulating legislation and procedures and recommend the necessary measures to be taken; to recommend to the government with regard to subscription or accession of treaties and other international instruments in the field of human rights; and to inquire into complaints regarding infringements of human rights.”⁵¹

The Malaysian government has been criticized for treating trafficking victims as criminals. Currently, most victims are charged regardless of whether they came voluntarily to

period of 3 years, and then placed under the supervision of the social welfare officer appointed by the protector for that purpose.

⁴⁵ Section 9 states that “any female may on her own application in writing be received by the Protector into a place of refuge if the Protector is satisfied that such female is in urgent need of protection as there is reasonable cause to believe that ... she is being threatened or intimidated for the purpose of prostitution or for the purpose of having carnal knowledge with another for any immoral purpose.”

⁴⁶ Act No. 611, 200, Section 10.

⁴⁷ Article 32(1). Article 32(2) further provides that “if any books, documents, or papers which are evidence or liable to inspection in any civil or criminal proceeding whatsoever contain any entry in which any informer is named or described or which might lead to his discovery, the Court shall cause all such passages to be concealed from view or to be obliterated so far as may be necessary to protect the informer from discovery.”

⁴⁸ Act No. 611, 200, Article 6(1).

⁴⁹ Act No. 611, 200, Article 6(2).

⁵⁰ *Help Wanted: Abuses against Female Migrant Domestic Workers in Indonesia and Malaysia*, Human Rights Watch 16, no. 9(B) (July 2004), p. 5, available at <http://www.hrw.org/reports/2004/indonesia0704/>.

⁵¹ *Functions & Powers*, Human Rights Commission of Malaysia, October 2008, available at http://www.suhakam.org.my/en/about_functions.asp.

work in the sex industry or were lured with false promises by agents. They are often imprisoned for overstaying their visas, not possessing valid documents, or engaging in prostitution.

The Malaysian government continues to create an unsafe environment for victims through threats of deportation; it has yet to recognize asylum seekers and refugees, or work to protect their rights. The deported are taken to the border and held for ransom. If they cannot pay the dues, they are sent back into the labor and sex trafficking industry.⁵²

In 2007, Malaysia adopted the Anti-Trafficking in Persons Act n. 670. The legislation states that the government will take action to implement guidelines, training for officers, and services that will protect the rights of victims. The act maintains the control of the government and limits NGO involvement in article 6 by stating, “a body to be known as the Council for Anti-trafficking in Persons shall be established. The council shall consist of various ministries and not more than three persons from nongovernmental organizations or other relevant organizations having appropriate experience in problems and issues relating to trafficking in persons, including the protection and support of trafficked persons.”

This act was supposed to be enacted in February 2008, yet there have been few improvements. Since then, 33 victims have been taken in and protected.⁵³ One improvement in March 2008 was the creation of several shelters for victims through the National Council for Anti-Trafficking in Persons.⁵⁴ Furthermore, in June 2008, Johor Baru was the first to be arrested for leading two women into prostitution under the new act. From January to June 2008, nine labor and sex trafficking cases were recorded. This is an increase from the mere two in 2007.⁵⁵

Nongovernmental and International Organizations Responses

Women’s Aid Organisation (WAO) is an NGO that provides shelter, counseling, and assistance to female victims of violence and their children, abused foreign domestic workers, and trafficking victims. The WAO also operates a hotline for domestic workers who are being abused.⁵⁶

All Women’s Action Society (AWAM) offers counseling for women in crisis. Together with the Bar Council Legal Aid Centre, AWAM provides women free legal advice in the areas of family, labor, and immigration law.⁵⁷

Tenaganita is an organization working to protect the rights of women and migrant workers. Programs include a national focal point program (an information-gathering source on migration); a migrant rights and health desk; a domestic workers program; and a program on trafficking in women and children that includes rescue, counseling, repatriation, advocacy, networking, and skills development.⁵⁸

⁵² Shelia Rahman, *Two jailed for Trafficking Women to Malaysia*, July 2008, available at <http://www.moha.gov.my/paperarticle/TMM130608pg1.pdf>

⁵³ Lisa Goh, *Human Trafficking Needs Regional Co-operation*, 3 June 2008, available at <http://thestar.com.my/news/story.asp?file=/2008/6/3/nation/20080603142535&sec=nation>.

⁵⁴ Lisa Goh, *Human Trafficking Needs Regional Co-operation*, 3 June 2008, available at <http://thestar.com.my/news/story.asp?file=/2008/6/3/nation/20080603142535&sec=nation>.

⁵⁵ Shelia Rahman, *Two jailed for Trafficking Women to Malaysia*, July 2008, available at <http://www.moha.gov.my/paperarticle/TMM130608pg1.pdf>

⁵⁶ *Women’s Aid Organization*, Women’s Aid Organization, October 2008, available at <http://www.wao.org.my/>.

⁵⁷ *All Women’s Action Society (AWAM)*, All Women’s Action Society (AWAM), October 2008, available at <http://www.awam.org.my/en/>.

⁵⁸ *Tenaganita (Women’s Force)*, Human Trafficking.org, October 2008, available at <http://www.humantrafficking.org/organizations/175>.

Multilateral Initiatives

In October 2009, Malaysia hosted the Pacific Rim Intelligence Conference, attended by 13 countries including three observer states, to exchange ideas on how to combat international crime, particularly human trafficking.⁵⁹

In August 2009, Australia and Malaysia held a two-day conference in which both parties agreed to create an integrated database, to allow an easy flow of information for agencies in both countries. Malaysian Home Ministry Deputy Secretary-General Raja Azahar said the two countries were also looking into the possibility of initiating training and awareness programs, as well as exploring methods of strengthening control of maritime ports used for human trafficking.⁶⁰

In July 2009, in an unprecedented multilateral effort, Thailand, Vietnam, South Korea, Malaysia, and Cambodia held a conference, the Intercountry Consultative Dialogue on Combating Human Trafficking, to discuss the growing problem of transnational human trafficking. Chou Bun Eng, the chair of Cambodia's High Level Working Group to Combat Human Trafficking, Smuggling, Labour and Sexual Commercial Exploitation (HLWG), said it was necessary for the region to sign bilateral, and then multilateral, agreements between states in order to begin to end human trafficking.⁶¹

⁵⁹ "Malaysia, Australia to tackle Human Trafficking", *Bernama*, 27 August 2009, <http://www.bernama.com/bernama/v5/newsindex.php?id=436264>

⁶⁰ "Malaysia, Australia to tackle Human Trafficking", *Bernama*, 27 August 2009, <http://www.bernama.com/bernama/v5/newsindex.php?id=436264>

⁶¹ "Multilateral treaties needed to end flesh trade, say delegates", *The Phnom Penh Post*, 8 July 2009, <http://www.phnompenhpost.com/index.php/2009070827006/National-news/multilateral-treaties-needed-to-end-flesh-trade-say-delegates.html>